

# Exhibit 5

**Real Estate Appraisal  
Narrative Appraisal Report**

of a portion of the

**Battle Mountain Property**  
Minturn, Colorado

For the  
Town of Minturn  
Minturn, Colorado

Dates of Value: January 15, 2023 and September 1, 2028  
Date of Report: April 23, 2024

By

Jonathan S. Lengel, MAI  
J.S. Lengel and Associates, Inc.  
575 Willowstone Place  
Gypsum, Colorado

April 23, 2024

Michelle Metteer  
Town Manager  
Town of Minturn  
301 Boulder Street, No. 309  
Minturn, Colorado 81645

Dear Ms. Metteer:

As per our agreement, I have appraised the 100 percent fee simple interest in nine parcels and the leasehold interest in one parcel of the Battle Mountain property located in the southern portion of Minturn, Eagle County, Colorado. This real estate is encapsulated in ten parcels that are proposed to be transferred or leased to the Town of Minturn as part of a Settlement Agreement between the Town and Battle Mountain. As discussed in greater detail in the attached report, the dates of value are January 15, 2024 and September 1, 2028. Each of the parcels that constitute the subject parcels will be described in greater detail later in this report.

This appraisal estimates the Market Values of the 100 percent fee simple interest in surface nine of said parcels and of the leasehold interest in one of the parcels (Parcel H), as of January 15, 2024 and September 1, 2028 (Parcels C and I), and is of the unencumbered fee simple estate, subject to existing easements, rights-of-way, and hypothetical conditions and extraordinary assumptions.

I have inspected the parcels and have attempted to consider all the factors affecting the value thereof and submit, herewith, an electronic version of my Narrative Appraisal Report. The intent of this appraisal report is to fulfill the reporting requirements as stipulated in Standards Rule 2-2 of the Uniform Standards of Professional Appraisal Practice (USPAP) for a Narrative Appraisal Report.

Some of the discussion of the data, reasoning and analyses that I used in the appraisal process to conclude my estimate of values are summarized. Supporting documentation for some factors is retained in the office file. The extent of discussion in this report is intended only to fulfill your needs in the noted Settlement Agreement. I assume no responsibility for unauthorized use of this report by other persons.

The value reported herein does not include any furniture, fixtures or equipment.

After consideration of all the foregoing, I have formed an opinion that the Market Values of the subject parcels are or will be as follows:

**Market Values**

PARCEL NAME	PARCEL ID	ZONING	CONCEPTUAL USAGE	DATE OF VALUE	MARKET VALUE
Highlands 1	Parcel A	Holding District	Low Density Residential	January 15, 2024	\$6,700,000
Highlands 2	Parcel B	Holding District	Low Density Residential	January 15, 2024	\$9,800,000
Old Tailings Pile	Parcel C	Holding District	High Density Residential	September 1, 2028	\$26,000,000
Recreation Center	Parcel D	Holding District	Public arts/recreation Restricted Residential	January 15, 2024	\$796,000
Reservoir South	Parcel E	Holding District	Reservoir access for public	January 15, 2024	\$25,000
Highway Tract B	Parcel F	Holding District	Recreation	January 15, 2024	\$30,000
Highway Tract D	Parcel G	Holding District	Recreation	January 15, 2024	\$8,000
Consolidated Tailings Pile	Parcel H	Bolts OS/Rec. Dist.	Recreation/public utility	January 15, 2024	\$525,000

Soil Processing	Parcel I	Holding District	Medium Density Residential	September 1, 2028	\$3,700,000
Maloit Wetlands	Parcel J	Bolts OS/Rec. Dist.	Recreation	January 15, 2024	\$30,000

Respectfully submitted,

*Jonathan S. Lengel*

Jonathan S. Lengel, MAI  
Certified General Appraiser  
No. CG01313125

## SUMMARY OF PROPERTY

Assignment: Appraisal

Appraisal Report: Narrative

Client: Town of Minturn

Current Ownership: Battle North, LLC

Location:

The ten parcels that are the subjects of this assignment are located in the southern portion of the town of Minturn, on the eastern toe of Grouse Mountain, and along and near U.S. Highway 24, Tigiwon Road, Maloit Park Road, and the Eagle River. The subject parcels are the northwestern portion of the historic Eagle (Gilman) Mine site – three parcels (Parcels C, H and I) are part of the Eagle Mine Superfund Site. Minturn is located along the Eagle River and U.S. Highway 24 in the southeast quadrant of Eagle County, Colorado.

### Abstract of Subject Parcels:

PARCEL NAME	PARCEL ID	ZONING	CONCEPTUAL USAGE	SIZE (ACRES)	VERTICAL IMPROVEMENTS
Highlands 1	Parcel A	Holding District	Low Density Residential	22.29	None
Highlands 2	Parcel B	Holding District	Low Density Residential	32.68	None
Old Tailings Pile	Parcel C	Holding District	High Density Residential	65.35	None
Recreation Center	Parcel D	Holding District	Public arts/recreation Restricted Residential	2.03	None
Reservoir South	Parcel E	Holding District	Reservoir access for public	12.85	None
Highway Tract B	Parcel F	Holding District	Recreation	2.81	None
Highway Tract D	Parcel G	Holding District	Recreation	0.52	None
Consolidated Tailings Pile	Parcel H	Bolts OS/Rec. Dist.	Recreation/public utility	92.00	None
Soil Processing	Parcel I	Holding District	Medium Density Residential	7.41	None
Maloit Wetlands	Parcel J	Bolts OS/Rec. Dist.	Recreation	16.73	None

Property Rights  
Appraised:

Fee simple estate of the surface

Date of Value:

Parcels A, B, D, E, F, G, H, J:  
Parcels C and I (Prospective):


January 15, 2024  
September 1, 2028

Date of Report:

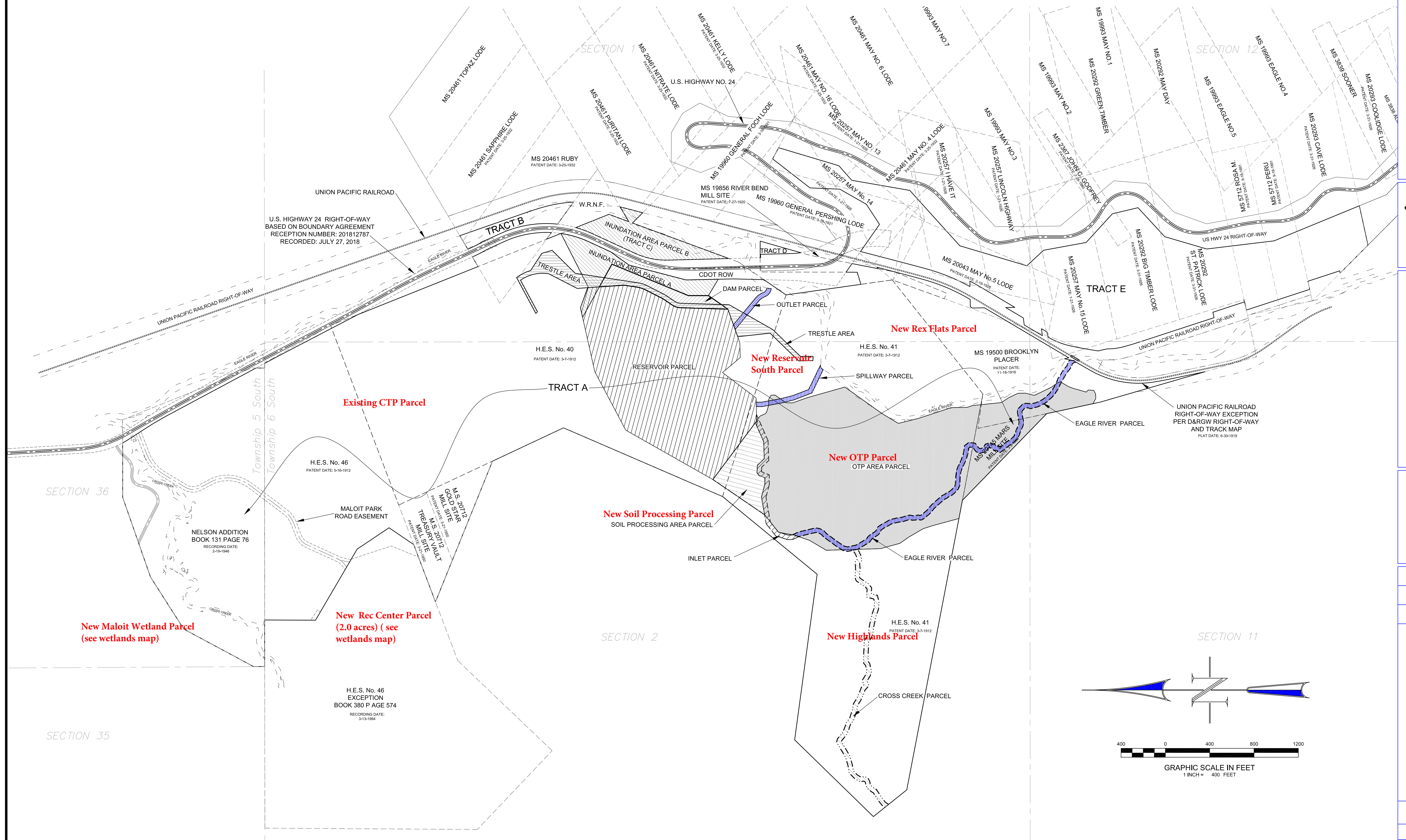
April 23, 2024

## 2

BATTLE NORTH LLC.



## EXHIBIT 2 CONSOLIDATED MAP

[illegible]

Previous Sales:

None in the past three years

Value Estimates:

Parcel A:	\$6,700,000
Parcel B:	\$9,800,000
Parcel C:	\$26,000,000
Parcel D:	\$796,000
Parcel E:	\$25,000
Parcel F:	\$30,000
Parcel G:	\$8,000
Parcel H:	\$525,000
Parcel I:	\$3,700,000
Parcel J:	\$30,000

### IDENTIFICATION OF THE SUBJECT PARCELS

PARCEL NAME	PARCEL ID	ZONING	CONCEPTUAL USAGE	SIZE (ACRES)
Highlands 1	Parcel A	Holding District	Low Density Residential	22.29
Highlands 2	Parcel B	Holding District	Low Density Residential	32.68
Old Tailings Pile	Parcel C	Holding District	High Density Residential	65.35
Recreation Center	Parcel D	Holding District	Public arts/recreation Restricted Residential	2.03
Reservoir South	Parcel E	Holding District	Reservoir access for public	12.85
Highway Tract B	Parcel F	Holding District	Recreation	2.81
Highway Tract D	Parcel G	Holding District	Recreation	0.52
Consolidated Tailings Pile	Parcel H	Bolts OS/Rec. Dist.	Recreation/public utility	92.00
Soil Processing	Parcel I	Holding District	Medium Density Residential	7.41
Maloit Wetlands	Parcel J	Bolts OS/Rec. Dist.	Recreation	16.73

Subject Parcels A and B comprise what is referred to as the Highlands. They are located nearly adjacent – split by a deeded fill ditch – in a broad shallow valley west of and adjacent to subject Parcel C. They have native topography and vegetation and no undermining.

Parcel C is referred to the Old Tailing Pile and is just that, the site where tailings from the Eagle Mine were stockpiled. Due to this historic usage, it is part of the Eagle Mine Superfund (EMS). It has been cleaned of all tailings and will be filled with clean dirt dredged from nearby Bolts Lake by the owner of the lake – Eagle River Water and Sanitation

District (ERWSD). This placing of fill dirt is estimated to be completed September 1, 2028 – the reader is referred to the Extraordinary Assumptions and Hypothetical Conditions sections of this report. This parcel has no undermining.

Parcel D is the Recreation Center property and is located north of Maloit Park Road adjacent on the east in part to the Eagle Schools Maloit Park campus. It is native land and has not been undermined.

Parcel E is known as Reservoir South and it is located adjacent on the south to Bolts Lake. It is rimmed on the east by Tigiwon Road is native land largely comprised of a knoll and has not been undermined.

Parcels F and G are native land located along and east of the U.S. Highway 24 right-of-way, either near or bifurcated by the Eagle River.

Parcel H is the Consolidated Tailings Pile where historic tailings from other sites were relocated. It has been reclaimed, filled and capped. The parcel is located in part along and south of Maloit Park Road and along and west of Highway 24. A portion of the parcel, in the southeast, continues to support the wastewater treatment plant and the “sludge cakes” generated from the ongoing plant operation. It is part of the EMS but is not undermined. This parcel is leased to the Town of Minturn for a period of 50 years – see Hypothetical Conditions later in this report.

Parcel I is where the soil removed from Bolts Lake and ultimately placed on subject Parcel C will be stockpiled and process by ERWSD prior to the placing of it on subject Parcel C. The site is located adjacent on the west to subject Parcel E and along and north of Subject Parcel C. It is not undermined.

Parcel J is the Maloit Wetlands, which are jurisdictional wetland comprised of marshes and fens. The parcel is located west of and near Maloit Park Road and along and south of Cross Creek. It is native, reclaimed land than has not been undermined.

## **PURPOSE OF THE APPRAISAL**

The purpose of this appraisal is to estimate the Market Value of a 100 percent interest of the fee simple estate in the surface of subject Parcels A, B, C, D, E, F, G, I, and J and of the leasehold estate in Parcel H. For Parcels A, B, D, E, F, G, H, and J the date of value is January 15, 2024, and for Parcels C and I the date of value is September 1, 2028, thus, the valuation of these two parcels is prospective. The function of the appraisal is for use in the Consolidated Settlement Agreement (Resolution No. 25 – Series 2023) between the Town of Minturn and the Battle Mountain entities – refer to Exhibit A in the Addenda to this report. The date of the report is April 23, 2024. Market Value is defined on Page 4.

## **SCOPE OF THE APPRAISAL**

The scope of this appraisal encompasses several phases. The subject parcels are inspected, the area and neighborhood analyzed and the Highest and Best Use of each is determined. For subject Parcels A, B, C, D, E, F, G, I, and J, analysis of the local and regional development land and recreation real estate markets and consumer supply and demand are important to the determination of the general market and value trends. None of the subject parcels is improved to its Highest and Best Use – therefore, the Cost Approach is not utilized in the valuation of any of the subject parcels.

Due to the pervading residential and recreational influences, values of properties like the subject parcels are not supported by the potential income received from each parcel. Therefore, the Income approach is not pursued in valuing the subject parcels.

Comparable sales, appropriate for each subject parcel, are confirmed, inspected and then compared to the respective subject parcel to provide an estimate by the Sales Comparison Approach.

The valuation of Parcel H is pursued through analysis of sub-leasing the property for use as a solar array farm using a discounted cash flow analysis. In the discounted cash flow, the probable lease income that could be achieved on subject is used to determine an annual gross income. From the gross income, expenses are deducted to derive an annual net cash flow. The annual net cash flow is then discounted over a period of years using a discount rate opined from market data to a net present value.

The valuation results, as well as descriptive and factual data are presented in a Narrative Appraisal Report.

## **MARKET VALUE**

Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- (1) Buyer and seller are typically motivated;
- (2) Both parties are well informed or well advised, and acting in what they consider their own best interest;

- (3) A reasonable time is allowed for exposure in the open market;
- (4) Payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and
- (5) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Rules and regulations, Federal Register, Vol. S5, No. 165, Page 34696

### **INTENDED USE/USERS**

This appraisal report is intended to be used by the Town of Minturn and the Battle Mountain entities. It is to be used as part of the Battle Mountain Consolidated Settlement Agreement.

### **EXTRAORDINARY ASSUMPTIONS**

Definition of Extraordinary Assumption: *“An assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser’s opinions or conclusions.”*  
(USPAP 2016-2017 ed.; The Appraisal Foundation)

The appraisals and analyses are based on the following Extraordinary Assumptions:

1. The Eagle River Water and Sanitation District has use by temporary easement of subject Parcel I. It is assumed the easement will expire on September 1, 2028 and the land will revert at that time to being unencumbered by the temporary easement.
2. It is assumed that there are no financial or legal obligations per the “Reservoir Agreement” on subject Parcels C (OTP), I (Soil Processing), and J (Maloit Wetlands) for the Town, its successors and/or assigns.
3. It is assumed that subject Parcel C (Old Tailings Pile) may be developed as indicated later in this report.
4. It is assumed that the proper infrastructure for a solar farm on subject Parcel H is in place, proximal to or could be economically developed and near enough to a substation with capacity.

The use of these Extraordinary Assumptions might have affected the assignment results.

### **HYPOTHETICAL CONDITIONS**

Definition of Hypothetical Condition: *“That which is contrary to what exists but is supposed for the purpose of analysis.”* (USPAP 2016-2017 ed.; The Appraisal Foundation)

It is noted that the Old Tailings Pile (Parcel C), the Consolidated Tailings Pile (Parcel H), and Maloit Wetlands (Parcel J) are part of the Eagle Mine Superfund Site as established by the Environmental Protection Agency, and Paragraphs 3, 4, 6, 7, and 10, following, address the status of one or all of these parcels.

1. As of the date of value subject Parcels A, B, C, D, E, F, G and I are zoned Holding District by the Town of Minturn, allowed primarily the “conceptual usage” stated on the matrix under the Abstract of Subject Parcels, and deed restricted to exclude “Industrial” uses without written consent of Battle Mountain.
2. As of the date of value subject Parcels H and J are zoned Bolts Open Space/Recreation District by the Town of Minturn, allowed public uses only (i.e. recreation, utility – including a solar array farm for Parcel H – access, etc.), and are further restricted to not developable.
3. Subject Parcels C (OTP) and I (Soil Processing) will be available for usage as outlined later in this report on September 1, 2028.
4. Subject Parcel C (OTP) will be considered remediated by the Environmental Protection Agency upon the placement of fill dirt from Bolts Lake by the ERWSD, estimated to be completed September 1, 2028
5. If subject Parcel C (OTP) is not transferred to the Town of Minturn and remains held by Battle Mountain, it will be servient to an access and utility easement(s) for benefit of the Highland Parcels (subject Parcels A and B) in a location(s) acceptable to the Town and Battle Mountain.
6. The Environmental Protection Agency has approved the conveyance of Subject Parcels C, I and J and the leasing on a long-term basis of Parcel H to the Town of Minturn pursuant to Section 9 of, the Administrative Settlement Agreement and Order on Consent for Response Action and Release and Waiver of CERCLA Sec. 107(r) Lien, Docket No. CERCLA-08-2018-009.
7. Surface use of subject Parcel H (CTP) by the public as allowed by the Bolts OS/Recreation District, including a solar array farm, will be permitted by the Environmental Protection Agency.
8. Subject Parcels C (OTP), E (Reservoir South), F (Highway Tract B), and G (Highway Tract D) will be servient to “blanket easements” for utilities, etc. for the benefit of Battle Mountain retained parcels.
9. This is a prospective valuation, as of September 1, 2028, of Parcels C (OTP) and I (Soil Processing).
10. Parcel H (Consolidated Tailings Pile) will be leased subject to the continued use of the wastewater treatment plant and disposal of “sludge cakes” on the site; this situation will not interfere with the allowed usage of the parcel.
11. Parcel D (Recreation Center) will be deed restricted to the following uses: community, recreation, artistic, child care, and/or entertainment, and similar uses to be determined by the Parties (the Town and Battle North) and not more than three employee/caretaker units.
12. Parcel H is leased to the Town of Minturn for a period of 50 years at a lease rate of \$1.00 per year, may be subleased, and is allowed to be used in all or part as a solar array farm.
13. Utilities, including domestic water and sanitary sewer, are installed in Tigiwon Road as of January 15, 2024 and are of ample capacity to serve the highest and best use of the subject parcels as detailed herein.

As noted above, the valuation of subject Parcels C (OTP) and I (Soil Processing) are subject to completion of the proposed improvements on Parcel C – the placement of fill from Bolts Lake, which will be processed on Parcel I with use granted by a temporary easement. The estimated completion date of this fill placement is September 1, 2028. The users of this report need to understand:

1. The improved subject Parcel C (filled with soil from Bolts Lake) does not yet, in fact, exist as of the date of appraisal.
2. The analyses performed to develop the opinions of value are based on a hypothesis, specifically that the improved subject property is assumed to exist when in fact it does not fully exist;
3. Certain events need to occur, as disclosed in the report, before the property appraised with the proposed improvements will in fact fully exist; and
4. The appraisal does not address the unforeseeable events that could alter the proposed property improvements and/or market conditions reflected in the analyses.

September 1, 2028 is the effective date of the prospective valuation of subject Parcels C and I.

The use of this Hypothetical Conditions might have affected the assignment results.

### **DEFINITION OF HIGHEST AND BEST USE**

The concept of Highest and Best Use is fundamental to the analysis and valuation of any real property. As used here for purposes of this appraisal report, it is defined as:

"That reasonable and probable use that will support the highest present value, as defined, as of the effective date of this appraisal."

"Alternatively, that use, from among reasonably probable and legal alternative uses, found to be physically possible, appropriately supported, financially feasible, and which results in the highest land value."

An opinion of the highest and best or most probable use is premised upon, among other things, the site being vacant and ready for development, as well as its compatibility with the environment.

### **VALUATION METHODS**

The three common approaches to value are described in The Appraisal of Real Estate - 10th Edition, as follows:

#### Cost Approach

In the Cost Approach, a separate land value estimate is added to an estimate of the current cost to construct a reproduction or replacement of the improvements. Entrepreneurial profit is also added. From this total, estimated depreciation and obsolescence from all causes is subtracted. Due to the fact that the subject parcels do not have vertical improvements, this approach is not applicable to the valuation of these parcels.

#### Sales Comparison Approach

In the Sales Comparison Approach, the subject property is compared to similar properties that have been sold recently or for which listing prices or offering figures are known. Data for generally comparable properties are used,

and comparisons are made to demonstrate a probable price at which the subject property would be sold if offered on the market.

#### Income Capitalization Approach

In the Income Capitalization Approach, the current rental income to the property is shown with deductions for vacancies and collection loss and expenses. The prospective net operating income of the property is estimated. To support this estimate, operating statements for previous years and comparable properties may be reviewed along with available operating cost estimates. An applicable capitalization method and appropriate capitalization rates are developed and used in computations that lead to an indication of value.

#### Discounted Cash Flow Analysis

The major considerations in this method of estimating value are summarized as follows.

1. Estimated base market rent and contractual adjustments to the base rent.
2. Renewal options and rent escalation provisions
3. Operating expenses
4. Inflation or deflation of costs over the holding period.
5. Discount rate.

### **AREA DATA**

As previously mentioned, the subject property is located in in the Town of Minturn, Eagle County, Colorado. Eagle is the county seat and is 27 miles east of Minturn, 31 miles west of Vail, Colorado and about 31 miles east of Glenwood Springs, Colorado. Eagle is located in the Eagle River valley along the Eagle River and Vail is bisected by Gore Creek. All these communities are along and accessed by Interstate 70. Denver, Colorado is located 121 miles east of Eagle via Interstate 70 and Grand Junction, Colorado is located 127 miles west of Eagle, also via Interstate 70. The economic base in Eagle County is somewhat diversified, consisting of tourism, recreation and agriculture – the majority being tourism.

Main automobile access is obviously Interstate 70, which bisects the county in an east/west direction. Colorado State Highway 131 at Wolcott connects with U. S. Highway 40, 70 miles to the north in Steamboat Springs, Colorado. U.

S. Highway 24 extends southerly from Interstate 70 at Dowd Junction and converges with U. S. Highway 285 at Buena Vista, Colorado. State Highway 82 traverses the southern portion of the county and commutes people between Glenwood Springs, Colorado and Aspen, Colorado. The Union Pacific Railroad, as well as bus and truck lines, provide adequate transportation facilities.

Tourism, recreation, agriculture and government provide the main economic base for Eagle County. Within the Vail/Avon area tourism is especially prolific. Recreation and agriculture influence the northern area and the northern portion of the southern area, away from the Vail and Avon influences, of the county. The southern most portion of the county also relies heavily on tourism. Government is active throughout the county, but predominately in the larger towns.

In the Vail/Avon area there are three ski resorts – Vail, Beaver Creek and, most recently developed, Bachelor’s Gulch/Arrowhead. Vail and Beaver Creek are nationally and internationally known and renowned resorts that have hosted numerous championship competitions. These resorts have not reported publicly skier numbers since the 2007-08 season when they respectively had 1,600,000 +/- and 800,000 +/- skier days. Industrywide the number of skiers visiting ski areas has stabilized over the past several years with slight increases registered in the seasons with good snow.

The Arrowhead Ski Area was purchased by the owners of the Vail and Beaver Creek ski areas and was combined with Beaver Creek in 1996. This linking made them the only ski area in North America with access to three separate villages, the third being Bachelor’s Gulch. These ski areas are the main influences on winter tourism. However, cross-country skiing and snowmobiling also boost the number of tourists in the winter. Vail Mountain is the largest single mountain ski area in North America.

Summer tourism also stems from the ski resorts and the mountains surrounding them. In the summer tourists predominately hike, camp, fish, mountain bike, raft, golf and bicycle tour. In addition to the ski resort influence on summer tourism, the National Forest and Wilderness area are also draws.

Recreation in the county includes not only those activities listed above, but also big game hunting – predominately deer and elk. The Flat Tops Wilderness is reportedly home to the largest elk herd in North America. This Wilderness area and the National Forest are where most hunters congregate, however, much private land is hunted and many resorts for this purpose have been developed.

Agriculture is the primary use of the majority of the land in Eagle County. Commodities produced include cattle, sheep and grass hay. The National Forest also plays a vital role in this industry as livestock is predominately summered

on forest lands while hay is produced on the private lands. This hay is fed to the livestock and sold – by in large, to be fed to the horses found at stables and on smaller acreages near the ski resorts.

Government contribution to the area economy is derived mostly from town, county and state offices – including law enforcement, judicial, legislative, education, highway, road and street departments, and so forth. The Federal government contributes little, in the form of employment, to the area economy.

A fifth economic influence – located in Gypsum, is a drywall manufacturing plant and mining operation. This facility and the associated companies reportedly employs around 100 people currently. Because of the large tourism and recreation industry in the county, the service and retail sectors have grown and thrived with some of the major employers in the county being grocery stores, discount stores, hotels and resorts. A Costco warehouse is also located just to the east of Eagle in Gypsum. This amenity attracts regional shoppers from nearby communities.

Numerous motor freight firms, the Union Pacific Rail Road – from the town of Gypsum west – a bus line, and several commercial delivery companies serve the Vail/Avon area. The Eagle County Regional Airport, located at Gypsum, provides aviation service to corporate, general, military and commercial aircraft. Many commercial airlines have direct flights to the airport from various cities throughout the United States. These airlines include American, Delta, United and Air Canada. The airport has grown significantly over the past several years with expansions to increase capacity to bring in more and larger aircraft. Its growth has helped the economy since it also services the surrounding counties and ski areas. The airport also serves as the high-altitude training site for the National Guard, the only high altitude helicopter training program in the Nation.

Availability of retail stores and shopping centers throughout the Eagle Valley is good. Every community and each resort has strip centers and clustered retail stores. A national discount store chain and several chain grocery stores are also located in the area. There is a full complement of automobile and recreational vehicles sales and service establishments either in the area or nearby.

Currently, per capita personal income in Eagle County is above that of Colorado and the Nation as a whole.

The number of building permits issued in unincorporated Eagle County was fairly flat from 1983 through 1987, at which time the numbers began to increase and somewhat stabilized with an apparent peak in 1997 after that the numbers began to decline until 2004 when they again escalated to a high in 2007. According to Eagle County community development, the number of building permits issued leveled off into 2008 from 2007 and then declined sharply into 2009 and 2010 and remained flat until 2013 when the numbers started to slowly increase each year. Real

estate sales decreased substantially from the record levels of 2007 to a near stand-still in 2010; but increases since that time have been registered.

The following table shows that Eagle County and the communities in the Eagle River Valley continually grew for several decades, especially in the 1990's. The population of Eagle County increased nearly 90 percent between 1990 and 2000 – some communities experienced growth as high as 109 and 209 percent in the same time frame – and nearly 32 percent from 2000 to 2020. The total population in Eagle County increased by nearly 20,000 people, almost doubling, in the ten-year span from 1990 to 2000 and increased by over 13,000 people from 2000 to 2020. Eagle and Gypsum have captured the majority of new residents since 2000, with respective increases of 148 and 120 percent in that span.

Table I  
Population Counts

YEAR	EAGLE COUNTY		VAIL		AVON		EAGLE		GYPSUM	
1960	4,677	Δ %	--	Δ %	--	Δ %	546	Δ %	358	Δ %
1970	7,498	60.3	484	--	--	--	790	44.7	420	17.3
1980	13,320	77.7	2,261	367.1	640	--	950	20.3	743	76.9
1990	21,928	69.6	3,716	64.4	1,798	180.9	1,580	66.3	1,750	135.5
2000	41,659	89.98	4,531	21.9	5,561	209.3	3,032	91.9	3,654	108.8
2010	52,197	25.30	5,305	42.3	6,447	15.9	6,508	114.6	6,477	77.3
2020	54,929	5.23	5,377	1.36	6,553	1.64	7,511	15.41	8,040	24.13

Source: U. S. Department of Commerce - Bureau of the Census.

Due to the confining topography of the relatively narrow Eagle River Valley and the higher housing costs near the resorts, growth in this area has been in a westerly direction down valley. While Vail and Avon have experienced good growth, the majority of the developed dwelling units in these communities are expensive custom homes. This pushed the lower income employees into the outlying Towns of Eagle and Gypsum, where lower priced housing can be found.

In conclusion, the Eagle County economy is highly dependent upon tourism and recreation, especially in the Vail/Avon area. The climate is favorable for not only the skiing industry but also for enjoyable living. This created growth in the past that should continue, although probably at a slower rate.

The national and international economic slowdown and recession had an effect on the area but to a lesser degree than in other parts of the country. Many employees in the area are involved in real estate and construction

industries along with tourism. These areas of employment slowed down significantly after the Great Recession but are now seeing increases and are recovering.

The infra-structure is in place to expand with and support a degree of future growth and the cultural amenities available are nearly equivalent to those found in large metro areas. Growth of the resorts has spawned growth in the outlying communities, all of which had a positive effect on property values throughout the Eagle River Valley generally from the early 1990's through 2007. However, the economic base is limited and the overall economy is susceptible and from late 2008 through 2011 all sectors of the real estate market experienced declining values.

Thus, the subject area should continue to grow and prosper. There is no adverse legislation known to be pending that might alter this trend. The preceding comments apply directly to the property being appraised.

### **NEIGHBORHOOD DESCRIPTION**

The subject parcels are located south of the original portion of Minturn in and south of Maloit Park. The location is mostly undeveloped, other than Eagle School buildings (Vail Ski and Snowboard Academy) and housing and the Minturn Fitness Center. All of which are at the end of Maloit Park Road and south of Cross Creek. The area is at the eastern toe of Grouse Mountain, west of the Eagle River and at the northern base of Tennessee Pass. Primary access to Minturn and the neighborhood is U.S. Highway 24. Maloit Park Road and Tigiwon Road extend westerly into the neighborhood from Highway 24. Many portions of the neighborhood were contaminated between the 1880's and 1984 with tailing from the Beldon/Eagle Mine near Gilman and are part of the Eagle Mine Superfund Site.

Minturn is an historic town located along the Eagle River and near Interstate 70 and Dowd's Junction. It has a current population of around 1,100 people and a median age in the mid-30's. It is proximal to Vail, Colorado and is heavily influenced by the economics of the Vail Resort ski areas. The sales listed on the matrix below are representative of older and recent development/re-development sites and recent individual single-family lots in Minturn.

SALE NO.	GRANTOR/GRANTEE	DATE OF SALE RECPT. NO.	SALES PRICE	SITE SIZE (ACRES)	SALES PRICE PER ACRE	TOTAL DWELLING UNITS	DENSITY/ ACRE*	SALES PRICE/ DWELLING UNIT
A	United States of America/ Town of Minturn (Boneyard)	03/20/13 201305531	\$2,300,000	4.390	\$ 523,918	N/A	N/A	N/A

B	I/M Investments, LLC, et al/Miners Base Camp, LLC	05/24/18 201808885	\$2,200,000	1.500	\$1,466,667	12 units	8.67 units	\$183,333
C	Quintana/Midtown Lofts, LLC	07/13/18 201812149	\$2,000,000	1.190	\$1,680,672	10 units	8.40 units	\$200,000
D	Duran /Miners Base Camp, LLC	08/25/20 202014731	\$1,100,000	0.379	\$2,902,375	2 units	5.28 units	\$550,000
E	Union Pacific Railroad Minturn North	12/12/23 202316489	\$ 6,500,000	13.49	\$ 481,838	39 units	2.89 units	\$166,667
1	Flaherty/Miners Base Camp, LLC	07/31/20 202012466	\$470,000	0.203	\$2,315,271	1 unit	4.92 units	\$470,000
2	Chavez/886&892 Main St, LLC/	03/19/21 202107104	\$685,000	0.141	\$4,858,156	1 unit	7.09 units	\$685,000
3	Cross Creek Properties, LLC/ Minnick	03/31/21 202107696	\$350,000	0.116	\$3,017,241	1 unit	8.62 units	\$350,000
4	Cross Creek Properties, LLC/ Osborne	03/31/21 202107564	\$460,000	0.116	\$3,965,517	1 unit	8.62 units	\$460,000
5	Eagle River Partners, LLC/ Whiteford	08/10/21 202118487	\$850,000	0.197	\$4,314,721	1 unit	5.08 units	\$850,000
6	Clap/Nowhere in Minturn/LLC	01/03/22 202200168	\$525,000	0.136	\$3,860,294	1 unit	7.35 units	\$525,000

\* Total dwelling units either existing, approved, ultimately approved, or planned for the sale site

## ASSUMPTIONS AND LIMITING CONDITIONS

This appraisal is subject to the following assumptions and limiting conditions:

1. The maps and pictures are included with this report to assist the reader in visualizing the property. The legal description contained herein is approximate for identification purposes, no survey has been made by this appraiser.
2. I assume no responsibility for matters of a legal character nor do I render any opinion as to the title.
3. It is assumed that the title is merchantable, the property free and clear of liens and encumbrances, except noted leases, under responsible ownership and competent management.
4. The information furnished me by others is believed to be reliable, but I assume no responsibility for its accuracy.
5. I am not required to give testimony or attendance in court by reason of this appraisal, with reference to the property in question, unless arrangements have been previously made therefore.
6. Neither all nor any part of the contents of this report shall be conveyed to the public through advertising, public relations, news, sales, or other media, without the written consent and approval of the author, particularly as to valuation conclusions, the identity of the appraiser or firm with which he is connected, or any reference to the Appraisal Institute, or to the MAI designation.
7. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. The value estimated is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.
8. On January 26, 1992, the Americans with Disabilities Act (ADA) became effective. The appraiser was not provided compliance reports or analysis of this property to determine whether or not it conforms with the requirements of the ADA. If a compliance report and analysis of the property reveal that the property is not in compliance with any of the requirements of the Act, this could have a negative affect upon the value of the subject property. Because the appraiser had no direct evidence to this issue, no responsibility is assumed for any non-compliance of the requirements of ADA that may be present in the subject property. The client is urged to obtain qualified professional assistance for specific ADA requirements.
9. Any distribution of the valuation in this report between land and improvements applies only under the existing program of utilization. The separate valuations for land and building must not be used in conjunction with any other appraisal and are invalid if so used.
10. The appraiser assumes there are no hidden or unapparent conditions of the property, subsoil, or structures, which would render the property more or less valuable. The appraiser assumes no responsibility for such conditions, or for engineering which might be required to discover such factors.
11. This is an Appraisal Report prepared in conformance with the reporting requirements set forth under Standards Rule 2-2 of USPAP for a Narrative Appraisal Report. As such, the report does not include discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Some of the supporting documentation concerning the data, reasoning, and analyses has been retained in the appraiser's file. The information contained in this report is specific to the needs of the aforementioned users and the intended use stated in this report.
12. The Market Value reported in this appraisal does not include any furniture, fixtures, or equipment.

**CURRICULUM VITAE**  
**JONATHAN S. LENGEL, MAI**  
Eagle, Colorado

**Education**

B. S. Degree, Colorado State University – 1986.

All courses requisite to obtain the MAI (Member of the Appraisal Institute) designation and a Real Estate Brokers License from the State of Colorado – 1986 - 1994.

Numerous and continuing appraisal seminars – 1986 - present.

**Memberships/Appointments**

The Appraisal Institute (MAI designation 1991), 1999-2000 Region II Committee Representative, 2011 Region II Committee Representative Alternate, 2012 - 2013 Region II Committee Representative, Admissions Committee, Grievance Committee, past Candidates Coordinating Committee Board Liaison and Co-Chairman.

Eagle Valley Chamber of Commerce, Board of Directors 1994 through 1998 (President – 1997)

Vail – Eagle Valley Rotary Club 1996 – 1998

Western Eagle Valley Rotary Club 1998 – 2001 – Charter Member, Treasurer 1999, Board of Directors 2000 - 2001

Associate Member to the Eagle County Planning Commission March 1996 - September 1997

Advisory Council – Colorado State University Cooperative Extension, Eagle County 1997 - 2000

Eagle Flight Days Committee 1996 – 2000

Eagle River Foundation Board of Directors – 2006 – present (Current President)

**Professional Experience**

March, 1993 to present, President of J.S. Lengel and Associates, Inc., a general real estate appraisal company, making appraisals throughout western Colorado, including Vail, Steamboat Springs, Snowmass, Crested Butte, Aspen, Avon, Winter Park, Granby, Leadville, Montrose, Silverthorne, Frisco, Breckenridge, Salida, Buena Vista, Rifle, Silt, Meeker, Craig, Minturn, Avon, Eagle, and Gypsum; and Eagle, Garfield, Pitkin, Ouray, Rio Blanco, Routt, Moffatt, Weld, Grand, Park, Summit, Lake, Montrose, San Miguel, Archuleta, Las Animas, Huerfano, Chaffee, La Plata and Gunnison Counties and ranches in Colorado, New Mexico and Wyoming. In this capacity I have appraised hundreds of ranches and agricultural parcels throughout western Colorado; commercial, retail, industrial and development properties ranging in location from Aspen and the Roaring Fork Valley to Steamboat Springs and Craig and from Winter Park to Rifle; residential properties in the Eagle River Valley, Garfield County and Steamboat Springs. These appraisals have also included copious partial acquisition appraisals involving rights-of-way and easements for natural gas, water and sewer pipelines; power lines; town and county streets, roads and roundabouts; state and federal highways and roundabouts (for Colorado Department of Transportation and private property owners); and reservoirs.

May, 1986 to March, 1993, Associate Appraiser with Robert J. Mitchell, MAI, Greeley, Colorado. Assisted in and individually completed numerous appraisals involving farms, ranches (located throughout Colorado and in Wyoming, New Mexico and Nebraska), industrial complexes, partial acquisitions for right-of-way and easements, office and retail centers, residences and vacant commercial, industrial and residential development land.

Certified General Appraiser - State of Colorado, #CG01313125

Real Estate Broker - State of Colorado, #EI40000590

**Expert Witness Testimony and Depositions**

Qualified as expert witness in United States Bankruptcy Court (January 1989); United States Tax Court (June 2009); Colorado District Courts: Garfield County (May 1996, November 2005, December 2005), Denver County (September 1997), Eagle County (October 1997, June 2002, April 2003, July 2007, February 2018), Routt County (June 2008), Pitkin County (October 2008, September 2009), Mesa County (March 2009), Jefferson County (January 2020), American Arbitration Association (February 2023) Deposed as expert witness for case in United States Bankruptcy Court, cases in District Courts and American Arbitration Association:

**Expert Witness Testimony**

June 3, 2002: Eagle County District Court; Holy Cross Electric Association, Inc., v. The Piney Valley Ranches Trust, et al. Case No. 99-CV-185

April 8, 2003: Eagle County District Court; Traer Creek Metropolitan District v. H. Grant Ritchey, et al. Case No. 01-CV-524

November 3, 2005: Garfield County District Court; City of Glenwood Springs v. Charles T. Collins; Janice S. Collins; and Georgia Chamberlain, Garfield County Treasurer. Case No. 05-CV-119.

December 21, 2005: Garfield County District Court; Kenneth Elder v. Janey Ruth Elder. Case No. 04 DR 315.

July 3, 2007: Eagle County District Court; Edward W. Nottingham, Jr. v. Marci Jaeger. Case No. 06-DR-56.

June 25, 2008: Routt County District Court; Peterson v. Woodchuck Ditch. Case No. 06 CV 104.

October 28, 2008: Pitkin County District Court; Jeffrey Soffer v. Kimberly Soffer. Case No.

March 19, 2009: Mesa County District Court; John Ricks Family Trust. Case No. 08 PR 399

June 25, 2009: United States Tax Court; Trout Ranch, LLC v. Commissioner of Internal Revenue. Docket No. 14374-08

September 22, 2009: Pitkin County District Court; Holmes v. Audrey Holmes. Case No.

February 21, 2018: Eagle County District Court; Delponte v. Town of Vail, Colorado. Case No. 14CV030404

January 16, 2020: Jefferson County District Court; Carpenter v. Daniels. Case No. 2018DR567

February 6 and 7, 2023: American Arbitration Association; Ogden/Kaiter v. Common Wealth Land Title Insurance Co. Case No. 01-22-0000-6012.

January 25, 2024: San Miguel County District Court; Cadgene v. State of Colorado, State Board of Land Commissioners. Case No. 2020CV30013

April 3, 2024; Garfield County District Court; Eric Jacobson, et al v. Deep Creek Ranch, LLLP, et al. Case No. 2020CV30098

**Depositions**

April 18, 2002: Deposition for Eagle County District Court; Holy Cross Electric Association, Inc., v. The Piney Valley Ranches Trust, et al. Case No. 99-CV-185

February 13, 2003: Deposition for Eagle County District Court; Traer Creek Metropolitan District v. H. Grant Ritchey, et al. Case No. 01-CV-524

October 4, 2011: Records deposition for La Plata County District Court; Department of Transportation v. Robison, et al. Case No. 2009CV427.

February 7, 2012: Deposition for La Plata County District Court; Department of Transportation v. Robison, et al. Case No. 2009CV427.

July 1, 2020: Deposition for Eagle County District Court; Village Inn Plaza-Phase V Condo Assoc. v. LaBottega, Inc.. Case No. 18CV30246.

November 7, 2022: Deposition for American Arbitration Association; Ogden/Kaiter v. Common Wealth Land Title Insurance Co. Case No. 01-22-0000-6012.

#### **Current and Former Clients**

Frederick DeLuca, dec., CT;	Individuals;
Gorsuch Family, Vail, CO;	Attorneys;
Other Appraisers;	Town of Eagle, Eagle, CO;
Department of the Interior-Bureau of	State Board of Land Commissioners, Denver,
Land Management, Denver, CO;	CO;
Yampa Valley Electric Association,	Town of Gypsum, Gypsum, CO;
Steamboat Springs, CO;	Colorado Department of Transportation;
City of Aurora, Aurora, CO	Yampa Valley Land Trust, Steamboat
Montegra Capital Resources, Denver, CO;	Springs, CO;
Eagle County Government, Eagle, CO;	Tad Dekko, FL;
Bank of America, Dallas, TX;	Rocky Mtn. Elk Foundation, Denver, CO;
Upper Eagle Water and Sanitation District, Vail, CO;	George Gillette (Booth Creek Management);
Susan Nottingham, Burns, CO;	Steadman-Hawkins Clinic, Vail, CO;
Colorado Mountain College, Vail, CO;	Town of Frisco, Frisco, CO;
Routt County Government, Steamboat Springs, CO;	Merv Lapin, Vail, CO;
Eagle Valley Land Trust, Eagle, CO;	Vail Mountain School, Vail, CO;
CenturyLink, Eagle, CO;	Hartsel Springs Ranch, Fairplay, CO;
American National Bank, Eagle, CO;	City of Glenwood Springs, Glenwood Springs, CO;
Universal Field Services, CO;	Colorado Business Bank, Edwards, CO;
Union Pacific Railroad, Omaha, NE;	Town of Vail, Vail, CO;
Town of Silt, Silt, CO;	Billie Kidd, Steamboat Springs, CO;
Town of Minturn, CO;	Bank of the West, Denver, CO;
Jeffrey Soffer, FL;	Town of Hayden, Hayden, CO;
U.S. Bank, Denver, CO;	Bob and Jaques Lazier, Vail, CO;
Vail Resorts, Vail, CO;	Eagle County School District, Eagle, CO;
Eagle River Fire Protection Dist., Avon, CO	Holy Cross Electric Association, Glenwood Springs, CO
The Ohio State University, OH;	United States Forest Service;
Northern Colorado Water Conservancy District,	Henry Schimberg, dec., CA;
Loveland, CO;	Greg Norman (Great White Shark Ent.), FL;
Graeme Hart, New Zealand;	Bud Knapp, Edwards, CO;
Debra Webster, Edwards, CO;	Samuel Walton, Benton, AR;
John Coors, Arvada, CO;	Xcel Energy, Denver, CO

## CERTIFICATION

I certify that, to the best of my knowledge and belief,

- \* the statements of fact contained in this report are true and correct.
- \* the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, unbiased professional analyses, opinions, and conclusions.
- \* I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- \* I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- \* my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- \* my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- \* my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- \* the reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Code of Professional Ethics* and *Standards of Professional Appraisal Practice* of the Appraisal Institute.
- \* the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- \* as of the date of this report, Jonathan S. Lengel has completed the requirements under the continuing education program of the Appraisal Institute.
- \* I have made a personal inspection of the property that is the subject of this report.
- \* no one provided significant real property appraisal assistance to the person signing this certification and report.
- \* the appraisal assignment was not based on a requested minimum valuation, a specific valuation or the approval of a loan.
- \* the property is not located within a Special Improvement District.

## CERTIFICATION -- CONT.

- \* the appraiser has no personal interest in or bias with respect to the subject matter of this appraisal report or the parties involved. The Market Value estimate in this appraisal report are not based in whole or in part upon the race, color, or national origin of the owners or occupants of the property appraised, or upon the race, color, or national origin of the present owners or occupants of the properties in the vicinity of the property appraised.
- \* the Appraiser has personally inspected the property, and has made an exterior inspection of all comparable sales listed in this report. To the best of the Appraiser's knowledge and belief all statements and information in this report are true and correct, and the Appraiser has not knowingly withheld any significant information.
- \* I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject (hypothetically) of this report within the three-year period immediately preceding acceptance of this assignment.

After consideration of all the foregoing, I have formed an opinion that the market value of each subject parcel is, as of January 15, 2024, or will be, as of September 1, 2028, as follows:

### Market Values

PARCEL NAME	PARCEL ID	ZONING	CONCEPTUAL USAGE	DATE OF VALUE	MARKET VALUE
Highlands 1	Parcel A	Holding District	Low Density Residential	January 15, 2024	\$6,700,000
Highlands 2	Parcel B	Holding District	Low Density Residential	January 15, 2024	\$9,800,000
Old Tailings Pile	Parcel C	Holding District	High Density Residential	September 1, 2028	\$26,000,000
Recreation Center	Parcel D	Holding District	Public arts/recreation Restricted Residential	January 15, 2024	\$796,000
Reservoir South	Parcel E	Holding District	Reservoir access for public	January 15, 2024	\$25,000
Highway Tract B	Parcel F	Holding District	Recreation	January 15, 2024	\$30,000
Highway Tract D	Parcel G	Holding District	Recreation	January 15, 2024	\$8,000
Consolidated Tailings Pile	Parcel H	Bolts OS/Rec. Dist.	Recreation/public utility	January 15, 2024	\$525,000
Soil Processing	Parcel I	Bolts OS/Rec. Dist.	Recreation/reservoir access for public	September 1, 2028	\$3,700,000
Maloit Wetlands	Parcel J	Bolts OS/Rec. Dist.	Recreation	January 15, 2024	\$30,000

Respectfully submitted,

*Jonathan S. Lengel*

Jonathan S. Lengel, MAI  
Certified General Appraiser  
No. CG01313125

**PARCEL A**

**PARCEL A**  
**Photographs of Subject Property**



View westerly across the subject parcel from near the northeast corner of the site (Photo Taken By: J.S. Lengel, MAI)



Looking northeasterly across the eastern portion of the subject from the same location as the prior photo (Taken By: J.S. Lengel, MAI)



## DESCRIPTION OF THE SUBJECT PROPERTY

### Property History

The current ownership purchased the subject property, along with the other parcels of this appraisal and additional lands, over five years ago. Subject is included within the aforementioned Consolidated Settlement Agreement between the Town of Minturn and the Battle Mountain entities. As part of that agreement the subject property will be transferred to the Town of Minturn. This transfer involves no monetary consideration.

The property is not now listed for sale or under separate contract to sell.

### Legal Description

The subject property is legally described as: part of Section 2, Township 6 South, Range 81 West of the 6th P.M., County of Eagle, State of Colorado. The metes and bounds legal description may be found at Exhibit B in the addenda to this report.

### Site Description

- **Location:** The subject site is located a short distance west of Tigiwon Road, adjacent on the west to Parcel C of this report, and north of the Bolts Ditch at the eastern toe of Grouse Mountain in Minturn, Colorado. The site is bound on the north by the White River National Forest.
- **Present Use:** Vacant land supporting native meadows and timber.
- **Land Size and Shape:** According to the provided survey, prepared by Gamba and Associates, LLC, the subject site totals 22.29 acres. It is irregular in shape; somewhat rectangular with the south line meandering along Bolts Ditch.
- **Access:** Legal access to the subject is undeveloped. As noted at Paragraph 5 in the Hypothetical Conditions previously in this report, there is an access easement extending from Tigiwon Road to the subject east boundary. Tigiwon Road extends from U.S. Highway 24 north and east of the subject.
- **Topography and Vegetation:** The site has primarily undulating and gently sloping topography with the northern portion having the greatest slope at the base of a ridge. The vegetation is native grass, brush, willows and sparse trees – aspen and spruce.
- **Floodplain:** Minor along the noted Bolts Ditch traversing the southern edge of the subject site.
- **Soils:** Varying. Most likely loams, silt loams and cobbly loams.
- **Easements and Encroachments:** There are no noted recorded or hypothetical easements encumbering subject. There are no encroachments on or by the subject.

- **Utilities:** Potable water, sanitary sewer, electrical service, natural gas, and telephone and internet service will be available east of subject in Tigiwon Road at some point in the future, estimated at four years. As with the access to subject, it is presumed that there is a utility easement extending to subject from Tigiwon Road.
- **Water Rights:** There are no surface water rights associated with the subject property.
- **Environmental Concerns:** An environmental assessment was not provided to the appraiser. The values reported herein are based on the assumption that the subject site is free and clear of environmental contamination.
- **Zoning and Other Land Use Regulations:** As noted previously, under the stated hypothetical condition, the subject is zoned Holding District by the Town of Minturn. As noted at Paragraph 1 in the Hypothetical Conditions previously in this report, the conceptual usage of subject is “low density residential”. Industrial use is not allowed without consent of Battle Mountain.

Beyond zoning, subject is raw land with no development approvals/entitlements and the formal process through the Town for usage beyond open recreation and agricultural production must be undertaken and accomplished. It will take time and money to achieve approvals for entitlements, and any proposed plan will need to stand on its own merits. Ultimately, approval of uses on the subject property is from the Town Council after public input in the formal process.

- **Offsite Improvement Requirements:** None.

## **HIGHEST AND BEST USE**

### Legally Permissible:

As noted, the subject property is hypothetically zoned Holding District by the Town. The only legal use currently is interim recreation and agricultural production in the form of livestock grazing. Additional uses would need to be approved by the Town through the formal process starting with a sketch plan. Town staff indicated that future approvals of uses on and of the subject site would need to coincide with those allowed in current low density residential zone districts in the town. The ultimate density and area approved is dependent a number of variables.

Essentially there are two potentials for the subject, either the current usage or low density residential with approvals by the Town through the formal process, which includes a Sketch plan approval, then Preliminary plan approval and ultimately Final plat approval. Based on Sale 8, presented later in this report, it is concluded that a density of around three units per acre, 65 units in total could reasonably be achieved.

### Physically Possible:

The subject site is approximately 22.29 acres in size with a high percentage of usable, gently sloping land. Access may be extended from Tigiwon Road about 1,000 lineal feet east of subject. Potable water and sanitary sewer service will be available from lines in Tigiwon Road. Natural gas, electricity and telephone service are/will be

available also east of the subject. There are no surface water rights appurtenant to subject for dedication to the Town; however, a Cash-in-Lieu payment will not be required at final plat.

Thus, the current physical characteristics of the site are conducive to future development of the site as detailed earlier as being legally permissible, with the noted required road, sanitary sewer and domestic water service improvements.

Financially Feasible and Maximally Productive:

The financial feasibility and maximal productivity of the uses of the subject site are considered next. The potentials of the subject as open recreational and agricultural land do not exceed in value those of subject as a future low density residential development. As a low-density residential site, the available and competing supply must be recognized and taken into account. In this instance, there is little vacant, large parcel residential land, available or otherwise, in Minturn to compete with subject. In fact, most of what is available is located proximal to the east and south of the subject property.

On the approved side of competition, there is the North End development in Minturn that was recently approved for 39 single-family residential sites. This development remains raw land awaiting development with roads and utilities.

Thus, the subject site is one of a few relatively large, raw development parcels in Minturn, four of which are proximal to the subject. Access and utilities are available near the subject, but need enlarged and improved for development of subject, and subject has a high percentage of level, usable topography. However, Town approval at all levels is required before a building permit could be applied for.

From the preceding discussion, it is concluded that the subject is well located in Minturn with utilities and access available in the near term and allowed through presumed easement(s). There is an almost non-existent supply in Minturn of larger residential development sites and an apparent strong demand for said land. While subject has competition, there is the potential for development in the not-too-distant future.

Therefore, the Highest and Best Use of the subject as vacant is concluded to be low-density residential development.

## VALUATION

### Sales Comparison Approach

#### Comparable Sales

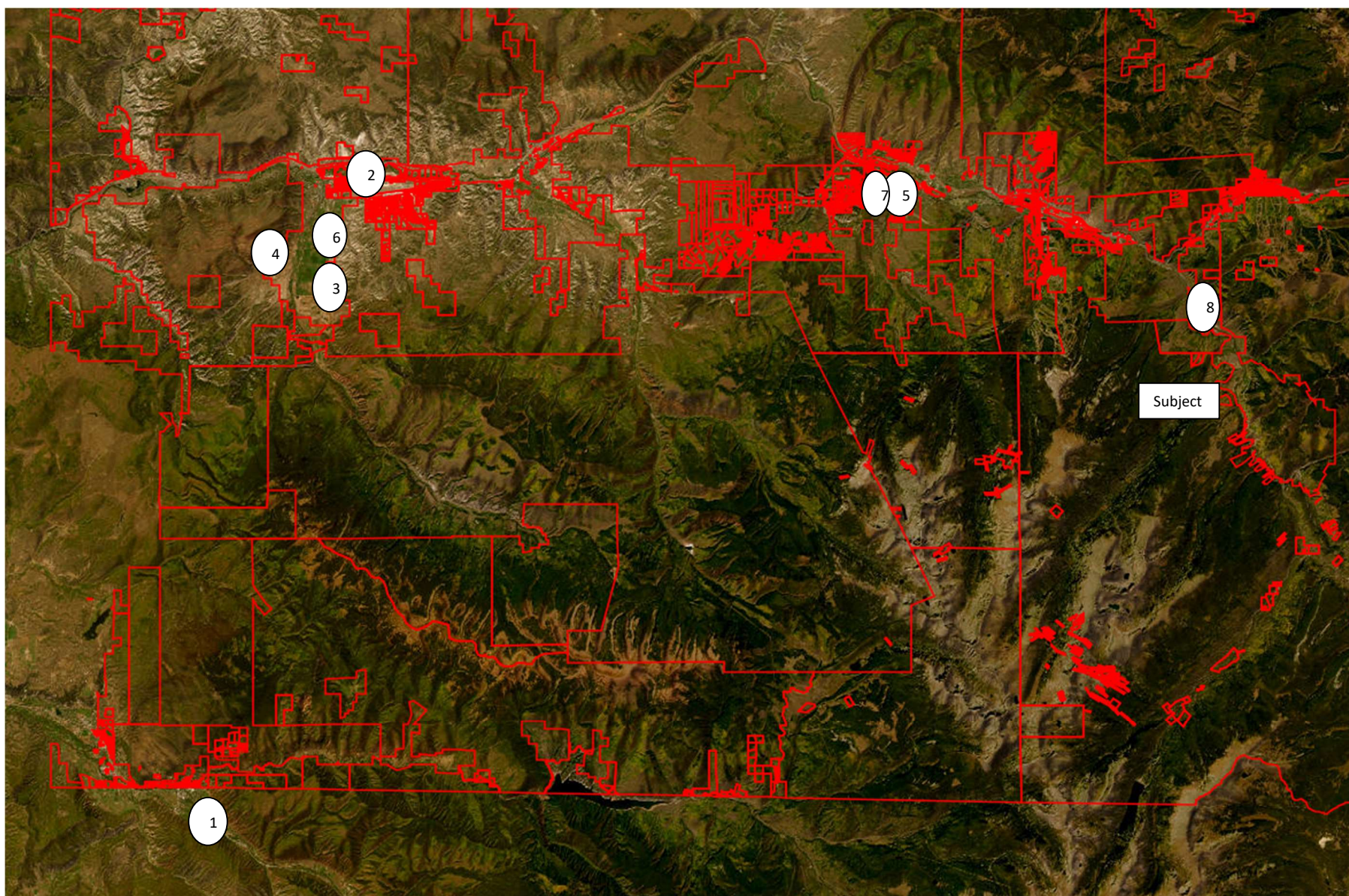
In the analyzation of the value of the subject property, the Sales Comparison Approach best simulates the market. In this analysis the comparable sales are compared to the subject on a pure land basis, that is the sales price divided by the total acreage. The sales are then compared and adjusted to the subject for any differences in property rights, financing, conditions of sale, market conditions (date), location, access, size, topography, river frontage, water rights, entitlements, improvements, availability of utilities, and fees and off-site requirements.

The page following the sales tabulation is a map indicating the location of the sales in relation to the subject. A description of each sale follows the sales map and a larger scale map of each sale may be found at Exhibit C in the Addenda to this report.

Table II  
Comparable Land Sales

SALE NO.	GRANTOR/GRANTEE	DATE OF SALE RECPT. NO.	SALES PRICE	SITE SIZE (ACRES)	SALES PRICE PER ACRE	TOTAL DWELLING UNITS*	DENSITY/ ACRE	SALES PRICE/ DWELLING UNIT
1	Stott/MSP1, LLC	12/04/18 652492	\$ 3,775,000	18.014	\$209,559	112 units	6.22 units	\$33,705
2	Day 3, LLC/Eagle County Land Company, LLC	05/18/20 202007295	\$2,575,000	74.08	\$34,762 N/A	N/A	N/A	N/A
3	Gypsum Prime Properties, LLC/Gerard Bros. Partnership, LLP	06/15/20 202009111	\$ 910,000	62.0	\$14,677 N/A	1 unit	0.0161 units	\$910,000
4	Wilson Ranch/803 Cottonwood Pass, LLC	04/29/21 2021	\$1,550,000	94.0	\$16,489 N/A	2 units	0.0213 units	\$775,000
5	Edwards West End Holdings/ Edwards West End EW Investors	12/30/21 202128667	\$6,250,000	5.291	\$1,181,251	275 units	51.98 units	\$22,727
6	Williams Knight, LLC/ Gorsuch Land Co, LLC	05/24/22 202209485	\$3,250,000	162.7	\$19,975	109 units	0.67 units	\$29,817
7	Fox Hollow, LLC, et al/ Murray Road Properties, LLC	02/15/19 201902210	\$3,960,000	3.794	\$1,043,753	87 units	22.93 units	\$45,517
7b	Murray Road Properties, LLC/ BGV Edwards Properties, LLC	10/13/22 202216492	\$8,250,000	3.794	\$2,174,486	87 units	22.93 units	\$94,828
8	Union Pacific Railroad/ Minturn North	12/12/23 202316489	\$ 6,500,000	13.49	\$481,838	39 units	2.89 units	\$166,667

\* Total dwelling units either allowed, ultimately approved or planned for the sale



Sale 1 is located north of the high school in the southern portion of the town of Basalt (Pitkin County), Colorado. It is along the east side of and has access from Southside Drive. It is within the Urban Growth Boundary of Basalt and was annexed and approved as the Stott's Mill PUD in 2009 for 113 residential units. The property was under option to purchasers and was submitted to the Town of Basalt in December 2015 to "reinstate" the PUD (southside) approvals in 2009 for 48 single-family units, 64 multi-family units and one apartment. The approval was reinstated in late 2017.

Sale 2 is located adjacent on the north to the Eagle County Regional Airport and on the south to U.S. Highway 6 within the town of Gypsum between the east edge of the original portion of town and Costco. Approved years ago as the Tower Center, a commercial development slated for big boxes and hotels. The PUD approved by the Town of Gypsum to the sketch level; however, the entitlements have expired and new approvals are necessary before development may occur. Water and Sewer from the Town of Gypsum and all other typical municipal utilities are extended to or through the site. The developer may be required by the Town to install a stop light and accel/decel lanes on Hwy. 6 and possibly – depending on the ultimate development size – a round-about on the north side of the existing Interstate 70 interchange. The developer also owes \$50,000 to the Town for the water line extension cost recovery. Master Plan designation is "mixed-use".

Sale 3 is located along the east side of Gypsum Creek and adjoins annexed and developed (rural residential sites) portions of Gypsum on the north. It is in unincorporated Eagle County and adjoins BLM lands. It is almost exclusively irrigated hay meadows and includes surface irrigation rights. The site was zoned Resource at sale, which allows one lot per 35 acres.

Sale 4 is located in Eagle County adjacent on the south and west to annexed and developed portions of the town of Gypsum. It is zoned Resource by the county and the west line adjoins BLM land. It includes surface irrigation rights, is a combination of irrigated hay meadows and Gyp bluffs, and is traversed in part by Gypsum Creek. The site was zoned Resource at sale, which allows one lot per 35 acres.

Sale 5 is the former West End PUD development located a short distance west of the traffic circle Highway 6 and Edwards Spur Road interchange at the center of the Edwards community. This site was approved in 2006 for 105 free-market residential units with an average size of 1,250 square feet, 72 deed restricted residential units with an average size of 1,020 square feet and 81,000 square feet of commercial space. However, at the time of the 2021 transaction all of the previous approvals had expired. Subsequent to the sale the purchasers decided that the previously approved plan was not

viable and began planning and met with the County with the plan of putting townhouses on the site. The County was not supportive of this concept and is looking more towards the site being high density, affordable housing units – they are currently requesting 275 residential units for the site.

Sale 6 is located along the east side of Gypsum Creek Road and is annexed to the town of Gypsum. It is a combination of irrigated hay meadows and dry pasture on the Gyp bluffs to the east. The property has over four cfs of surface right for irrigation. It borders BLM land on the east and has been approved through Sketch level for 109 residential units. The listing has an old dwelling and outbuildings on it. The property was listed for \$5,150,000 in early 2017 with at least one price reduction since that time with a list price of \$3,950,000 prior to this sale.

Sale 7 is the Fox Hollow development located in the western portion of Edwards south of U.S. Highway 6. The site has mostly level topography with a small panhandle area extending onto a moderately sloping hillside. Access is from Fox Hollow Drive and Murray Drive. All utilities are available at the site bounds. At the time of sale, the site was approved as Fox Hollow PUD and approved for 87 residential multi-family units. Of that total, 32 units must be restricted for resident occupancy. Four of the 87 units must be resident occupancy and price capped per the guidelines of the County.

Requirements of the approval included: Cash in lieu of land dedication to Eagle Schools of \$208,108.98, extend Murray Road through the property, install a segment of Murray Road, install a sidewalk along the south side of Murray Road and along the south side of Highway 6, and install the asphalt sidewalk along the frontage of the property.

Sale 8 is the recent sale of 13.49 acres of the 18.95-acre eastern portion of the rail yard site owned by UP Railroad. This property is located in north Minturn and is raw land, former rail yard. At the time of sale, the 13.49 acres were approved through the Final Plat level by Minturn for 39 single-family residential units as the Minturn North PUD. The approval requires the developer to improve, including paving, Minturn Road from Railroad Avenue to Highway 6 at Dowd's Junction. The property was under contract since October 2019 while working through the approval process with Minturn. Although, the initial request of the Town was for 109 residential units, the original contract price of \$6,500,000 remained the same.

### Elements of Comparison

#### Property Rights

The sales are compared to the subject for the property interest transferred. In some instances, a property is transferred subject to a long-term lease that may be at a rate different from the market rate. In these cases, the property

interest transferred is different than the fee simple interest. The percent interest transferred must be considered as well. Easements and rights-of-way are also relevant to this adjustment factor.

#### Financing

The motivation of the seller, the method of financing and who the lender is may affect the sales price. For example, if the seller were to finance all or a portion of the sales price, a higher price may be negotiated to account for the added inconvenience and expense. The same may be true if the seller finances at a below market interest rate. However, in some instances the seller, due to tax concerns or personal reasons, may desire to finance the sale to some degree.

#### Conditions of Sale

In analyzing the sales any extenuating circumstances that may have caused the transaction to be something other than arms-length must be considered. These circumstances include in-family transfers, forced sales, foreclosures, trades, etc..

#### Market Conditions

This element deals primarily with the change of values over time, whether positive or negative. The period of time extends from the transacting of the sale to the date of the subject valuation. An additional consideration, depending on the property type and the nature of the derivation of the adjustment for this element, is scarcity possibly coupled with uniqueness.

#### Location

This element considers socio-economic influences of the sales as compared to those on the subject property and possibly views. Physical attributes of the subject and the sales such as availability of utilities, river frontage, topography and vegetation are considered in other sections. The value of lots in the respective communities and/or neighborhood is used in part to determine the degree of this adjustment.

#### Access

In analyzing values, the quality and quantity of the access to a property must be considered. Obviously substandard access might affect the value of a property, especially considering the development overtones in the subject neighborhood, as previously discussed. Limited access may preclude a property from such potentials or increase the cost of "development" to the degree of acquiring sufficient access.

### Size

Typically, smaller properties sell for more on a unit basis than do comparable larger properties. This is due in part to the fact that a smaller investment can be afforded by more potential buyers, thus, the demand and, therefore, the price increases. Additionally, with development properties, smaller parcels generally are easier to manage and develop than comparable larger properties, thus, also positively affecting the market.

### Topography

The topography of all properties varies from one to another. The topography influences the herding practices, vegetation, production, access, views and developability, among other things. All of which could impact the value of a property. Additional consideration is given to the type of vegetation present on each sale. The market desires parcels that are treed or heavily timbered and is willing to pay a premium there for. Ergo, the degree of timber on the sale properties as opposed to the subject is also given consideration in this adjustment.

### River Frontage

It is direct and private access and use of a fishable river – such as the Roaring Fork River – a creek, reservoir or a large pond that is most coveted in the market and that needs the greatest analysis. This frontage has been shown to significantly increase the value of the properties in the subject market.

### Water Rights

The quantity and quality, or the length of time the water is available during the growing season impacts the productivity of a property and therefore the value and will be considered for this element. Other considerations include the amount of excess water, if any, for use off of the property and the types of uses approved for the water – such as residential and piscatorial.

### Entitlements/Zoning

Whether or not the subject and the sales have been approved fully or to some degree for development must be investigated, analyzed and possibly adjusted for. Considered also is the zoning of each sale as compared to that of the subject.

### Improvements

When analyzing and comparing the sales to the subject the contributory value, if any, of the improvements located on each sale must be adjusted to that of the subject improvements.

### Availability of Utilities

The degree of utilities available to a property influences the value. Generally, the greater number and more proximal the utilities available to a property, the higher the value of that property. Potential available utilities include electricity, telephone, cable television/high speed internet, natural gas, domestic water lines and sanitary sewer service. The sales will be compared to the subject and adjusted appropriately for any differences in the availability of the noted utilities.

### Fees and Off-Site Requirements

Items considered in this element include, but are not limited to: cash in lieu of school land dedication, raw water fees/costs in lieu of raw water dedication, road/street impact and/or traffic control fees, off-site street improvements, etc.

### Conclusion

Of the comparable sales, Sale 1 is very representative of subject other than a substantially inferior date and a superior approval status and density per acre – double subject; Sale 2 is unapproved land that has superior access and availability of utilities and inferior location to subject; Sales 3 and 4 are considered to represent the low end of the subject range given the location and respective date of the sales; Sale 5 has a considerably higher portended density than subject and is also superior in location, access and availability of utilities; Sale 6 is inferior to subject in location and density and superior to it in access and availability of utilities; Sale 7b is superior in most attributes to subject and is near the upper limit in subject value; lastly, Sale 8 is very recent and is in Minturn; it sold with approvals in place, but the time and expense of garnering the approvals was borne by the purchaser, and has superior availability of utilities to subject, placing it above the top of the range of subject value.

Based on the analysis of the sales, the value of the subject, as of January 15, 2024, is concluded to be \$300,000 per overall acre (approximately \$103,000 per potential residential unit), or as follows:

$$22.29 \text{ acres @ } \$300,000 \text{ per acre} = \$6,700,000 \text{ (rounded)}$$

### **EXPOSURE TIME**

It is concluded that the subject site could have been sold within one year of being placed on the market at the concluded value.

**PARCEL B**

**PARCEL B**  
**Photographs of Subject Property**



View westerly of subject from near the northeast corner of the site (Photo Taken By: J.S. Lengel, MAI)



Looking southwest across subject from the same location as the prior photo (Taken By: J.S. Lengel, MAI)

### Photographs of Subject Property



Looking south across the eastern portion of subject from near the northeast corner of the site (By: J.S. Lengel, MAI)





## DESCRIPTION OF THE SUBJECT PROPERTY

### Property History

The current ownership purchased the subject property, along with the other parcels of this appraisal and additional lands, over five years ago. Subject is included within the aforementioned Consolidated Settlement Agreement between the Town of Minturn and the Battle Mountain entities. As part of that agreement the subject property will be transferred to the Town of Minturn. This transfer involves no monetary consideration.

The property is not now listed for sale or under separate contract to sell.

### Legal Description

The subject property is legally described as: part of Section 2, Township 6 South, Range 81 West of the 6th P.M., County of Eagle, State of Colorado. The metes and bounds legal description may be found at Exhibit D in the addenda to this report.

### Site Description

- **Location:** The subject site is located a short distance west of Tigiwon Road, adjacent on the west to Parcel C of this report, and south of the Bolts Ditch at the eastern toe of Grouse Mountain in Minturn, Colorado. The site is bound on the south by the White River National Forest.
- **Present Use:** Vacant land supporting native meadows and timber.
- **Land Size and Shape:** According to the provided survey, prepared by Gamba and Associates, LLC, the subject site totals 32.68 acres. It is irregular in shape; somewhat rectangular with the north line meandering along Bolts Ditch.
- **Access:** Legal access to the subject is undeveloped. As noted at Paragraph 5 in the Hypothetical Conditions previously in this report, there is an access easement extending from Tigiwon Road to the subject east boundary. Tigiwon Road extends from U.S. Highway 24 north and east of the subject.
- **Topography and Vegetation:** The site has primarily undulating and gently sloping topography with the eastern and southwestern portions having the greatest slopes. The vegetation is native grass, brush, willows, and sparse trees – aspen and spruce.
- **Floodplain:** Minor along the noted Bolts Ditch traversing the northern edge of the subject site.
- **Soils:** Varying. Most likely loams, silt loams and cobbly loams.
- **Easements and Encroachments:** There are no noted recorded or hypothetical easements encumbering subject. There are no encroachments on or by the subject.

- **Utilities:** Potable water, sanitary sewer, electrical service, natural gas, and telephone and internet service will be available east of subject in Tigiwon Road at some point in the future, estimated at four years. As with the access to subject, it is presumed that there is a utility easement extending to subject from Tigiwon Road.
- **Water Rights:** There are no surface water rights associated with the subject property.
- **Environmental Concerns:** An environmental assessment was not provided to the appraiser. The values reported herein are based on the assumption that the subject site is free and clear of environmental contamination.
- **Zoning and Other Land Use Regulations:** As noted previously, under the stated hypothetical condition, the subject is zoned Holding District by the Town of Minturn. As noted at Paragraph 1 in the Hypothetical Conditions previously in this report, the conceptual usage of subject is “low density residential”. Industrial use is not allowed without consent of Battle Mountain.

Beyond zoning, subject is raw land with no development approvals/entitlements and the formal process through the Town for usage beyond open recreation and agricultural production must be undertaken and accomplished. It will take time and money to achieve approvals for entitlements, and any proposed plan will need to stand on its own merits. Ultimately, approval of uses on the subject property is from the Town Council after public input in the formal process.

- **Offsite Improvement Requirements:** None.

## **HIGHEST AND BEST USE**

### Legally Permissible

As noted, the subject property is hypothetically zoned Holding District by the Town. The only legal use currently is interim recreation and agricultural production in the form of livestock grazing. Additional uses would need to be approved by the Town through the formal process starting with a sketch plan. Town staff indicated that future approvals of uses on and of the subject site would need to coincide with those allowed in current low density residential zone districts in the town. The ultimate density and area approved is dependent a number of variables.

Essentially there are two potentials for the subject, either the current usage or low density residential with approvals by the Town through the formal process, which includes a Sketch plan approval, then Preliminary plan approval and ultimately Final plat approval. Based on Sale 8, presented later in this report, it is concluded that a density of around three units per acre, 95 units in total could reasonably be achieved.

### Physically Possible:

The subject site is approximately 32.68 acres in size with a high percentage of usable, gently sloping land. Access may be extended from Tigiwon Road about 1,000 lineal feet east of subject. Potable water and sanitary sewer service will be available from lines in Tigiwon Road. Natural gas, electricity and telephone service are/will be

available also east of the subject. There are no surface water rights appurtenant to subject for dedication to the Town; however, a Cash-in-Lieu payment will not be required at final plat.

Thus, the current physical characteristics of the site are conducive to future development of the site as detailed earlier as being legally permissible, with the noted required road, sanitary sewer and domestic water service improvements.

Financially Feasible and Maximally Productive:

The financial feasibility and maximal productivity of the uses of the subject site are considered next. The potentials of the subject as open recreational and agricultural land do not exceed in value those of subject as a future low density residential development. As a low-density residential site, the available and competing supply must be recognized and taken into account. In this instance, there is little vacant, large parcel residential land, available or otherwise, in Minturn to compete with subject. In fact, most of what is available is located proximal to the east and north of the subject property.

On the approved side of competition, there is the North End development in Minturn that was recently approved for 39 single-family residential sites. This development remains raw land awaiting development with roads and utilities.

Thus, the subject site is one of a few relatively large, raw development parcels in Minturn, four of which are proximal to the subject. Access and utilities are available near the subject, but need enlarged and improved for development of subject, and subject has a high percentage of level, usable topography. However, Town approval at all levels is required before a building permit could be applied for.

From the preceding discussion, it is concluded that the subject is well located in Minturn with utilities and access available in the near term and allowed through presumed easement(s). There is an almost non-existent supply in Minturn of larger residential development sites and an apparent strong demand for said land. While subject has competition, there is the potential for development in the not-too-distant future.

Therefore, the Highest and Best Use of the subject as vacant is concluded to be low-density residential development.

## VALUATION

### Sales Comparison Approach

Table II, following, summarizes the eight transactions that were presented and analyzed previously in this report in the valuation of subject Parcel A. They are reiterated here for the reader's reference.

Table II  
Comparable Land Sales

SALE NO.	GRANTOR/GRANTEE	DATE OF SALE RECPT. NO.	SALES PRICE	SITE SIZE (ACRES)	SALES PRICE PER ACRE	TOTAL DWELLING UNITS*	DENSITY/ ACRE	SALES PRICE/ DWELLING UNIT
1	Stott/MSP1, LLC	12/04/18 652492	\$ 3,775,000	18.014	\$209,559	112 units	6.22 units	\$33,705
2	Day 3, LLC/Eagle County Land Company, LLC	05/18/20 202007295	\$2,575,000	74.08	\$34,762 N/A	N/A	N/A	N/A
3	Gypsum Prime Properties, LLC/Gerard Bros. Partnership, LLP	06/15/20 202009111	\$ 910,000	62.0	\$14,677 N/A	1 unit	0.0161 units	\$910,000
4	Wilson Ranch/803 Cottonwood Pass, LLC	04/29/21 2021	\$1,550,000	94.0	\$16,489 N/A	2 units	0.0213 units	\$775,000
5	Edwards West End Holdings/ Edwards West End EW Investors	12/30/21 202128667	\$6,250,000	5.291	\$1,181,251	275 units	51.98 units	\$22,727
6	Williams Knight, LLC/ Gorsuch Land Co, LLC	05/24/22 202209485	\$3,250,000	162.7	\$19,975	109 units	0.67 units	\$29,817
7	Fox Hollow, LLC, et al/ Murray Road Properties, LLC	02/15/19 201902210	\$3,960,000	3.794	\$1,043,753	87 units	22.93 units	\$45,517
7b	Murray Road Properties, LLC/ BGV Edwards Properties, LLC	10/13/22 202216492	\$8,250,000	3.794	\$2,174,486	87 units	22.93 units	\$94,828
8	Union Pacific Railroad/ Minturn North	12/12/23 202316489	\$ 6,500,000	13.49	\$481,838	39 units	2.89 units	\$166,667

\* Total dwelling units either allowed, ultimately approved or planned for the sale

As was done in the valuation of the other subject parcel previously, the sales are compared and adjusted to the subject for any differences in property rights, financing, conditions of sale, market conditions (date), location, access, size, topography, river frontage, water rights, entitlements, improvements, availability of utilities, and fees and off-site requirements.

The sales are compared to the subject and possibly adjusted for the numerous elements noted above and discussed in greater detail in the valuation of Parcel A of this report.

### Conclusion

Based on the analysis of the sales, the value of the subject, as of January 15, 2024, is concluded to be \$300,000 per overall acre (approximately \$103,000 per potential residential unit), or as follows:

$$32.68 \text{ acres @ } \$300,000 \text{ per acre} = \$9,800,000 \text{ (rounded)}$$

### **EXPOSURE TIME**

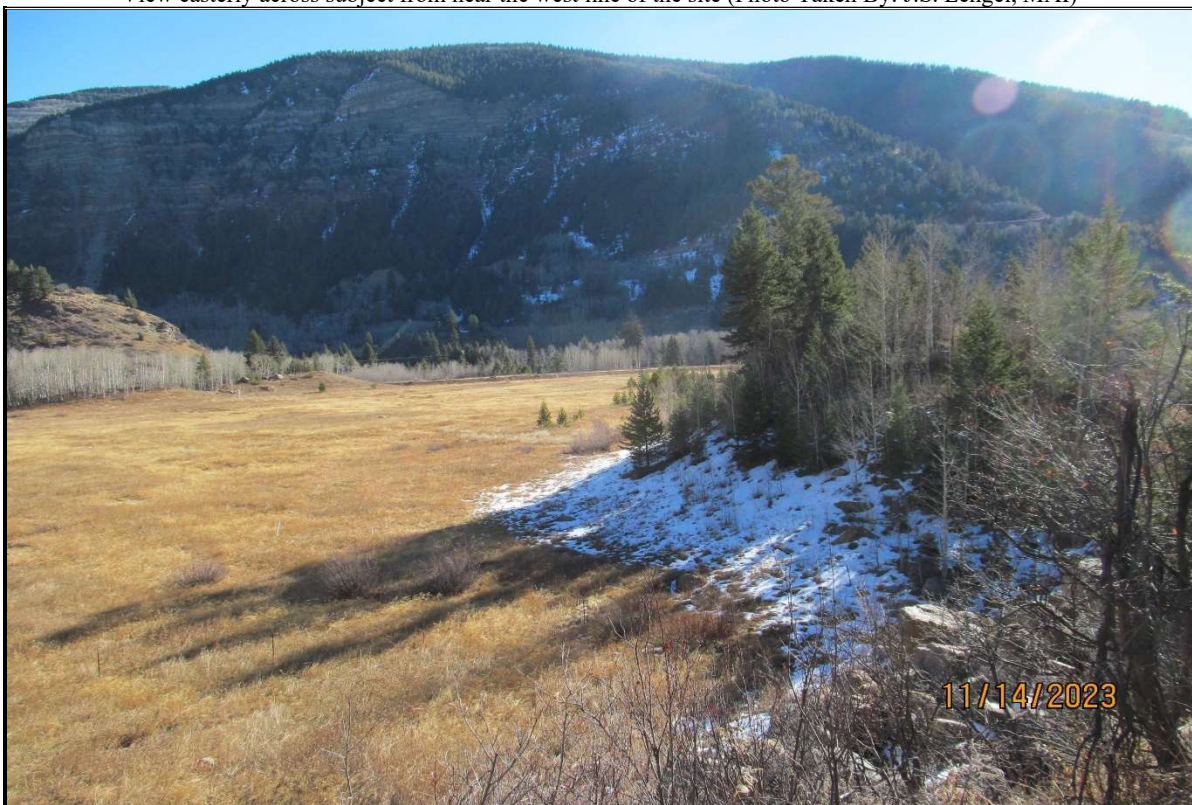
It is concluded that the subject site could have been sold within one year of being placed on the market at the concluded value.

**PARCEL C**

**PARCEL C**  
**Photographs of Subject Property**



View easterly across subject from near the west line of the site (Photo Taken By: J.S. Lengel, MAI)



Looking southeast across subject from the east central portion of the site (Taken By: J.S. Lengel, MAI)

### Photographs of Subject Property



Looking northeast across subject from the same location as the prior photo (By: J.S. Lengel, MAI)



View southeasterly at the southern portion of the subject property from Tigiwon Road (By: J.S. Lengel, MAI)

**Photographs of Subject Property**



View westerly across subject from Tigiwon Road (By: J.S. Lengel, MAI)



Looking northwest across subject from the same location as the prior photo (By: J.S. Lengel, MAI)

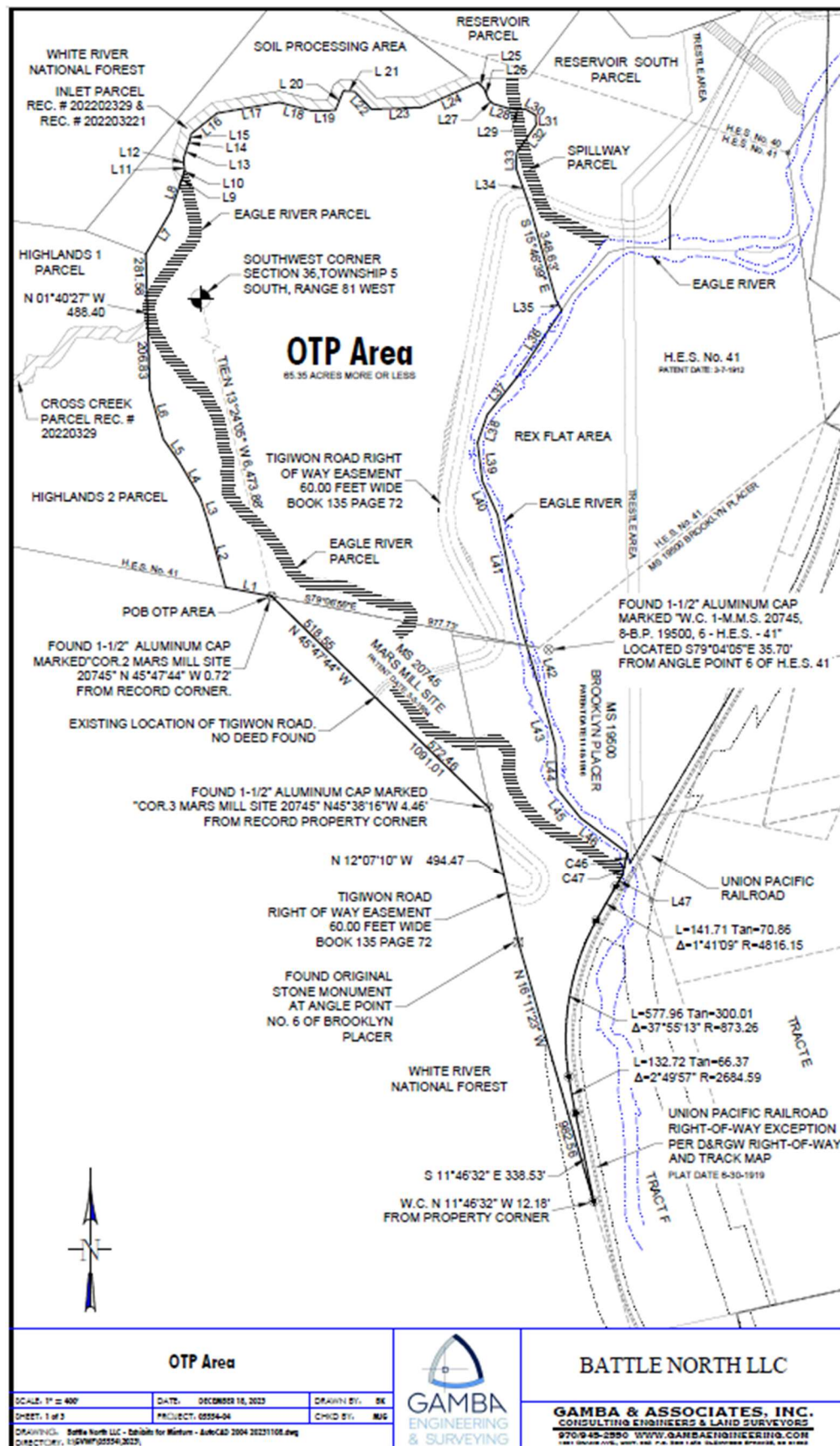
### Photographs of Subject Property



View northerly at the eastern portion of the subject property and Tigiwon Road (By: J.S. Lengel, MAI)



View northwest at the northeast portion of the subject property from Tigiwon Road (By: J.S. Lengel, MAI)



## DESCRIPTION OF THE SUBJECT PROPERTY

### Property History

The current ownership purchased the subject property, along with the other parcels of this appraisal and additional lands, over five years ago. Subject is included within the aforementioned Consolidated Settlement Agreement between the Town of Minturn and the Battle Mountain entities. As part of that agreement the subject property will be transferred to the Town of Minturn. This transfer involves no monetary consideration.

The property is not now listed for sale or under separate contract to sell.

### Legal Description

The subject property is legally described as: part of Section 2, Township 6 South, Range 81 West of the 6th P.M., County of Eagle, State of Colorado. The metes and bounds legal description may be found at Exhibit E in the addenda to this report.

### Site Description

- **Location:** The subject site is located west of center of the Eagle River and is bisected by Tigiwon Road. It is adjacent on the east to subject Parcels A and B of this report and on the south to subject Parcel I of this report and Bolts Ditch, east of the toe of Grouse Mountain in Minturn, Colorado. The site is bound on the south by the White River National Forest.
- **Present Use:** Vacant land supporting native meadows and timber.
- **Land Size and Shape:** According to the provided survey, prepared by Gamba and Associates, LLC, the subject site totals 65.35 acres. It is irregular in shape; somewhat triangular with the southern portion coming to a point west of the Union Pacific rail line.
- **Access:** Legal access to the subject is from Tigiwon Road. Tigiwon Road extends from U.S. Highway 24 west and south through the subject.
- **Topography and Vegetation:** As previously noted the valuation of the site is based on the presumption it will have placed fill – from Bolts Lake – which will leave level, gently sloping topography above the river alluvium. The exposure will be slightly east. The vegetation will be primarily tame grasses with native grass, brush and sparse trees – aspen and spruce – through the southern portion. The transition area to the river has a moderate slope and is vegetated with native grass, cottonwood and spruce trees.
- **Floodplain:** Minor along the Eagle River, traversing the eastern edge of the subject site.
- **Soils:** Varying. Most likely loams, silt loams and cobbly loams.
- **Easements and Encroachments:** The subject site will be, as noted in Paragraphs 5 and 8 of the Hypothetical Conditions, servient to easements for access and utilities for the benefit of subject Parcels A and B, which may be in separate ownership as of the date of value – September 1, 2028. Tigiwon Road crosses the subject in both a

60-foot-wide easement and a relatively short presumed prescriptive easement. A fill ditch for Bolts Lake extends across the western portion of the site, somewhat parallel to the subject west boundary, in an easement. The emergency spillway for Bolts Lake bisects a small area in the northeast portion of the site. There are no encroachments on or by the subject.

- **Utilities:** Potable water, sanitary sewer, electrical service, natural gas, and telephone and internet service will be available to subject in Tigiwon Road at some point in the future, estimated to be near the date of value.
- **Water Rights:** There are no surface water rights associated with the subject property.
- **Environmental Concerns:** Subject is part of the Eagle Mine Superfund Site as established by the Environmental Protection Agency. The reader is referred to Paragraphs 4 and 6 of the Hypothetical Conditions in this report.
- **Zoning and Other Land Use Regulations:** As noted previously, under the stated hypothetical condition, the subject is zoned Holding District by the Town of Minturn. As noted at Paragraph 1 in the Hypothetical Conditions previously in this report, the conceptual usage of subject is “high density residential”. Industrial use is not allowed without consent of Battle Mountain.

Beyond zoning, subject is raw land with no development approvals/entitlements and the formal process through the Town for usage beyond open recreation and agricultural production must be undertaken and accomplished. It will take time and money to achieve approvals for entitlements, and any proposed plan will need to stand on its own merits. Ultimately, approval of uses on the subject property is from the Town Council after public input in the formal process.

- **Offsite Improvement Requirements:** None.

## HIGHEST AND BEST USE

### Legally Permissible:

As noted, the subject property is hypothetically zoned Holding District by the Town. The only legal use currently is interim recreation and agricultural production in the form of livestock grazing. Additional uses would need to be approved by the Town through the formal process starting with a sketch plan. Town staff indicated that future approvals of uses on and of the subject site would need to coincide with those allowed in current high density residential zone districts in the town. The ultimate density and area approved is dependent a number of variables.

Essentially there are two potentials for the subject, either the current usage or high density residential with approvals by the Town through the formal process, which includes a Sketch plan approval, then Preliminary plan approval and ultimately Final plat approval. Based in part on Sale 8, presented later in this report, it is concluded that a density of six to eight units per acre, 400 to 525 units in total, could reasonably be achieved.

Physically Possible:

The subject site is approximately 65.35 acres in size with a high percentage of usable, gently sloping land – again after soil is placed from the Bolts Lake excavation. Access is from Tigiwon Road, which traverses the eastern portion of subject. Potable water and sanitary sewer service will be available from lines in Tigiwon Road. Natural gas, electricity and telephone service are/will be available in the eastern portion of the subject. There are no surface water rights appurtenant to subject for dedication to the Town; however, a Cash-in-Lieu payment will not be required at final plat.

Thus, the current physical characteristics of the site are conducive to future development of the site as detailed earlier as being legally permissible, with the noted required sanitary sewer and domestic water service improvements.

Financially Feasible and Maximally Productive:

The financial feasibility and maximal productivity of the uses of the subject site are considered next. The potentials of the subject as open recreational and agricultural land do not exceed in value those of subject as a future high density residential development. As a high-density residential site, the available and competing supply must be recognized and taken into account. In this instance, there is little vacant, large parcel residential land, available or otherwise, in Minturn to compete with subject. In fact, most of what is available is located proximal to the west of the subject property.

On the approved side of competition, there is the North End development in Minturn that was recently approved for 39 single-family residential sites. This development remains raw land awaiting development with roads and utilities.

Thus, the subject site is one of a few relatively large, raw development parcels in Minturn, four of which are proximal to the subject. Access and utilities are available near the subject, but need enlarged and improved for development of subject, and subject will have a high percentage of level, usable topography. However, Town approval at all levels is required before a building permit could be applied for.

From the preceding discussion, it is concluded that the subject is well located in Minturn with utilities and access available in the near term. There is an almost non-existent supply in Minturn of larger residential development sites and an apparent strong demand for said land. While subject has competition, there is the potential for development in the not-too-distant future.

Therefore, the Highest and Best Use of the subject as vacant is concluded to be high-density residential development.

## VALUATION

### Sales Comparison Approach

As discussed previously in this report, the valuation of subject Parcel C (OTP) is subject to completion of the proposed improvements on the property – the placement of fill from Bolts Lake, which will be processed on subject Parcel I with use granted by a temporary easement. The estimated completion date of this fill placement, and, therefore, the date of value, is September 1, 2028.

Table II, following, summarizes the eight transactions that were presented and analyzed previously in this report in the valuation of subject Parcels A and B. They are reiterated here for the reader's reference.

Table II  
Comparable Land Sales

SALE NO.	GRANTOR/GRANTEE	DATE OF SALE RECEPT. NO.	SALES PRICE	SITE SIZE (ACRES)	SALES PRICE PER ACRE	TOTAL DWELLING UNITS*	DENSITY/ ACRE	SALES PRICE/ DWELLING UNIT
1	Stott/MSP1, LLC	12/04/18 652492	\$ 3,775,000	18.014	\$209,559	112 units	6.22 units	\$33,705
2	Day 3, LLC/Eagle County Land Company, LLC	05/18/20 202007295	\$2,575,000	74.08	\$34,762	N/A	N/A	N/A
3	Gypsum Prime Properties, LLC/Gerard Bros. Partnership, LLP	06/15/20 202009111	\$ 910,000	62.0	\$14,677	1 unit	0.0161 units	\$910,000
4	Wilson Ranch/803 Cottonwood Pass, LLC	04/29/21 2021	\$1,550,000	94.0	\$16,489	2 units	0.0213 units	\$775,000
5	Edwards West End Holdings/ Edwards West End EW Investors	12/30/21 202128667	\$6,250,000	5.291	\$1,181,251	275 units	51.98 units	\$22,727
6	Williams Knight, LLC/ Gorsuch Land Co, LLC	05/24/22 202209485	\$3,250,000	162.7	\$19,975	109 units	0.67 units	\$29,817
7	Fox Hollow, LLC, et al/ Murray Road Properties, LLC	02/15/19 201902210	\$3,960,000	3.794	\$1,043,753	87 units	22.93 units	\$45,517
7b	Murray Road Properties, LLC/ BGV Edwards Properties, LLC	10/13/22 202216492	\$8,250,000	3.794	\$2,174,486	87 units	22.93 units	\$94,828
8	Union Pacific Railroad/ Minturn North	12/12/23 202316489	\$ 6,500,000	13.49	\$481,838	39 units	2.89 units	\$166,667

\* Total dwelling units either allowed, ultimately approved or planned for the sale

As was done in the valuation of the other subject parcels previously, the sales are compared and adjusted to the subject for any differences in property rights, financing, conditions of sale, market conditions (date), location,

access, size, topography, river frontage, water rights, entitlements, improvements, availability of utilities, and fees and off-site requirements.

The sales are compared to the subject and possibly adjusted for the numerous elements noted above and discussed in greater detail in the valuation of Parcel A of this report.

#### Conclusion

Based on the analysis of the sales, it is concluded the value of the subject, as of September 1, 2028, will be \$400,000 per overall acre (approximately \$49,500 to \$65,000 per potential residential unit), or as follows:

$$65.35 \text{ acres @ } \$400,000 \text{ per acre} = \$26,000,000 \text{ (rounded)}$$

#### **EXPOSURE TIME**

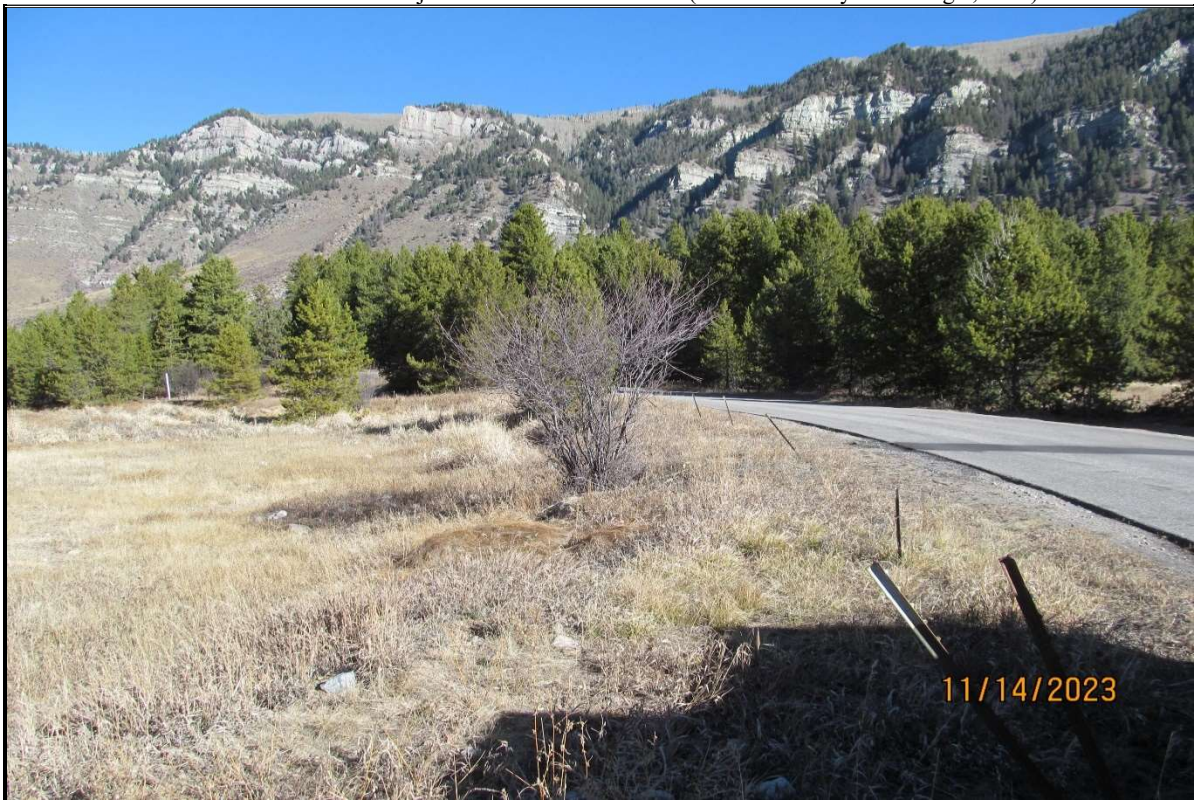
It is concluded that the subject site could have been sold within one year of being placed on the market at the concluded value.

**PARCEL D**

**PARCEL D**  
**Photographs of Subject Property**



View northwest across subject from Maloit Park Road (Photo Taken By: J.S. Lengel, MAI)



Looking northerly along Maloit Park Road from subject (Taken By: J.S. Lengel, MAI)



## DESCRIPTION OF THE SUBJECT PROPERTY

### Property History

The current ownership purchased the subject property, along with the other parcels of this appraisal and additional lands, over five years ago. Subject is included within the aforementioned Consolidated Settlement Agreement between the Town of Minturn and the Battle Mountain entities. As part of that agreement the subject property will be transferred to the Town of Minturn. This transfer involves no monetary consideration.

The property is not now listed for sale or under separate contract to sell.

### Legal Description

The subject property is legally described as: part of Section 2, Township 6 South, Range 81 West of the 6th P.M., County of Eagle, State of Colorado. The metes and bounds legal description may be found at Exhibit F in the addenda to this report.

### Site Description

- **Location:** The subject site is located in Maloit Park adjacent to and west of Maloit Park Road and adjacent on the north to the Minturn Fitness Center in Minturn, Colorado.
- **Present Use:** Vacant land supporting native meadows and timber.
- **Land Size and Shape:** According to the provided survey, prepared by Gamba and Associates, LLC, the subject site totals 2.03 acres (88,427 square feet). It is nearly rectangular in shape with the east line curving along Maloit Park Road.
- **Access:** Legal access to the subject is from Maloit Park Road. Maloit Park Road extends from U.S. Highway 24 westerly and southerly past the subject to the Vail Ski and Snow Academy on Eagle County Schools' property.
- **Topography and Vegetation:** The site has level, gently sloping topography at an elevation above the nearby wetlands. The exposure is slightly east. The vegetation native grass, brush and willows.
- **Floodplain:** None.
- **Soils:** Varying. Most likely loams and silt loams.
- **Easements and Encroachments:** There are no known easements on or encroachments on or by the subject.
- **Utilities:** Potable water, sanitary sewer, electrical service, natural gas, and telephone and internet service are available at subject in Maloit Park Road.
- **Water Rights:** There are no surface water rights associated with the subject property.

- **Environmental Concerns:** An environmental assessment was not provided to the appraiser. The values reported herein are based on the assumption that the subject site is free and clear of environmental contamination.
- **Zoning and Other Land Use Regulations:** As noted previously, under the stated hypothetical condition, the subject is zoned Holding District by the Town of Minturn. As noted at Paragraph 1 in the Hypothetical Conditions previously in this report, the noted conceptual usage of subject. Industrial use is not allowed without consent of Battle Mountain.

As previously discussed at paragraph 11 of the Hypothetical Conditions, the subject parcel is presumed to be deed restricted to community, recreation, artistic, child care, and/or entertainment, and similar uses to be determined by the Parties (the Town and Battle Mountain) and not more than three employee/caretaker units. Beyond zoning, subject is raw land with no development approvals/entitlements and the formal process through the Town for usage beyond open recreation and agricultural production must be undertaken and accomplished. It will take time and money to achieve approvals for entitlements, and any proposed plan will need to stand on its own merits. Ultimately, approval of uses on the subject property is from the Town Council after public input in the formal process.

- **Offsite Improvement Requirements:** None.

## HIGHEST AND BEST USE

### Legally Permissible:

Subject is presumed to be deed restricted to community, recreation, artistic, child care, and/or entertainment, and similar uses to be determined by the Parties (the Town and Battle Mountain) and not more than three employee/caretaker units.

### Physically Possible:

The subject site is approximately 2.03 acres in size with a high percentage of usable, gently sloping land. Access is from Maloit Park Road, which traverses the east boundary of the subject site. Potable water, sanitary sewer service, natural gas, electricity and telephone service are available at the site. There are no surface water rights appurtenant to subject for dedication to the Town; however, a Cash-in-Lieu payment will not be required at final plat.

Thus, the current physical characteristics of the site are conducive to future development of the site as detailed earlier as being legally permissible.

### Financially Feasible and Maximally Productive:

The financial feasibility and maximal productivity of the legal and physically possible noted public and restricted residential uses of the subject are essentially moot as they are public with little to no financial reward with these allowances. However, these uses exceed the financial reward of the only other potential uses as open recreational and agricultural land.

Therefore, the Highest and Best Use of the subject as vacant is concluded to be community, recreation, artistic, child care, and/or entertainment, and similar uses to be determined by the Parties (the Town and Battle Mountain) and not more than three employee/caretaker units.

## VALUATION

### Sales Comparison Approach

An investigation was made involving the sales and listings of vacant parcels with the same or similar highest and best use as subject. Only a few sales were located, three of which were selected for comparison to subject. They are summarized on the following tabulation. The page following the tabulation is a map depicting the location of the sales in relation to the site being appraised – a larger scale map may be found at Exhibit G in the Addenda to this report.

Table III  
Comparable Land Sales  
J.S. Lengel & Associates, Inc. 01/24

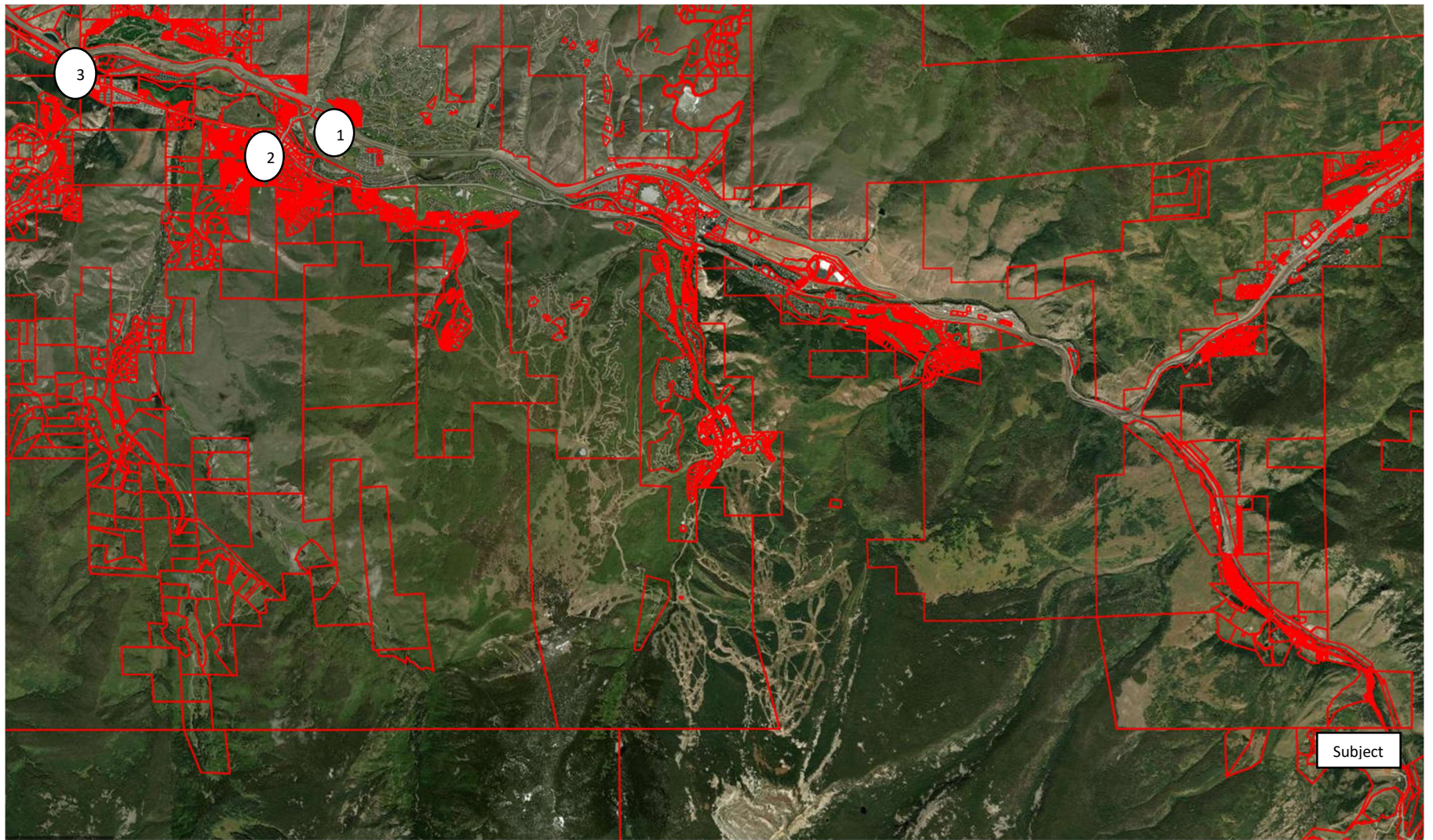
SALE NO.	GRANTOR/GRANTEE	DATE OF SALE RECPT. NO.	SALES PRICE	SITE SIZE (SQ.FT./ACS)	SALES PR/ SQ.FT./AC.
1	Eagle County Schools/ Edwards Station, LLC	11/03/14 201418907	\$255,000	23,182 0.53	\$11.00 \$481,132
2	Remonov & Co, Inc./Eagle River Fire Protection Dist.	06/23/16 201610004	\$425,000	60,156 1.38	\$7.06 \$307,748
3	CANA RE Ptnrs., LLC/Calvary Chapel Vail Valley	10/31/19 201919488	\$1,000,000	117,620* 2.70	\$8.50 \$370,370

\*Net usable area of site (Gross area is 5.023 acres)

As was done in the valuation of the other subject parcels previously, the sales are compared and adjusted to the subject for any differences in property rights, financing, conditions of sale, market conditions (date), location, access, size, topography, river frontage, water rights, entitlements, improvements, availability of utilities, and fees and off-site requirements.

The sales are compared to the subject and possibly adjusted for the numerous elements noted above and discussed in greater detail in the valuation of Parcel A of this report.

Sale 1 is a site located in the northwest corner of the Battle Mountain High School parcel along Interstate 70 in Edwards. It was purchased by the adjoining ownership for assemblage with Edwards Station. It required getting approval of a plat and integration into the Edwards Station PUD to be used for anything other school purposes. The



site lies several feet lower than Edwards Station and has access only from the High School parcel or Edwards Station. Utilities were available at the site. The assemblage to Edwards Station increased the utility of that property.

Sale 2 is located at the west edge of the Edwards core south of U.S. Highway 6. It is a long, relatively narrow strip that extends between Highway 6 and Edwards Village Boulevard. The east line adjoins the fire station – the purchasers – an ambulance station and Edwards Village Center – a multi-building retail and office development – and the west boundary is contiguous with open space that adjoins multi-family residential. The property is zoned Commercial General but is too narrow for use other than by an adjoining property. It was purchased for expansion of the fire station.

Sale 3 is located along and south of the center of Eagle River and along and north of Highway 6. It is between Hillcrest Drive, which bridges the river, and Vail Christian High School. It is a part of the Vail Christian High School PUD and is allowed to be used for a high school and related uses, church, community outreach, nursery, day care, office, meeting rooms, kitchen, storage and other ancillary uses associated with a religious facility, not to exceed 500 seats with a total of 22,500 square feet. The fishing rights on the portion of the river crossing the sale were retained by a previous ownership. The vertical improvements on the site are owned by the lessee.

### Conclusion

Of the comparable sales, despite its age, Sale 1 is determined to portend the high end of the value range due to the motivation of the buyer increasing the utility of a private property enterprise. Sale 2 is very representative of subject due to the allowed uses of both being public and including restricted residential. Sale 3 is also considered germane to the subject value given the allowed uses on it.

Based on the analysis of the sales, the value of the subject, as of January 15, 2024, is concluded to be \$9.00 per overall square foot, or as follows:

$$88,427 \text{ square feet @ } \$9.00 \text{ per sq. ft.} = \$796,000 \text{ (rounded)}$$

### **EXPOSURE TIME**

It is concluded that the subject site could have been sold within one year of being placed on the market at the concluded value.

**PARCEL E**

**PARCEL E**  
**Photographs of Subject Property**



View southeast at the western portion of subject (Photo Taken By: J.S. Lengel, MAI)



Looking easterly across western portion of subject from near the southwest corner of the site (Taken By: J.S. Lengel, MAI)

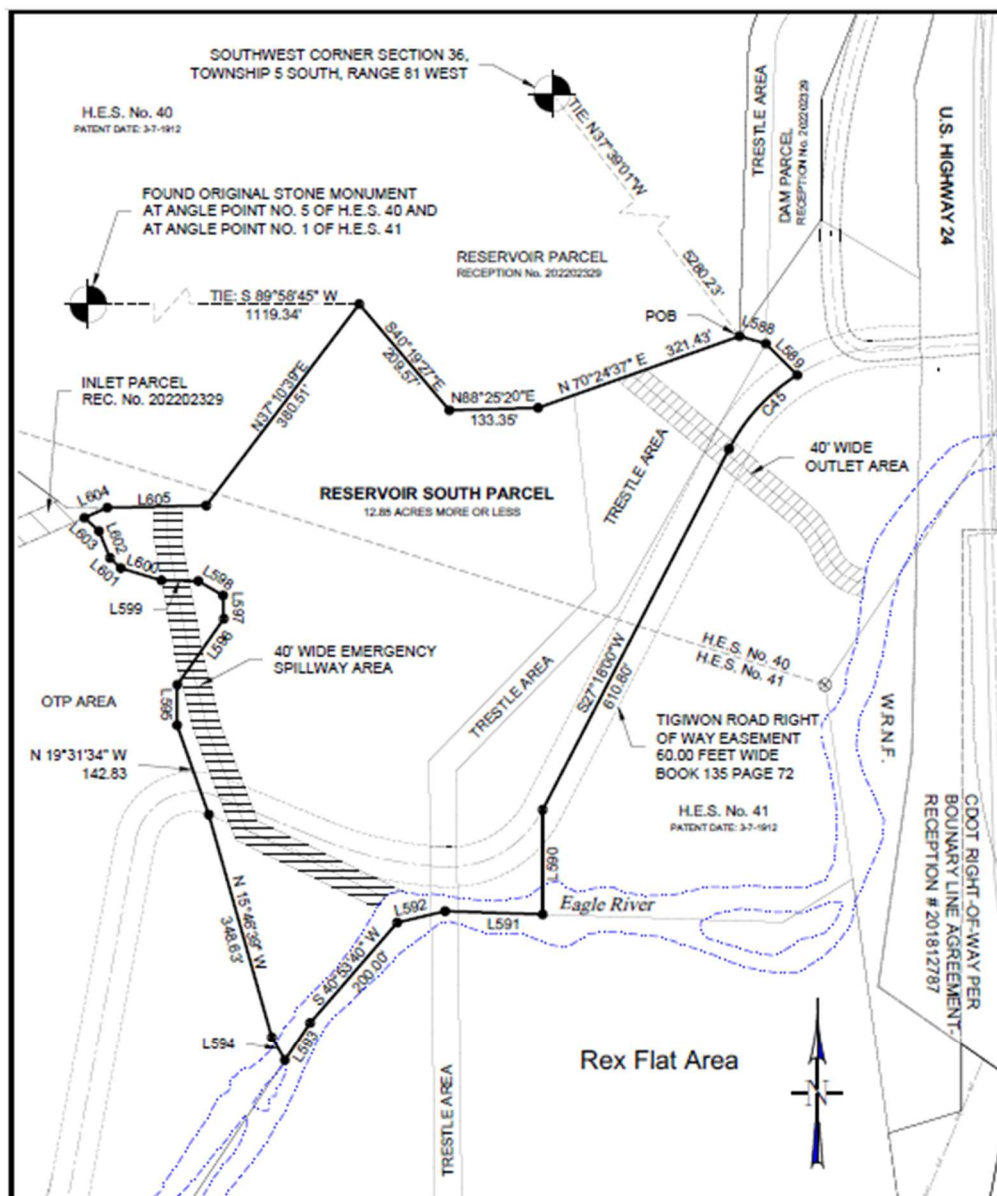
### Photographs of Subject Property



Looking east across the southern portion of subject from the same location as the prior photo (By: J.S. Lengel, MAI)



View northerly at the southern portion of the subject property from Tigiwon Road (By: J.S. Lengel, MAI)



CURVE TABLE - RESERVOIR SOUTH PARCEL					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C45	153.15	286.50	30°37'40"	S42°37'30"W	151.33

LINE TABLE - RESERVOIR SOUTH PARCEL		
LINE	LENGTH	BEARING
L588	41.21	S74°17'56"E
L589	66.71	S44°54'07"E
L590	157.44	S00°00'00"E
L591	146.84	N88°07'28"W
L592	74.00	S76°34'22"W
L593	68.33	S33°39'49"W
L594	40.16	N29°14'17"W
L595	60.72	N00°21'34"E
L596	121.47	N35°09'05"E

LINE TABLE - RESERVOIR SOUTH PARCEL		
LINE	LENGTH	BEARING
L597	35.14	N01°52'44"W
L598	43.18	N59°40'34"W
L599	55.31	N89°10'25"W
L600	63.94	N73°08'12"W
L601	22.10	N46°45'14"W
L602	43.86	N22°14'32"W
L603	29.71	N47°44'40"W
L604	37.66	N66°03'04"E
L605	148.79	N88°48'40"E

**RESERVOIR SOUTH PARCEL**

SCALE: 1" = 200' DATE: DECEMBER 7, 2023 DRAWN BY: BK  
 SHEET: 1 of 2 PROJECT: 05554-04 CHECKED BY: MJS  
 DRAWING: Battle North LLC - Submittal for Permit - AutoCAD 2004 20231108.dwg  
 DIRECTORY: I:\GWP\05554\2023\

**GAMBA**  
ENGINEERING  
& SURVEYING

**BATTLE NORTH LLC**

**GAMBA & ASSOCIATES, INC.**  
CONSULTING ENGINEERS & LAND SURVEYORS  
 970-945-2990 WWW.GAMBAENGINEERING.COM  
1001 GARDNER AVE., SUITE 200 P.O. BOX 3400 GLENDALE, ARIZONA 85304

## DESCRIPTION OF THE SUBJECT PROPERTY

### Property History

The current ownership purchased the subject property, along with the other parcels of this appraisal and additional lands, over five years ago. Subject is included within the aforementioned Consolidated Settlement Agreement between the Town of Minturn and the Battle Mountain entities. As part of that agreement the subject property will be transferred to the Town of Minturn. This transfer involves no monetary consideration.

The property is not now listed for sale or under separate contract to sell.

### Legal Description

The subject property is legally described as: part of Section 2, Township 6 South, Range 81 West of the 6th P.M., County of Eagle, State of Colorado. The metes and bounds legal description may be found at Exhibit H in the addenda to this report.

### Site Description

- **Location:** The subject site is located adjacent on the south to Bolts Lake, west of and along Tigiwon Road and adjacent on the east to subject Parcel I in Minturn, Colorado.
- **Present Use:** Vacant land supporting native meadows and timber.
- **Land Size and Shape:** According to the provided survey, prepared by Gamba and Associates, LLC, the subject site totals 12.85 acres. It is irregular, somewhat of a “star”, in shape with the east line extending along Tigiwon Road.
- **Access:** Legal access to the subject is from Tigiwon Road. Tigiwon Road extends from U.S. Highway 24 southerly and westerly along and through the subject parcel.
- **Topography and Vegetation:** The site is substantially comprised of a knoll with the periphery of it having level, gently sloping lands – the edges of the subject parcel. The vegetation native grass, brush and timber.
- **Floodplain:** None.
- **Soils:** Varying. Most likely loams, silt loams and cobbly loams.
- **Easements and Encroachments:** One-half of the 60-foot-wide easement for Tigiwon Road extends along the subject east boundary and then extends in full width westerly through the southern portion of subject. A 40-foot-wide easement for the Bolts Lake emergency spillway extends southerly through the western portion of the site. A 40-foot-wide easement for the Bolts Lake outlet extends southerly through the eastern tip of the site. An historic wooden trestle traverses the eastern portion of the site. There are no known encroachments on or by the subject.
- **Utilities:** Potable water, sanitary sewer, electrical service, natural gas, and telephone and internet service will be available east of subject in Tigiwon Road at some point in the future, estimated at four years.

- **Water Rights:** There are no surface water rights associated with the subject property.
- **Environmental Concerns:** An environmental assessment was not provided to the appraiser. The values reported herein are based on the assumption that the subject site is free and clear of environmental contamination.
- **Zoning and Other Land Use Regulations:** As noted previously, under the stated hypothetical condition, the subject is zoned Holding District by the Town of Minturn. As noted at Paragraph 1 in the Hypothetical Conditions previously in this report, the conceptual usage of subject is “public reservoir access”. Industrial use is not allowed without consent of Battle Mountain.

Beyond zoning, subject is raw land with no development approvals/entitlements and the formal process through the Town for usage beyond open recreation and agricultural production must be undertaken and accomplished. It will take time and money to achieve approvals for entitlements, and any proposed plan will need to stand on its own merits. Ultimately, approval of uses on the subject property is from the Town Council after public input in the formal process.

- **Offsite Improvement Requirements:** None.

## **HIGHEST AND BEST USE**

### Legally Permissible:

Subject is presumed to be restricted to public usage including access to Bolts Lake – the Town has an agreement for summer, non-motorized surface use of the lake with ERWSD.

### Physically Possible:

The subject site is approximately 12.85 acres in size, but it has a high percentage of sloping land. The periphery of the site, including at Bolts Lake, is gently sloping and usable land. Access is from Tigiwon Road, which traverses the east boundary and the southern portion of the subject site. Potable water, sanitary sewer service, natural gas, electricity and telephone service will be available at the site.

Thus, the current physical characteristics of the site are conducive to use of the site providing public use and access to Bolts Lake.

### Financially Feasible and Maximally Productive:

The financial feasibility and maximal productivity of the legal and physically possible noted public uses of the subject are essentially moot as they are public with little to no financial reward with these allowances.

Therefore, the Highest and Best Use of the subject as vacant is concluded to be public use, including access to Bolts Lake.

## VALUATION

### Sales Comparison Approach

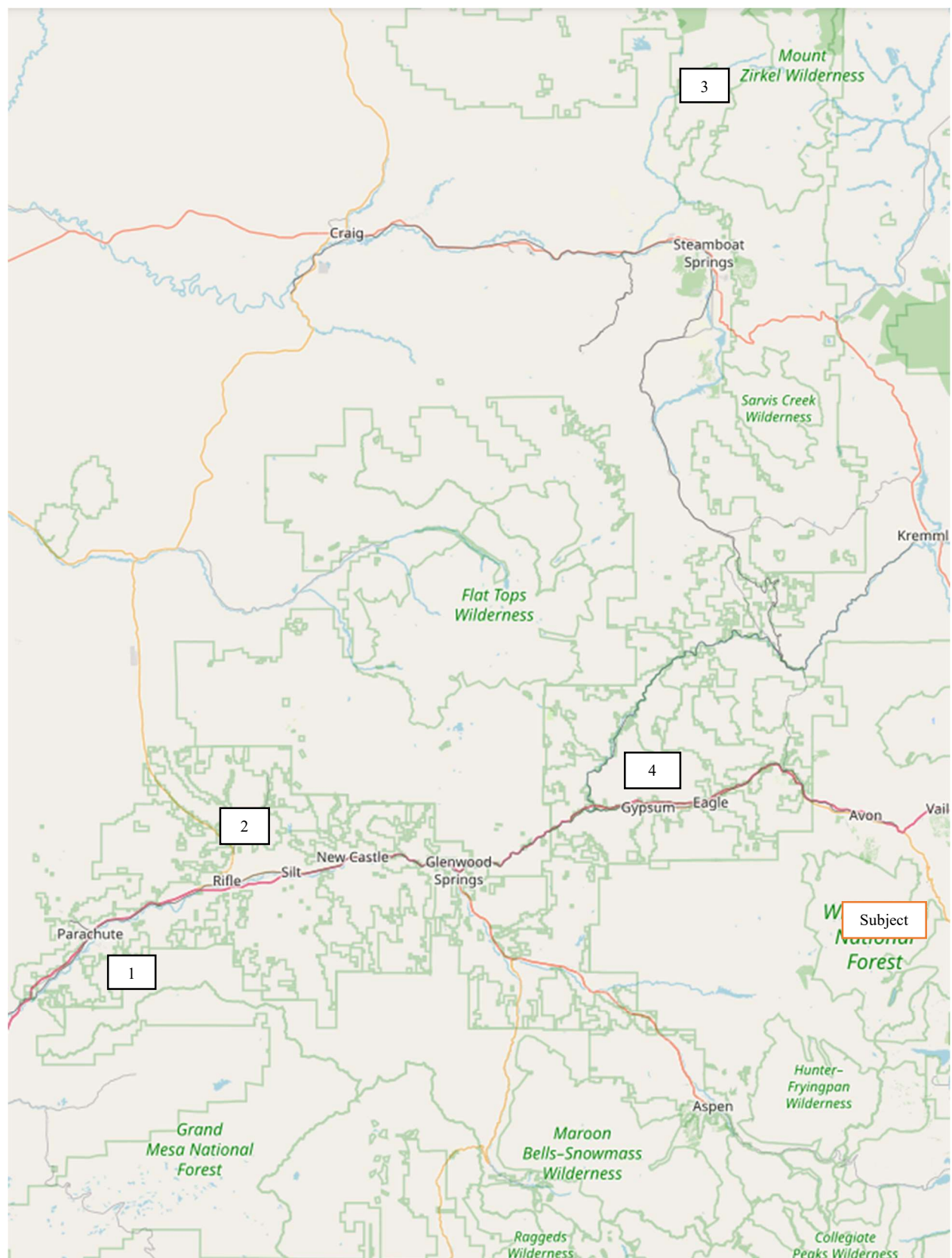
Properties with the same highest and best use as subject are rare and sales of those properties are even rarer. Therefore, the investigation involving the sale, contract and listing activity of vacant, sites with a highest and best use of open space covered a broad geographic region that included the counties of Garfield, Eagle, Routt, Gunnison and Moffat with a concentration on the subject region. The results are summarized on the following tabulation. The page following the tabulation is a map depicting the location of the sales in relation to the site being appraised – a larger scale map may be found at Exhibit I in the Addenda to this report.

Table IV  
Comparable Land Sales  
J.S. Lengel and Associates, Inc. 1/24

SALE NO.	GRANTOR/ GRANTEE	SALE DATE RECORDING	SALES PRICE	SITE SIZE ACRES
1	Battlement Mesa Land Investments, LLC/ Parachute Battlement Mesa Parks and Recreation District	10/13/20 943683	\$25,000	6.710
2	Crone/Hurtado	02/23/21 951254	\$12,000	6.239
3	Double Y Properties, LLC/Cloud	09/02/21 829118	\$24,000	3.560
4	Pirnie/Butler Maps, LLC	09/27/21 202122585	\$30,000	5.000

As was done in the valuation of the other subject parcels previously, the sales are compared and adjusted to the subject for any differences in property rights, financing, conditions of sale, market conditions (date), location, access, size, topography, river frontage, water rights, entitlements, improvements, and availability of utilities.

The sales are compared to the subject and possibly adjusted for the numerous elements noted above and discussed in greater detail in the valuation of Parcel A of this report.



Sale 1 has year-round access from asphalt improved, divided Battlement Parkway and asphalt bike/pedestrian paths, which traverse the panhandle portion of the site. A full complement of utilities are available at or near the site. The northern area of the site is essentially a drainage ravine with a small reservoir, used for irrigation of the adjoining golf course, and a gently sloping “panhandle” that extends from the street. An intermittent stream flows westerly through the eastern portion of the site. The property was formally listed for sale and purchased by the recreation district that has the rights to the reservoir on the sale and encompasses the town of Parachute and Battlement Mesa, including overseeing the golf course that adjoins the sale site. The sale is zoned Planned Unit Development and is designated as Common Open Space, which disallows development on the site.

Sale 2 is located east across Highway 13 from the city limits of Rifle, but is about two miles north of the developed portions of the city. It has access from Highway 13, one point, and from the property adjoining it on the east – the purchasers of the property. The sale is substantially comprised of a large, mostly steep hill – the northwest corner is gently undulating but may be prone to runoff. A relatively small parcel of BLM adjoins the sale on the north. Electric service would need to be extended north from the adjoining property to the sale. The site is essentially unbuildable, due to topographical constraints, and was purchased by the adjoining owners for assemblage with their residential tract.

Sale 3 is comprised of three contiguous lots that have heavy timber cover and are bifurcated by a drainage. It has no developed access – a road was extended to and past the site decades ago but is now overgrown with large trees and is unusable other than on foot. The buyer reported that it would require several owners joining together to clear the road and bring it to a drivable condition. There are no utilities to the sale, electrical service is over a mile from the property. It is located in a formal subdivision, for which there are platted, albeit undrivable, roads within and is zoned Low Density Residential by Routt County. The site was purchased for recreational use. It was formally listed for sale.

Sale 4 is located on the southern aspect of a timbered – pinion and juniper – hillside above what is known as Dry Lake. The sales site is surrounded by a 275-acre parcel, which is surrounded by BLM, that is owned by the Town of Gypsum and managed by a club as an ATV and motocross park. Access to the sale is from an unmaintained BLM road that extends north from Trail Gulch Road, which extends from the Gypsum interchange (140) on Interstate 70. At the Dry Lake parcel the access extends to the sale site in an apparent prescriptive easement. The sale is designated Open Space and Cemetery and may not be built on, camping on it is allowed. There are no utilities to or near the site and access is year-round dependent on snow depth and condition. The seller and purchaser are family friends and the

seller approached the buyer about buying the property. From there they came to a meeting of the minds on price with the caveat that the two graves, the seller's parents, on the property could never be exhumed. The purchaser is an avid motorcyclist.

#### Conclusion

All of the comparable sales have no or very limited development potential, similar to subject. Only Sale 1 has public usage, giving it the most credence in valuing the subject. The indication by Sale 1 is supported and bracketed by the other three sales.

Based on the analysis of the sales, the value of the subject, as of January 15, 2024, is concluded to be as follows:

12.85 acres = \$25,000

#### **EXPOSURE TIME**

It is concluded that the subject site could have been sold within one year of being placed on the market at the concluded value.

**PARCEL F**

**PARCEL F**  
**Photographs of Subject Property**



View southeast at the southern portion of subject (Photo Taken By: J.S. Lengel, MAI)

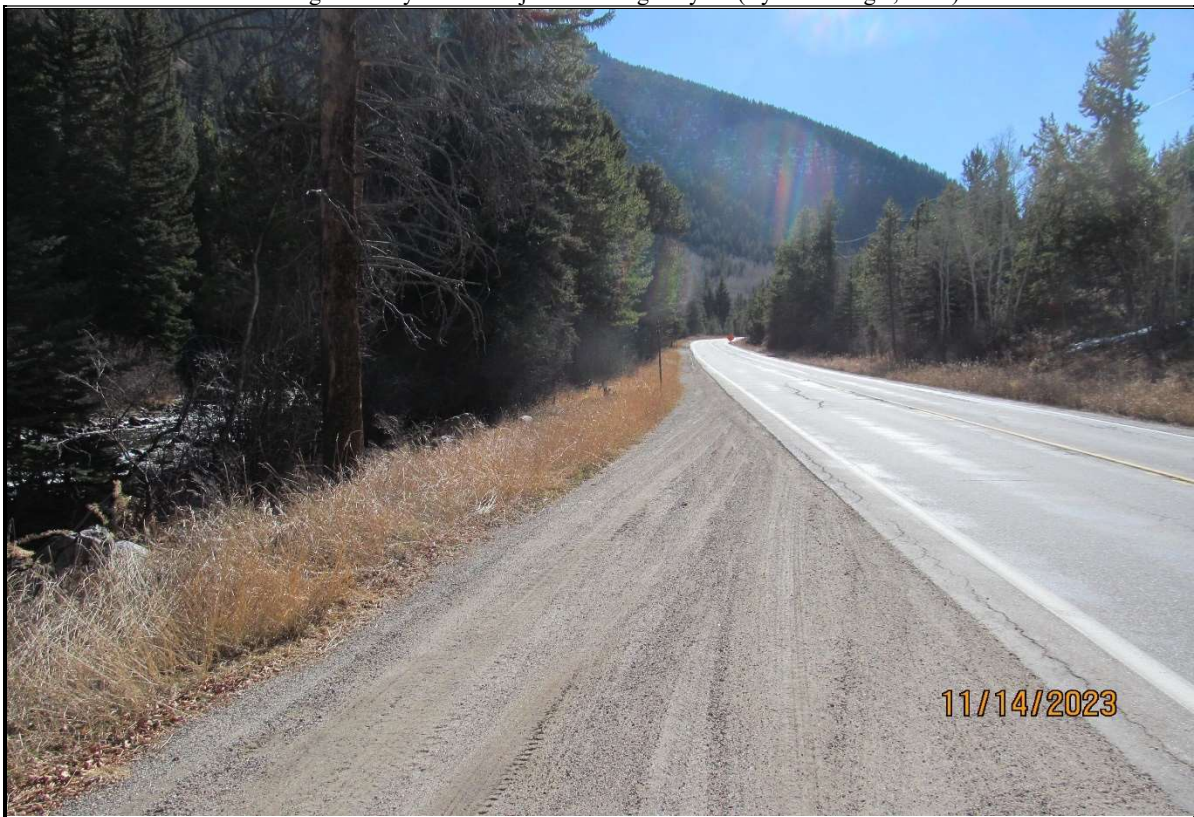


Looking northerly along the Eagle River as it crossed the subject site (Taken By: J.S. Lengel, MAI)

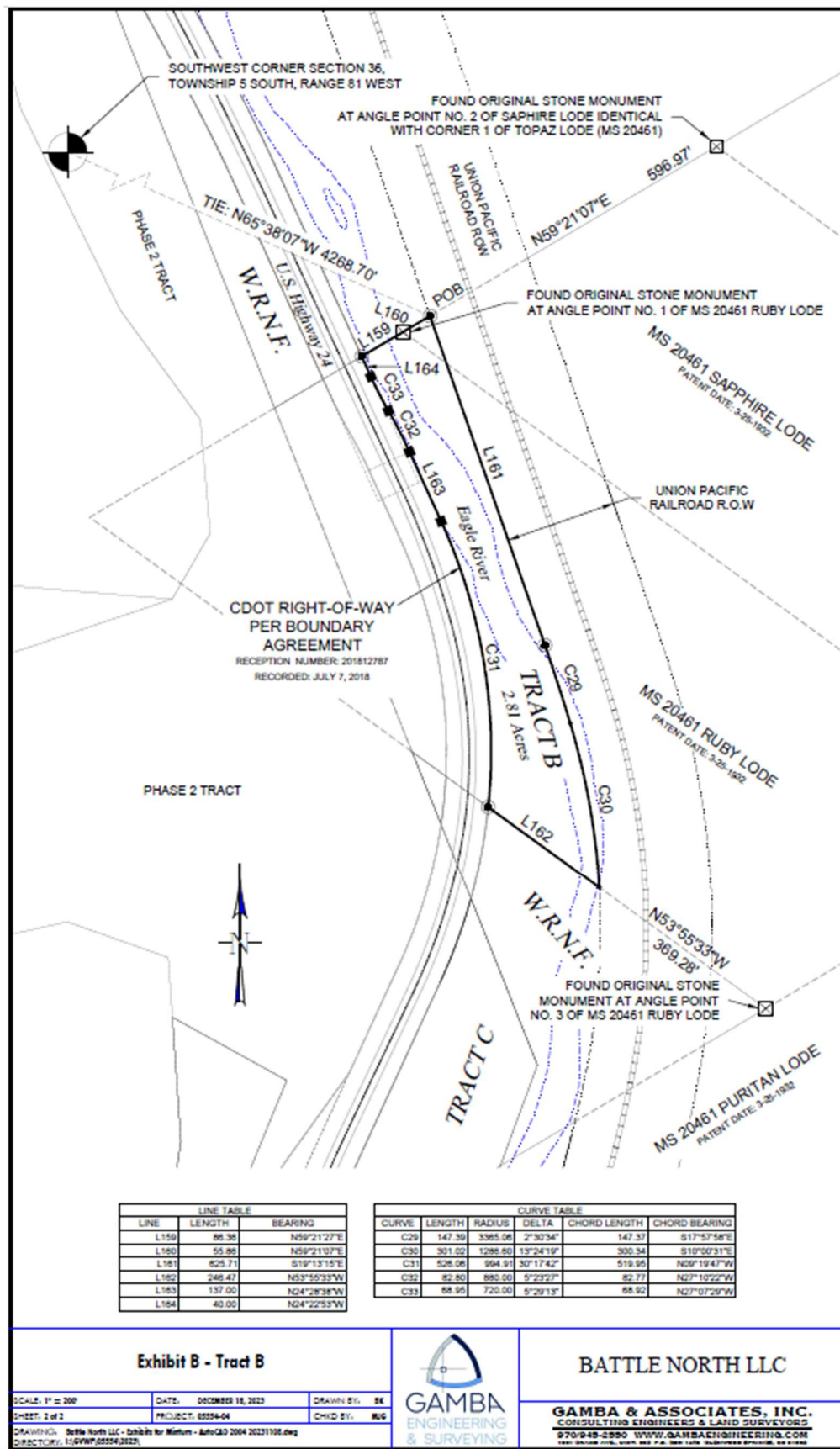
**Photographs of Subject Property**



Looking northerly across subject from Highway 24 (By: J.S. Lengel, MAI)



View southeasterly at the northern portion of the subject property from Highway 24 (By: J.S. Lengel, MAI)



## DESCRIPTION OF THE SUBJECT PROPERTY

### Property History

The current ownership purchased the subject property, along with the other parcels of this appraisal and additional lands, over five years ago. Subject is included within the aforementioned Consolidated Settlement Agreement between the Town of Minturn and the Battle Mountain entities. As part of that agreement the subject property will be transferred to the Town of Minturn. This transfer involves no monetary consideration.

The property is not now listed for sale or under separate contract to sell.

### Legal Description

The subject property is legally described as: part of Section 2, Township 6 South, Range 81 West of the 6th P.M., County of Eagle, State of Colorado. The metes and bounds legal description may be found at Exhibit J in the addenda to this report.

### Site Description

- **Location:** The subject site is located adjacent on the east to U.S. Highway 24 and on the west to the idle Union Pacific rail line approximately one-quarter mile north of Tigiwon Road in Minturn, Colorado. The north and south lines of the site adjoin the White River National Forest and the Eagle River bisects the property lengthways.
- **Present Use:** Vacant land supporting native meadows and timber.
- **Land Size and Shape:** According to the provided survey, prepared by Gamba and Associates, LLC, the subject site totals 2.81 acres. It is irregular, somewhat rectangular, in shape with the west line curving along Highway 24 and part of the east line curves along the railroad right of way.
- **Access:** Access to the subject is from U.S. Highway 24 and the Eagle River. Notably, there is not an access permit from the Colorado Department of Transportation to access subject from Highway 24.
- **Topography and Vegetation:** The site is essentially level, gently sloping river alluvium and floodway. The vegetation native grass, brush and timber.
- **Floodplain:** Eagle River.
- **Soils:** Varying. Most likely loams, silt loams and cobbly loams.
- **Easements and Encroachments:** The subject site will be, as noted in Paragraph 8 of the Hypothetical Conditions, servient to a blanket easement for utilities, etc. for the benefit of Battle Mountain. There are no known encroachments on or by the subject.
- **Utilities:** There are no utilities available to the subject site.
- **Water Rights:** There are no surface water rights associated with the subject property.

- **Environmental Concerns:** An environmental assessment was not provided to the appraiser. The values reported herein are based on the assumption that the subject site is free and clear of environmental contamination.
- **Zoning and Other Land Use Regulations:** As noted previously, under the stated hypothetical condition, the subject is zoned Holding District by the Town of Minturn. As noted at Paragraph 1 in the Hypothetical Conditions previously in this report, the conceptual usage of subject is “recreation”. Industrial use is not allowed without consent of Battle Mountain. Presumable the zoning will stipulate setbacks from both Highway 24 and the Eagle River.

Beyond zoning, subject is raw land with no development approvals/entitlements and the formal process through the Town for usage beyond open recreation and agricultural production must be undertaken and accomplished. It will take time and money to achieve approvals for entitlements, and any proposed plan will need to stand on its own merits. Ultimately, approval of uses on the subject property is from the Town Council after public input in the formal process.

- **Offsite Improvement Requirements:** None.

## HIGHEST AND BEST USE

### Legally Permissible:

Subject is presumed to be restricted to public usage including access to the Eagle River.

### Physically Possible:

The subject site is approximately 2.81 acres in size with the area outside of the river being gently sloping and usable land, but relatively narrow. Access is from Highway 24; however, not permitted by CDOT. There are no utilities available at the site and there will be setback requirements.

Thus, the current physical characteristics of the site limit the use of it to open recreation.

### Financially Feasible and Maximally Productive:

The financial feasibility and maximal productivity of the legal and physically possible noted public uses of the subject are essentially moot as they are public with little to no financial reward with these allowances.

Therefore, the Highest and Best Use of the subject as vacant is concluded to be open recreation.

## VALUATION

### Sales Comparison Approach

Table IV, following, summarizes the four transactions that were presented and analyzed previously in this report in the valuation of subject Parcel E. They are reiterated here for the reader’s reference.

Table IV  
Comparable Land Sales  
J.S. Lengel and Associates, Inc. 1/24

SALE NO.	GRANTOR/ GRANTEE	SALE DATE RECORDING	SALES PRICE	SITE SIZE ACRES
1	Battlement Mesa Land Investments, LLC/ Parachute Battlement Mesa Parks and Recreation District	10/13/20 943683	\$25,000	6.710
2	Crone/Hurtado	02/23/21 951254	\$12,000	6.239
3	Double Y Properties, LLC/Cloud	09/02/21 829118	\$24,000	3.560
4	Pirnie/Butler Maps, LLC	09/27/21 202122585	\$30,000	5.000

As was done in the valuation of other subject parcels previously, the sales are compared and adjusted to the subject for any differences in property rights, financing, conditions of sale, market conditions (date), location, access, size, topography, river frontage, water rights, entitlements, improvements, and availability of utilities.

The sales are compared to the subject and possibly adjusted for the numerous elements noted above and discussed in greater detail in the valuation of Parcel A of this report.

#### Conclusion

All of the comparable sales have no or very limited development potential, similar to subject. Only Sale 3 and 4 were purchased for recreation and only Sale 1 has public usage, giving the three of them the most weight in valuing the subject.

Based on the analysis of the sales, the value of the subject, as of January 15, 2024, is concluded to be as follows:

4.81 acres = \$30,000

#### **EXPOSURE TIME**

It is concluded that the subject site could have been sold within one year of being placed on the market at the concluded value.

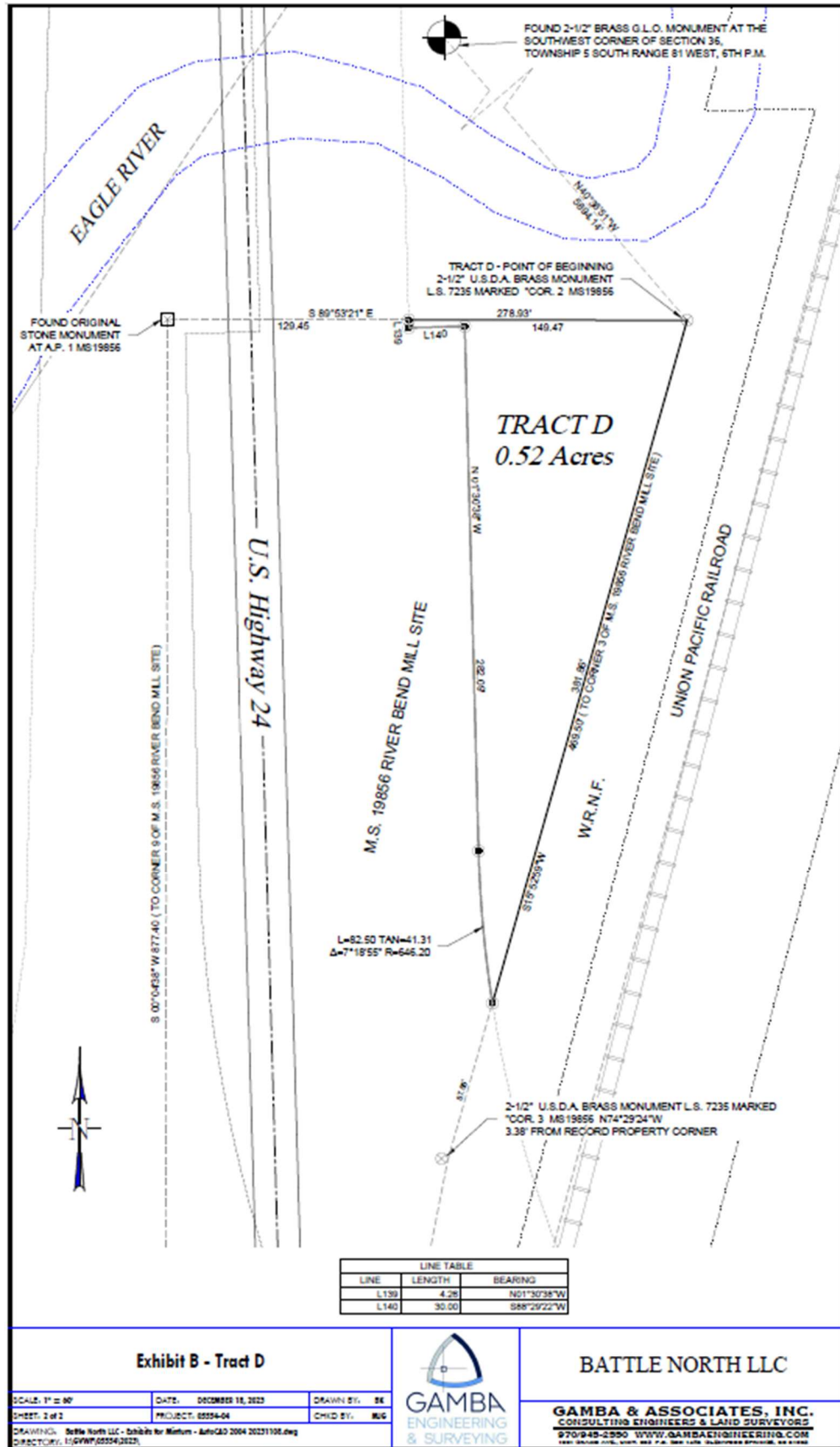
**PARCEL G**

**PARCEL G**  
**Photographs of Subject Property**



View southeast at subject from Highway 24 (Photo Taken By: J.S. Lengel, MAI)





## DESCRIPTION OF THE SUBJECT PROPERTY

### Property History

The current ownership purchased the subject property, along with the other parcels of this appraisal and additional lands, over five years ago. Subject is included within the aforementioned Consolidated Settlement Agreement between the Town of Minturn and the Battle Mountain entities. As part of that agreement the subject property will be transferred to the Town of Minturn. This transfer involves no monetary consideration.

The property is not now listed for sale or under separate contract to sell.

### Legal Description

The subject property is legally described as: part of Section 2, Township 6 South, Range 81 West of the 6th P.M., County of Eagle, State of Colorado. The metes and bounds legal description may be found at Exhibit K in the addenda to this report.

### Site Description

- **Location:** The subject site is located adjacent to the right of way of, but short distance east of, U.S. Highway 24, adjacent on the west to the idle Union Pacific rail line approximately 500 lineal feet south of Tigiwon Road in Minturn, Colorado. The north line of the site appears to adjoin the White River National Forest, an area bisected by the Eagle River.
- **Present Use:** Vacant land supporting native meadows and timber.
- **Land Size and Shape:** According to the provided survey, prepared by Gamba and Associates, LLC, the subject site totals 0.52 acres. It is triangular in shape.
- **Access:** Access to the subject is from U.S. Highway 24. Notably, there is not an access permit from the Colorado Department of Transportation to access subject from Highway 24.
- **Topography and Vegetation:** The site is essentially level, gently sloping river alluvium. The vegetation native grass, brush and timber.
- **Floodplain:** Eagle River.
- **Soils:** Varying. Most likely loams, silt loams and cobbly loams.
- **Easements and Encroachments:** The subject site will be, as noted in Paragraph 8 of the Hypothetical Conditions, servient to a blanket easement for utilities, etc. for the benefit of Battle Mountain. There are no known encroachments on or by the subject.
- **Utilities:** There are no utilities available to the subject site.
- **Water Rights:** There are no surface water rights associated with the subject property.

- **Environmental Concerns:** An environmental assessment was not provided to the appraiser. The values reported herein are based on the assumption that the subject site is free and clear of environmental contamination.
- **Zoning and Other Land Use Regulations:** As noted previously, under the stated hypothetical condition, the subject is zoned Holding District by the Town of Minturn. As noted at Paragraph 1 in the Hypothetical Conditions previously in this report, the conceptual usage of subject is “recreation”. Industrial use is not allowed without consent of Battle Mountain. Presumable the zoning will stipulate setbacks from both Highway 24 and the railroad ownership.

Beyond zoning, subject is raw land with no development approvals/entitlements and the formal process through the Town for usage beyond open recreation and agricultural production must be undertaken and accomplished. It will take time and money to achieve approvals for entitlements, and any proposed plan will need to stand on its own merits. Ultimately, approval of uses on the subject property is from the Town Council after public input in the formal process.

- **Offsite Improvement Requirements:** None.

## HIGHEST AND BEST USE

### Legally Permissible:

Subject is presumed to be restricted to public usage including access to the Eagle River on the National Forest.

### Physically Possible:

The subject site is approximately 0.52 acres in size with gently sloping and usable topography, but relatively narrow. Access is from Highway 24; however, not permitted by CDOT. There are no utilities available at the site.

Thus, the current physical characteristics of the site limit the use of it to open recreation.

### Financially Feasible and Maximally Productive:

The financial feasibility and maximal productivity of the legal and physically possible noted public uses of the subject are essentially moot as they are public with little to no financial reward with these allowances.

Therefore, the Highest and Best Use of the subject as vacant is concluded to be open recreation.

## VALUATION

### Sales Comparison Approach

Properties with the same highest and best use as subject are rare and sales of those properties are even rarer. Therefore, the investigation involving the sale, contract and listing activity of vacant, sites with a highest and best use of open space covered a broad geographic region that included the counties of Garfield, Eagle, Routt, Gunnison and Moffat

with a concentration on the subject region. The results are summarized on the following tabulation. The page following the tabulation is a map depicting the location of the sales in relation to the site being appraised – a larger scale map may be found at Exhibit L in the Addenda to this report.

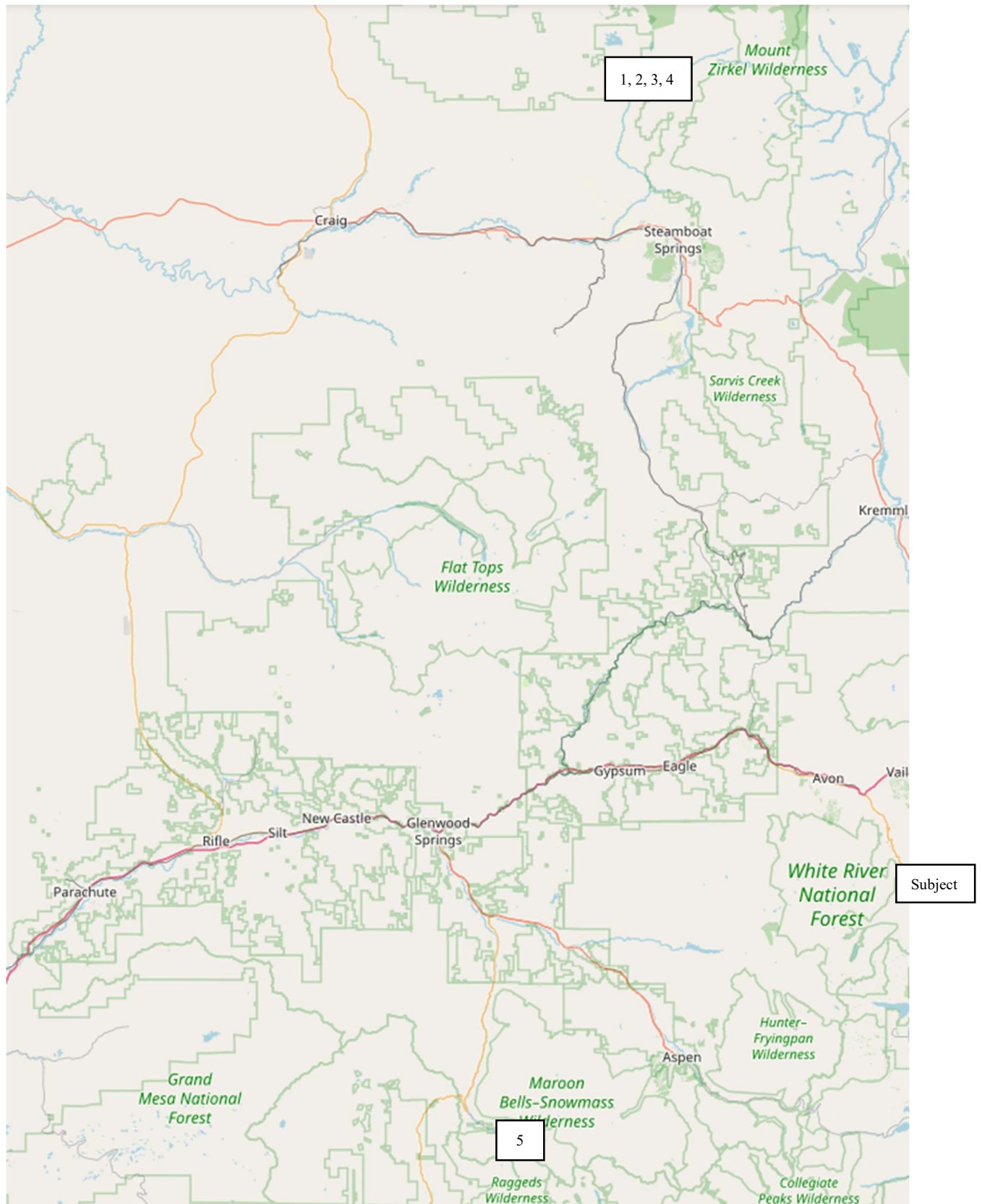
Table V  
Comparable Land Sales  
J.S. Lengel and Associates, Inc. 1/24

SALE NO.	GRANTOR/ GRANTEE	SALE DATE RECORDING	SALES PRICE	SITE SIZE ACRES
1	Burton/Andrew	07/10/19 801022	\$6,000	0.99
2	Perdue/Andrew	03/13/20 808101	\$6,000	0.73
3	Welc/Andrew	05/04/20 809292	\$6,500	1.20
4	Young/Andrew	05/04/20 809293	\$5,000	0.78
5	Baker/SGA Revocable Trust	06/10/22 685099	\$8,000	0.28

As was done in the valuation of other subject parcels previously, the sales are compared and adjusted to the subject for any differences in property rights, financing, conditions of sale, market conditions (date), location, access, size, topography, river frontage, water rights, entitlements, improvements, and availability of utilities.

The sales are compared to the subject and possibly adjusted for the numerous elements noted above and discussed in greater detail in the valuation of Parcel A of this report.

Sale 1, 2, 3 and 4 are located in the Steamboat Lake area north of Steamboat Springs, Colorado. The sales comprise four contiguous lots purchased for assemblage by an adjoining owner. The lots have heavy timber cover and are along a hillside. There is no developed access to the lots – a road was extended to and past the sites decades ago but is now overgrown with large trees and is unusable other than on foot. It is reported that it would require several owners joining together to clear the road and bring it to a drivable condition. There are no utilities to the sales, electrical service is over a mile from the properties. They are located in a formal subdivision, for which there are platted, albeit undrivable, roads within and they are zoned Low Density Residential by Routt County. The sites were purchased for recreational use.



Sale 5 is located in the village of Marble in Gunnison County, Colorado and is part of a formal subdivision. The sale constitutes a single lot that is bisected by an intermittent creek. It has no utilities and is reported to be too small for a septic system. Physical access to the lot is uncertain and seasonal. Camping on the lot is restricted by Gunnison County to no more than 14 consecutive days. It was listed for \$20,000

#### Conclusion

All of the comparable sales have no or very limited development potential, similar to subject. All were purchased for recreation and none has public usage or river access.

Based on the analysis of the sales, the value of the subject, as of January 15, 2024, is concluded to be as follows:

0.52 acre = \$8,000

#### **EXPOSURE TIME**

It is concluded that the subject site could have been sold within one year of being placed on the market at the concluded value.

**PARCEL H**

**PARCEL H**  
**Photographs of Subject Property**



View southwest from Maloit Park Road along the berm at the southern edge of subject (Photo Taken By: J.S. Lengel, MAI)



Looking easterly across the northern-most portion of subject from near the same location as the prior photo (By: J.S. Lengel, MAI)

### Photographs of Subject Property



Looking southeast across the southeast portion of subject from the water treatment plant (By: J.S. Lengel, MAI)



View southerly at the water treatment plant on the subject property (By: J.S. Lengel, MAI)

**Photographs of Subject Property**



View south at the southeast portion of subject (By: J.S. Lengel, MAI)



Looking northerly across subject from the same location as the prior photo (By: J.S. Lengel, MAI)

**Photographs of Subject Property**



View northwesterly at the subject property from the same location as the prior two photos (By: J.S. Lengel, MAI)



View northwest at the northwest portion of subject from the same location as the prior three photos (By: J.S. Lengel, MAI)

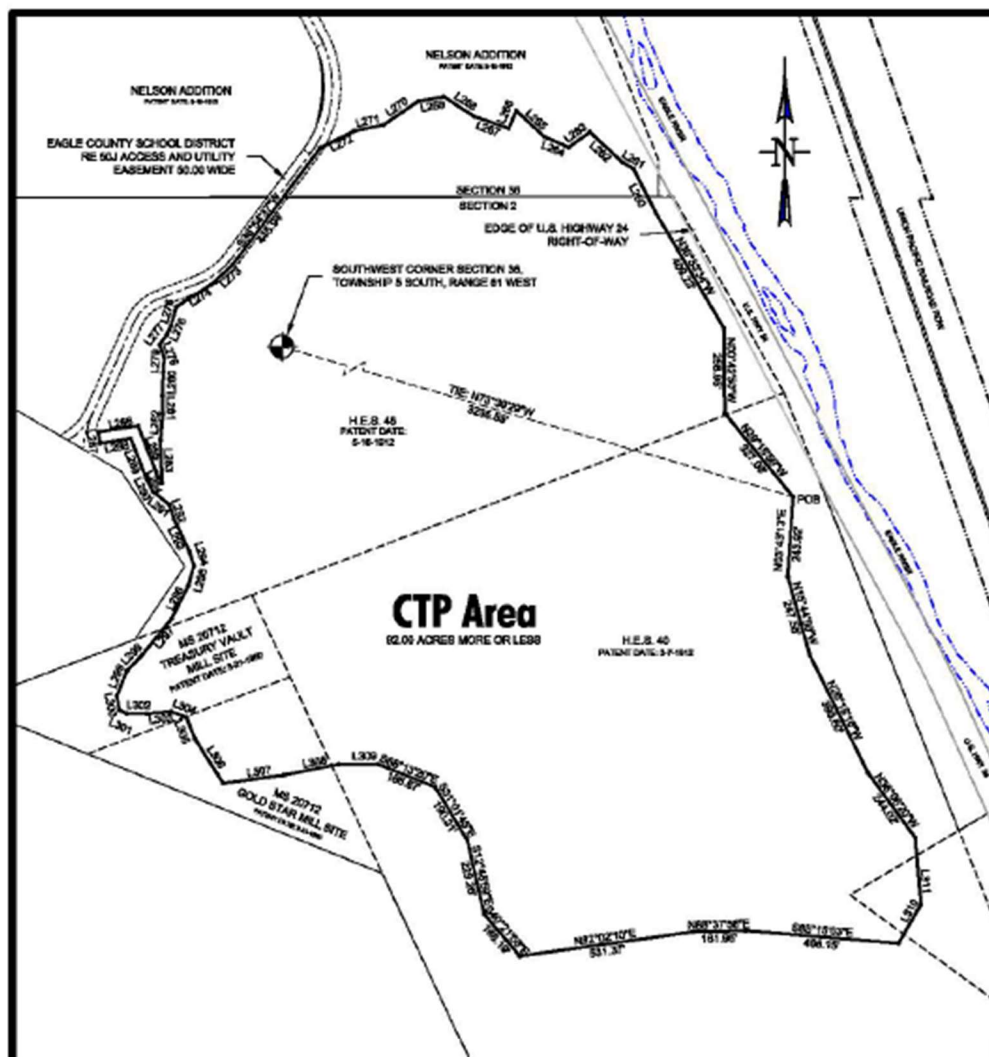
**Photographs of Subject Property**



View west at the southern portion of the subject property from the same location as the prior four photos (By: J.S. Lengel, MAI)



Looking southwesterly across the southern portion of subject from the same location as the prior five photos (By: J.S. Lengel, MAI)



**Exhibit B - CTP AREA**  
**CONSOLIDATED TAILINGS PILE**

## BATTLE MOUNTAIN

**GAMBA & ASSOCIATES, INC.**  
CONSULTING ENGINEERS & LAND SURVEYORS  
970/448-2850 WWW.GAMBAENGINEERING.COM  
515 MARSH ST., 5TH FL., P.O. BOX 4848, DENVER, CO 80218

## DESCRIPTION OF THE SUBJECT PROPERTY

### Property History

The current ownership purchased the subject property, along with the other parcels of this appraisal and additional lands, over five years ago. Subject is included within the aforementioned Consolidated Settlement Agreement between the Town of Minturn and the Battle Mountain entities. As part of that agreement the subject property will be leased to the Town of Minturn for a term of 50 years and at a lease rate of \$1.00 per year. As a public entity there should be no holding expenses, i.e. taxes, insurance, for either the lessor or the lessee.

The property is not now listed for sale or under separate contract to sell.

### Legal Description

The subject property is legally described as: part of Section 2, Township 6 South, Range 81 West and part of Section 36, Township 5 South, Range 81 West, of the 6th P.M., County of Eagle, State of Colorado. The metes and bounds legal description may be found at Exhibit M in the addenda to this report.

### Site Description

- **Location:** The subject site is located north of Bolts Lake, west of and near U.S. Highway 24, and a portion of the south boundary is adjacent to Maloit Park Road in Minturn, Colorado.
- **Present Use:** Vacant land supporting tame grass meadows.
- **Land Size and Shape:** According to the provided survey, prepared by Gamba and Associates, LLC, the subject site totals 92.00 acres. It is irregular, somewhat circular, in shape with the north line extending along Maloit Park Road.
- **Access:** Legal access to the subject is from Maloit Park Road on the north and a private drive that extends north from Tigiwon Road to the southeast portion of the site and the water treatment plant and settling ponds.
- **Topography and Vegetation:** The site is essentially leveled land, estimated to have 50 acres of usable area, surrounded on three sides by a placed earth, relatively large berm and on the fourth side by the toe of a ridge that has been cut and sloped. The majority of the site, inside the bermed area, has a gentle slope to the northeast. The southeast portion has moderately sloping and undulating topography. Located in the southeast portion of the site is the aforementioned water treatment plant and settling ponds that are presumed to no affect the use of the site. The vegetation of the leveled and cut areas is tame grass pasture. The untouched areas have native grass and trees – spruce and aspen.
- **Floodplain:** None.
- **Soils:** Varying. Most likely loams, silt loams and cobbly loams.

- **Easements and Encroachments:** There are no known easements on or encroachments on or by the subject. As noted in Paragraph 10 of the Hypothetical Conditions, presented previously in this report, the subject property will be leased subject to the continued use of the wastewater treatment plant and disposal of “sludge cakes” on the site. It is presumed that this situation will not interfere with the allowed usage of the parcel.
- **Utilities:** Potable water, sanitary sewer, electrical service, natural gas, and telephone and internet service are available in Maloit Park Road.
- **Water Rights:** There are no surface water rights associated with the subject property.
- **Environmental Concerns:** An environmental assessment was not provided to the appraiser. Subject is part of the Eagle Mine Superfund Site as established by the Environmental Protection Agency. The reader is referred to Paragraphs 6 and 7 of the Hypothetical Conditions in this report. The values reported herein are based on the assumption that the subject site is free and clear of environmental contamination; however, usage is restricted to the surface of the site only.
- **Zoning and Other Land Use Regulations:** As noted previously, under the stated hypothetical condition the subject is zoned Bolts Open Space/Recreation District by the Town of Minturn. As noted at Paragraph 2 in the Hypothetical Conditions previously in this report, the conceptual usage of subject is recreation, utility, access, etc., and it is further restricted to not developable.
- **Offsite Improvement Requirements:** None.

## HIGHEST AND BEST USE

### Legally Permissible:

Subject is hypothetically restricted to public usage including surface recreation and utility – solar array farm.

### Physically Possible:

The subject site is approximately 92.00 acres in size, with a high percentage of gently sloping land estimated at 50 acres usable. The periphery of the site is a relatively large earthen berm. Access is from a drive extending from Tigiwon Road to the subject southeast portion, and from Maloit Park Road on the north. Potable water, sanitary sewer service, natural gas, electricity and telephone service are available at the north end of the site.

Thus, the current physical characteristics of the site are conducive to use of the site providing public use.

### Financially Feasible and Maximally Productive:

The financial feasibility and maximal productivity of the legal and physically possible noted public uses of the subject are essentially moot as they are public with little to no financial reward with these allowances.

The other hypothetical use is as a solar array farm. There is nationwide demand for solar arrays, and, as illustrated later in this report, there is market data that illustrates a relatively large income potential for this use. Notably, public usage, such as Nordic skiing and multi-modal trails, may coexist with a solar array.

Therefore, the Highest and Best Use of the subject as vacant is concluded to be mixed public use and solar array.

## **VALUATION**

### **Discounted Cash Flow Analysis**

In this instance the value of the leasehold estate is the net present value of the income stream to the Town as tenant and landlord in a sublease/sandwich position based on the provisions in the ground lease. Note: the lease rate to the Town is \$1.00 per year for 50 years, which is considered to be essentially a net-zero lease rate.

The major considerations in this method of estimating value are summarized as follows.

1. Estimated base market rent and contractual adjustments to the base rent.
2. Renewal options and rent escalation provisions
3. Operating expenses
4. Inflation or deflation of costs over the holding period.
5. Discount rate.

### **Market Rent**

The appropriate lease rate for a solar array farm depends on a number of variables, including: proximity to a sub-station, total acreage of the farm and demand. Due to the predictable and consistent production of energy from a solar farm, the lease rates are typically on a set per-acre basis, rather than a royalty structure. As noted, lease rates are also impacted by demand in a market. Anecdotally, the demand for solar in the subject area is illustrated by Holy Cross Energy's and Xcel Energy's publicized efforts to provide 100 percent sustainable electricity in the near future, which solar is. This is being incentivized by Federal government programs and credits. It is assumed, as previously noted, that the proper infrastructure for a solar farm on subject is in place, proximal to or could be economically developed and near enough to a substation with capacity.

According to Strategic Solar Group, "A 10-acre site next to a substation outside of an urban area with high land prices might be justified in asking \$2,000 per acre. Even in rural areas of North Carolina or California where demand for small solar sites is high, rent over \$1,000/acre would be common by a substation with capacity. Larger tracts over 100 acres for major power plant projects commonly rent at \$300 to \$500 an acre across Texas and normally

around the \$500/acre range across most of the Southeast. Large tracts can fetch upwards of \$800/acre in Illinois, Virginia and the Carolinas depending on numerous factors. High priced, large tracts in California's Central Valley often go for \$1,000 per acre."

In 2020 a lease was negotiated on a 677-acre property located in the Interstate 70 corridor in western Colorado. The property is proximal to a high-tension electric transmission line capable of accepting solar electricity. The lease is long-term and at a rate of \$800 per acre per year. This lease rate escalates 2.0 percent annually for the term of the lease.

Based on the information and data provided, it is opined that the usable 50 acres of the subject could be leased for a 50-year term at a starting rate of \$800 per acre. This rate will be escalated 2.0 percent annually for the term of the lease.

#### Operating Expenses

The annual landlord expenses that are not reimbursed by the tenant are estimated to be \$1,000 and are for accounting, clerical and legal.

#### Discount Rate

A reasonable rate for capital to be anticipated over the holding period is difficult to forecast. A discount rate is based on numerous factors. An appropriate discount rate reflects competitive rates of return on similar comparable length (30 years) investments. Articles in 1989 in The Appraisal Journal indicate, and prove through market analysis of leased properties, that the discount rate for land leases is closely associated with yields on 30-year treasury bonds and long-term corporate bonds.

Several factors need to be considered when comparing discount rates on real estate to Treasury and corporate bond yields. These factors include liquidity of the investment, the backer of the investment (i.e. the Federal Government, a large international corporation, or a private individual), inflation protection, and the ability to subordinate the lease to a loan. In the case of the subject the investment is fairly illiquid and the lessee is a large, multi-national corporation; however, inflation is considered and most likely accounted for in the royalty escalations and the subordinate lending is possible.

Economic indicators published in Valuation Insights and Perspective, Winter 2023/Spring 2024, are as follows: U.S. 10 Year Bonds: October 2023 – 4.88 percent, October 2022 – 4.1 percent; U.S. 30 Year Bonds: October 2023 – 5.04 percent, October 2022 – 4.26 percent (After the highest inflation in 40 years); the indicators the Second

Quarter 2013, are as follows: U.S. 10 Year Bonds: March 2013 – 1.96 percent, March 2010 – 3.73 percent; U.S. 30 Year Bonds: March 2013 – 3.16 percent, March 2010 – 4.64 percent (After the low to no inflation and the Great Recession).

By comparison and considering all of the foregoing, the appropriate discount rate is concluded to be 10 percent.

#### Summary of Discounted Cash Flow Analysis

This analysis is considered indicative of what an investor would anticipate and is considered helpful in the valuation analysis of the subject. The above assumptions and criteria have been applied to complete the analysis which is presented on the following page. The result, and market value of the Town's leasehold interest is: \$523,955, rounded to \$525,000.

Year Ending February 19	Year	Annual Income (\$)	Annual Expenses (\$)	Annual Net Income (\$)	PV Factor	PV (\$)	Cumulative PV (\$)	Cumulative % of PV
2024	1	\$ 40,000	\$ 1,000	\$ 39,000	1.000000	\$ 39,000	\$ 39,000	0.19%
2025	2	\$ 40,800	\$ 1,020	\$ 39,780	0.909091	\$ 36,164	\$ 75,164	0.37%
2026	3	\$ 41,616	\$ 1,040	\$ 40,576	0.826446	\$ 33,534	\$ 108,697	0.54%
2027	4	\$ 42,448	\$ 1,061	\$ 41,387	0.751315	\$ 31,095	\$ 139,792	0.69%
2028	5	\$ 43,297	\$ 1,082	\$ 42,215	0.683013	\$ 28,833	\$ 168,625	0.84%
2029	6	\$ 44,163	\$ 1,104	\$ 43,059	0.620921	\$ 26,736	\$ 195,362	0.97%
2030	7	\$ 45,046	\$ 1,126	\$ 43,920	0.564474	\$ 24,792	\$ 220,153	1.09%
2031	8	\$ 45,947	\$ 1,149	\$ 44,799	0.513158	\$ 22,989	\$ 243,142	1.21%
2032	9	\$ 46,866	\$ 1,172	\$ 45,695	0.466507	\$ 21,317	\$ 264,459	1.31%
2033	10	\$ 47,804	\$ 1,195	\$ 46,609	0.424098	\$ 19,767	\$ 284,226	1.41%
2034	11	\$ 48,760	\$ 1,219	\$ 47,541	0.385543	\$ 18,329	\$ 302,555	1.50%
2035	12	\$ 49,735	\$ 1,243	\$ 48,492	0.350494	\$ 16,996	\$ 319,551	1.59%
2036	13	\$ 50,730	\$ 1,268	\$ 49,461	0.318631	\$ 15,760	\$ 335,311	1.67%
2037	14	\$ 51,744	\$ 1,294	\$ 50,451	0.289664	\$ 14,614	\$ 349,925	1.74%
2038	15	\$ 52,779	\$ 1,319	\$ 51,460	0.263331	\$ 13,551	\$ 363,476	1.81%
2039	16	\$ 53,835	\$ 1,346	\$ 52,489	0.239392	\$ 12,565	\$ 376,041	1.87%
2040	17	\$ 54,911	\$ 1,373	\$ 53,539	0.217629	\$ 11,652	\$ 387,693	1.93%
2041	18	\$ 56,010	\$ 1,400	\$ 54,609	0.197845	\$ 10,804	\$ 398,497	1.98%
2042	19	\$ 57,130	\$ 1,428	\$ 55,702	0.179859	\$ 10,018	\$ 408,515	2.03%
2043	20	\$ 58,272	\$ 1,457	\$ 56,816	0.163508	\$ 9,290	\$ 417,805	2.08%
2044	21	\$ 59,438	\$ 1,486	\$ 57,952	0.148644	\$ 8,614	\$ 426,419	2.12%
2045	22	\$ 60,627	\$ 1,516	\$ 59,111	0.135131	\$ 7,988	\$ 434,407	2.16%
2046	23	\$ 61,839	\$ 1,546	\$ 60,293	0.122846	\$ 7,407	\$ 441,814	2.19%
2047	24	\$ 63,076	\$ 1,577	\$ 61,499	0.111678	\$ 6,868	\$ 448,682	2.23%
2048	25	\$ 64,337	\$ 1,608	\$ 62,729	0.101526	\$ 6,369	\$ 455,050	2.26%
2049	26	\$ 65,624	\$ 1,641	\$ 63,984	0.092296	\$ 5,905	\$ 460,956	2.29%
2050	27	\$ 66,937	\$ 1,673	\$ 65,263	0.083905	\$ 5,476	\$ 466,432	2.32%
2051	28	\$ 68,275	\$ 1,707	\$ 66,569	0.076278	\$ 5,078	\$ 471,509	2.34%
2052	29	\$ 69,641	\$ 1,741	\$ 67,900	0.069343	\$ 4,708	\$ 476,218	2.37%
2053	30	\$ 71,034	\$ 1,776	\$ 69,258	0.063039	\$ 4,366	\$ 480,584	2.39%
2054	31	\$ 72,454	\$ 1,811	\$ 70,643	0.057309	\$ 4,048	\$ 484,632	2.41%
2055	32	\$ 73,904	\$ 1,848	\$ 72,056	0.052099	\$ 3,754	\$ 488,386	2.43%
2056	33	\$ 75,382	\$ 1,885	\$ 73,497	0.047362	\$ 3,481	\$ 491,867	2.44%
2057	34	\$ 76,889	\$ 1,922	\$ 74,967	0.043057	\$ 3,228	\$ 495,095	2.46%
2058	35	\$ 78,427	\$ 1,961	\$ 76,466	0.039143	\$ 2,993	\$ 498,088	2.47%
2059	36	\$ 79,996	\$ 2,000	\$ 77,996	0.035584	\$ 2,775	\$ 500,864	2.49%
2060	37	\$ 81,595	\$ 2,040	\$ 79,556	0.032349	\$ 2,574	\$ 503,437	2.50%
2061	38	\$ 83,227	\$ 2,081	\$ 81,147	0.029408	\$ 2,386	\$ 505,824	2.51%
2062	39	\$ 84,892	\$ 2,122	\$ 82,770	0.026735	\$ 2,213	\$ 508,036	2.52%
2063	40	\$ 86,590	\$ 2,165	\$ 84,425	0.024304	\$ 2,052	\$ 510,088	2.53%
2064	41	\$ 88,322	\$ 2,208	\$ 86,114	0.022095	\$ 1,903	\$ 511,991	2.54%
2065	42	\$ 90,088	\$ 2,252	\$ 87,836	0.020086	\$ 1,764	\$ 513,755	2.55%
2066	43	\$ 91,890	\$ 2,297	\$ 89,593	0.018260	\$ 1,636	\$ 515,391	2.56%
2067	44	\$ 93,728	\$ 2,343	\$ 91,384	0.016600	\$ 1,517	\$ 516,908	2.57%
2068	45	\$ 95,602	\$ 2,390	\$ 93,212	0.015091	\$ 1,407	\$ 518,315	2.57%
2069	46	\$ 97,514	\$ 2,438	\$ 95,076	0.013719	\$ 1,304	\$ 519,619	2.58%
2070	47	\$ 99,464	\$ 2,487	\$ 96,978	0.012472	\$ 1,210	\$ 520,829	2.59%
2071	48	\$ 101,454	\$ 2,536	\$ 98,917	0.011338	\$ 1,122	\$ 521,950	2.59%
2072	49	\$ 103,483	\$ 2,587	\$ 100,896	0.010307	\$ 1,040	\$ 522,990	2.60%
2073	50	\$ 105,552	\$ 2,639	\$ 102,914	0.009370	\$ 964	\$ 523,955	2.60%
Net Present Value of the subject site							\$ 523,955	100.00%

**PARCEL I**

**PARCEL I**  
**Photographs of Subject Property**



View northerly across the subject from near the south line of the site (Photo Taken By: J.S. Lengel, MAI)



Looking westerly across subject from near the northeast corner of the site (Taken By: J.S. Lengel, MAI)

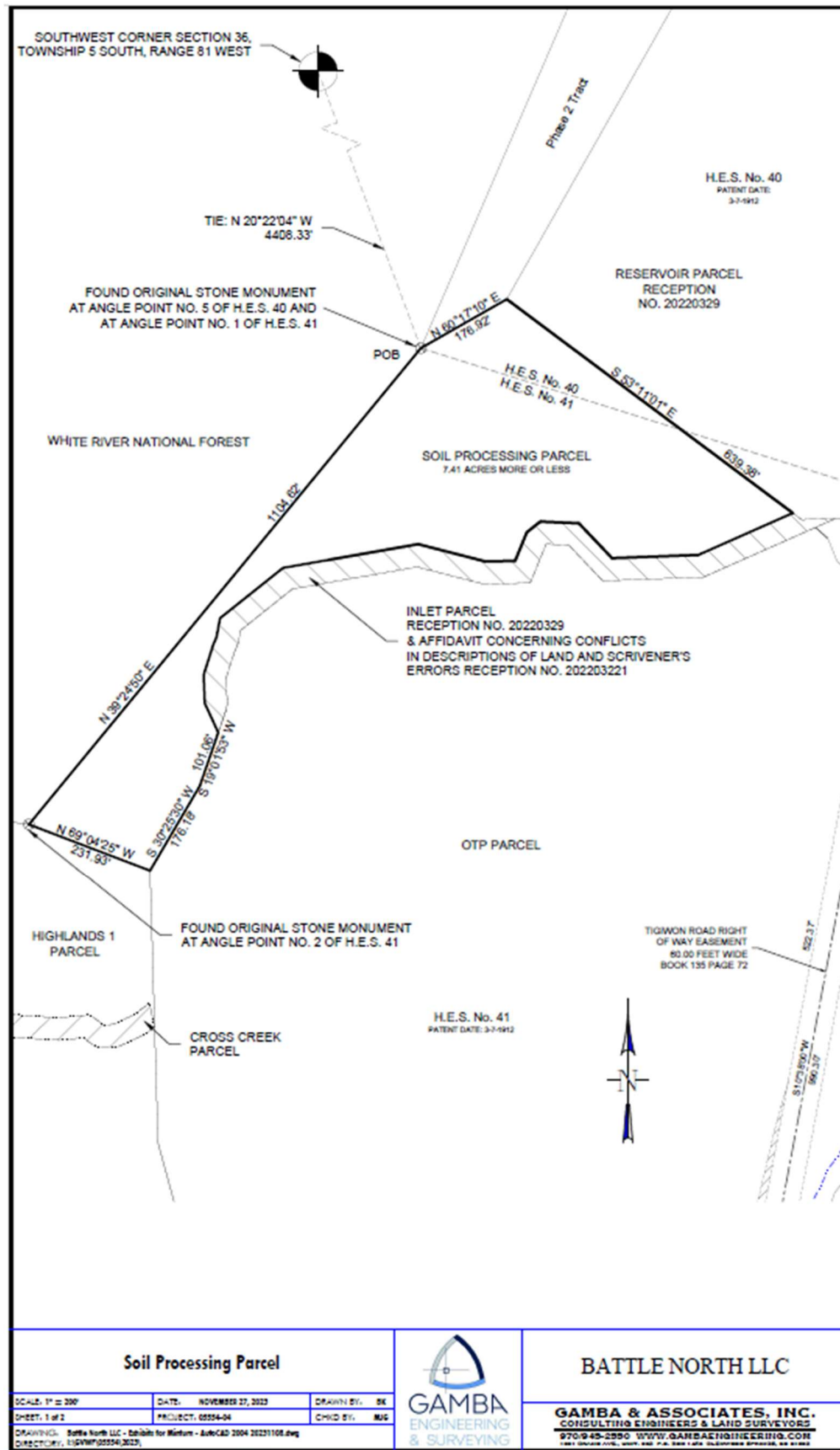
### Photographs of Subject Property



Looking westerly across subject from near the southeast corner of the site (By: J.S. Lengel, MAI)



View along the access to the subject property from Tigiwon Road (By: J.S. Lengel, MAI)



## DESCRIPTION OF THE SUBJECT PROPERTY

### Property History

The current ownership purchased the subject property, along with the other parcels of this appraisal and additional lands, over five years ago. Subject is included within the aforementioned Consolidated Settlement Agreement between the Town of Minturn and the Battle Mountain entities. As part of that agreement the subject property will be transferred to the Town of Minturn. This transfer involves no monetary consideration.

The property is not now listed for sale or under separate contract to sell.

### Legal Description

The subject property is legally described as: part of Section 2, Township 6 South, Range 81 West of the 6th P.M., County of Eagle, State of Colorado. The metes and bounds legal description may be found at Exhibit O in the addenda to this report.

### Site Description

- **Location:** The subject site is located adjacent on the south to Bolts Lake, north of and adjacent in part to subject Parcels A and C, and west of and adjacent to subject Parcel E in Minturn, Colorado.
- **Present Use:** Vacant land supporting native meadows and timber.
- **Land Size and Shape:** According to the provided survey, prepared by Gamba and Associates, LLC, the subject site totals 7.41 acres. It is irregular, somewhat of a triangle, in shape.
- **Access:** Legal access to the subject is via a private drive that extends north across subject Parcels C and E from Tigiwon Road to the south line of the subject. Tigiwon Road extends southerly and westerly from U.S. Highway 24.
- **Topography and Vegetation:** The site has level, gently sloping topography, slightly more sloping in the eastern portion at the toe of large hill. The vegetation native grass, brush and timber.
- **Floodplain:** None.
- **Soils:** Varying. Most likely loams, silt loams and cobbly loams.
- **Easements and Encroachments:** As of the date of value, pursuant to Paragraph 1 of the Extraordinary Assumptions, there are no known easements on or encroachments on or by the subject.
- **Utilities:** Potable water, sanitary sewer, electrical service, natural gas, and telephone and internet service will be available east of subject in Tigiwon Road at some point in the future, estimated at four years.
- **Water Rights:** There are no surface water rights associated with the subject property.

- **Environmental Concerns:** An environmental assessment was not provided to the appraiser. The values reported herein are based on the assumption that the subject site is free and clear of environmental contamination.
- **Zoning and Other Land Use Regulations:** As noted previously, under the stated hypothetical condition, the subject is zoned Bolts Open Space/Recreation District by the Town of Minturn. As noted at Paragraph 2 in the Hypothetical Conditions previously in this report, the conceptual usage of subject is recreation, utility, access, etc., and it is further restricted to not developable.
- **Offsite Improvement Requirements:** None.

## **HIGHEST AND BEST USE**

### Legally Permissible:

As noted, the subject property is hypothetically zoned Holding District by the Town. The only legal use currently is interim recreation and agricultural production in the form of livestock grazing. Additional uses would need to be approved by the Town through the formal process starting with a sketch plan. Town staff indicated that future approvals of uses on and of the subject site would need to coincide with those allowed in current medium density residential zone districts in the town. The ultimate density and area approved is dependent a number of variables.

Essentially there are two potentials for the subject, either the current usage or medium density residential with approvals by the Town through the formal process, which includes a Sketch plan approval, then Preliminary plan approval and ultimately Final plat approval. Based in part on Sale 8, presented later in this report, it is concluded that a density of four to six units per acre, 30 to 45 units in total, could reasonably be achieved.

### Physically Possible:

The subject site is approximately 7.41 acres in size with a high percentage of usable, gently sloping land – again after soil from the Bolts Lake excavation is placed on subject Parcel C. Access is from a drive extending from Tigiwon Road to the south of subject. Potable water, sanitary sewer service, natural gas, electricity and telephone service will be available from lines in Tigiwon Road. There are no surface water rights appurtenant to subject for dedication to the Town; however, a Cash-in-Lieu payment will not be required at final plat.

Thus, the current physical characteristics of the site are conducive to future development of the site as detailed earlier as being legally permissible, with the noted required sanitary sewer and domestic water service improvements.

#### Financially Feasible and Maximally Productive:

The financial feasibility and maximal productivity of the uses of the subject site are considered next. The potentials of the subject as open recreational and agricultural land do not exceed in value those of subject as a future medium density residential development. As a medium-density residential site, the available and competing supply must be recognized and taken into account. In this instance, there is little vacant, large parcel residential land, available or otherwise, in Minturn to compete with subject. In fact, most of what is available is located proximal to the south and west of the subject property.

On the approved side of competition, there is the North End development in Minturn that was recently approved for 39 single-family residential sites. This development remains raw land awaiting development with roads and utilities.

Thus, the subject site is one of a few relatively large, raw development parcels in Minturn, four of which are proximal to the subject. Access and utilities are available near the subject, but need enlarged and improved for development of subject, and subject will have a high percentage of level, usable topography. However, Town approval at all levels is required before a building permit could be applied for.

From the preceding discussion, it is concluded that the subject is well located in Minturn with utilities and access available in the near term. There is an almost non-existent supply in Minturn of larger residential development sites and an apparent strong demand for said land. While subject has competition, there is the potential for development in the not-too-distant future.

Therefore, the Highest and Best Use of the subject as vacant is concluded to be high-density residential development.

## **VALUATION**

### Sales Comparison Approach

As discussed previously in this report, the valuation of subject Parcel I (Soil Processing) is subject to completion of the proposed improvements on Parcel C – the placement of fill from Bolts Lake, which will be processed on subject Parcel I with use granted by a temporary easement. The estimated completion date of this fill placement, and, therefore, the date of value, is September 1, 2028.

Table II, following, summarizes the eight transactions that were presented and analyzed previously in this report in the valuation of subject Parcels A, B and C. They are reiterated here for the reader's reference.

Table II  
Comparable Land Sales

SALE NO.	GRANTOR/GRANTEE	DATE OF SALE RECPT. NO.	SALES PRICE	SITE SIZE (ACRES)	SALES PRICE PER ACRE	TOTAL DWELLING UNITS*	DENSITY/ ACRE	SALES PRICE/ DWELLING UNIT
1	Stott/MSP1, LLC	12/04/18 652492	\$ 3,775,000	18.014	\$209,559	112 units	6.22 units	\$33,705
2	Day 3, LLC/Eagle County Land Company, LLC	05/18/20 202007295	\$2,575,000	74.08	\$34,762	N/A	N/A	N/A
3	Gypsum Prime Properties, LLC/Gerard Bros. Partnership, LLLP	06/15/20 202009111	\$ 910,000	62.0	\$14,677	1 unit	0.0161 units	\$910,000
4	Wilson Ranch/803 Cottonwood Pass, LLC	04/29/21 2021	\$1,550,000	94.0	\$16,489	2 units	0.0213 units	\$775,000
5	Edwards West End Holdings/ Edwards West End EW Investors	12/30/21 202128667	\$6,250,000	5.291	\$1,181,251	275 units	51.98 units	\$22,727
6	Williams Knight, LLC/ Gorsuch Land Co, LLC	05/24/22 202209485	\$3,250,000	162.7	\$19,975	109 units	0.67 units	\$29,817
7	Fox Hollow, LLC, et al/ Murray Road Properties, LLC	02/15/19 201902210	\$3,960,000	3.794	\$1,043,753	87 units	22.93 units	\$45,517
7b	Murray Road Properties, LLC/ BGV Edwards Properties, LLC	10/13/22 202216492	\$8,250,000	3.794	\$2,174,486	87 units	22.93 units	\$94,828
8	Union Pacific Railroad/ Mintum North	12/12/23 202316489	\$ 6,500,000	13.49	\$481,838	39 units	2.89 units	\$166,667

\* Total dwelling units either allowed, ultimately approved or planned for the sale

As was done in the valuation of the other subject parcels previously, the sales are compared and adjusted to the subject for any differences in property rights, financing, conditions of sale, market conditions (date), location, access, size, topography, river frontage, water rights, entitlements, improvements, availability of utilities, and fees and off-site requirements.

The sales are compared to the subject and possibly adjusted for the numerous elements noted above and discussed in greater detail in the valuation of Parcel A of this report.

### Conclusion

Based on the analysis of the sales, it is concluded the value of the subject, as of September 1, 2028, will be \$500,000 per overall acre (approximately \$82,000 to \$123,500 per potential residential unit), or as follows:

$$7.41 \text{ acres @ } \$500,000 \text{ per acre} = \$3,700,000 \text{ (rounded)}$$

## **EXPOSURE TIME**

It is concluded that the subject site could have been sold within one year of being placed on the market at the concluded value.

**PARCEL J**

**PARCEL J**  
**Photographs of Subject Property**



View northerly at the eastern portion of subject from Maloit Park Road (Photo Taken By: J.S. Lengel, MAI)

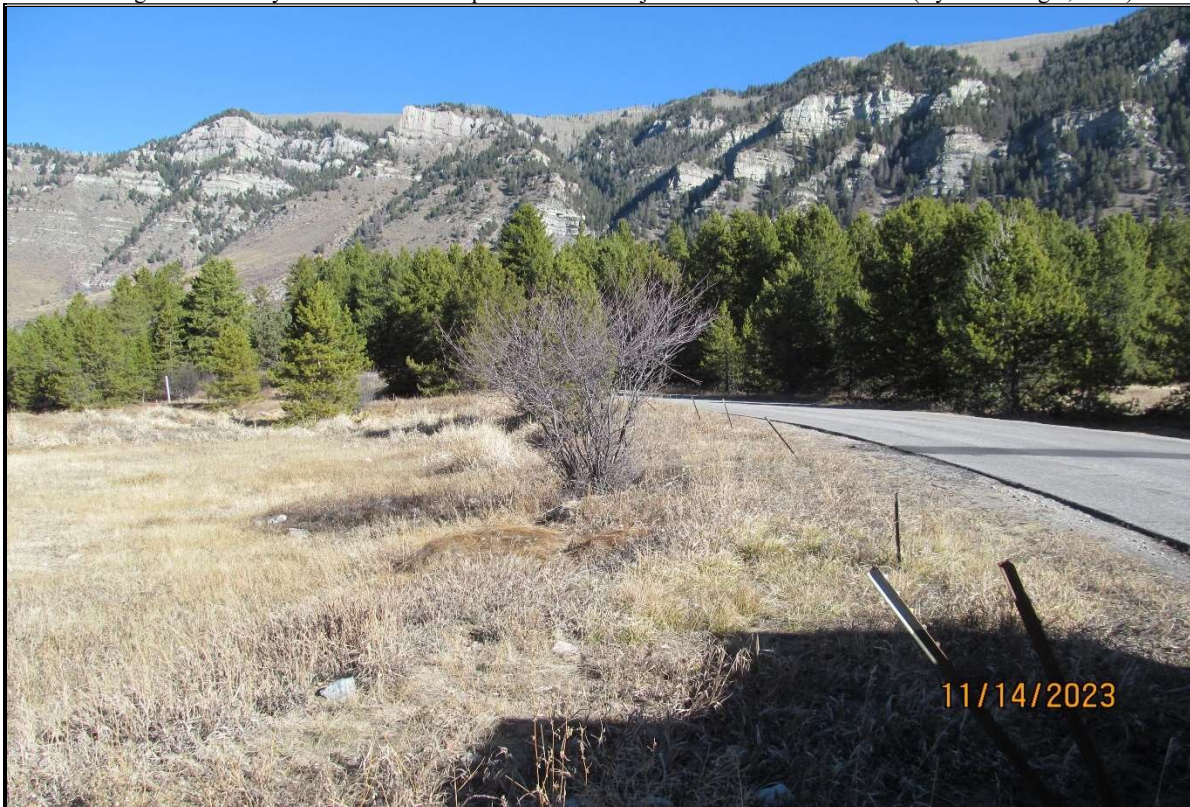


Looking northwesterly across the subject site from the same location as the prior photo (Taken By: J.S. Lengel, MAI)

**Photographs of Subject Property**



Looking northwesterly across the western portion of the subject from Maloit Park Road (By: J.S. Lengel, MAI)



View northeast along Maloit Park Road past the subject (By: J.S. Lengel, MAI)



## DESCRIPTION OF THE SUBJECT PROPERTY

### Property History

The current ownership purchased the subject property, along with the other parcels of this appraisal and additional lands, over five years ago. Subject is included within the aforementioned Consolidated Settlement Agreement between the Town of Minturn and the Battle Mountain entities. As part of that agreement the subject property will be transferred to the Town of Minturn. This transfer involves no monetary consideration.

The property is not now listed for sale or under separate contract to sell.

### Legal Description

The subject property is legally described as: part of Section 2, Township 6 South, Range 81 West and part of Section 36, Township 5 South, Range 81 West, of the 6th P.M., County of Eagle, State of Colorado. The metes and bounds legal description may be found at Exhibit P in the addenda to this report.

### Site Description

- **Location:** The subject site is located in Maloit Park west of Maloit Park Road and bisected by Cross Creek in Minturn, Colorado. It is across the road west from subject Parcel H (Consolidated Tailings Pile) and a short distance northeast of subject Parcel D (Recreation Center).
- **Present Use:** Vacant land supporting native vegetation in jurisdictional wetlands – a mix of marsh and fen.
- **Land Size and Shape:** According to the provided survey, prepared by Gamba and Associates, LLC, the subject site totals 16.73 acres. It is irregular in shape with the east traversing along Maloit Park Road. The north line adjoins the White River National Forest.
- **Access:** Legal access to the subject is from Maloit Park Road. Maloit Park Road extends from U.S. Highway 24 westerly and southerly past the subject to the Vail Ski and Snow Academy on Eagle County Schools property.
- **Topography and Vegetation:** The site has level, gently sloping topography at an elevation below Cross Creek. The exposure is slightly east. The vegetation native grass, brush and willows.
- **Floodplain:** Most likely the entire site is in a floodplain.
- **Soils:** Varying. Most likely loams and silt loams.
- **Easements and Encroachments:** There are no known easements on or encroachments on or by the subject.
- **Utilities:** Potable water, sanitary sewer, electrical service, natural gas, and telephone and internet service are available at subject in Maloit Park Road.
- **Water Rights:** There are no surface water rights associated with the subject property.

- **Environmental Concerns:** An environmental assessment was not provided to the appraiser. Subject is part of the Eagle Mine Superfund Site as established by the Environmental Protection Agency. The reader is referred to Paragraph 6 of the Hypothetical Conditions in this report. The values reported herein are based on the assumption that the subject site is free and clear of environmental contamination.
- **Zoning and Other Land Use Regulations:** As noted previously, under the stated hypothetical condition, the subject is zoned Bolts Open Space/Recreation District by the Town of Minturn. As noted at Paragraph 2 in the Hypothetical Conditions previously in this report, the conceptual usage of subject is recreation, utility, access, etc., and it is further restricted to not developable.
- **Offsite Improvement Requirements:** None.

## HIGHEST AND BEST USE

### Legally Permissible:

Subject is presumed to be restricted to public usage including surface recreation. Additionally, it is jurisdictional wetlands that may not be disturbed without mitigating the impact.

### Physically Possible:

The subject site is approximately 16.73 acres in size and is jurisdictional marsh and fen wetlands. Access is from Maloit Park Road along the subject east boundary. Potable water, sanitary sewer service, natural gas, electricity and telephone service are available at the site.

Thus, the current physical characteristics of the site are conducive to use of the site providing public use.

### Financially Feasible and Maximally Productive:

The financial feasibility and maximal productivity of the legal and physically possible noted public uses of the subject are essentially moot as they are public with little to no financial reward with these allowances.

Therefore, the Highest and Best Use of the subject as vacant is concluded to be public use.

## VALUATION

### Sales Comparison Approach

Table IV, following, summarizes the four transactions that were presented and analyzed previously in this report in the valuation of subject Parcel E, F, H and I. They are reiterated here for the reader's reference.

Table IV  
Comparable Land Sales  
J.S. Lengel and Associates, Inc. 1/24

SALE NO.	GRANTOR/ GRANTEE	SALE DATE RECORDING	SALES PRICE	SITE SIZE ACRES
1	Battlement Mesa Land Investments, LLC/ Parachute Battlement Mesa Parks and Recreation District	10/13/20 943683	\$25,000	6.710
2	Crone/Hurtado	02/23/21 951254	\$12,000	6.239
3	Double Y Properties, LLC/Cloud	09/02/21 829118	\$24,000	3.560
4	Pirnie/Butler Maps, LLC	09/27/21 202122585	\$30,000	5.000

As was done in the valuation of other subject parcels previously, the sales are compared and adjusted to the subject for any differences in property rights, financing, conditions of sale, market conditions (date), location, access, size, topography, river frontage, water rights, entitlements, improvements, and availability of utilities.

The sales are compared to the subject and possibly adjusted for the numerous elements noted above and discussed in greater detail in the valuation of Parcel A of this report.

#### Conclusion

All of the comparable sales have no or very limited development potential, similar to subject. Only Sale 3 and 4 were purchased for recreation and only Sale 1 has public usage, giving the three of them the most weight in valuing the subject.

Based on the analysis of the sales, the value of the subject, as of January 15, 2024, is concluded to be as follows:

16.73 acres = \$30,000

#### **EXPOSURE TIME**

It is concluded that the subject site could have been sold within one year of being placed on the market at the concluded value.

## **ADDENDA**

## **EXHIBIT A**

**TOWN OF MINTURN, COLORADO  
RESOLUTION NO. 25 – SERIES 2023**

**A RESOLUTION AUTHORIZING THE MAYOR OF THE TOWN OF  
MINTURN TO SIGN A SETTLEMENT AGREEMENT BETWEEN THE  
BATTLE MOUNTAIN ENTITIES AND THE TOWN OF MINTURN  
CREATING A DUE DILIGENCE PERIOD AND A POTENTIAL PATH  
TO RESOLVE PENDING LITIGATION.**

WHEREAS, in 2008, the Town approved annexation of the Battle Mountain Property for the development of a ski and golf resort-oriented project.

WHEREAS, in connection with the Annexation, Minturn and the Battle Mountain Entities entered into a number of agreements on February 27, 2008, including the Battle Mountain Annexation Agreement and Vested Property Rights Development Agreement and a Water Service Agreement.

WHEREAS, on February 15, 2012, the Town Council approved Resolution No. 5-2012, and the Parties entered into an Agreement Regarding Escrows and Funding.

WHEREAS, on March 4, 2022, the Town commenced litigation against the Battle Mountain Entities in a case known as *Town of Minturn v. Battle One Developer, LLLP et al.*, Eagle County District Court Case No. 2022CV30050. In the Litigation, the Town alleges that Battle Mountain Entities have breached various agreements, and the Battle Mountain Entities have asserted counterclaims against the Town.

WHEREAS, following settlement discussions, Minturn and the Battle Mountain Entities reached an agreement aimed at resolving the Litigation, as more particularly described in and contingent on implementation of the matters and transactions described in the Settlement Agreement.

WHEREAS, the Settlement Agreement provides the Town with the opportunity to acquire land from Battle Mountain in exchange for releasing prior promises and agreements.

WHEREAS, the Settlement Agreement provides the Battle Mountain Entities with the opportunity to obtain land use approvals for up to 250 residential units and other development as more particularly described in the Settlement Agreement.

WHEREAS, the Settlement Agreement provides the parties with a six month period in which to conduct due diligence and for the Battle Mountain Entities to seek land use approvals in accordance with the Agreement.

WHEREAS, during the due diligence period either party may withdraw from the Settlement Agreement and return to litigating the case.

WHEREAS, the Settlement Agreement provides a potential path to resolve the Litigation and provide a path forward for the Battle Mountain Entities to undertake a reduced amount of development on their property.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF  
THE TOWN OF MINTURN, COLORADO:**

1. The Minturn Town Council approves the Settlement Agreement attached as **Exhibit A** and authorizes the Mayor or his designee to sign on behalf of the Town of Minturn any and all documents required to reasonably ensure completion.

**INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 6<sup>th</sup>  
day of September, 2023.**

**TOWN OF MINTURN**

By: \_\_\_\_\_

**Earle Bidez, Mayor**

**ATTEST:**

\_\_\_\_\_  
Jay Brunvand, Town Clerk



## SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT (this “**Agreement**”) is made and entered into as of this 6<sup>th</sup> day of September, 2023 (“**Effective Date**”) by and among the following (individually, a “**Party**”; and, collectively, the “**Parties**”): Battle One Developer, LLLP, a Georgia limited liability limited partnership, Battle Two Developer, LLLP, a Georgia limited liability limited partnership, Battle North, LLC, a Georgia limited liability company, Battle South, LLC, a Georgia limited liability company, and Battle One A Developer, LLC, a Georgia limited liability company (collectively, together with their respective successors and assigns, “**Battle**”); and the Town Council for the Town of Minturn, Colorado (“**Town Council**”), the Town of Minturn Water and Sanitation Activities Enterprise, an enterprise fund established pursuant to C.R.S. §37-45.1-101 *et seq.* (the “**Enterprise**”), and the Town of Minturn, Colorado, a home rule municipal corporation (collectively with Town Council and the Enterprise, the “**Town**”).

### RECITALS

This Agreement is made with respect to the following facts:

A. In 2004, certain predecessors of the Battle entities purchased approximately 4,340 acres of property in Eagle County, generally to the south of the then-existing boundaries of the Town (“**Original Property**”).

B. On March 15, 2006, the Parties entered into a Wastewater Service Agreement (“**Wastewater Agreement**”).

C. In 2008, the Town approved annexation of the Original Property (“**Annexation**”) for the development of a ski and golf resort-oriented project (“**Resort Project**”).

D. In connection with the Annexation, the Parties entered into a number of agreements on February 27, 2008, including the Battle Mountain Annexation Agreement and Vested Property Rights Development Agreement (“**Annexation Agreement**”), and a Water Service Agreement (“**Water Service Agreement**”).

E. Together with related matters as approved by Town Council pursuant to Resolution No. 18-2008, the Town approved that certain Planned Unit Development Preliminary Plan and Battle Mountain PUD Guide (“**PUD Preliminary Plan**”) which established the uses, density and intensity of use, and other development parameters for the five character areas comprising the following three general areas of Original Property:

(1) the Willow Creek Character Area, the Rock Creek Character Area and the Holy Cross Character Area, collectively, comprising approximately 3,700 acres located east of Highway 24 (“**Mountaintop Property**”);

(2) the Gilman Character Area, comprising approximately 100 acres located west of Highway 24 in the southerly portion of the Original Property (“**Gilman Property**”); and

(3) as depicted in the Bolts Lake Concept Plan attached at **Exhibit A** (“**Concept Plan**”), the Bolts Lake Character Area, comprising approximately 540 acres located in the northerly portion of the Original Property surrounding the historic Bolts Lake location, principally west of Highway 24 (“**Bolts Lake Property**”).

F. In April 2008, the Parties entered into three escrow agreements (collectively, “**Escrow Agreements**”), pursuant to which Battle deposited a total of \$11.6 million into escrow based on specific provisions in the Annexation Agreement and/or the Water Service Agreement.

G. On February 15, 2012, the Town Council approved Resolution No. 5-2012, and the Parties entered into an Agreement Regarding Escrows and Funding (“**Funding Agreement**”).

H. In 2017, Town Council approved Ordinance No. 2-2017 approving the Development Agreement Implementing the Mountain Concept Alternative within the Mountaintop Area of the Battle Mountain Property (“**Mountaintop Development Agreement**”), which applied to the Mountaintop Property.

I. In 2020, Battle One Developer, LLLP sold the Mountaintop Property to a third party.

J. Pursuant to that certain Agreement Pertaining to Acquisition for Bolts Lake Reservoir by and among Eagle River Water and Sanitation District, Upper Eagle Regional Water Authority (collectively, “**ERWSD**”) and Battle North, LLC (together with its successors and assigns, “**Battle North**”), dated as of February 9, 2021 (“**Reservoir Agreement**”), Battle North, conveyed to ERWSD fee title to certain parcels within the Bolts Lake Property and granted ERWSD certain temporary construction and perpetual easements (“**ERWSD Easements**”) within the Bolts Lake Property relating to the Reservoir Project (as defined in the Reservoir Agreement).

K. Battle North owns the Bolts Lake Property excluding the parcels previously conveyed to ERWSD pursuant to the Reservoir Agreement (“**Battle North Property**”), and portions of Battle North Property are subject to the ERWSD Easements.

L. Battle South, LLC (together with its successors and assigns, “**Battle South**”) owns the Gilman Property.

M. Except for Battle North and Battle South, no entity comprising Battle owns any real property comprising any portion of the Original Property.

N. On March 4, 2022, the Town commenced litigation against Battle in a case known as *Town of Minturn v. Battle One Developer, LLLP et al.*, Eagle County District Court Case No. 2022CV30050 (“**Litigation**”). In the Litigation, the Town alleges that Battle has breached the Annexation Agreement, the Water Service Agreement and the Funding Agreement, and Battle has asserted counterclaims against the Town.

O. Following settlement discussions, the Parties reached an agreement aimed at resolving the Litigation, which will, as more particularly described in and contingent on implementation of the matters and transactions described in this Agreement, *inter alia*:

(1) terminate and replace the Wastewater Agreement, the Annexation Agreement, the Water Service Agreement, the Escrow Agreements, and the Funding Agreement (collectively, and together with the Town resolutions and/or ordinances approving such instruments, “**Prior Agreements**”) and the PUD Preliminary Plan as to the Bolts Lake Property;

(2) cause disconnection of the Gilman Property from the Town to be legally effected;

(3) together with zoning consistent with such purposes, provide for conveyance to the Town of fee title to the Town Parcels (defined in Section 2(a)(i)) and imposition of Restrictions (defined in Section 2(a)(ii)) on the Restricted Parcels (defined in Section 2(a)(ii)) that are for the benefit of and enforceable by the Town;

(4) provide a public process in accordance with the Minturn Municipal Code (as amended, including pursuant to Section 2, the “**Code**”) for zoning and related land use entitlements to enable development of the Battle Retained Parcels (defined in Section 2(a)(iii)); and

(5) as contemplated pursuant to Section 8, entry of an order dismissing the Litigation with prejudice and effecting the Parties’ full and complete mutual waiver of all claims (“**Settlement**”).

P. If the Settlement is successfully implemented through a public process, the permissible level of development on the Battle North Property will be substantially reduced from what was contemplated in connection with the Resort Project and the PUD Preliminary Plan, the Gilman Property will be disconnected from the Town, and approximately 250 acres of land comprising the Town Parcels and the Restricted Parcels will be conveyed to the Town or subjected to Restrictions that are for the benefit of and enforceable by the Town.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the Recitals (which are incorporated in this Agreement), the terms, conditions and covenants set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Deposit of Funds; Stay of Litigation.** Within five business days of the Effective Date, Battle will deposit Fifty Thousand Dollars (\$50,000) with the Town to be used to defray the Town’s costs to conduct Diligence Activities (defined in Section 5). Concurrently therewith, the Parties will file a Joint Motion in the Litigation, advising the Court of this Agreement, and requesting an extension of the stay that is currently in place to and including November 30, 2023.

2. **Code Amendments.** During the period commencing on the Effective Date and continuing through and including six months after the Effective Date (as may be extended in writing by the Parties, “**Approvals Period**”), the Parties will in good faith undertake to coordinate and process Town-initiated amendments (collectively, “**Code Amendments**”) to the Code through a public process in accordance with the applicable Code provisions. Within thirty (30) days of the Effective

Date, Battle will endeavor to provide Town staff with initial draft ordinances to effect the Code Amendments. Town staff will work diligently to provide timely written comments on the initial draft ordinances, and subsequent drafts, with the goal of having final ordinances acceptable to Battle and Town staff for Town Council's first reading on or before January 31, 2024 and second reading on or before February 28, 2024. The Code Amendments will:

(a) Subdivision. In furtherance of the Town's intent to create a generally applicable process ("**Exemption Plat Process**") for administrative review and approval of subdivision exemption plats ("**Exemption Plat(s)**"), amend Chapters 16, 17 and other appropriate provisions of the Code. The Exemption Plat Process will, as pertinent to this Agreement, enable the Parties to process and take final action on an application for an Exemption Plat that will, upon Town approval and recording in the real property records of the Eagle County Clerk and Recorder ("**Record(ed)(ing)**"), create within the Battle North Property various legally conveyable parcels. The Exemption Plat will create the following categories of parcels within the Battle North Property:

(i) Town Parcels. Parcels which Battle North will convey to the Town ("**Town Parcels**"), subject to certain Reserved Easements (defined in Section 7(a)) for Battle North's benefit. The Town Parcels intended to be created are, as conceptually depicted and labeled in the Concept Plan: (A) the Highlands Area; (B) the Reservoir South Area (excluding the Processing Area); (C) the Rec Center Parcels; and (D) the Highway 24 Parcels.

(ii) Restricted Parcels. Parcels which Battle North will own but, subject to certain Reserved Uses (defined in Section 7(b)(i)) for Battle North's benefit, will be encumbered by Recording certain instruments ("**Restricted Parcel(s)**") imposing one or more of the following (collectively, and as applicable, "**Restriction(s)**"): (A) a Perpetual Easement (defined in Section 7(b)(i)) granting to the Town the right to undertake a specific scope of uses, on terms the Parties mutually determine appropriate; (B) a Restrictive Covenant (defined in Section 7(b)(ii)) that limits the uses that may be undertaken within such Restricted Parcel, on terms the Parties mutually determine appropriate; and/or (C) with respect to any or all Restricted Parcels requested by the Town at its election, a Purchase Option (defined in Section 7(b)(iii)) granting to the Town an option to purchase such Restricted Parcel(s). The Restrictions will run with title to the Restricted Parcels and will be enforceable by and for the benefit of the Town. Unless Battle North and the Town otherwise mutually agree in writing prior to the Closing Date, the Restricted Parcels intended to be created are, as conceptually depicted and labeled in the Concept Plan: (v) the OTP Area; (w) the Processing Area (being a portion of the Reservoir South Area); (x) the CTP Area (y) the Trestle Area; and (z) the Maloit Wetlands Area.

a. *Plat Note Restricting Conveyance*. Restricted Parcels may be platted as legally conveyable (but not developable) parcels separate from the Battle Retained Parcels; provided, however, the applicable Exemption Plat must contain a note to the effect that such separately platted Restricted Parcels may be conveyed only:

(1) to a metropolitan district formed pursuant to Section 3(d); or

(2) to the Town pursuant to the Town's exercise of a Purchase Option pursuant to Section 7(b)(iii); or

(3) to another special district, governmental or quasi-governmental entity, or other public or private entity; provided, however, with respect to a conveyance of the OTP Area or the Processing Area only, such entity has sufficient financial capacity, as determined by the Town in its reasonable discretion, to perform the landowner's legal obligations as Battle North's successor pursuant to the Reservoir Agreement; and

(4) if the Environmental Protection Agency ("EPA")/Colorado Department of Public Health and Environment ("CDPHE") has approved conveyance of the applicable Restricted Parcel pursuant to, and the entity acquiring a Restricted Parcel executes the consents and certifications required pursuant to Section 9 of, the Administrative Settlement Agreement and Order on Consent for Response Action and Release and Waiver of CERCLA §107(r) Lien, Docket No. CERCLA-08-2018-009.

b. *Method of Conveyance.* Subject to compliance with clause (4) of Section 2(a)(ii)a, a Restricted Parcel may be conveyed by deed after Recording of the applicable Exemption Plat, or by dedication pursuant to the applicable Exemption Plat.

(iii) Town's Right to Convert. By delivery of written notice to Battle prior to expiration of the Diligence Period (defined at Section 5), the Town will have the right to convert one or more of the Town Parcels into a Restricted Parcel and to convert one or more of the Restricted Parcels into a Town Parcel.

(iv) Battle Retained Parcels. Battle North will retain for purposes of future development or other disposition all parcels created pursuant to the Exemption Plat that are neither Town Parcels nor Restricted Parcels ("**Battle Retained Parcels**"). The Exemption Plat will contain a note expressly stating that the Battle Retained Parcels must be replatted (in such development sequence and phasing as Battle North determines desirable and in accordance with Town infrastructure requirements) to create buildable lots pursuant to a Recorded final plat prior to submittal of building permit applications for habitable improvements. Neither engineering plans for nor construction of public improvements will be required in connection with the Exemption Plat Process or Recording of the Exemption Plat, such matters being deferred to subsequent applications for preliminary and final plat that will be required to replat the Battle Retained Parcels into buildable lots prior to development.

(b) Zoning. Amend Chapters 16, 17 and other pertinent provisions of the Code, as applicable, to create zone districts specific to the Battle North Property that will establish as uses by right, subject to obtaining an approved final subdivision plat and construction of Infrastructure Improvements (defined in Section 2(b)(i)) to serve such development:

(i) Residential. A residential zone district (“**Bolts Residential District**”) which provides for: (A) on lots of a minimum size of 4,000 square feet, single-family homes and accessory dwelling units; (B) on lots of a minimum size of 5,000 square feet, duplexes; (C) trails, parks and similar active and passive recreational uses customarily provided within residential communities; and (D) roads, the Water Treatment System and Water Distribution System (defined in Section 2(c)) and related water service infrastructure, sanitary sewer infrastructure, stormwater infrastructure, electric and gas utilities, renewable and alternative energy facilities, telecommunications infrastructure and similar infrastructure improvements the Town approves and/or requires pursuant to the Town’s preliminary and final plat process to serve development within the Battle Retained Parcels (“**Infrastructure Improvements**”). Maximum building heights in this zone will be 28 feet. Maximum building lot coverage in this zone will be 50%. The intent of the Bolts Residential District will be to enable an eclectic mix of housing types and styles consistent with the housing types and character in other areas of the Town.

(ii) Mixed Use. A mixed use zone district (“**Bolts MU District**”) which provides for: (A) all uses permitted in the Bolts Residential District; (B) multifamily dwelling units; and (C) low impact neighborhood commercial uses (limited size convenience, gas station, bakery, etc.), spa/wellness center and accessory uses thereto, hotel and accessory uses thereto, and similar recreational uses. The minimum lot size for multifamily structures will be 5,000 square feet. For other residential uses and commercial uses, the minimum lot size will be 2,500 square feet. Maximum building lot coverage for commercial and vertically integrated mixed use structures will be 80% and for duplex, single-family and accessory dwelling units will be 50%. Maximum building heights in this zone will be 35 feet for commercial, vertically mixed use and multifamily, and 28 feet for duplex, single-family and accessory dwelling units. The intent of the Bolts MU District will be to enable denser multifamily, single-family homes, and duplexes similar in character but with smaller minimum lot sizes than in the Bolts Residential District.

(iii) Bolts Open Space. An open space and recreational use zone district (“**Bolts OS/Rec District**”) for land intended to remain predominately undeveloped, generally limited to trails, other passive (non-motorized) recreation uses, Infrastructure Improvements (generally excluding roadways, except as necessary to facilitate other Infrastructure Improvements and cross-easements to provide legal and physical access between such parcels and public roadways), all activities and facilities necessary to comply with requirements imposed by the EPA and CDPHE, and all activities the Reservoir Agreement and the ERWSD Easements, as applicable, contemplate occurring in connection with the Reservoir Project.

(iv) Holding Zone. A holding zone for Town Parcels intended to be held for later conveyance or further future zoning determinations (“**Holding District**”), which will allow Infrastructure Improvements (generally excluding roadways, except as necessary to facilitate other Infrastructure Improvements and cross-easements to provide legal and physical access between such parcels and public roadways), all activities and facilities necessary to comply with requirements imposed by the EPA and CDPHE, and all activities the Reservoir Agreement and the ERWSD Easements, as applicable, contemplate

occurring in connection with the Reservoir Project. No other public or governmental uses of the property will be permitted.

(c) Water System. Amend Chapter 13, Appendix C and other appropriate provisions of the Code to expressly provide that: (i) the Town/Enterprise will not provide municipal water service to the Battle Retained Parcels; (ii) as to be constructed, owned and operated in accordance with applicable provisions of the Reservoir Agreement, ERWSD will provide municipal water service to the Battle Retained Parcels for up to 700 SFE's utilizing a water treatment plant with a treatment capacity sized to serve the maximum density permitted pursuant to Sections 3(c)(ii) and (iii) to be developed within, and with a service area limited to, the Battle Retained Parcels ("**Water Treatment Plant**"), together with diversion structures, raw water input lines and related infrastructure inboard to the Water Treatment Plant (collectively with the Water Treatment Plant, the "**Water Treatment System**"); (iii) appropriate language be placed on final plats acknowledging that the Town will not provide municipal water services to the Battle Retained Parcels; and (iv) pursuant to Code Section 16-25-40(8), development and operation of the Water Treatment System will be fully exempt from all review and permitting requirements of Chapter 16, Article 25 of the Code (i.e., 1041 permitting), provided, however, the Town may require application for a 1041 permit for any expansion in the treatment capacity or land to be served by the Water Treatment System above and beyond that described in clause (ii) of this Section 2(c). As to be addressed in the Development Agreement pursuant to Section 3(c)(ix):

(i) Town Review of Water Treatment Plant; Water Treatment System. The Town will not own, operate or maintain the Water Treatment System. Design, construction and operation of the Water Treatment System will comply with applicable ERWSD and CDPHE regulations and permitting requirements. In connection with the Exemption Plat process and/or pursuant to a Recorded final plat, Battle North will propose and the Town will review and approve the site for the Water Treatment Plant as a Battle Retained Parcel that is legally conveyable for construction, ownership and operation of the Water Treatment Plant as contemplated in the Reservoir Agreement. Such Town review may include the location, character and extent of the Water Treatment Plant pursuant to C.R.S. § 31-23-209. Except with respect to the Town's review of the Water Treatment Plant site as provided above, the Town will not exercise or conduct any technical or other review of the Water Treatment System, including but not limited to its location, character, and extent pursuant to C.R.S. § 31-23-209.

(ii) Town Review of Water Distribution System. In connection with preliminary and final plat(s) for development within the Battle Retained Parcels, the Town will review locations of the distribution infrastructure to deliver municipal water service outboard from the Water Treatment Plant (e.g., water mains, storage tanks, distribution lines and service lines) to platted development sites within the Battle Retained Parcels ("**Water Distribution System**"). Engineering and technical requirements of the Water Distribution System will be subject to ERWSD regulations and Town subdivision regulations (including but not limited to applicable fire flow requirements). The Town will not own, operate or maintain the Water Distribution System. Except with respect to the Town's review of the Water Distribution System as provided above, the Town will not exercise or conduct any technical review of the Water Distribution System, including but not limited to its location, character, and extent pursuant to C.R.S. § 31-23-209.

(d) Design Standards. Amend Appendix B (Minturn Design Standards and Guidelines) and other appropriate provisions of the Code to expressly provide that only the standards and guidelines set forth in Section II will apply to development within the Battle Retained Parcels. Any design standard applicable to the Battle Retained Parcels will incorporate eclectic design principle consistent with design themes in the Town of Minturn and shall be approved by the Town as part of a future subdivision process.

(e) Vested Property Rights. Amend Code Section 16-21-710(b)(2) by adding a subsection h which incorporates the Development Agreement (defined in and contemplated by Section 3(c)) in the list of instruments that can be a site specific development plan which creates vested property rights pursuant to C.R.S. § 24-68-101, *et seq.* and the Code.

(f) Disconnection by Ordinance. To the extent the Town determines necessary or desirable to effect disconnection of the Gilman Property as contemplated by Section 3(e), amend the Code to expressly adopt and authorize the procedure for disconnection by ordinance pursuant to C.R.S. §§ 31-12-501, *et seq.*

(g) Metropolitan Districts. At the Town's election, but not as a requirement of this Agreement, add an Article to the Code that creates a generally applicable process for metropolitan district formation and adopts a model service plan.

3. **Applications; Final Approval.** Concurrently with processing of and Town Council's final action to approve the Code Amendments, the Parties will coordinate and cooperate to submit, process to a final decision in accordance with the Code, and obtain Town Council's final action on passage of resolutions and second reading of the applicable ordinances prior to expiration of the Approvals Period to approve at the same public hearing (together with the ordinances approving the Code Amendments, "**Approvals**") the applications described in this Section 3. At the time of submitting applications, Battle will execute the Town's standard reimbursement agreement. Within 30 days of the Effective Date, Battle will endeavor to submit the following, which the Town will review and process in good faith:

(a) Exemption Plat. An application pursuant to the Exemption Plat Process for approval of an Exemption Plat that will create the Town Parcels, Restricted Parcels and Battle Retained Parcels as conceptually depicted in the Concept Plan. The application will contain the information required pursuant to clauses (1) through (5) and (7) of Code Section 16-21-170 together with proof of legal and physical access to the parcels and/or commitments to grant such cross-easements as may be necessary or desirable to provide legal and physical access to, from and among the various Town Parcels, Restricted Parcels and Battle Retained Parcels. The approved and Recorded Exemption Plat will establish the precise legal descriptions of the Town Parcels, Restricted Parcels and Battle Retained Parcels. Without limitation of the foregoing, the Rec Center Parcels, collectively, will not be required to be larger than a total of 2 acres.

(b) Rezoning of Battle North Property. An application for rezoning of the Battle North Property, which will contain the information required pursuant to Code Section 16-21-430 and pursuant to clauses (1) through (5) and (7) of Code Section 16-21-170. Consistent with the Concept Plan:

(i) Battle Retained Parcels. Certain Battle Retained Parcels (or areas within them) will be proposed for zoning to, as applicable, the Bolts Residential District, the Bolts MU District or the Bolts OS/Rec District. The boundaries of each zone district will be determined during processing of the zoning application and the Exemption Plat application.

(ii) Town Parcels and Restricted Parcels. The Town Parcels will be proposed for zoning to the Holding District; and the Restricted Parcels will be proposed for zoning to the Bolts OS/Rec District.

(iii) Effect on PUD Preliminary Plan. Rezoning of the Battle North Property as provided above will have the effect of terminating, and fully releasing Battle and the Town from any further rights, obligations or liabilities with respect to, the PUD Preliminary Plan as it applies to the Battle North Property. Simultaneous with approving the rezoning described herein, the Town will adopt a resolution formalizing the termination of Ordinance No. 12-Series 2008, Resolution No. 18-Series 2008, and Resolution No. 19-Series 2008, together with the Conditions to Approval and all other documents, instruments and matters appended to, attached to, referenced by and otherwise incorporated in said Resolutions.

(c) Development Agreement. An initial draft development and statutory vested property rights agreement (“**Development Agreement**”) that will address the following matters:

(i) Release of Prior Agreements and PUD Preliminary Plan. Effective as of implementation of the Settlement pursuant to Section 8, the Development Agreement and the ordinance approving the Development Agreement will replace, supersede and effect termination of the Prior Agreements and the PUD Preliminary Plan as applied to the Battle North Property, and will effectuate the Parties’ full and complete mutual release of all rights, obligations and liabilities pursuant to the Prior Agreements and the PUD Preliminary Plan as related to the Battle North Property.

(ii) Residential Density Limitation. Each residential dwelling unit, regardless of type, will comprise one “dwelling unit.” By way of example, a single family home is one dwelling unit, an accessory dwelling unit is one dwelling unit, a duplex is two dwelling units, a multifamily building containing six separate apartments or condominium units is six dwelling units, etc. The Battle Retained Parcels will be subject to the following residential density limitation:

a. Without a Spa/Wellness Center. If a spa/wellness center is not developed within the Bolts MU District, the total dwelling units that can be developed within the Bolts Residential District and the Bolts MU District, cumulatively, will not exceed two hundred fifty (250) dwelling units.

b. With a Spa/Wellness Center. If a spa/wellness center is developed within the Bolts MU District, the total dwelling units that can be developed within the Bolts Residential District and the Bolts MU District, cumulatively, will not exceed two hundred twenty-five (225) residential units.

(iii) Commercial Density Limitation. The total nonresidential commercial development within the Bolts MU District, cumulatively, will not exceed 50,000 square feet of gross leasable area. For such purposes, “gross leasable area” means the total floor area (measured from the interior surface of demising walls) that is designed for the tenants’ or business’ occupancy and exclusive use, and does not include the floor area of any public or common areas such as utility rooms, mechanical rooms, stairwells, elevator shafts, foyers, malls and so on.

(iv) Ownership and Maintenance of Public Roads. Pursuant to the final platting process, the right-of-way for and physical improvements comprising Maloit Park Road will be dedicated to, accepted, owned and maintained (including snow plowing) by the Town in accordance with the Town’s generally applicable regulations, including but not limited to the Town’s roadway engineering standards and a development specific traffic study. All other public roads located within the Battle Retained Parcels will be owned and maintained (including snow plowing) by a metropolitan district as contemplated pursuant to Section 3(d), and/or owners’ association(s). The classifications, cross-sections, profiles and related technical matters pertinent to such roadways will be determined in connection with the processing and approval of preliminary and final plats for the Battle Retained Parcels.

(v) Maloit Wetlands Area. Simultaneously with Recording of the first final plat adjacent to the Maloit Wetlands Area, Battle North will Record a Restriction (in the form of a Restrictive Covenant approved and enforceable by the Town) that will ensure the Maloit Wetlands Area remains undeveloped (except for installation, operation and maintenance of Infrastructure Improvements, and the construction of Maloit Park Road) and serves as a wildlife corridor between adjoining United States Forest Service land to the north and the CTP Area to the south. All Battle North improvements located within the Maloit Wetlands Area shall be subject to Town review and approval, except for activities necessary to comply with requirements imposed by EPA and/or CDPHE. Activities necessary to comply with requirements imposed by EPA and/or CDPHE and public access for non-motorized winter recreational activities (e.g. cross country skiing, snowshoeing, hiking, birding, etc.), including by residents and guests within the Battle Retained Parcels, will be permitted.

(vi) Fishing Easement. Concurrently with Recording of the first final plat adjacent to Cross Creek, Battle North will grant to the Town and Record a perpetual, nonexclusive easement that grants the public the right to fish within the Cross Creek streambed and up to the ordinary high-water mark, as defined in Code Section 16-2-20, of the Cross Creek segments adjacent to the Battle Retained Parcels and grants access for such purpose within the areas conceptually depicted in the Concept Plan. Except to the extent depicted in the Concept Plan, the public fishing access easement will not provide for or allow the general public to access the Cross Creek streambed from, across, or over the Battle Retained Parcels, or to otherwise enter upon the Battle Retained Parcels, but will expressly provide that residents and guests within the Battle Retained Parcels will have the legal right to utilize the public fishing easement.

(vii) Parks; No Open Space Dedications. In accordance with applicable Code requirements, final plats for development sites within the Battle Retained Parcels will be required to provide for adequate active parks to support the approved level of residential development. Parks will be dedicated to, improved, constructed, owned and maintained by metropolitan districts as contemplated pursuant to Section 3(d) and/or owners' association(s). No open space dedications will be required in connection with final plats for development within the Battle Retained Parcels.

(viii) Generally Applicable Code Provisions. Generally applicable Code provisions in effect at the time of final platting regarding technical and procedural matters will apply to all final plat applications to the extent not in conflict with or having the effect of negating or impairing the vested property rights established pursuant to Section 3(c)(xi) to the densities, product types, lot size, lot coverage and related development parameters established pursuant to the approved zoning. Without limitation of the foregoing: (A) the Community Housing Guidelines established pursuant to Code Chapter 16, Article 26 will apply to development within the Battle Retained Parcels, provided, however, no revisions to the percentages, deed-restriction conditions and AMI criteria set forth in Code § 16-26-100 in effect as of the Effective Date will apply to the Battle Retained Parcels without Battle's consent; and (B) no river setback of greater than thirty (30) feet will apply to developable lots within the Battle Retained Parcels that are adjacent to Cross Creek.

(ix) Water Service. Consistent with and subject to the terms and conditions of applicable Code Amendments, the Town/Enterprise will not provide municipal water service to the Battle Retained Parcels and, as more fully described in Section 2(c), ERWSD will provide municipal water service to the Battle Retained Parcels utilizing the Water Treatment System and the Water Distribution System to be constructed, owned, operated and maintained in accordance with applicable provisions of the Reservoir Agreement.

(x) Sewer Service. ERWSD will provide sanitary sewer service to the Battle Retained Parcels as provided in the Code.

(xi) Vested Property Rights. Pursuant to Code Section 16-21-710 (as amended pursuant to Section 2(d)), the Development Agreement will constitute a site specific development plan that creates vested property rights for a period of thirty (30) years from the date on which the Settlement is implemented pursuant to Section 8.

(d) Service Plans. The Town will process applications seeking approval of service plans for the formation of up to three (3) metropolitan districts in accordance with the statutory process pursuant to C.R.S. §§32-1-101, *et seq.* and, as applicable, the Town process contemplated by Section 2(g). Town is not required to approve any metropolitan districts. Upon completion of the formation process, the metropolitan districts are anticipated to have authority to finance the construction, operation and maintenance of the Water Treatment System, Water Distribution System, other backbone infrastructure and parks to serve development within the Battle Retained Parcels, to impose and enforce restrictions to protect wildlife within the Battle Retained Parcels and the Restricted Parcels, to own Restricted Parcels (prior to conveyance, or which are not

anticipated to be conveyed in the future, to and owned by the Town), and to perform and/or enforce environmental obligations and/or environmental restrictions.

(e) Disconnection of Gilman Property. In connection with the contemplated Settlement, the Town has proposed and Battle South has agreed to effect disconnection of the Gilman Property. Accordingly, Battle South will submit to Town Council an application for disconnection of the Gilman Property by ordinance pursuant to C.R.S. §§ 31-12-501, *et seq.* The disconnection becoming legally effective will fully release Battle, the Town and the Gilman Property from any further rights, obligations and liabilities under or with respect to the Prior Agreements and the PUD Preliminary Plan relating to the Gilman Property.

(f) Dissolution of General Improvement District. Pursuant to C.R.S. § 31-25-625, the Parties will cooperate to dissolve the General Improvement District established by Ordinance No. 24, Series 2008, Recorded at Reception No. 200901380.

(g) Survival of Disconnection and Dissolution Obligations. If this Agreement terminates prior to implementation of the Settlement, the Parties' obligations to process disconnection of the Gilman Property pursuant to Section 3(e) and to process dissolution of the General Improvement District pursuant to Section 3(f) will survive such termination for a period of, and the Parties will cooperate to cause disconnection of the Gilman Property and dissolution of the General Improvement District to be made legally effective within, ninety (90) days after the date of such termination.

4. **Approval Date: Final Approval; Legal Challenges.** The ordinances comprising the Approvals will be legally effective thirty (30) days after publication following the date on which Town Council approves them on second reading (the "**Approval Date**"), and the resolutions comprising the Approvals will be legally effective on the date set forth in such resolutions (which will not be later than thirty (30) days after the Approval Date); provided, however:

(a) Conditions Precedent To Binding Effect and Recording. The Parties' intend that Final Approval (defined below) of all Approvals occurs on the same date or not at all, such that no action required to fully implement Settlement remains subject to Legal Challenge (defined below). Accordingly, and notwithstanding any earlier effective date of such ordinances and resolutions pursuant to Section 4, each ordinance and each resolution will contain an express condition that the substantive matters comprising the Approvals will not be legally effective or binding upon the Parties, and will not be legally effective as to (and no Approvals instruments will be Recorded against) the Battle North Property or the Gilman Property, prior to implementation of the Settlement (pursuant to Section 8) following Final Approval (defined below) of all Approvals. With respect to the foregoing:

(i) **"Final Approval"** will occur with respect to each of the Approvals: (A) if no Legal Challenge is filed on or prior to the last day by which the applicable statute, rule of civil procedure, Code, or Town Charter provision requires the applicable Legal Challenge to be filed,; or (B) if a Legal Challenge is timely filed against one or more of the Approvals within the period described in the foregoing clause (A), and unless the Parties agree otherwise, all such Legal Challenges are resolved in a manner that is final, not subject

to appeal, and upholds the validity of the Approvals that were subject to the Legal Challenge.

(ii) **“Legal Challenge”** means: (A) any third-party’s commencement of a legal proceeding, pursuant to C.R.C.P. Rule 106 or otherwise, that directly or indirectly challenges, or seeks to reverse or nullify, any of the Approvals and/or implementation of the Settlement; or (B) submission of a valid petition under the Code for a referendum seeking to reverse or nullify any of the Approvals and/or implementation of the Settlement.

(b) Termination Prior to Final Approval. By delivery to the Town of a written notice of termination prior to the latest effective date of the Approvals ordinances and resolutions pursuant to Section 4, Battle will have the right to terminate this Agreement if Battle is not satisfied with the Town’s processing of the Approvals applications, any Town-imposed conditions of the Approvals, any substantive elements of the Approvals, or for any other reason relating to the Approvals. If Battle timely delivers written notice of termination to the Town, this Agreement will terminate and the Parties will be released from further liability or obligation under this Agreement except those that expressly survive termination of this Agreement.

5. **Diligence Period; Diligence Activities; “As-Is” Transaction; Disclosures.** During the period commencing on the Effective Date and continuing until the earlier to occur of the date on which this Agreement is terminated or the occurrence of the Approval Date pursuant to Section 4 (**“Diligence Period”**), the Town will conduct its own review and evaluation of the information contained in Battle North’s Disclosures (defined in Section 5(d)), will inspect and investigate the Town Parcels and the Restricted Parcels, and will engage such qualified agents, contractors, engineers or consultants, including, without limitation, environmental consultants, as the Town deems necessary to make all appropriate inquiry with respect to title, survey, physical conditions, environmental conditions (including, without limitation, all CERCLA and other Environmental Laws (as such terms are defined in Section 5(a))) and such other matters pertinent to the Town Parcels and Restricted Parcels as the Town, in its sole discretion, deems necessary or appropriate, to assess the suitability of the Town Parcels and the Restricted Parcels (**“Diligence Activities”**). The Town will rely solely on such independent Diligence Activities. Battle will have no obligation pursuant to this Agreement to cure or remedy any matter affecting title, survey, physical, environmental or other conditions affecting the Town Parcels or the Restricted Parcels. In its sole discretion and without obligation to incur any expense in connection therewith, Battle may elect to cooperate with the Town’s efforts to address and resolve such matters to the Town’s satisfaction. The Town’s obligation at the Closing (defined in Section 7) to acquire fee title to the Town Parcels and the Town’s interests in the Restrictions that will encumber the Restricted Parcels for the Town’s benefit (collectively, **“Property Interests”**) is expressly conditioned on the Town not having exercised its right to terminate this Agreement pursuant to Section 5(h).

(a) Environmental Definitions. As used in this Agreement:

(i) **“Actual Knowledge”** of Battle, Battle North or similar phrases mean the current, actual (not constructive) knowledge, without duty of inquiry or investigation, of either (A) Lorne Bassel in his capacity as President of the Manager of Battle North and, if applicable, his successor in such capacity, or (B) Tim McGuire, in his capacity as Battle North’s local representative and, if applicable, his successor in such capacity.

(ii) **“Hazardous Materials”** means any substance: (A) the presence of which requires special handling, storage, investigation, notification, monitoring, or remediation under any Environmental Laws (defined below); (B) which is toxic, explosive, corrosive, erosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous; (C) which is (or becomes so during the Diligence Period regulated by any federal, state or local authority under any Environmental Laws, (D) any hazardous substance as defined in section 101(14) of the Comprehensive Environmental Response Compensation and Liability Act (“**CERCLA**”), 42 U.S.C. § 9601(14), and also including petroleum, crude oil, or any fraction thereof, mining-related wastes, asbestos and polychlorinated biphenyls; (E) any substance designated in 40 C.F.R. § 304.2; (F) any substance identified or listed pursuant to section 3001 of the Solid Waste Disposal Act, 42 U.S.C. § 6901 *et seq.*, (G) any substance identified or listed by the State of Colorado pursuant to 6 CCR Part 261; and (H) underground storage tanks (USTs).

(iii) **“Environmental Laws”** means all laws, rules and regulations, as well as all agreements between EPA, CDPHE and Battle North or any third party, relating to (A) emissions, discharges, spills, cleanup, remediation, releases or threatened releases of any Hazardous Materials; (B) the presence of any Hazardous Materials on or in, land, soil, ambient air, surface water, groundwater, watercourses, publicly or privately owned treatment works, drains, sewer systems, storage tanks of any kind, wetlands, or septic systems, (C) the use, treatment, storage, disposal, handling, manufacturing, transportation, or shipment, cleanup or remediation of Hazardous Materials; and (D) the protection of human health or the environment.

(b) **“As Is” Transaction.** The Town (for itself and its successors and assigns) acknowledges that, if the Town does not terminate this Agreement pursuant to a termination right of the Town under this Agreement, it will acquire the Property Interests in their respective **“AS IS, WHERE IS, AND WITH ALL FAULTS”** condition as of the Closing Date. The Town (for itself and its successors and assigns) accepts all risks regarding all attributes and conditions, latent or otherwise, of the Property Interests. The Town will acquire the Property Interests based solely upon the Town’s Diligence Activities and not in reliance on any statement, representation or inducement of Battle except as expressly set forth in and limited by Sections 5(d) and 6(a). Without limitation of the foregoing:

(i) **No Implied Representations.** Except as expressly set forth in and limited by Sections 5(d) and 6(a): (A) NEITHER BATTLE NORTH NOR ANY AGENT, EMPLOYEE, OFFICER, DIRECTOR, CONTRACTOR OR REPRESENTATIVE OF BATTLE HAS MADE (OR HAS AN OBLIGATION TO THE TOWN TO MAKE), AND BATTLE SPECIFICALLY DISCLAIMS, ANY REPRESENTATION, GUARANTEE OR WARRANTY OF ANY KIND OR NATURE WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE PROPERTY INTERESTS, INCLUDING, WITHOUT LIMITATION, (1) THE NATURE, QUANTITY, QUALITY OR CONDITION OF THE PROPERTY INTERESTS; (2) THE MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY INTERESTS; OR (3) COMPLIANCE OF OR BY THE PROPERTY INTERESTS WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE

GOVERNMENTAL AUTHORITY, INCLUDING, WITHOUT LIMITATION, CERCLA OR ANY OTHER ENVIRONMENTAL LAWS; AND (B) THE TOWN IS RELYING SOLELY UPON ITS OWN INSPECTION OF THE PROPERTY INTERESTS AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF, OR TO BE PROVIDED BY OR ON BEHALF OF, BATTLE NORTH OR UPON ANY REPRESENTATIONS MADE TO IT BY BATTLE NORTH OR ANY AGENT, EMPLOYEE, OFFICER, DIRECTOR, CONTRACTOR OR REPRESENTATIVE OF BATTLE NORTH. ANY INFORMATION PROVIDED OR TO BE PROVIDED BY BATTLE NORTH WITH RESPECT TO THE PROPERTY INTERESTS WAS OR MAY BE OBTAINED FROM A VARIETY OF SOURCES AND BATTLE NORTH HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH THIRD-PARTY INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH THIRD-PARTY INFORMATION.

(ii) Waiver and Release. Except to the extent directly caused by Battle's breach of Sections 5(d) and 6(a), the Town (for itself and its respective successors and assigns) releases Battle and its agents, employees, officers, directors, shareholders, partners, members, managers, contractors and representatives from, and waives any and all causes of action or claims against any of such persons for: (A) any and all liability attributable to any physical condition of or at the Property Interests, including, without limitation, the presence on, under or about the Property Interests of any Hazardous Materials; (B) any and all liability resulting from the failure of the Property Interests to comply with any applicable laws, including, without limitation, any Environmental Laws; and (C) any liabilities, damages or injury arising from, connected with or otherwise caused by statements, opinions or information obtained from any of such persons with respect to the Property Interests.

(iii) Survival. The terms and conditions of this Section 5(b) will survive: (A) Closing pursuant to this Agreement; and (B) with respect to causes of action or claims arising from or relating to the Town's Diligence Activities, termination of this Agreement.

(c) License; Insurance and Indemnification. During the Diligence Period and in order to facilitate the Town's undertaking of its Diligence Activities pertaining to the physical condition of the Property Interests:

(i) License. The Town (together with its employees, contractors, subcontractors, consultants and invitees, "**Licensee(s)**") will have a non-exclusive license ("**License**") to access and enter upon the Town Parcels and Restricted Parcels at reasonable times and from time to time for the purposes of conducting Diligence Activities, at no cost or expense to Battle, which may include, without limitation, reasonable tests, inspections, studies, investigations, surveys and, with not less than three (3) business days' written notice (which may be by email) to Battle's local representative, Tim McGuire ([timcguire@acpcommunities.com](mailto:timcguire@acpcommunities.com)), investigation of soil, geotechnical, environmental conditions, and related invasive tests such as borings (but expressly excluding blasting). Battle North will cooperate reasonably with such Diligence Activities so long as such cooperation is at no cost or expense to Battle. The Town and its Licensees will not engage in any demolition, clearing, grading, excavation, dewatering or other activity that

physically modifies the Town Parcels or Restricted Parcels without Battle's specific prior written consent. The Town will contemporaneously notify Lorne Bassel and Tim McGuire of any entry upon the parcels and Battle's representative will have the right to be present during any entry upon or investigation of the Town Parcels and Restricted Parcels. Following any Town (or Licensee) activities causing damage to the land comprising the Town Parcels, the Restricted Parcels or, if applicable, adjacent areas of the Battle Retained Parcels, the Town will promptly and diligently restore the damaged area to its preexisting condition. The Town will be responsible for the generation and proper disposal of any "Investigative Derived Waste", whether solid or hazardous waste, derived from the Town's invasive testing, and will perform its Diligence Activities at its own risk.

(ii) Insurance. As a condition of exercising its rights pursuant to the License, the Town will, at no cost or expense to Battle:

a. Licensees. Require its contractors and other Licensees who enter the Town Parcels and Restricted Parcels pursuant to the License to: (A) cause Battle North to be named an additional insured on a primary non-contributory basis under their respective policies of commercial general liability insurance, in an amount of at least (I) \$2,000,000 for each occurrence, (II) \$2,000,000 for personal injury, and (III) \$4,000,000 in the general aggregate; and (B) procure and maintain workers' compensation coverage, meeting the statutory requirements of the State of Colorado. Prior to any Licensees' entry upon the Town Parcels and Restricted Parcels, the Town will cause written evidence to be delivered to Battle North of such insurance coverages being in effect.

b. Town. Cause Battle North to be named an additional insured on a primary non-contributory basis under the Town's policy of public entity general liability insurance (or equivalent), in an amount not less than the limits under the Colorado Governmental Immunity Act, C.R.S. §§24-10-101, *et seq.* (which limits are currently (A) \$424,000 for injury to one person in any single occurrence, and (B) \$1,195,000 for injury to two or more person in any single occurrence) against claims of bodily injury, property damage or death occurring in, on or about the Town Parcels and Restricted Parcels.

(iii) Indemnity. To the extent arising from its Diligence Activities, the Town will, to the maximum extent permitted by law, indemnify, defend, and hold harmless Battle from any and all claims, demands, liens, costs, expenses, damages and liabilities, including reasonable attorneys' fees and costs, that are asserted against Battle, the Town Parcels, Restricted Parcels or Battle Retained Parcels, or which Battle may suffer or incur, to the extent arising out of any claims for property damage or personal injury, or claims from materialmen or laborers. The Town will pay Battle's reasonable costs and expenses, including reasonable attorneys' fees incurred in defending any such matter, not to exceed one hundred thousand dollars (\$100,000). If this Agreement terminates, the Town will promptly and diligently repair damage to the Town Parcels and Restricted Parcels (and, if applicable, to adjacent areas of the Battle Retained Parcels) to the extent caused by the Town's Diligence Activities. The Town will reimburse Battle on demand for all expenses

Battle incurs in repairing any damage to the extent resulting from the Town's Diligence Activities if the Town does not promptly repair such damage.

(iv) Survival. The Town's obligations pursuant to this Section 5(c) will survive termination of this Agreement and/or Closing for a period of one (1) year.

(d) Battle North's Disclosures. Within ten (10) business days after the Effective Date, Battle North will deliver or cause to be made available to the Town for review and/or copying (by dropbox or similar electronic means) the following documents, to the extent in Battle North's possession or control, without obligation to obtain documents not in Battle North's possession or control, and without representation or warranty of any kind with respect to the accuracy or completeness of any reports, studies or other documents furnished to the Town that were prepared by parties other than Battle North, to the extent relating or pertaining to the Town Parcels and the Restricted Parcels (collectively, "**Battle North's Disclosures**"):

(i) Surveys. Battle North's most recent ALTA survey(s) of the Battle North Property and/or areas thereof corresponding to all or any part of the Town Parcels and Restricted Parcels.

(ii) Contractual Documents. Copies of leases, contracts, property management agreements, letter agreements and amendments, subleases or licenses, if any.

(iii) Reports and Documents. To the extent not publicly available at EPA's Superfund Records Center, EPA's webpage relating to the Eagle Mine Superfund Site at <https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0800159>, the CDPHE Hazardous Materials and Waste Management Division Records Center, CDPHE's webpage relating to the Eagle Mine Superfund Site at <https://cdphe.colorado.gov/eagle-mine>, within Recorded instruments, or located in the Eagle Mine Site Repository in Minturn: copies of any reports or data regarding environmental conditions, including but not limited to hydrology, geology, hydrogeology, soils, ground water, cleanup or remediation plans or requirements and any amendments thereto; material correspondence with EPA or CDPHE in the prior three (3) years regarding environmental conditions, as described above, and any order, assessment, penalty, complaint, report or data related to the parcels' physical condition or affected by release of any Hazardous Materials from such parcels.

(iv) Capital Improvements. A schedule of capital improvements, if any, made or installed during Battle's ownership.

(v) Documents. All appraisals, engineering reports, title abstracts, and other reports generated during Battle's ownership.

(vi) Additional Matters. To the extent not listed above, any documents and materials that the Town reasonably requests from time to time which directly pertain to the physical condition or status of title, are in Battle North's possession or control, and which are neither subject to attorney-client or other privilege nor subject to any non-disclosure agreement that is legally binding on Battle North.

(e) Title Insurance. As part of its Diligence Activities, the Town may in its sole discretion, at its sole cost, and at such time as it determines desirable, order from a title insurance company of its choice (“**Title Company**”) one or more commitments (“**Title Commitment(s)**”) for issuance of policy(ies) of title insurance for any or all of the Property Interests in such form, at such insured amount, and with such endorsements, if any, as the Town may choose to purchase (“**Title Policy(ies)**”). The Town will cause the Title Company to include Battle North on the distribution list for all Title Commitments and updates thereto, and will provide to Battle North written notice of the selected Title Company together with contact information for the individual(s) at the Title Company responsible for coordinating such Title Commitments and providing Closing services. The Town will be solely responsible for working with the Title Company to resolve to the Town’s satisfaction any title matters disclosed in the Title Commitments. Upon receipt of the Town’s written notice of any title matters with respect to which the Town objects or otherwise has concerns, Battle North may, in its sole discretion and without obligation to cause such title matter to be cured or to incur any expense or liability in connection therewith, cooperate with the Town’s efforts to address and resolve such matters to the Town’s satisfaction. In connection with the Title Company’s issuance of the Title Policy(ies), Battle North will execute such certificates and affidavits as title companies typically require and are commercially reasonable for a land seller to execute in a commercial real estate transaction.

(f) Survey. As part of its Diligence Activities, the Town may in its sole discretion, at its sole cost, and at such time as it determines desirable, either engage a surveyor to produce one or more new surveys of the Town Parcels and the Restricted Parcels or cause the survey(s) Battle North provides pursuant to Section 5(d)(i)(d)(i) to be updated, to more specifically address the Town Parcels and the Restricted Parcels, to reflect the matters disclosed in the Title Commitment(s), and to add the Town to the survey certification (in either case, as applicable, “**Survey(s)**”). The Town will be solely responsible for working with the surveyor to resolve any Survey matters to the Town’s satisfaction. Upon receipt of the Town’s written notice of any Survey matters with respect to which the Town objects or otherwise has concerns, Battle North may, in its sole discretion and without obligation to cause such Survey matter to be cured or incur any expense or liability in connection therewith, cooperate with the Town’s efforts to address and resolve such matters to the Town’s satisfaction.

(g) CERCLA Protections. As part of its Diligence Activities, the Town may in its sole discretion, at its sole cost, and at such time as it determines desirable, elect to pursue environmental liability protections related to the Property Interests (“**CERCLA Protections**”), which may include one or more of: (i) negotiation of a transfer of the Administrative Settlement Agreement and Order on Consent for Response Action and Release and Waiver of CERCLA §107(r) Lien, Docket No. CERCLA-08-2018-009, by and among the United States on behalf of the United States Environmental Protection Agency, the Colorado Department of Public Health and Environment, and Battle North, LLC and Battle South, LLC as it relates to the Property Interests; (ii) comfort letters from CDPHE and/or EPA; (iii) environmental insurance; (iv) negotiation of one or more prospective purchaser agreements; and (v) other mechanisms of managing potential environmental liabilities associated with the Property Interests. The Town will be solely responsible for all undertakings and activities pertinent to investigating, evaluating and pursuing such CERCLA Protections as the Town deems desirable. Upon receipt of the Town’s written request, in its sole discretion and without obligation to incur any expense or liability in connection therewith, Battle

may cooperate with and facilitate the Town's efforts to secure CERCLA Protections to the Town's satisfaction.

(h) Termination During Diligence Period. By delivery to Battle of a written notice of termination prior to the Approval Date, the Town will have the right to terminate this Agreement if the Town is not satisfied with the results of its Diligence Activities, for any other reason, or for no reason. If the Town timely delivers written notice of termination to Battle, this Agreement will terminate and the Parties will be released from further liability or obligation under this Agreement except those that expressly survive termination of this Agreement. If the Town terminates this Agreement and to the extent Battle so requests in writing, the Town will deliver to Battle copies of test results, reports, and other information generated from the Town's Diligence Activities, except to the extent such documents may be subject to attorney-client privilege or work product protections.

6. **Representations and Warranties.** Battle and the Town each represent, warrant and covenant to the other Party as to the matters set forth in this Section 6 as of the Effective Date, and will be deemed to remake the same as of, as applicable, the Closing Date and implementation of the Settlement.

(a) Battle's Representations and Warranties. Battle represents, warrants and covenants to the Town as follows:

(i) Authority. As described and set forth in the introductory paragraph of this Agreement, each entity comprising Battle is, as applicable, either a limited liability limited partnership or a limited liability company that is duly organized, validly existing and in good standing under the laws of the State of Georgia, has the full right and authority to enter into this Agreement and consummate the transactions contemplated by this Agreement, and has taken all requisite action in connection with the execution of this Agreement, the instruments referenced herein, and the consummation of the transactions contemplated hereby.

(ii) Consents; Binding Obligations. No third-party approval or consent is required to enter into this Agreement or to consummate the transactions contemplated hereby. This Agreement and all documents required hereby to be executed by Battle are and shall be valid, legally binding obligations of and enforceable against Battle in accordance with their terms.

(iii) Battle North's Disclosures. To Battle North's Actual Knowledge, Battle North's Disclosures made available to the Town pursuant to Section 5(d) constitute all of such materials as are in Battle North's possession or control.

(iv) No Bankruptcy Proceedings. No bankruptcy, insolvency, rearrangement or similar action or proceeding, whether voluntary or involuntary, is pending or threatened against any entity comprising Battle, and to Battle's Actual Knowledge, no such entity has an intention of filing or commencing any such action or proceeding.

(v) Litigation. Excepting the Litigation, there are no actions, suits, litigation or proceedings pending, or to Battle's Actual Knowledge threatened, affecting the Town

Parcels or Restricted Parcels. There are no actions, suits, litigation or proceedings pending, or to Battle's Actual Knowledge threatened, affecting Battle's right, power or authority to enter into and perform this Agreement in accordance with its terms, or which question the validity or enforceability of this Agreement or any action taken or to be taken by Battle under this Agreement.

(vi) Condemnation. Battle North has no Actual Knowledge, and has received no notice from any governmental authorities, that proceedings for the condemnation of any portion of the Town Parcels or Restricted Parcels are pending.

(vii) No Violations. To Battle North's Actual Knowledge, the Town Parcels and Restricted Parcels have been and presently are used and operated in compliance in all material respects with, and in no material way violate, any applicable statute, law, regulation, rule, ordinance, order or permit of any kind whatsoever affecting the Town Parcels, Restricted Parcels or any part thereof.

(viii) Leases. Except as disclosed in Battle North's Disclosures, no portion of the Town Parcels or Restricted Parcels is subject to any lease, license, easement or right of access.

(ix) Service Contracts. Except as disclosed in Battle North's Disclosures, there is no agreement, in writing or otherwise, between Battle North and any other person or persons for service, supply, maintenance, management or the operation of the Town Parcels or Restricted Parcels which is not cancelable upon not more than thirty (30) days' notice without payment of any penalty or premium.

(x) Hazardous Materials; Environmental Liens. To Battle North's Actual Knowledge, and except as disclosed in Battle North's Disclosures: (A) Battle North has received no notice, complaint or allegation from any state, federal or local agency or authority, or any third party, of any violation of any Environmental Law with respect to any portion of the Town Parcels or Restricted Parcels related to any release or alleged release of Hazardous Materials at or from any portion of the Town Parcels or Restricted Parcels; (B) neither the Town Parcels or Restricted Parcels nor any portion thereof have at any time been used for the transfer, storage, disposal or manufacture of any Hazardous Material; (C) there has been no release of Hazardous Materials at or from any portion of the Town Parcels or Restricted Parcels; (D) there are no Hazardous Materials located at, on or under the Town Parcels or Restricted Parcels or any portion thereof, the presence of which would constitute a violation of any Environmental Law; (E) no other property and no third party has been affected by any release of Hazardous Materials at or from any portion of the Town Parcels or Restricted Parcels; (F) with the exception of utilities, if any, there are no underground storage tanks or pipelines located on the Town Parcels or Restricted Parcels or any portion thereof; (G) Battle North is not in violation of, or alleged to be in violation of, any judgment, decree, order, law, license, rule or regulation or permit pertaining to any Environmental Law; and (H) no portion of the Town Parcels or Restricted Parcels is subject to any environmental lien, environmental use restriction or environmental covenant.

(xi) Changed Circumstances. If Battle acquires Actual Knowledge of any act or circumstances which would change or render incorrect, in any material respect, any representation or warranty made by Battle under this Agreement, whether as of the date given or any time during the Diligence Period and whether or not such representation or warranty was based upon Battle's knowledge and/or belief as of a certain date, Battle will give prompt written notice of such changed fact or circumstance to the Town. Battle may, without obligation pursuant to this Agreement to do so, cause the representation or warranty to again become true or correct prior to the Closing Date. If Battle does not cause such representation or warranty to be true or correct as of the Closing Date, the Town's sole remedies will be either to terminate this Agreement (in which event the Parties will be relieved of any further obligations under this Agreement that do expressly survive termination) or to waive any objection to the representation or warranty to the extent it has become untrue or incorrect and to proceed with the Closing and the Settlement.

(b) Town's Representations and Warranties. The Town represents, warrants and covenants to Battle as follows:

(i) Authority. The Town is duly organized, validly existing and in good standing under the laws of the State of Colorado. The Town has full right and authority to enter into this Agreement and consummate the transactions contemplated by this Agreement. The Town has taken all requisite action in connection with the execution of this Agreement, the instruments referenced herein, and the consummation of the transactions contemplated hereby.

(ii) Consents; Binding Obligations. No third-party approval or consent is required to enter into this Agreement or to consummate the transactions contemplated hereby. This Agreement and all documents required hereby to be executed by the Town are and will be valid, legally binding obligations of and enforceable against the Town in accordance with their terms.

(c) No Other Representations. Except as expressly set forth in this Section 6, this Agreement is made without representation or warranty of any kind by the Parties.

(d) Survival. Each Party making representations and warranties in this Section 6 acknowledges the Party to whom they are given will materially rely upon them in proceeding with the Closing and the Settlement. Such representations and warranties will survive for a period of two (2) years following the Closing Date. To the extent permitted by law, the Party giving such representations and warranties will indemnify, defend and hold the Party to whom they are given (together with such Party's directors, members, officers, employees, agents, successors and assigns) harmless from and against any loss, liability or expense, including reasonable attorneys' fees, not to exceed fifty thousand dollars (\$50,000), arising from a third-party complaint that is filed against such receiving Party during such two (2) year period to the extent based on or arising from the breach of such Party's representations or warranties in this Section 6.

7. Closing. If this Agreement has not otherwise been terminated pursuant to a Party's express termination right under this Agreement, consummation of Battle North's conveyance of the Property Interests to the Town ("**Closing**") will occur, contemporaneously with implementation

of the Settlement pursuant to Section 8, on the fifth (5<sup>th</sup>) business days after the date on which Final Approval occurs (“**Closing Date**”). In connection with Closing:

(a) Fee Interests in the Town Parcels. Battle North will convey fee title to each of the Town Parcels to the Town, free and clear of monetary liens (except the inchoate lien for *ad valorem* taxes and assessments for the year of Closing due and payable by Battle North in the year following Closing), by separate statutory forms of special warranty deed in substantially the form attached at Exhibit B (“Deed(s)”). The legal descriptions, acreages and configurations of the Town Parcels will be established by the Exemption Plat. During the Diligence Period, the Battle North and the Town will negotiate mutually acceptable terms and conditions to which such conveyances will be subject, and the Deeds will incorporate as applicable:

(i) Reserved Easement(s). Battle North may, reserve general, blanket easements within the Town Parcels, except for the parcel depicted on the Concept Plan as the Highlands Parcel and the Rec Center Parcel, for construction, ownership, operation, maintenance, repair and replacement of existing and to-be-constructed utilities, roads, pedestrian crossings, sidewalks, bike paths, the Water Distribution System and similar Infrastructure Improvements required or desirable in connection with development of the Battle Retained Parcels (“**Reserved Easement(s)**”). The engineering requirements of Infrastructure Improvements (excluding the Water Treatment System) within, and the final “as-built” locations of, the Reserved Easements will be subject to Town review and approval in connection with preliminary and final plats for development within the Battle Retained Parcels. The legal descriptions and locations of the Reserved Easements will be subject to modification to conform to such final “as built” conditions. Any blanket easement that has not been narrowed to its final engineered location within fifteen (15) years of the Effective Date shall automatically terminate, and be void and unenforceable.

(ii) Deed Restriction(s). Battle North and the Town may mutually agree upon certain use restrictions with respect to a particular Town Parcel for the benefit of and enforceable by Battle North and the Battle Retained Parcels (“**Deed Restriction(s)**”). The Rec Center Parcels will incorporate a Deed Restriction that limits use of the Rec Center Parcels to community, recreation, artistic, child care, and/or entertainment, and similar uses to be determined by the Parties and not more than three employee/caretaker units, and the Deed(s) for other Town Parcels may incorporate similar or different Deed Restrictions generally consistent with the permitted uses under the Holding Zone. The other Town Parcels will incorporate a deed restriction to exclude industrial uses of those parcels without the written consent of Battle Mountain.

(iii) Exceptions. All matters of Record the Town has not caused to be removed from Schedule B-II of the Title Commitment for the applicable Town Parcel (“**Exceptions**”).

(b) Restrictions. Battle North and the Town anticipate that different Restrictions will encumber different Restricted Parcels in different ways and on different terms. During the Diligence Period, Battle North and the Town will negotiate mutually acceptable terms and conditions of the specific Restrictions that will encumber each of the Restricted Parcels, together with the forms thereof. Such Restrictions may include all or any combination of the following:

(i) Perpetual Easements. It is anticipated that each Restricted Parcel will be encumbered by a perpetual easement agreement (“**Perpetual Easement Agreement(s)**”) pursuant to which Battle North will grant to the Town a perpetual non-exclusive easement (“**Perpetual Easement(s)**”) over, across and within such Restricted Parcel, or specified area therein, for the Town’s benefit in order to provide a specific scope of access and/or utility purposes, use, and/or benefit. For the Highlands Parcel, Battle North will grant at Closing to the Town an easement for access and utility purposes across the OTP Area to the Highlands Area at a location and in a size mutually agreeable to the parties. For parcels other than the Highlands Area, such scope may include active or passive non-motorized recreational uses, the provision of legal and physical access to and from other Town Parcels or a public road, and similar matters. The Perpetual Easement Agreements will expressly reserve to Battle North, as grantor, and incorporate Battle North’s general right to use the Restricted Parcels for purposes that do not unreasonably conflict with or impair the Town’s use and enjoyment of the Perpetual Easement(s), including but not limited to construction, ownership, operation, maintenance, repair and replacement of existing and to-be-constructed utilities, roads, pedestrian crossings, sidewalks, bike paths, the Water Distribution System and similar Infrastructure Improvements required or desirable in connection with development of the Battle Retained Parcels (the “**Reserved Uses**”). The infrastructure types, locations and engineering requirements (except the Water Treatment System) of such Reserved Uses and Infrastructure Improvements will be subject, and the final “as-built” locations of the Reserved Uses will be established pursuant, to Town review and approval in connection with approval of preliminary and final plats for development within the Battle Retained Parcels.

(ii) Restrictive Covenants. It is anticipated that each Restricted Parcel may be encumbered by a covenant that restricts Battle North’s use of the Restricted Parcels to only those uses allowed within the Bolts OS/Rec District as of the Effective Date or such other or additional future site-specific uses as the Parties otherwise agree is necessary to implement the intent of this agreement (“**Restrictive Covenant(s)**”). As Battle North and the Town may mutually agree during the Diligence Period, the Restrictive Covenants for particular Restricted Parcels may be incorporated into the applicable Perpetual Easement Agreement (i.e., as an express limitation of the Reserved Uses) or may be set forth in a separate instrument in a mutually agreed upon form suitable for Recording. No Restrictive Covenant for any Restricted Parcel will require Town review or approval for, preclude, constrain, impair or otherwise restrict activities which are necessary or desirable to comply with EPA or CDPHE rules, regulations or requirements, or activities which are necessary or desirable to comply with or otherwise implement the Reservoir Agreement.

(iii) Purchase Options. At the election of the Town, upon such terms and conditions, and utilizing such form(s) as Battle North and the Town may mutually agree during the Diligence Period, certain of the Restricted Parcels may be made subject to Battle North’s grant to the Town of an option to acquire fee title to such Restricted Parcel (“**Purchase Option**”). Each Option will be exercisable by The Town for a period of twenty-five (25) years from the Closing Date and will cost The Town no more than one dollar (\$1.00). As Battle North and the Town may mutually agree during the Diligence Period, the Purchase Option for particular Restricted Parcels may be incorporated into the applicable Perpetual Easement Agreement or may be set forth in a separate instrument. If

set forth in a separate instrument, such separate instrument will not be Recorded, but Battle North and the Town may Record a mutually agreed upon short form memorandum of Purchase Option as part of the Closing.

(c) Policies of Title Insurance. The Town, in its sole discretion and at its sole expense, may elect to purchase such Title Policy(ies) as the Town deems appropriate with respect to the Property Interests. Battle North, in its sole discretion and at its sole expense, may elect to purchase such policy(ies) of title insurance for the Reserved Easements as Battle North deems appropriate.

(d) Disposition of Previously Escrowed Funds. All remaining escrow funds pursuant to the Escrow Agreements and the Funding Agreement will be disbursed to the Town.

(e) Escrow Closing. On or prior to the Closing Date, each of Battle North and the Town will deposit into escrow with the Title Company (in such capacity, “**Escrow Agent**”), subject to the terms and conditions to be set forth in an escrow agreement executed by and among Escrow Agent and the applicable Parties (“**Escrow Agreement**”) regarding the release, delivery and, as applicable, Recording of the following funds, documents and instruments (fully executed and notarized by Battle North and/or the Town as applicable):

(i) Battle North’s Deliveries.

- a. A Deed for each of the Town Parcels.
- b. A counterpart original Stipulation (pursuant to Section 8(a)) containing Battle’s fully executed signature page(s) thereto.
- c. An original Release of Claims (pursuant to Section 8(b)(i)) containing Battle’s fully executed signature page(s) thereto.
- d. A certificate of non-foreign status, which provides that Battle North is not a “foreign person” as that term is defined in the U.S. Internal Revenue Code of 1986, as amended, and the regulations promulgated pursuant thereto, and there is no obligation under Section 1445 of the U.S. Internal Revenue Code of 1986, as amended, to withhold and pay over to the U.S. Internal Revenue Service any part of the “amount realized” by Battle North in connection with the Closing (as defined in the regulations issued under said Section 1445).
- e. Such certificates and affidavits as the Title Company reasonably and customarily requires of a seller of real property or grantor of insurable interests therein to issue an extended coverage Title Policy.
- f. Such funds as Battle North is required to deposit with Escrow Agent as set forth in the Closing Settlement Statement pursuant to Section 7(e)(iii)e.

(ii) Town’s Deliveries.

- a. A counterpart original Stipulation (pursuant to Section 8(a)) containing the Town’s fully executed signature page(s) thereto.

b. An original Release of Claims (pursuant to Section 8(b)(ii)) containing the Town's fully executed signature page(s) thereto.

c. Such certificates and affidavits as the Title Company reasonably and customarily requires of a purchaser of real property or grantee of insurable interests therein to issue the Title Policy.

d. Such funds as the Town is required to deposit with Escrow Agent as set forth in the Closing Settlement Statement pursuant to Section 7(e)(iii)e, including but not limited to the Town's payment of the premium for and applicable endorsements to the Title Policy(ies).

(iii) Mutual Deliveries.

a. The Escrow Instructions.

b. The Perpetual Easement Agreements.

c. The Restrictive Covenants, if any, that are not incorporated within the Perpetual Easement Agreements,

d. Short form memoranda of Purchase Options, if any, as contemplated pursuant to Section 7(b)(iii).

e. A closing settlement statement prepared by the Title Company setting forth credits, adjustments and prorations between and among Battle North and the Town, the net funds due to or from Battle North, and the net funds due to or from the Town ("**Closing Settlement Statement**").

f. Such other documents as the Title Company reasonably and customarily requires parties to a commercial real estate transaction, or which Battle North and the Town otherwise may have agreed in this Agreement, to deliver at the Closing.

(f) Costs, Prorations and Adjustments. As to be set forth in the Closing Settlement Statement (and without limitation of other costs and expenses that may be reflected therein), Battle North and the Town will be responsible for payment at Closing of:

(i) Property Taxes. Subject to and as calculated and determined pursuant to Section 7(f)(iv), Battle North will be responsible for payment of all *ad valorem* property taxes (including special assessments and personal property taxes (if any), but excluding real estate transfer taxes, if any, which are payable by the buyer/grantee) applicable to the Town Parcels through and including the date immediately preceding the Closing Date, comprised of: (A) those for which tax bills have been issued as of the Closing Date (for years prior to the year of Closing), the amount of such obligations is known as of the Closing Date, and are due and payable in the year of Closing ("**Current Property Taxes**"); and (B) those for the year of Closing which will be due and payable in arrears, for which

tax bills will be issued due and payable in the year following the year of Closing (“**Deferred Property Taxes**”).

(ii) Battle’s Costs and Adjustments. Battle North will pay: (A) to the extent not paid prior to the Closing Date, the Current Property Taxes; (B) Battle North’s own attorneys’ fees; (C) the premium payable in connection with issuance of the policy(ies) of title insurance, if any, that Battle North elects to obtain for the Reserved Easements; and (D) fifty percent (50%) of (1) the documentary taxes due upon the execution and Recording of the Deeds and other closing documents; (2) Recording costs in connection with the Recording of the Deeds and other documents to be recorded at Closing; and (3) the fees, costs and expenses of the Escrow Agent pursuant to the Escrow Agreement.

(iii) The Town’s Costs and Adjustments. The Town will pay: (A) real estate transfer taxes, if any, which are payable by the buyer/grantee with respect to conveyance of the Property Interests; (B) the Town’s own attorneys’ fees; (C) the fees and premiums payable in connection with the Title Commitment(s) and issuance of any Title Policy(ies) the Town elects to obtain for the Property Interests; and (D) fifty percent (50%) of (1) the documentary taxes due upon the execution and Recording of the Deeds and other closing documents; (2) Recording costs in connection with the Recording of the Deeds and other documents to be recorded at Closing; and (3) the fees, costs and expenses of the Escrow Agent pursuant to the Escrow Agreement.

(iv) Calculation of Prorations; True Up. For purposes of calculating prorations, Battle North will be the owner of the Town Parcels through and including the day immediately preceding the Closing Date, and the Town will be the owner of the Town Parcels and other Property Interests as of and following the Closing Date. Accordingly, items subject to proration pertaining to the period prior to the Closing Date will be allocated to Battle North and items subject to proration pertaining to the period starting on and including the Closing Date will be allocated to the Town. All such prorations will be made on the basis of the actual number of days of the year and months which will have elapsed as of the Closing Date. Items of income and expense for the period prior to the Closing Date will be for the account of Battle North, all as determined by the accrual method of accounting. The proration for Taxes will be readjusted based on the actual invoice for Taxes upon the written request of either Party made no later than one year after the Closing Date. Without limitation of the foregoing:

a. Current Property Taxes. Battle North’s payment of Current Property taxes pursuant to clause (A) of Section 7(f)(ii) will be final as of the Closing Date and will not be subject to later adjustment.

b. Deferred Property Taxes. It is anticipated that (and Battle North and the Town will coordinate as may reasonably be necessary to cause) the County Assessor will establish separate tax parcels for the Town Parcels after Recording of the Deeds (to the extent any such Town Parcels were not separate tax parcels prior to the Closing Date), and will issue to Battle North tax bills for the Deferred Property Taxes on the Town Parcels (i.e., taxes assessed on the Town Parcels for the year of Closing that will be due and payable in the year following Closing) in

the year following Closing. If the Town receives tax bills for Deferred Property Taxes payable for the Town Parcels, the Town will promptly deliver such tax bills (or copies thereof) to Battle North. Whether Battle North receives tax bills for the Deferred Property Taxes payable for the Town Parcels directly from the County Assessor or from the Town, Battle North will fully and timely pay such Deferred Property Taxes (for the period of the year of Closing through and including the day immediately preceding the Closing Date) in accordance with the terms of such tax bills. Battle North will retain all rights to contest valuation of the Town Parcels and the amount of Deferred Property Taxes payable. Battle North's obligation to pay the Deferred Property Taxes will survive Closing until fully performed.

c. Other. All other costs and expenses in connection with the Closing and not otherwise specifically addressed in this Section 7(f) will be allocated to and paid by Battle North and the Town in the manner in which such costs and expenses are customarily allocated between the parties at closings of commercial property transactions in Eagle County, Colorado.

8. **Mutual Release and Dismissal of Litigation.** On the Closing Date or as promptly thereafter as practicable, the Parties will coordinate to implement the Settlement by:

(a) Dismissal with Prejudice. The Parties will mutually execute, deposit in escrow pursuant to the Escrow Agreement, and cause to be filed with the Court a Stipulation for Dismissal with Prejudice in the Litigation ("**Stipulation**"), dismissing all claims in the Litigation with prejudice, with each Party to bear its own attorneys' fees and costs.

(b) Mutual Release. Concurrently with filing of the Stipulation for Dismissal, each of the Parties will execute, deposit in escrow pursuant to the Escrow Agreement, and cause to be delivered to the others a written instrument ("**Release of Claims**") which, without limitation, releases any and all claims, actions, demands, rights, defenses, liabilities, damages and causes of action, whether in law or in equity, whether as of this date known or unknown, and whether asserted or unasserted, of whatsoever kind or character (collectively, "**Claims**") that were asserted, or could have been asserted in the Litigation, and all Claims arising from the transactions or occurrences that are the subject matter of the Litigation, as follows:

(i) Battle's Release. Battle, on behalf of itself, and its members, managers, shareholders, officers, directors, limited partners, general partners, affiliates, employees, agents, successors, assigns, and anyone claiming by, through or under Battle, releases, remises and forever discharges the Town and the Town's board members, managers, employees, agents, successors and assigns of and from any and all Claims, which Battle now has or may claim to have in the future, arising from or based in whole or in part upon any act, omission, event, transaction, matter or thing involved, or arising directly or indirectly from or in connection with any portion of the Original Property, the Annexation, the Resort Project, the Prior Agreements, the PUD Preliminary Plan and/or the Litigation.

(ii) Town's Release. The Town, on behalf of itself, and board members, managers, employees, agents, successors, assigns, and anyone claiming by, through or under the Town, releases, remises and forever discharges Battle, and Battle's members,

managers, shareholders, officers, directors, limited partners, general partners, affiliates, employees, agents, successors, and assigns of and from any and all Claims, which the Town now has or may claim to have in the future, arising from or based in whole or in part upon any act, omission, event, transaction, matter or thing involved, or arising directly or indirectly from or in connection with any portion of the Original Property, the Annexation, the Resort Project, the Prior Agreements, the PUD Preliminary Plan and/or the Litigation.

9. **Term; Intent.** Unless the Parties otherwise agree in writing, or a Party earlier terminates this Agreement pursuant to a termination right set forth in this Agreement, the term of this Agreement will commence on the Effective Date and will expire and be of no further force or effect on the earlier to occur of: (a) the date on which the Settlement is fully implemented pursuant to Section 8; and (b) April 30, 2024; provided, however, in the event of a Legal Challenge, this Agreement will remain in effect until the earlier to occur of: (x) the second (2<sup>nd</sup>) anniversary of the Effective Date; and (y) the date on which Final Approval occurs following a successful resolution of the Legal Challenge. The intent of this Agreement is for the Parties to pursue and complete the matters contemplated in this Agreement, including but not limited to securing Final Approval of the Approvals. Accordingly, during the term of this Agreement, no Code provision which precludes the submittal and processing of land use applications or similar matters, including but not limited to Code Section 13-21-740 (regarding the effect of pending litigation or appeal), will apply to the Battle North Property, Battle, the Applications, the Approvals, this Agreement or any other matters this Agreement addresses.

10. **No Admission of Liability.** This Agreement is entered into in the interest of avoiding further cost, expense and time associated with the Litigation and resolution of the disputes. Each Party expressly denies any liability, and nothing set forth in this Agreement will be construed as an admission of liability.

11. **No Third-Party Beneficiaries.** There are no intended third-party beneficiaries of this Agreement. Enforcement of the terms and conditions of this Agreement is, and all rights of action relating to this Agreement are, strictly reserved to the Parties and their successors and assigns. Nothing contained in this Agreement will give or allow any claim or right of action by any other or third person. Other than the Parties and their respective successors and assigns, anyone receiving a benefit from this Agreement is an incidental beneficiary only and will have no rights under or pursuant to this Agreement.

12. **Governing Law; Venue.** This Agreement will be interpreted in accordance with, and governed by, the laws of the State of Colorado. Venue for any dispute will be in District Court for Eagle County, Colorado.

13. **Entire Agreement; Successors in Interest.** This Agreement contains the entire agreement among the Parties with regard to the matters set forth in it and supersedes any and all prior agreements and understandings, written or oral, relating to the subject matter of this Agreement. This Agreement is binding upon the Parties and their respective successors and assigns.

14. **Captions.** The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision or Section of this Agreement.

15. **Time of the Essence.** Time is of the essence in the Parties' performance of their respective obligations imposed by this Agreement.

16. **Severability.** The Parties have bargained for and negotiated the terms and provision of this Agreement based on the assumption that each and every provision is legally valid and enforceable. If a court of competent jurisdiction, notwithstanding the foregoing, holds any part, term, or provision of this Agreement to be invalid, void or unenforceable, the remaining portions or provisions of this Agreement will continue in full force and effect so long as enforcement of the remaining provisions would not be inequitable to the Party against whom they are being enforced under the facts and circumstances then pertaining, or would substantially deprive such Party of the benefit of its bargain. If a court order invalidates, voids, or renders unenforceable any provision that concerns a material term of this Agreement, the Parties will amend this Agreement, or in the absence of mutual agreement to amend this Agreement any Party may seek a Court order to judicially reform this Agreement, in a manner which re-establishes the equities and benefits of the bargain and most fully implements the Parties' original intent and objectives.

17. **No Construction Against Drafter; Advice of Counsel.** Each Party has consulted with their respective legal counsel concerning, and has cooperated in, the drafting and preparation of this Agreement. In construing any provision of this Agreement, any rule favoring construction against the drafter will not apply against any Party.

18. **Attorneys' Fees and Costs.** If a Party commences any legal action to interpret or enforce the terms of this Agreement, the substantially prevailing Party in any litigation, arbitration or other proceeding related thereto will be awarded its attorney fees and costs associated with responding to or prosecuting such action. In the event of multiple claims, the "substantially prevailing Party" will be determined by the court, arbitrator or similar applicable deciding body, with reference to which Party prevailed on more claims, the value of those claims, and the nature and amount of relief awarded.


19. **Facsimile/Scanned Signatures/Counterparts.** Signatures may be evidenced electronically, by facsimile or a scan. A facsimile transmitted or scanned copy of this Agreement (including a PDF) executed by a Party will be accepted as an original signature for all purposes. This Agreement may be executed in several counterparts, each of which will be construed together as one original.

20. **Effect of Termination of Agreement.** If this Agreement is terminated for any reason permitted under this Agreement prior to full implementation of Settlement pursuant to Section 8, the Parties will be returned to their respective positions in the Litigation as if no settlement was reached. The Town will have no obligation to return to Battle any portion of the funds deposited pursuant to Section 1. Except to the extent the Parties stay and/or dismiss the Litigation pursuant to this Agreement, this Agreement will have no bearing on the Litigation, and no statements made or agreed to in this Agreement will have any binding effect or influence on the Litigation.


**[Signature Pages and Exhibits Follows This Page]**

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement as of the Effective Date.


**TOWN OF MINTURN,**  
a Colorado home rule municipal corporation

By:   
Name: Earle Bidez  
Title: Mayor

**TOWN COUNCIL FOR THE TOWN OF MINTURN,**  
the legislative body of the Town of Minturn

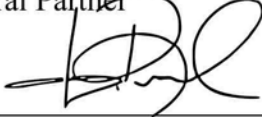
By:   
Name: Earle Bidez  
Title: Mayor

**MINTURN WATER AND SANITATION ACTIVITIES ENTERPRISE,**  
an enterprise fund established pursuant to  
C.R.S. §37-45.1-101 *et seq.*

By:   
Name: Earle Bidez  
Title: Mayor

**Battle One Developer, LLLP,**  
a Georgia limited liability limited partnership

By: Bassel Battle Investment, Corp.,  
a Colorado corporation,  
its General Partner

By:   
Name: Lorne Bassel  
Title: President


**Battle Two Developer, LLLP,**  
a Georgia limited liability limited partnership

By: Bassel Battle Investment, Corp.,  
a Colorado corporation,  
its General Partner

By:   
Name: Lorne Bassel  
Title: President

**Battle North, LLC,**  
a Georgia limited liability company

By: Bassel Battle Investment, Corp.,  
a Colorado corporation, its Manager

By:   
Name: Lorne Bassel  
Title: President

**Battle South, LLC,**  
a Georgia limited liability company

By: Bassel Battle Investment, Corp.,  
a Colorado corporation, its Manager

By:   
Name: Lorne Bassel  
Title: President

**Battle One A Developer, LLC,**  
a Georgia limited liability company

By: Bassel Battle Investment, Corp.,  
a Colorado corporation, its Manager

By:   
Name: Lorne Bassel  
Title: President

# **Exhibit A** **Concept Plan**

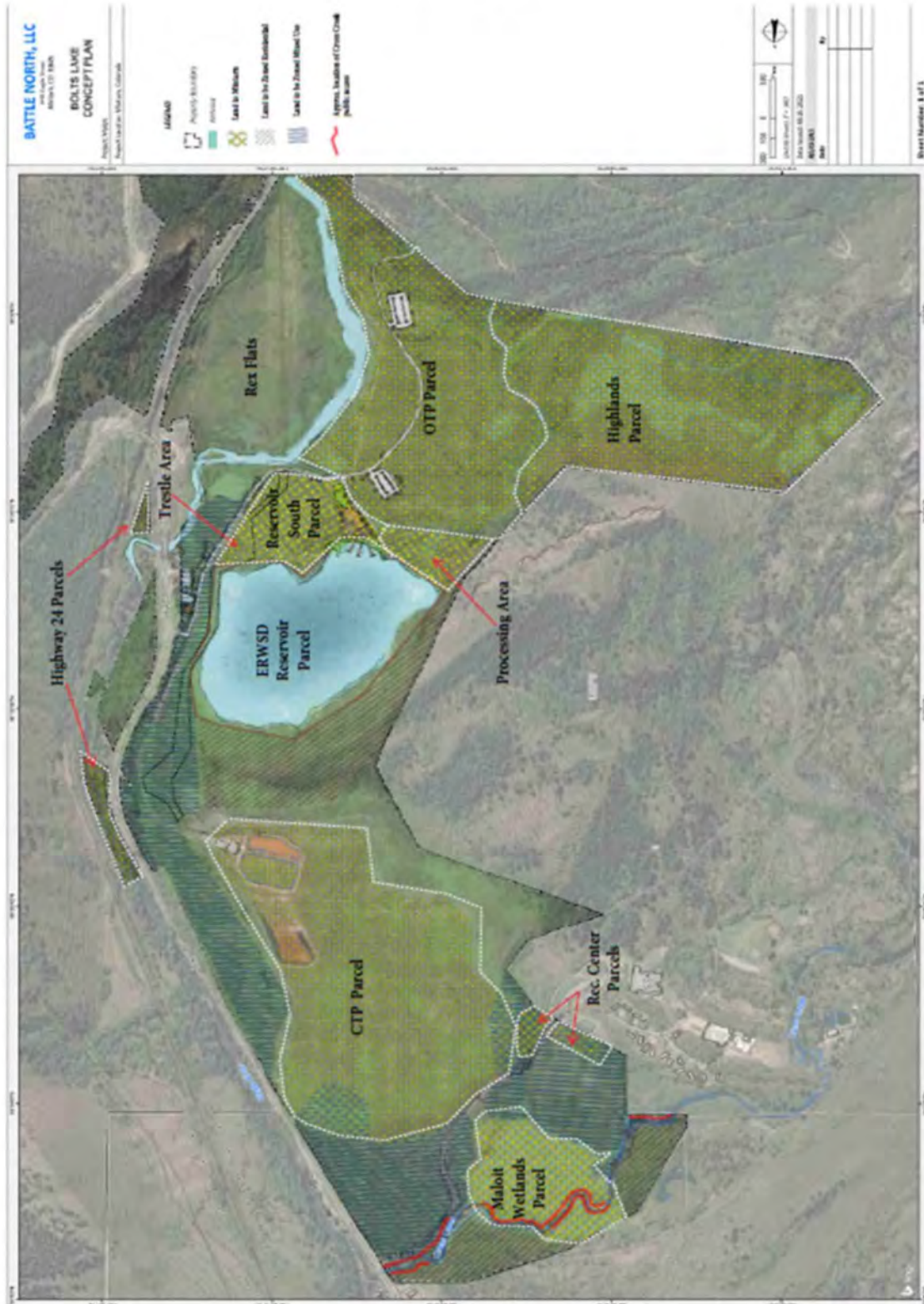


Exhibit A  
to Settlement Agreement  
Page 1

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

No Documentary Transfer Tax Payable.  
Grantee is a political subdivision of the State of  
Colorado. C.R.S. § 39-13-104(1)(a)

ATTENTION:

**Exhibit B**  
**FORM OF DEED**  
**STATUTORY FORM – C.R.S. § 38-30-113(b)]**

BATTLE NORTH, LLC, a Georgia limited liability company (together with its successors and assigns, “**Grantor**”), whose street address is 164 Railroad Ave., Minturn, CO 81645, for the consideration of Ten and 00/100 Dollars (\$10.00), in hand paid, and other good and valuable consideration described herein, hereby sells and conveys to TOWN OF MINTURN (together with its successors and assigns, “**Grantee**”), whose street address is \_\_\_\_\_, fee simple title to the real property that is legally described and graphically depicted at **Exhibit A** attached hereto and made a part hereof (the “**Land**”), and warrants the title to the Land against all persons claiming under Grantor; subject, however, to the following:

(a) As set forth in **Exhibit B** attached hereto and made a part hereof: (i) the easements reserved to Grantor (the “**Reserved Easement**”); and (ii) the limitations and restrictions applicable to Grantee’s uses of the Land for the benefit of and appurtenant to Grantor’s adjacent properties, which limitations and restrictions will run with title to the Land and be legally enforceable against Grantee and the Land by Grantor (“**Deed Restriction**”); and [**Retain or delete Deed Restriction as applicable**]

(b) The matters set forth in **Exhibit C** (the “**Exceptions**”) attached hereto and made a part hereof.

Signed the \_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_, to be made effective the \_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_.



**Exhibit A**  
**to Special Warranty Deed**  
**Legal Descriptions and Graphic Depictions of the Land**

(To be inserted based on approved and Recorded Exemption Plat)

**Exhibit B**  
**to Special Warranty Deed**  
**Deed Restriction and Reserved Easement**

**RESERVED EASEMENT**

The conveyance to Grantee of the Land as legally described and graphically depicted in Exhibit A to this Special Warranty Deed is subject to Grantor's reservation of a general blanket easement (the "**Reserved Easement**") for construction, ownership, operation, maintenance, repair and replacement of existing and to be constructed utilities, roads, pedestrian crossings, sidewalks, bike paths and similar improvements (the "**Permitted Improvements**") within the Land for the benefit of Grantor's (or its successor's) land to be served by such Permitted Improvements.

The locations and engineering requirements of Permitted Improvements within the Reserved Easements will be subject to applicable Town of Minturn rules and regulations pursuant to and established by the preliminary and final plat process for development of Grantor's (or its successor's) land to be served by such Permitted Improvements.

At Grantee's election, the general, blanket Reserved Easement described above may be modified and narrowed to correspond to the final "as built" locations, configurations and legal descriptions based on the final engineering designs for the Permitted Improvements and related considerations as established in connection with the final plat process described above. If Grantee so requests in writing, Grantor and Grantee will by mutual agreement execute and Record an amendment to this Exhibit B which sets forth the specific legal description and graphic depiction of the Reserved Easement in its "as built" location and configuration established in connection with such final plat process.

**DEED RESTRICTION**

**[Insert or delete, as applicable]**

**Exhibit C**  
**to Special Warranty Deed**  
**Exceptions**

Conveyance of the Land pursuant to the foregoing Special Warranty Deed is subject to the following Exceptions:

(to be inserted/incorporate from applicable Title Commitment Schedule B-II)

## **EXHIBIT B**

### LEGAL DESCRIPTION – HIGHLANDS 1 PARCEL

A parcel of land located in H.E.S. No. 41 as patented March 7, 1912 in Section 2, Township 6 South, Range 81 West, 6<sup>th</sup> P.M., more particularly described as follows:

Beginning at angle point No. 3 of said H.E.S. No. 41 an original stone monument found in place, whence the southwest corner of Section 36, Township 5 South, Range 81 West of the 6<sup>th</sup> P.M, bears N07°52'21"E a distance of 4828.57 feet; thence from the Point of Beginning S44°15'35" W a distance of 992.47 feet along the 3-4 line of said H.E.S. No. 41; thence along the 4-5 line of said H.E.S. No. 41 S38°40'30" E a distance of 133.84 feet to a point on the northern boundary of the 40 foot wide Cross Creek Parcel as recorded at reception number 202202329;

thence the following 54 courses along said northern boundary of the Cross Creek Parcel:

1. thence N32°39'21"E a distance of 27.83 feet;
2. thence N51°22'40"E a distance of 60.49 feet;
3. thence N57°17'27"E a distance of 81.86 feet;
4. thence N28°51'58"E a distance of 17.48 feet;
5. thence N37°59'43"E a distance of 40.08 feet;
6. thence N59°32'43"E a distance of 36.90 feet;
7. thence N79°41'59"E a distance of 25.11 feet;
8. thence N59°28'21"E a distance of 12.12 feet;
9. thence N29°00'22"E a distance of 9.26 feet;
10. thence N01°30'29"E a distance of 7.78 feet;
11. thence N15°41'15"W a distance of 25.00 feet;
12. thence N30°19'19"E a distance of 60.07 feet;
13. thence N45°20'15"E a distance of 69.82 feet;
14. thence N80°43'22"E a distance of 64.07 feet;
15. thence N74°01'07"E a distance of 79.28 feet;
16. thence N59°31'42"E a distance of 161.00 feet;
17. thence S76°40'51"E a distance of 30.12 feet;
18. thence S50°54'02"E a distance of 73.00 feet;
19. thence S65°50'54"E a distance of 48.74 feet;
20. thence S72°43'32"E a distance of 44.10 feet;
21. thence S55°22'06"E a distance of 56.36 feet;
22. thence S71°34'21"E a distance of 81.30 feet;
23. thence S81°19'48"E a distance of 52.56 feet;
24. thence S57°21'03"E a distance of 52.70 feet;
25. thence S64°54'54"E a distance of 53.72 feet;
26. thence S69°30'00"E a distance of 56.02 feet;
27. thence S46°49'29"E a distance of 34.38 feet;
28. thence N71°56'14"E a distance of 44.33 feet;
29. thence S58°11'01"E a distance of 65.31 feet;
30. thence S74°03'40"E a distance of 24.97 feet;
31. thence N77°15'36"E a distance of 54.42 feet;
32. thence N47°40'31"E a distance of 25.21 feet;
33. thence N89°12'17"E a distance of 62.32 feet;
34. thence S87°39'42"E a distance of 140.68 feet;

35. thence S59°38'48"E a distance of 57.24 feet;
36. thence S71°30'33"E a distance of 27.33 feet;
37. thence S82°12'51"E a distance of 54.26 feet;
38. thence S77°43'20"E a distance of 106.59 feet;
39. thence S70°35'49"E a distance of 65.95 feet;
40. thence S87°25'05"E a distance of 55.95 feet;
41. thence N76°07'16"E a distance of 27.53 feet;
42. thence N13°39'39"E a distance of 66.59 feet;
43. thence S85°50'53"E a distance of 72.54 feet;
44. thence N50°35'41"E a distance of 22.66 feet;
45. thence N34°29'42"E a distance of 101.73 feet;
46. thence N69°09'13"E a distance of 31.70 feet;
47. thence S86°10'16"E a distance of 83.45 feet;
48. thence N84°39'57"E a distance of 56.51 feet;
49. thence S53°23'43"E a distance of 29.64 feet;
50. thence N88°59'36"E a distance of 17.27 feet;
51. thence N65°07'19"E a distance of 39.81 feet;
52. thence N54°04'58"E a distance of 36.08 feet;
53. thence S14°44'58"E a distance of 4.99;
54. thence S11°51'41"E a distance of 38.71 feet to a point on the western boundary of the OTP Parcel;

thence along said western boundary of the OTP Parcel N 01°40'27" W a distance of 281.58 feet to a point on the southern boundary of the Soil Processing Parcel; thence along said southern boundary of said Soil Processing Parcel N 69°04'25" W a distance of 231.93 feet to angle point 2 of H.E.S 41; thence N 82°15'42" W a distance of 1508.05 feet along the 2-3 line of said H.E.S. 41; to the Point of Beginning, containing 22.29 acres more or less.

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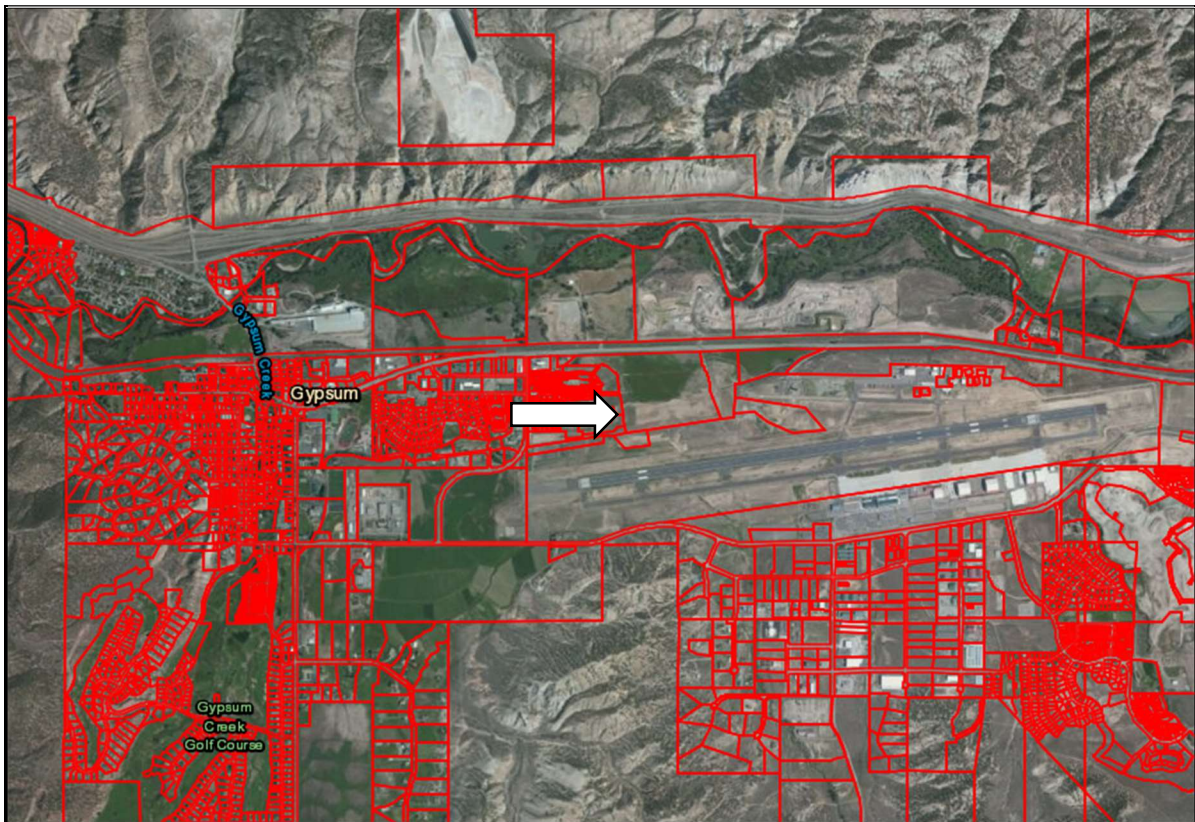
Legal Description Prepared By:  
Michael J. Gamba, P.E. & P.L.S. 28036  
For and on behalf of Gamba & Associates, Inc.  
113 Ninth Street, Suite 214  
Glenwood Springs, CO 81601

## **EXHIBIT C**

## Sale Maps

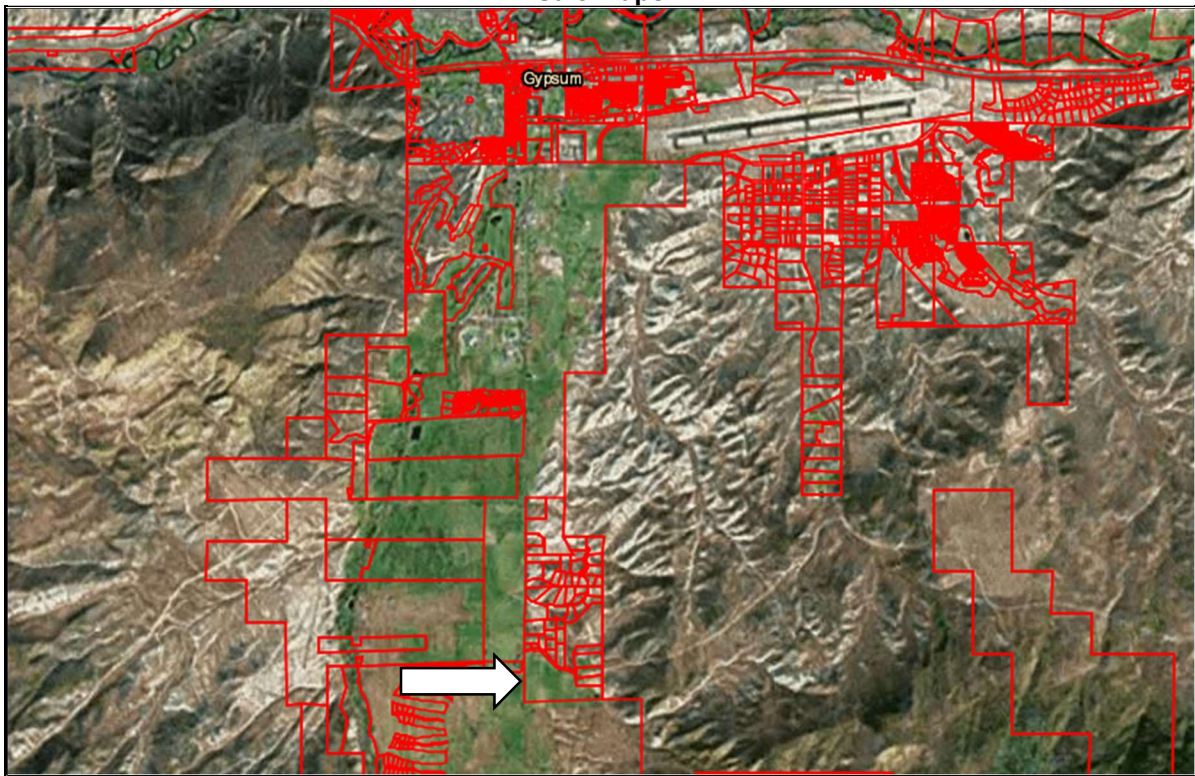


Sale 1

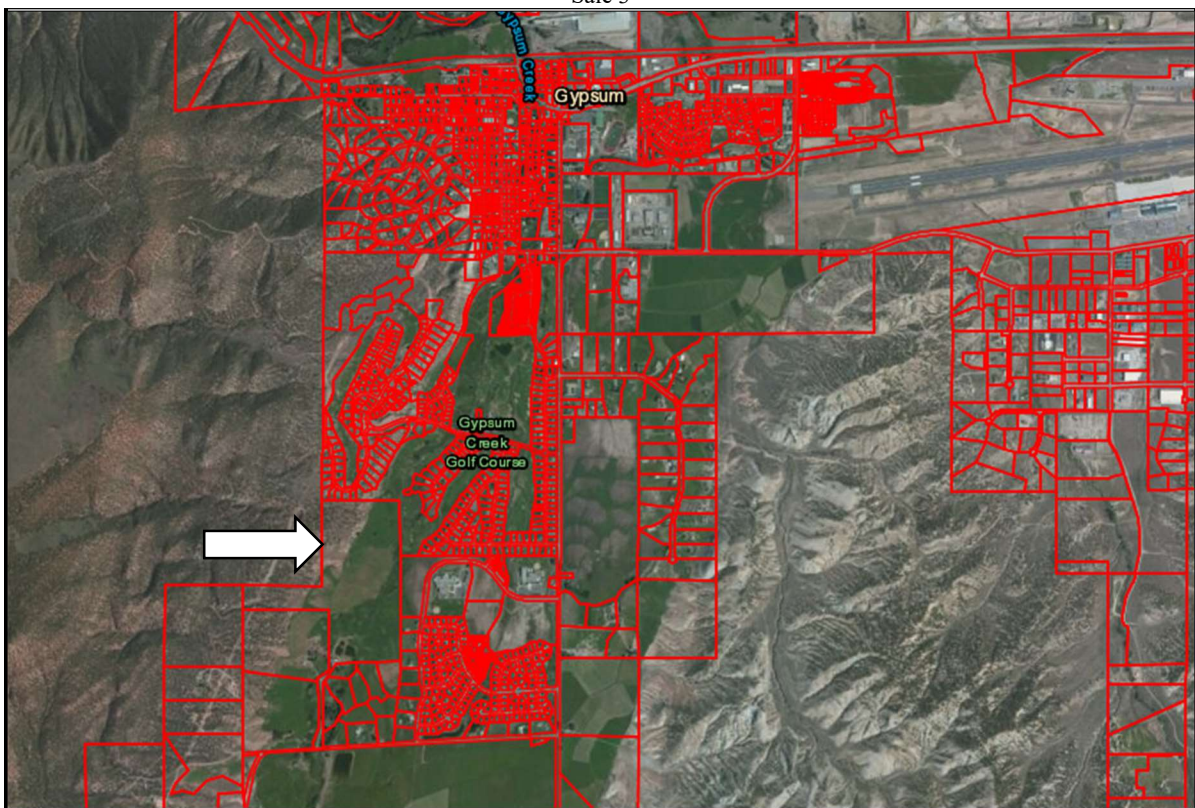


Sale 2

## Sale Maps

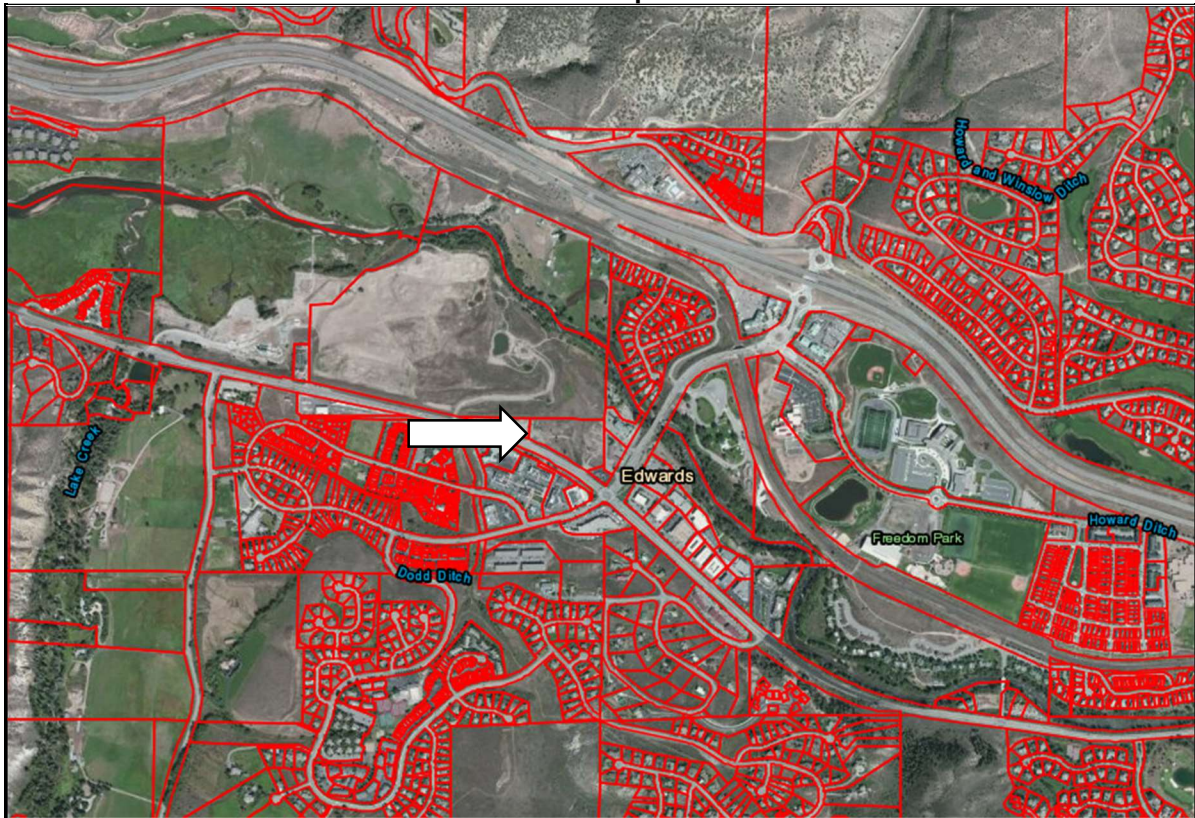


Sale 3

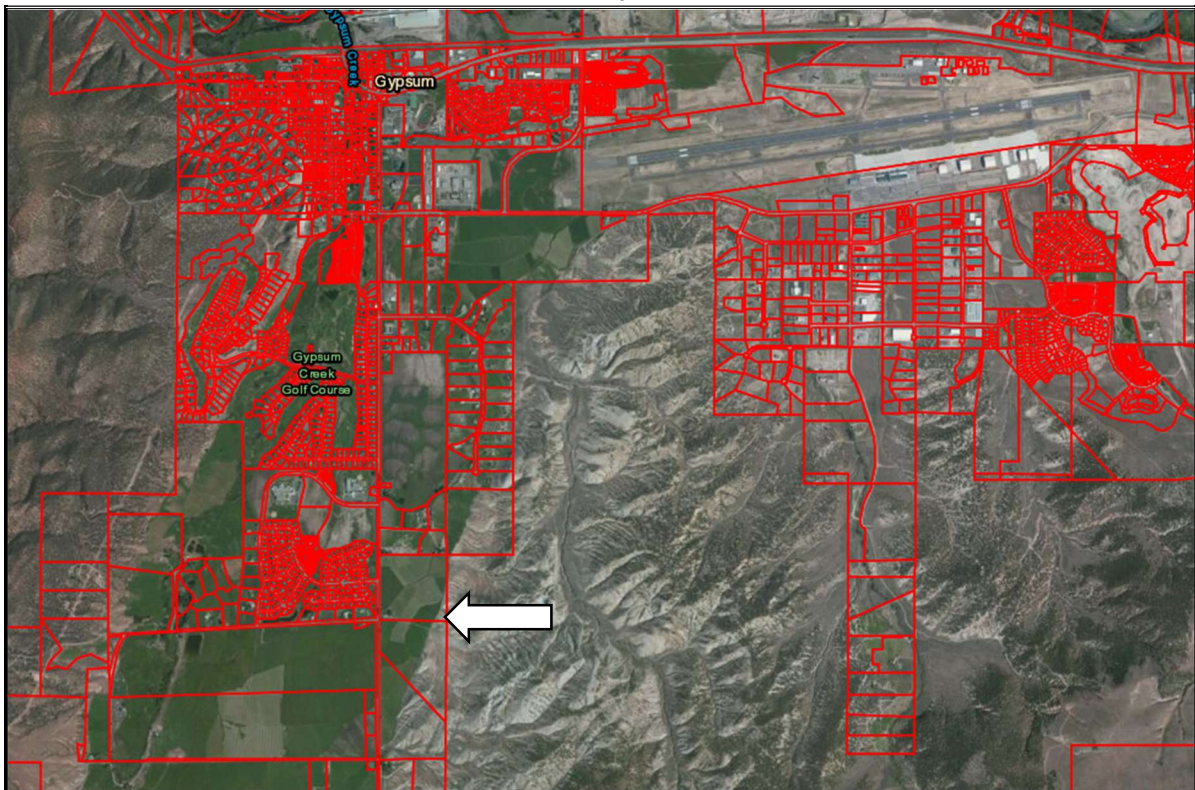


Sale 4

## Sale Maps

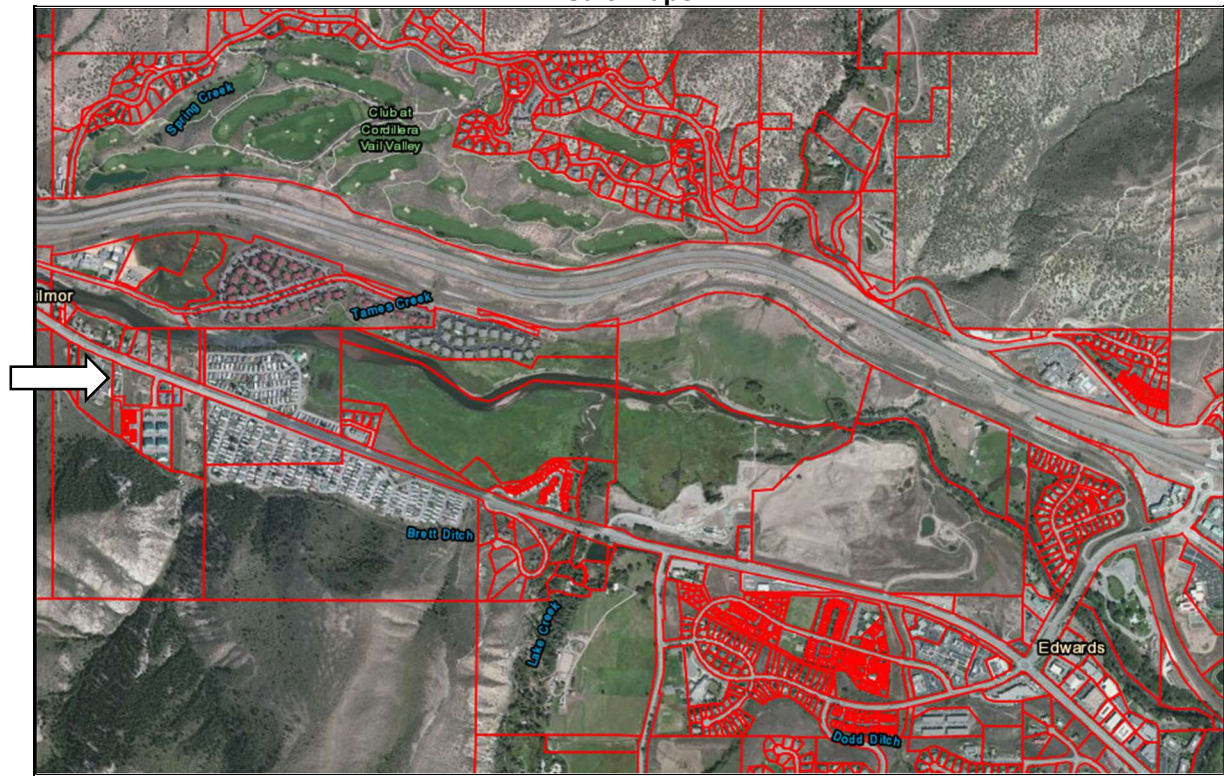


Sale 5

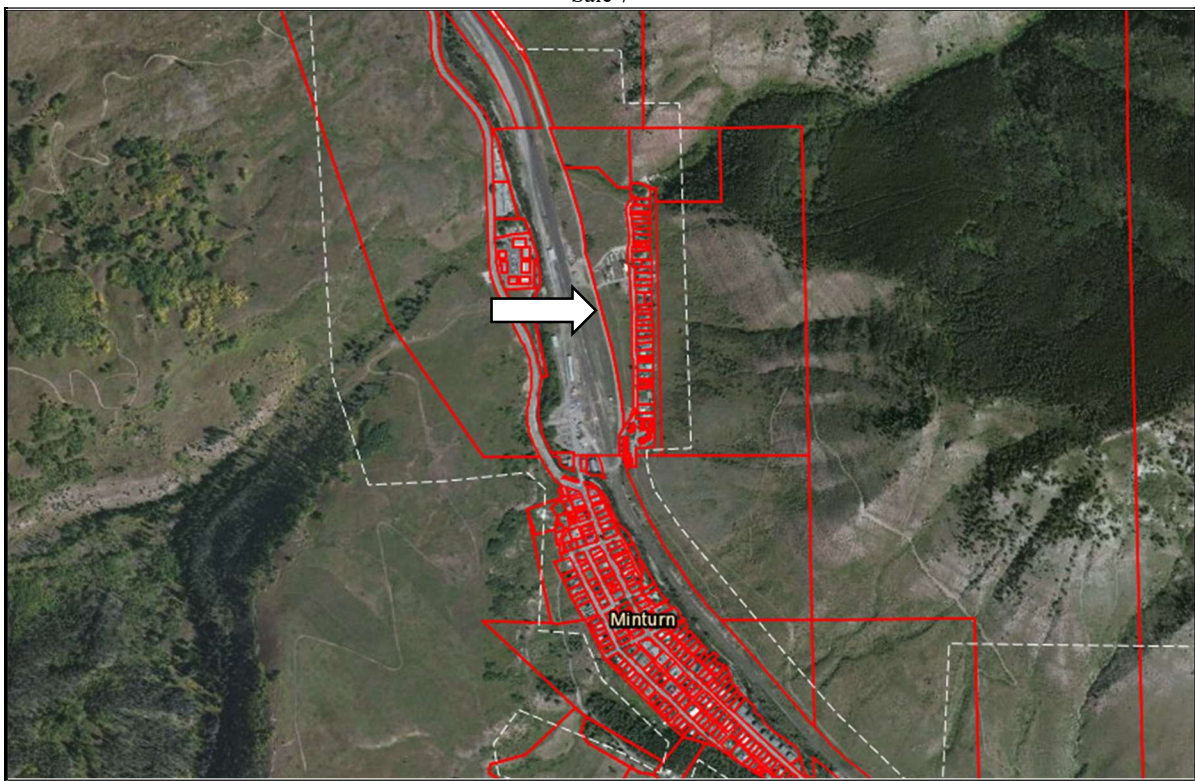


Sale 6

## Sale Maps



Sale 7



Sale 8

## **EXHIBIT D**

## LEGAL DESCRIPTION – HIGHLANDS 2 PARCEL

A parcel of land located in H.E.S. No. 41 as patented March 7, 1912 in Section 2, Township 6 South, Range 81 West, 6<sup>th</sup> P.M., more particularly described as follows:

Beginning at a point on the 4-5 line of said H.E.S. No. 41 whence the southwest corner of Section 36, Township 5 South, Range 81 West of the 6<sup>th</sup> P.M, bears N12°27'25"E a distance of 5767.0 feet; thence from the Point of Beginning S38°40'30" E a distance of 209.77 feet along the 4-5 line of said H.E.S. No. 41; thence S79°06'56"E a distance of 2494.04' feet along the 4-5 line of said H.E.S. No. 41 to a point on the western boundary of the OTP Parcel; thence the following 6 courses along the western boundary of the OTP Parcel:

1. N15°13'47"W a distance of 247.86 feet;
2. N17°58'47" W a distance of 88.45 feet;
3. N30°17'18"W a distance of 151.62 feet;
4. N35°17'22"W a distance of 95.77 feet;
5. N15°16'35"W a distance of 182.95 feet;
6. N01°40'27"W a distance of 206.83 feet to a point on the southern boundary of the 40 foot wide Cross Creek Parcel as recorded at reception number 202202329;

thence the following 52 courses along the southern boundary of said 40-ft wide Cross Creek Parcel:

1. thence S54°04'58"W a distance of 22.36 feet;
2. thence S65°07'19"W a distance of 52.13 feet;
3. thence S88°59'36"W a distance of 39.34 feet;
4. thence N53°23'43"W a distance of 27.94 feet;
5. thence S84°39'57"W a distance of 44.39 feet;
6. thence N86°10'16"W a distance of 77.90 feet;
7. thence S69°09'13"W a distance of 10.47 feet;
8. thence S34°29'42"W a distance of 94.91 feet;
9. thence S50°35'41"W a distance of 44.30 feet;
10. thence N85°50'53"W a distance of 54.66 feet;
11. thence S13°39'39"W a distance of 56.99 feet;
12. thence S76°07'16"W a distance of 57.57 feet;
13. thence N87°25'05"W a distance of 67.65 feet;
14. thence N70°35'49"W a distance of 69.37 feet;
15. thence N77°43'20"W a distance of 102.54 feet;
16. thence N82°12'51"W a distance of 56.44 feet;
17. thence N71°30'33"W a distance of 35.23 feet;
18. thence N59°38'48"W a distance of 51.42 feet;
19. thence N87°39'42"W a distance of 129.61 feet;
20. thence S89°12'17"W a distance of 46.06 feet;
21. thence S47°40'31"W a distance of 20.60 feet;
22. thence S77°15'36"W a distance of 75.21 feet;
23. thence N74°03'40"W a distance of 40.77 feet;
24. thence N58°11'01"W a distance of 52.28 feet;
25. thence S71°56'14"W a distance of 49.41 feet;
26. thence N46°49'29"W a distance of 50.03 feet;
27. thence N69°30'00"W a distance of 49.60 feet;
28. thence N64°54'54"W a distance of 57.96 feet;

29. thence N57°21'03"W a distance of 46.85 feet;
30. thence N81°19'48"W a distance of 47.48 feet;
31. thence N71°34'21"W a distance of 90.41 feet;
32. thence N55°22'06"W a distance of 55.95 feet;
33. thence N72°43'32"W a distance of 40.40 feet;
34. thence N65°50'54"W a distance of 56.39 feet;
35. thence N50°54'02"W a distance of 69.09 feet;
36. thence N76°40'51"W a distance of 4.89 feet;
37. thence S59°31'42"W a distance of 150.01 feet;
38. thence S74°01'07"W a distance of 86.71 feet;
39. thence S80°43'22"W a distance of 53.65 feet;
40. thence S45°20'15"W a distance of 51.79 feet;
41. thence S30°19'19"W a distance of 37.81 feet;
42. thence S15°41'15"E a distance of 14.06 feet;
43. thence S01°30'29"W a distance of 23.62 feet;
44. thence S29°00'22"W a distance of 29.94 feet;
45. thence S59°28'21"W a distance of 30.15 feet;
46. thence S79°41'59"W a distance of 25.13 feet;
47. thence S59°32'43"W a distance of 22.18 feet;
48. thence S37°59'43"W a distance of 29.27 feet;
49. thence S28°51'58"W a distance of 24.41 feet;
50. thence S57°17'27"W a distance of 89.93 feet;
51. thence S51°22'40"W a distance of 51.83 feet;
52. thence S32°39'21"W a distance of 34.75 feet; to the Point of Beginning, containing 32.68 acres more or less.

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Legal Description Prepared By:

Michael J. Gamba, P.E. & P.L.S. 28036

For and on behalf of Gamba & Associates, Inc.

113 Ninth Street, Suite 214

Glenwood Springs, CO 81601

## **EXHIBIT E**

### OTP Area – Legal Description

An area of land located in H.E.S. 41 as patented March 7, 1912, MS 19500 Brooklyn Placer as patented November 18, 1916, and MS 20745 Mars Mill Site as patented March 3, 1954, in Sections 2 and 11 of Township 6 South, Range 81 West of the Sixth Principal Meridian, Eagle County, Colorado.

Beginning at corner number 2 of Mars Mill Site 20745, said corner being on the southerly line of H.E.S. No. 41; whence the Southwest corner of Section 36 being a 2-1/2 inch GLO Brass Cap found in place bears N 13°24'05" W a distance of 6473.88 feet; thence along the 5-6 line of said H.E.S. 41 N 79°06'56" W a distance of 167.22 feet to the southeast corner of the Highlands 2 Parcel; thence along the easterly boundary of said Highlands 2 Parcel the following six courses:

1. N 15°13'47" W a distance of 247.86 feet;
2. N 17°58'47" W a distance of 88.45 feet;
3. N 30°17'18" W a distance of 151.62 feet;
4. N 35°17'22" W a distance of 95.77 feet;
5. N 15°16'35" W a distance of 182.95 feet;
6. N 01°40'27" W 206.83 to the southeast corner of the Cross Creek Parcel, said parcel being described in the Special Warranty Deed recorded in the Eagle County Clerk and Recorder's office February 10, 2022 at reception number 202202329, point also being the southeast corner of the Highlands 1 Parcel;

Thence along the easterly boundary of said Highlands 1 Parcel, N 01°40'27" W a distance of 281.58 feet to the southeast corner of the Soil Processing Parcel; thence along the easterly boundary of said Soil processing Parcel the following two courses:

N 30°25'30" E a distance of 176.18 feet;

N 19°01'53" E a distance of 101.06 feet to the southern corner of the Inlet Parcel as described in the Special Warranty Deed recorded in the Eagle County Clerk and Recorder's office February 10, 2022 at reception number 202202329 and the Affidavit Concerning Conflicts in Descriptions of Land and Scrivener's Errors recorded in the Eagle County Clerk and Recorder's office February 24, 2022 at reception number 202203221; thence along the southerly boundary of said Inlet Parcel the following sixteen courses;

1. N 19°01'53" E a distance of 43.82 feet;
2. N 10°13'05" E a distance of 16.93 feet;
3. N 24°43'37" W a distance of 4.16 feet;
4. N 02°34'28" W a distance of 35.56 feet;
5. N 17°36'42" E a distance of 48.19 feet;
6. N 23°06'54" E a distance of 18.18 feet;
7. N 10°13'05" E a distance of 23.36 feet;
8. N 51°21'28" E a distance of 119.19 feet;
9. N 80°01'14" E a distance of 226.60 feet;
10. S 75°30'49" E a distance of 119.31 feet;
11. N 89°25'59" E a distance of E 86.49 feet;
12. N 22°13'41" E a distance of 75.43 feet;

13. S 87°20'19" E a distance of 40.88 feet;
14. S 43°32'09" E a distance of 87.98 feet;
15. N 87°52'49" E a distance of 180.21 feet;
16. N 66°03'04" E a distance of 219.52 feet to a point on the westerly boundary of the Reservoir South Parcel;

thence along the westerly boundary of said Reservoir South Parcel the following twelve courses:

1. S 47°44'40" E a distance of 29.71 feet;
2. S 22°14'32" E a distance of 43.86 feet;
3. S 46°45'14" E a distance of 22.10 feet;
4. S 73°08'12" E a distance of 63.94 feet;
5. S 89°10'25" E a distance of 55.31 feet;
6. S 59°40'34" E a distance of 43.18 feet;
7. S 01°52'44" E a distance of 35.14 feet;
8. S 35°09'05" W a distance of 121.47 feet;
9. S 00°21'34" W a distance of 60.72 feet;
10. S 19°31'34" E a distance of 142.83 feet;
11. S 15°46'39" E a distance of 348.63 feet;
12. S 29°14'17" E a distance of 40.16 feet to the center of the Eagle River;

Thence along the center of said Eagle River the following ten courses:

1. S 33°39'49" W a distance of 288.54 feet;
2. S 38°27'21" W a distance of 172.00 feet;
3. S 19°18'51" W a distance of 106.00 feet;
4. S 07°08'39" E a distance of 140.00 feet;
5. S 24°25'48" E a distance of 132.00 feet;
6. S 11°21'54" E a distance of 374.00 feet;
7. S16°33'40"E a distance of 326.72 feet;
8. S15°15'48"E a distance of 154.00 feet;
9. S02°48'58"E a distance of 158.00 feet;
10. S 39°00'16" E a distance of 132.00 feet;

thence leaving the center of the Eagle River S 53°11'20" E 209.22 to a point on the westerly right-of-way of the Union Pacific Railroad as described in the D&RGW Right-of-Way and Track Map dated June 30, 1919; and also described on the Battle Mountain North Land Survey Plat recorded in the Eagle County Clerk and Recorder's office, August 22, 2018 at reception number 201814343; thence the following seven courses along said westerly right-of-way of the Union Pacific Railroad:

1. 37.95 feet along the arc of a non-tangent curve to the left having a radius of 836.49 feet, a central angle of 02°35'59", and the chord bears S 13°13'46" W a distance of 37.95 feet, said

curve being parallel to and offset 100.00-feet westerly from the centerline of the eastern corridor of said Union Pacific Railroad;

2. 47.98 feet along the arc of a tangent curve to the left having a radius of 3,919.72 feet, a central angle of  $00^{\circ}42'05''$ , and the chord bears  $S\ 11^{\circ}34'45''\ W$  a distance of 47.98 feet, said curve being parallel to and offset 100.00-feet westerly from the centerline of the eastern corridor of said Union Pacific Railroad;
3.  $S\ 30^{\circ}39'47''\ W$  a distance of 44.76 feet;
4. 141.71 feet along the arc of a tangent curve to the left having a radius of 4,816.15 feet, a central angle of  $01^{\circ}41'09''$ , and the chord bears  $S\ 29^{\circ}49'13''\ W$  a distance of 141.71 feet;
5. 577.96 feet along the arc of a tangent curve to the left having a radius of 873.26 feet, a central angle of  $37^{\circ}55'13''$ , and the chord bears  $S\ 10^{\circ}01'01''\ W$  a distance of 567.46 feet;
6. 132.72 feet along the arc of a tangent curve to the left having a radius of 2,684.59 feet, a central angle of  $02^{\circ}49'57''$ , and the chord bears  $S\ 10^{\circ}21'34''\ E$  a distance of 132.70 feet;
7.  $S\ 11^{\circ}46'32''\ E$  a distance of 338.53 feet to a point on line 5-6 of Mineral Survey 19500 "Brooklyn Placer";

thence along said line 5-6 of Mineral Survey 19500 "Brooklyn Placer"  $N\ 16^{\circ}11'23''\ W$  a distance of 982.56 feet to Angle Point 6 of said Mineral Survey 19500 "Brooklyn Placer"; thence along line 6-7 of said Mineral Survey 19500 "Brooklyn Placer"  $N\ 12^{\circ}07'10''\ W$  a distance of 494.47 feet to Angle Point 3 of Mineral Survey 20745 "Mars Mill Site"; thence along line 2-3 of said Mineral Survey 20745 "Mars Mill Site"  $N\ 45^{\circ}47'44''\ W$  a distance of 1,091.01 feet to the point of beginning containing 65.35 acres more or less.

## **EXHIBIT F**

### LEGAL DESCRIPTION – RECREATION CENTER PARCEL

A parcel of land located in H.E.S. No. 46 as patented March 16, 1912 in Section 2, Township 6 South, Range 81 West, 6<sup>th</sup> P.M., more particularly described as follows:

Beginning at a point on a the easterly boundary of a parcel described in Book 380 Page 574; whence the southwest corner of Section 36, Township 5 South, Range 81 West of the 6<sup>th</sup> P.M, bears N55°42'38"W a distance of 506.99 feet; thence from the Point of Beginning S59°40'30" E a distance of 636.52 to a point on the westerly boundary of the 50' wide Eagle County School District RE 50J Access and Utility Easement described in BK 424, PG 977; thence the following 3 courses along the westerly boundary of said Access and Utility Easement:

1. S24°27'33"W a distance of 41.63 feet;
2. thence 75.67 feet along the arc of a tangent curve to the right having a radius of 151.89, a central angle of 28°32'43", and the chord bears S38°43'55" W a distance of 74.89 feet;
3. thence S53°00'19"W a distance of 37.39 feet to a point on the easterly boundary of said parcel described in Book 380 Page 574;

thence the following two courses along the easterly boundary of said parcel described in Book 380 Page 574;

1. thence N59°40'30"W a distance of 528.60 feet;
2. thence N00°15'50"E a distance of 129.37 feet; to the Point of Beginning, containing 2.03 acres more or less.

---

Legal Description Prepared By:

Michael J. Gamba, P.E. & P.L.S. 28036

For and on behalf of Gamba & Associates, Inc.

113 Ninth Street, Suite 214

Glenwood Springs, CO 81601

## **EXHIBIT G**

## Sale Maps



Sale 1



Sale 2

## Sale Maps



Sale 3



## **EXHIBIT H**

### Reservoir South Parcel- Legal Description

A parcel of land located in both H.E.S. No. 40 and H.E.S. No. 41 as patented March 7, 1912, in Sections 1, and 2 of Township 6 South, Range 81 West of the Sixth Principal Meridian, Eagle County, Colorado.

Beginning at the southeast corner of the Reservoir Parcel, said corner also being the southwest corner of the Dam Parcel, said parcels being described in the Special Warranty Deed recorded in the Eagle County Clerk and Recorder's office February 10, 2022 at reception number 202202329; whence the Southwest corner of Section 36 being a 2-1/2 inch GLO Brass Cap found in place bears N 37°39'01" W a distance of 5280.23 feet; thence S 74°17'56" E a distance of 41.21 feet; thence S 44°54'07" E a distance of 66.71 feet to a point on the centerline of the 60 foot wide Tigiwon Road right-of-way easement recorded in the Eagle County Clerk and Recorder's office in Book 135 at Page 72 ; thence the following two courses along said Tigiwon Road right-of-way centerline;

1. 153.15 feet along the arc of a non-tangent curve to the left having a radius of 286.50, a central angle of 30°37'40", and the chord bears S 42°37'30" W a distance of 151.33 feet;
2. S 27°18'00" W a distance of 610.80 feet;

thence leaving said Tigiwon Road right-of-way centerline S 00°00'00" E a distance of 157.44 feet to the center of the Eagle River; thence the following four courses along said center of the Eagle River:

1. N 88°07'28" W a distance of 146.84 feet;
2. S 76°34'22" W a distance of 74.00 feet;
3. S 40°53'40" W a distance of 200.00 feet;
4. S 33°39'49" W a distance of 68.33 feet;

Thence leaving the center of the Eagle River N 29°14'17" W a distance of 40.16 feet; thence N 15°46'39" W a distance of 348.63 feet; thence N 19°31'34" W a distance of 142.83 feet; thence N 00°21'34" E a distance of 60.72 feet; thence N 35°09'05" E a distance of 121.47 feet; thence N 01°52'44" W a distance of 35.14 feet; thence N 59°40'34" W a distance of 43.18 feet; thence N 89°10'25" W a distance of 55.31 feet; thence N 73°08'12" W a distance of 63.94 feet; thence N 46°45'14" W a distance of 22.10 feet; thence N 22°14'32" W a distance of 43.86 feet; thence N 47°44'40" W a distance of 29.71 feet to a point on the southerly boundary of the Inlet Parcel as described in the Special Warranty Deed recorded in the Eagle County Clerk and Recorder's office February 10, 2022 at reception number 202202329; thence along said southerly boundary of the Inlet Parcel N 66°03'04" E a distance of 37.66 feet to a point on the southerly boundary of said Reservoir Parcel; thence the following five courses along the said southerly boundary of the Reservoir Parcel;

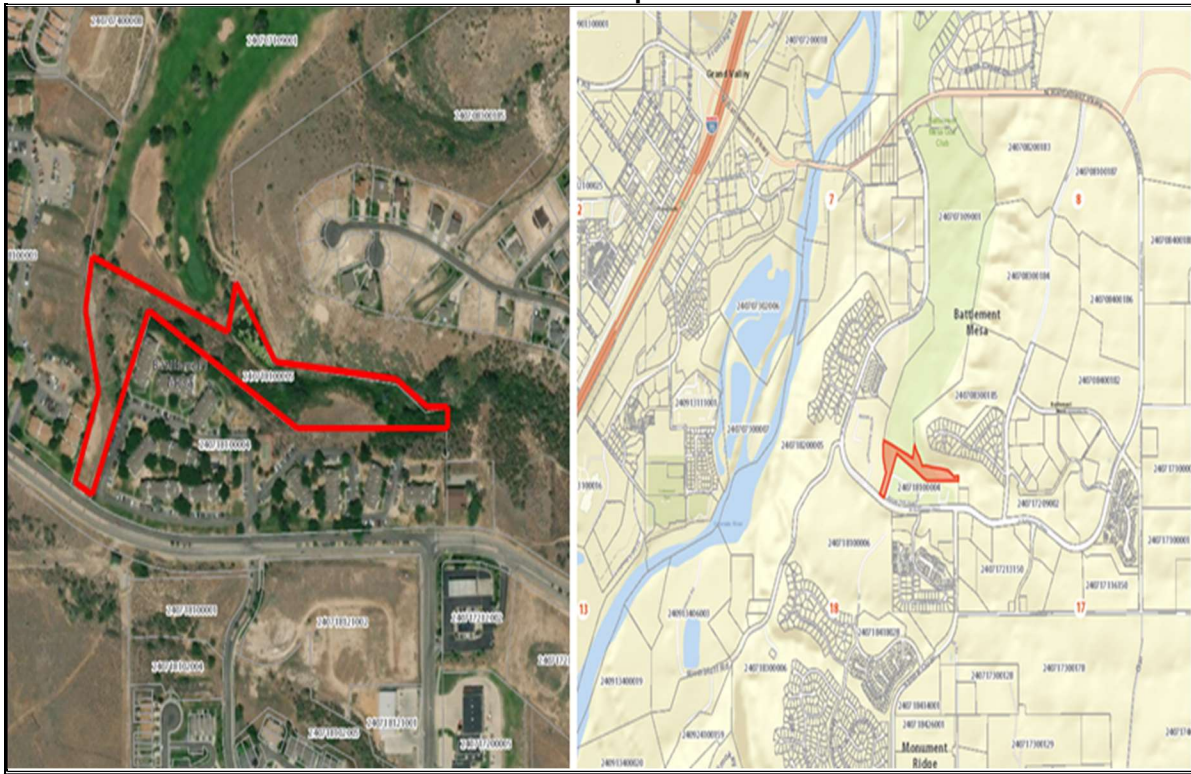
1. N 88°48'40" E a distance of 148.79 feet;
2. N 37°10'39" E a distance of 380.51 feet; whence angle point no. 5 of H.E.S 40 and angle point no. 1 of H.E.S. 41 bears S 89°58'45" W a distance of 1119.34 feet;
3. S 40°19'27" E a distance of 209.57 feet;
4. N 88°25'20" E a distance of 133.35 feet;
5. N 70°24'37" E a distance of 321.43 feet; to the point of beginning, containing 12.85 acres more or less.

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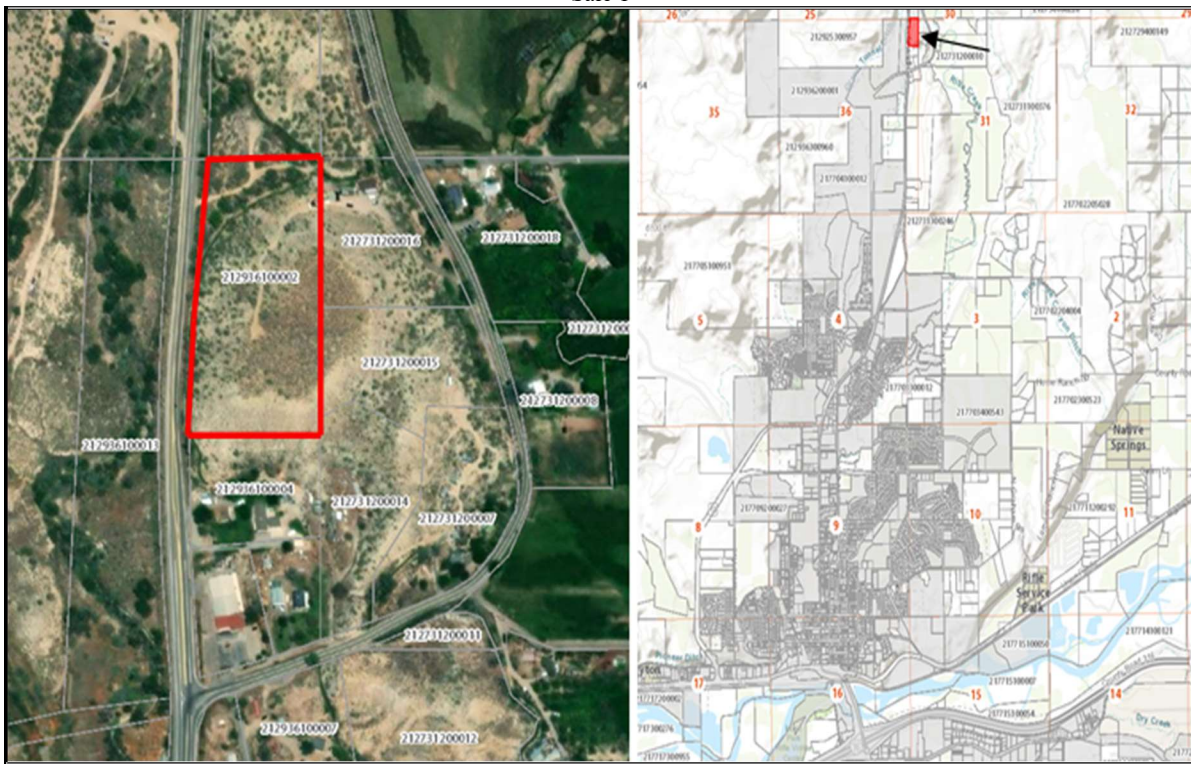
Michael J. Gamba, P.E. & P.L.S. 28036  
For and on behalf of Gamba & Associates, Inc.  
1001 Grand Avenue, Unit 003  
Glenwood Springs, CO 81602

## **EXHIBIT I**

## Sale Maps



Sale 1

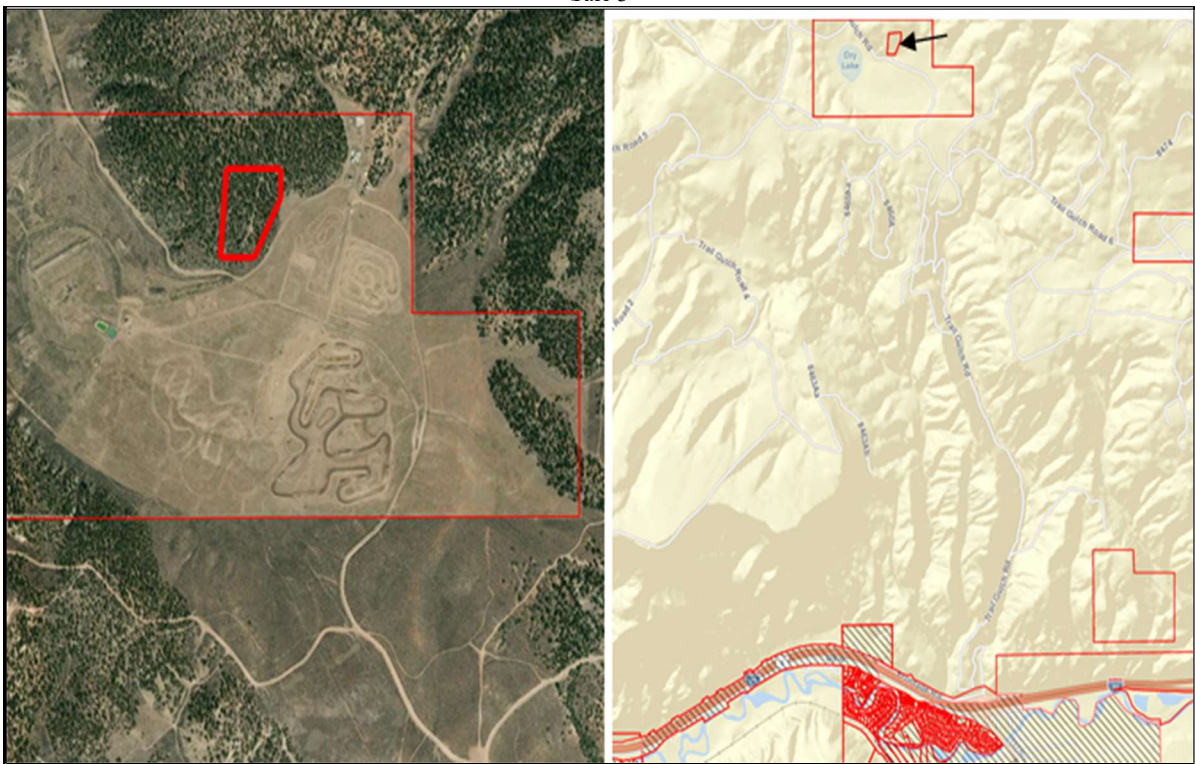


Sale 2

## Sale Maps



Sale 3



Sale 4

## **EXHIBIT J**

### **Tract B Legal Description**

A parcel of land located in Section 1 of Township 6 South, Range 81 West of the Sixth Principal Meridian and consisting of that portion of Mineral Survey 20461 Ruby and Sapphire Lodes situated easterly of the eastern right-of-way for U.S. Highway 24 as described in the Boundary Agreement recorded July 27, 2018 at reception number 201812787 and westerly of the western right-of-way of the Union Pacific Railroad as described in D&RGW Right-of-Way and Track Map dated June 30, 1919, and also described on the Battle Mountain North Land Survey Plat recorded in the Eagle County Clerk and Recorder's office, August 22, 2018 at reception number 201814343, being more particularly described as follows:

Beginning at a point on the 1-2 line of Mineral Survey 20461 Sapphire Lode and the intersection of the western right-of-way of the Union Pacific Railroad, whence the Southwest corner of said Section 36 being a 2-1/2 inch GLO Brass Cap bears N 65°38'07" W a distance of 4,268.70 feet; thence the following three courses along said west right-of-way of the Union Pacific Railroad:

1. S 19°13'15" E a distance of 625.71 feet;
2. 147.39 feet along the arc of a tangent curve to the right having a radius of 3365.06 feet, a central angle of 02°30'34", and the chord bears S 17°57'58" E a distance of 147.37 feet;
3. 301.02 feet along the arc of a tangent curve to the right having a radius of 1,286.60 feet, a central angle of 13°24'19", and the chord bears S 10°00'31" E a distance of 300.34 feet to a point on the 2-3 line of said Mineral Survey 20461 Ruby Lode;

thence along said 2-3 line of Mineral Survey 20461 Ruby Lode N 53°55'33" W a distance of 246.47 feet to a point on the easterly right-of-way of U.S. Highway 24; thence the following five courses along said easterly right-of-way of U.S. Highway 24:

1. 526.06 feet along the arc of a non tangent curve to the left having a radius of 994.91 feet, a central angle of 30°17'42", and the chord bears N 09°19'47" W a distance of 519.95 feet;
2. N 24°28'38" W a distance of 137.00 feet;
3. 82.80 feet along the arc of a tangent curve to the left having a radius of 880.00 feet, a central angle of 05°23'27", and the chord bears N 27°10'22" W a distance of 82.77 feet;
4. 68.95 feet along the arc of a tangent curve to the right having a radius of 720.00 feet, a central angle of 05°29'13", and the chord bears N 27°07'29" W a distance of 68.92 feet;
5. N 24°22'53" W a distance of 40.00 feet to a point on the 1-2 line of Mineral Survey 20461 Ruby Lode;

thence along said 1-2 line of Mineral Survey 20461 Ruby Lode N 59°21'27" E a distance of 86.36 feet to corner number 1 of Mineral Survey 20461 Ruby Lode said point also being corner number 1 of Mineral Survey 20461 Sapphire Lode; thence along the 1-2 line of said Mineral Survey 20461 Sapphire Lode N 59°21'07" E a distance of 55.86 feet to the point of beginning, Tract B containing 2.81 acres more or less.

## **EXHIBIT K**

### **Tract D Legal Description**

A parcel of land located in Section 1 of Township 6 South, Range 81 West of the Sixth Principal Meridian and consisting of that portion of Mineral Survey 19856 - River Bend Mill Site situated easterly of the eastern right-of-way for U.S. Highway 24 as described in the Boundary Agreement recorded July 27, 2018 at reception number 201812787 being more particularly described as follows:

Beginning at Corner No. 2 of said River Bend Mill Site, being a 2-1/2" U.S.D.A. Aluminum Cap marked "2 MS 19856 LS7235 1988", whence the Southwest corner of said Section 36 being a 2-1/2 inch GLO Brass Cap bears N 40°38'51" W a distance of 5,894.14 feet; thence along the 2-3 line of said River Bend Mill Site S 15°52'59" W a distance of 381.86 feet to a point on the eastern right-of-way of U.S. Highway 24; thence the following four courses along the easterly right-of-way of U.S. Highway 24:

1. 82.50 feet along the arc of a non tangent curve to the right having a radius of 646.20 feet, a central angle of 07°18'55", and the chord bears N05°10'06" W a distance of 82.45 feet;

2. N 01°30'38" W a distance of 282.09 feet;

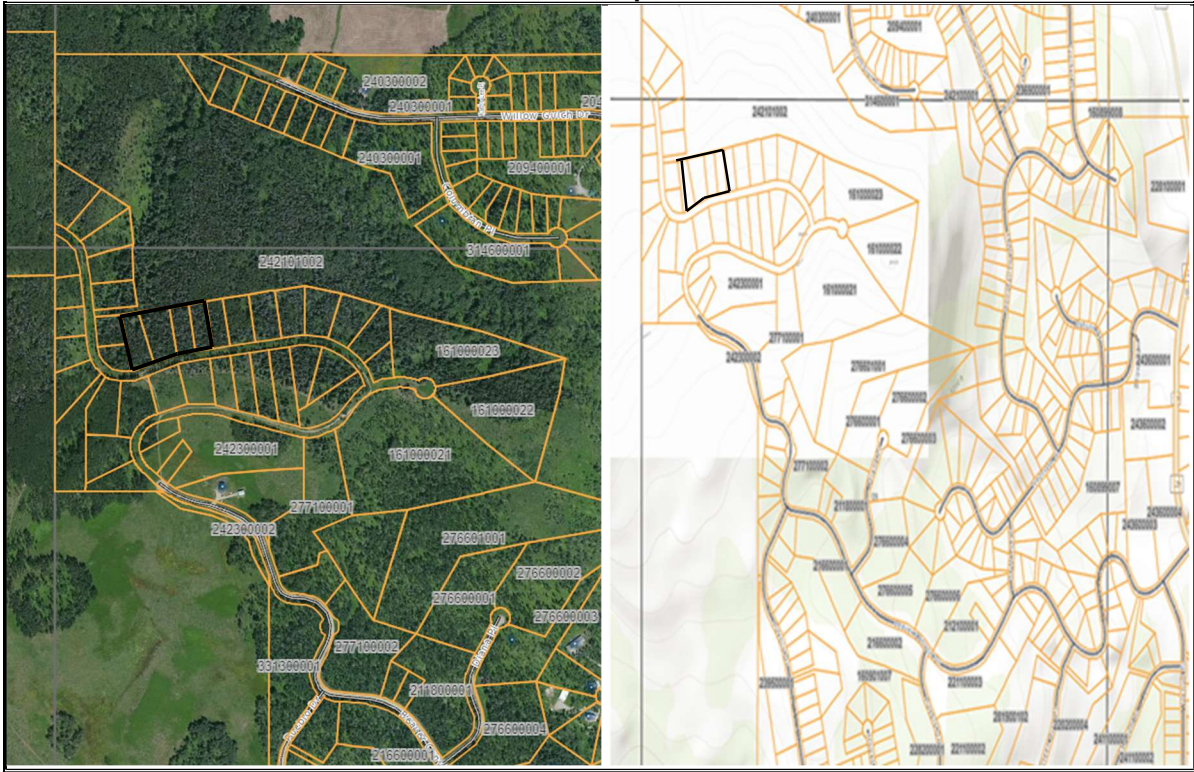
3. S 88°29'22" W a distance of 30.00 feet;

4. N 01°30'38" W a distance of 4.26 feet to a point on the 1-2 line of said River Bend Mill Site;

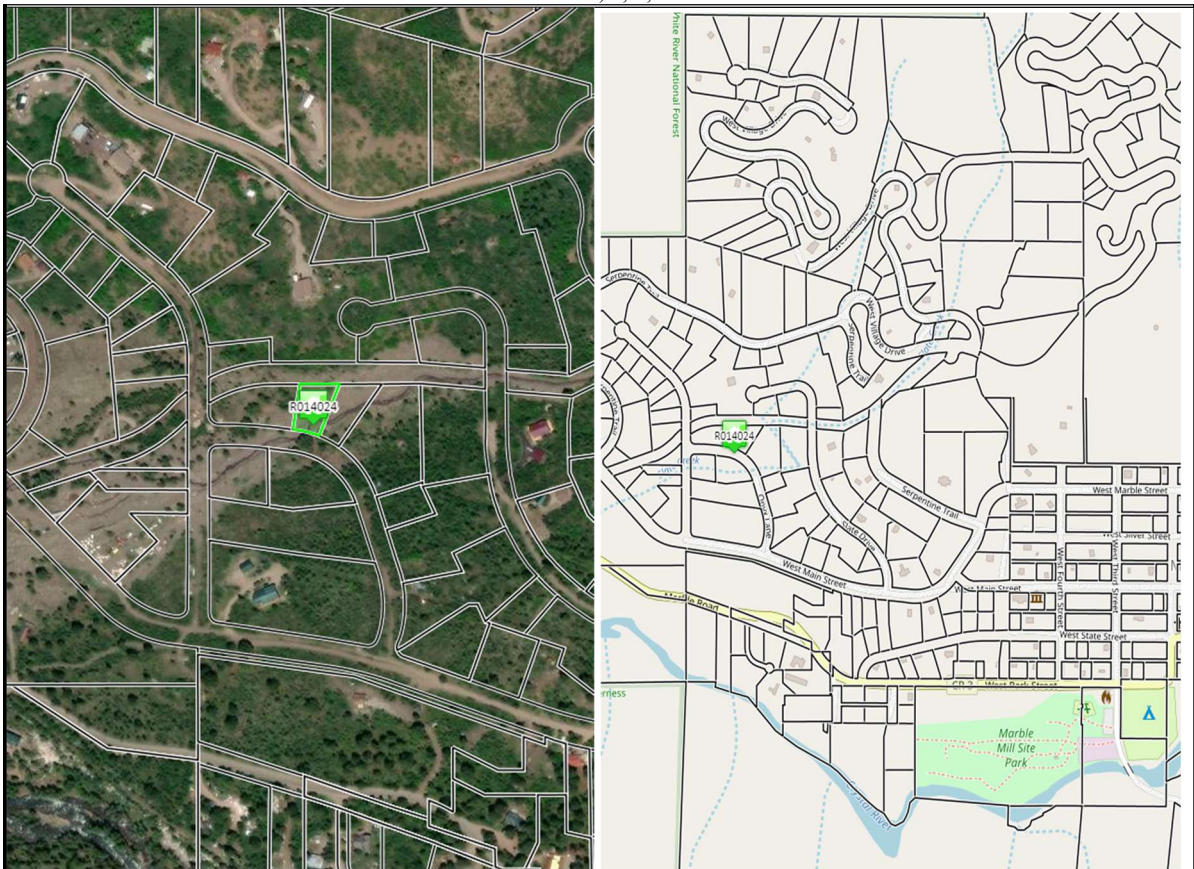
thence S 89°53'21" E a distance of 149.47 feet along said 1-2 line of said River Bend Mill Site to the point of beginning, Tract D containing 0.52 acres more or less.

## **EXHIBIT L**

## Sale Maps



Sales 1, 2, 3, 4



Sale 5

## **EXHIBIT M**

**SCHEDULE A (continued)**

**LEGAL DESCRIPTION**

The Land referred to herein is located in the County of **Eagle**, State of **Colorado**, and described as follows:

Consolidated Tailings Pile "CTP" Area – Legal Description

An area of land located in Sections 1 and 2 of Township 6 South, Range 81 West of the Sixth Principal Meridian, Eagle County, Colorado and Section 36 of Township 5 South, Range 81 West of the Sixth Principal Meridian, Eagle County, Colorado, described as follows:

Beginning at a point whence the Southwest corner of Section 36 being a 2-1/2 inch GLO Brass Cap found in place bears N 73°39'29" W a distance of 3235.59 feet;  
thence N 39°15'59" W a distance of 327.08 feet;  
thence N 00°42'50" W a distance of 258.95 feet;  
thence N 30°33'34" W a distance of 409.23 feet;  
thence N 26°49'10" W a distance of 147.73 feet;  
thence N 58°54'50" W a distance of 40.70 feet;  
thence N 47°11'00" W a distance of 134.26 feet;  
thence S 54°39'37" W a distance of 79.36 feet;  
thence N 67°01'14" W a distance of 79.33 feet;  
thence N 47°06'21" W a distance of 117.82 feet;  
thence S 23°25'17" W a distance of 58.46 feet;  
thence N 71°01'44" W a distance of 110.93 feet;  
thence N 57°02'09" W a distance of 110.79 feet;  
thence S 79°14'20" W a distance of 79.97 feet;  
thence S 55°50'15" W a distance of 127.05 feet;  
thence S 78°41'42" W a distance of 90.28 feet;  
thence S 63°36'10" W a distance of 115.10 feet;  
thence S 36°54'37" W a distance of 445.94 feet;  
thence S 47°00'01" W a distance of 88.02 feet;  
thence S 57°49'57" W a distance of 126.17 feet;  
thence S 15°35'00" W a distance of 60.07 feet;  
thence S 24°02'38" W a distance of 31.79 feet;  
thence S 37°00'28" W a distance of 35.87 feet;  
thence S 20°41'33" E a distance of 41.10 feet;  
thence S 04°03'05" W a distance of 44.45 feet;  
thence S 01°32'56" W a distance of 71.60 feet;  
thence S 00°37'48" E a distance of 55.83 feet;  
thence S 05°34'47" W a distance of 80.54 feet;  
thence S 02°21'27" E a distance of 130.60 feet;  
thence N 28°40'21" W a distance of 34.72 feet;  
thence N 21°25'58" W a distance of 154.82 feet;  
thence S 80°52'16" W a distance of 123.05 feet;

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by First American Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I-Requirements; and Schedule B, Part II-Exceptions.*

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thence S 09°07'44" E a distance of 34.84 feet;  
thence N 80°52'16" E a distance of 94.99 feet;  
thence S 21°25'58" E a distance of 127.95 feet;  
thence S 25°19'05" E a distance of 46.85 feet;  
thence S 52°04'31" E a distance of 63.53 feet;  
thence S 18°21'27" E a distance of 46.06 feet;  
thence S 25°25'08" E a distance of 111.42 feet;  
thence S 16°54'21" E a distance of 44.34 feet;  
thence S 15°33'23" W a distance of 64.10 feet;  
thence S 26°52'55" W a distance of 110.56 feet;  
thence S 39°05'06" W a distance of 139.75 feet;  
thence S 43°46'03" W a distance of 69.90 feet;  
thence S 21°51'31" W a distance of 82.69 feet;  
thence S 09°27'59" E a distance of 43.34 feet;  
thence S 65°48'59" E a distance of 24.51 feet;  
thence S 89°24'13" E a distance of 62.22 feet;  
thence N 84°59'21" E a distance of 74.16 feet;  
thence S 69°05'25" E a distance of 49.38 feet;  
thence S 21°22'07" E a distance of 70.25 feet;  
thence S 32°33'19" E a distance of 160.67 feet;  
thence N 82°17'05" E a distance of 184.74 feet;  
thence N 78°54'42" E a distance of 171.94 feet;  
thence N 89°54'49" E a distance of 120.23 feet;  
thence S 68°13'20" E a distance of 186.87 feet;  
thence S 31°01'45" E a distance of 190.31 feet;  
thence S 12°48'59" E a distance of 229.26 feet;  
thence S 40°21'58" E a distance of 168.19 feet;  
thence N 82°02'10" E a distance of 531.37 feet;  
thence N 88°37'56" E a distance of 161.96 feet;  
thence S 85°15'03" E a distance of 466.15 feet;  
thence N 30°04'17" E a distance of 136.51 feet;  
thence N 04°54'41" W a distance of 204.43 feet;  
thence N 36°06'20" W a distance of 244.02 feet;  
thence N 26°18'16" W a distance of 399.60 feet;  
thence N 15°44'50" W a distance of 247.58 feet;  
thence N 03°43'13" E a distance of 243.92 feet to the point of beginning

COUNTY OF EAGLE, STATE OF COLORADO.

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by First American Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I-Requirements; and Schedule B, Part II-Exceptions.*

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## **EXHIBIT N**

### LEGAL DESCRIPTION - SOIL PROCESSING PARCEL

A parcel of land located in both H.E.S. No. 40 and H.E.S. No. 41 as patented March 7, 1912, in Section 2 of Township 6 South, Range 81 West of the Sixth Principal Meridian, Eagle County, Colorado.

Beginning at angle point No.5 of H.E.S. No. 40, said angle point also being angle point No. 1 of H.E.S. No. 41, being an original stone monument found in place, whence the Southwest corner of Section 36 being a 2-1/2 inch GLO Brass Cap found in place bears N 20°22'04" W a distance of 4408.33 feet; thence N 60°17'10" E a distance of 176.92 feet to a point on the southerly boundary of the Reservoir Parcel as described in reception number 20220329; thence along said southerly boundary of said Reservoir Parcel S 53°11'01" E a distance of 639.38 feet to the northerly boundary of the 40-foot wide Inlet Parcel as described in reception number 20220329, and the Affidavit Concerning Conflicts in Descriptions of Land and Scrivener's Errors in reception number 202203221; thence the following 15 courses along the northerly boundary of said 40-ft wide Inlet Parcel:

1. S66°03'04"W a distance of 185.03 feet;
2. S87°52'49"W a distance of 154.45 feet;
3. N43°32'09"W a distance of 86.00 feet;
4. N87°20'19"W a distance of 69.22 feet;
5. S51°17'35"W a distance of 30.98 feet;
6. S22°13'41"W a distance of 55.35 feet;
7. S89°25'59"W a distance of 54.63 feet;
8. N75°30'49"W a distance of 122.70 feet;
9. S80°01'14"W a distance of 245.49 feet;
10. S51°21'28"W a distance of 144.42 feet;
11. S10°13'05"W a distance of 33.85 feet;
12. S23°06'54"W a distance of 15.58 feet;
13. S17°36'42"W a distance of 57.23 feet;
14. S02°34'28"E a distance of 50.51 feet;
15. S24°43'37"E a distance of 57.52 feet to a point on the westerly boundary of the OTP Parcel;

thence the following two courses along said westerly boundary of the OTP Parcel:

1. S 19°01'53" W a distance of 101.06 feet;
2. S 30°25'30" W a distance of 176.18 feet to a point on the northerly boundary of the Highlands 1 Parcel;

thence along the northerly boundary of said Highlands 1 Parcel, N 69°04'25" W a distance of 231.93 feet to angle point No. 2 of H.E.S. No. 41, being an original stone monument found in place; thence along the westerly boundary of H.E.S. No. 41, N 39°24'50" E a distance of 1104.62 feet to the point of beginning containing 7.41 acres more or less.

---

Michael J. Gamba, P.E. & P.L.S. 28036  
For and on behalf of Gamba & Associates, Inc.  
113 Ninth Street, Suite 214  
Glenwood Springs, CO 81602

## **EXHIBIT O**

### LEGAL DESCRIPTION – Maloit Wetlands Tract

A parcel of land located in the Nelson Addition as recorded February 2, 1946 in Book 131 at Page 76 in the Clerk and Recorder's office of Eagle County, Colorado, and within Section 36 of Township 5 South, Range 81 West of the Sixth Principal Meridian; a portion of said parcel also being located in H.E.S. No. 46 as patented March 16, 1912 in Section 2, Township 6 South, Range 81 West, 6<sup>th</sup> P.M., more particularly described as follows:

Beginning at a point whence the Southwest corner of the Nelson Addition as described in Book 131 page 76 said point also being the Southwest corner of said Section 36 being a 2-1/2 inch GLO Brass Cap found in place bears S 70°47'24" W a distance of 1,630.26 feet;  
Thence S 05°09'44" E 438.89 to a point on the westerly boundary of the 50' wide Eagle County School District RE 50J Access and Utility Easement described in BK 424, PG 977; thence along the westerly boundary of said Access and Utility Easement S 36°56'35" W a distance of 255.42 feet;  
Thence leaving the westerly boundary of said Access and Utility Easement N 65°21'48" W a distance of 191.70 feet; thence N 54°14'10" W a distance of 372.24 feet; thence N 85°01'41" W a distance of 235.80 feet; thence N 18°23'27" W a distance of 272.45 feet; thence N 89°46'46" W a distance of 104.49 feet to a point at the center of Cross Creek; thence along said center of Cross Creek N 01°01'28" W a distance of 138.00 feet; thence leaving said center of Cross Creek N 01°07'27" W a distance of 234.87 feet to a point on the northwesterly boundary of said Nelson Addition described in Book 131 page 76; thence N 57°23'50" E a distance of 345.02 feet along the northwesterly boundary of said Nelson Addition described in Book 131 page 76; thence leaving the northwesterly boundary of said Nelson Addition described in Book 131 page 76,  
S 38°14'32" E a distance of 212.03 feet to a point at the center of Cross Creek; thence along the center of said Cross Creek the following four courses:

1. S 76°07'09" E a distance of 123.73 feet;
2. N 85°22'52" E a distance of 140.11 feet;
3. S 77°27'36" E a distance of 144.47 feet;
4. S 14°37'48" E a distance of 121.89 feet;

thence leaving said center of Cross Creek S 46°36'11" E a distance of 232.96 feet to the point of beginning, containing 16.73 acres more or less.

---

Legal Description Prepared By:  
Michael J. Gamba, P.E. & P.L.S. 28036  
For and on behalf of Gamba & Associates, Inc.  
1001 Grand Avenue, Unit 003  
Glenwood Springs, CO 81601