

cc:KKS, KLB, clients

DISTRICT COURT, PARK COUNTY, COLORADO

Court Address: Park County District Court
300 - 4th Street
Fairplay, Colorado 80440

Petitioner:

WILL-O-WISP METROPOLITAN DISTRICT, a quasi-municipal corporation of the State of Colorado,

v.

Respondents (Lot 134):

MAGNESS LAND HOLDINGS LLC, a Colorado limited liability company; FIRSTBANK OF EVERGREEN; FIRSTBANK OF CHERRY CREEK; NORTH FORK ASSOCIATES, a limited partnership; WOODSIDE LTD., a Colorado corporation; WOODSIDE PARK UNIT 5 HOMEOWNERS' ASSOCIATION, a/k/a WOODSIDE PARK UNITS 5 AND 6 HOMEOWNERS' ASSOCIATION, a Colorado non-profit corporation; and MICHELLE A. MILLER, in her official capacity as the Treasurer of Park County and as the Public Trustee of Park County,

v.

Respondents (Lot 133):

MARY L. WINDEMULLER; DOUGLAS L. WINDEMULLER; FIRSTBANK OF EVERGREEN; FIRSTBANK OF CHERRY CREEK; MOUNTAIN MUTUAL RESERVOIR COMPANY; NORTH FORK ASSOCIATES; WOODSIDE LTD., a Colorado corporation; WOODSIDE PARK UNIT 5 HOMEOWNERS' ASSOCIATION, a/k/a WOODSIDE PARK UNITS 5 AND 6 HOMEOWNERS' ASSOCIATION, a Colorado non-profit corporation; and MICHELLE A. MILLER, in her official capacity as the Treasurer of Park County and as the Public Trustee of Park County,

v.

Respondents (Lot 131):

THE DAVID WILLIAM BROWN LIVING TRUST, a Colorado Trust; GAIL MARIE BROWN LIVING TRUST; CHARLES SCHWAB BANK, N.A.; WOODSIDE LTD., a Colorado corporation; WOODSIDE PARK UNIT 5 HOMEOWNERS' ASSOCIATION, a/k/a WOODSIDE PARK UNITS 5 AND 6 HOMEOWNERS' ASSOCIATION, a Colorado non-profit corporation; and MICHELLE A. MILLER, in her official capacity as the Treasurer of Park County and as the Public Trustee of Park County.

Leslie A. Fields, No. 11232
John R. Sperber, No. 22073
FAEGRE & BENSON LLP
1700 Lincoln Street, Suite 3200
Denver, Colorado 80203
Phone: (303) 607-3500; Fax: (303) 607-3600

▲ COURT USE ONLY ▲

Case Number: 06-CV-320

Division B

**STIPULATION FOR IMMEDIATE POSSESSION AND RESOLUTION OF JUST
COMPENSATION
(BROWN)**

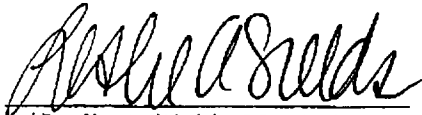
Petitioner, the Will-O-Wisp Metropolitan District ("the District") by undersigned legal counsel and Respondents David William Brown Living Trust and Gail Marie Brown Living Trust, ("Brown") pro se hereby stipulate and agree to the Petitioner's immediate possession of the property described within Exhibit C of the First Amended Petition in Condemnation and to the amount of just compensation therefore, upon the following terms and conditions:

1. **Order for Possession.** The Petitioner and Respondent Brown agree to the entry of the attached Order for Immediate Possession submitted contemporaneously herewith in accordance with this Stipulation.
2. **Deposits.** Possession shall be delivered to the Petitioner upon the entry by the Court of the Order for Immediate Possession and the deposit of \$5,266 ("Deposit") being made into the Registry of the Court for Lot 131.
3. **Possession and Use.** Upon making the Deposit, the Petitioner may take possession of the property identified within Exhibit C of the First Amended Petition in Condemnation, and the Petitioner and its contractors, agents, directors, employees, and all others acting by or on behalf of it or with its permission may use and enjoy the property against the Respondents, their successors, assigns, heirs, devisees and personal representatives, and all persons claiming any right, title or interest in or to the property by and through or under the Respondents for the purposes identified in the First Amended Petition in Condemnation.
4. **Withdrawal of Funds.** The Petitioner agrees that Respondent Brown may, upon proper application to the Court, withdraw from the Registry of the Court 100% of the \$5,266 Deposit, provided that the other Respondents named as parties of interest in Lot 131 do not object to such withdrawal.
5. **Date of Value and Just Compensation.** The date of value shall be the date upon which the Petitioner makes the Deposit into the Registry of the Court.
6. **Deposit Constitutes Total Just Compensation.** Respondent Brown agrees that the sum of \$5,266 shall constitute the full amount of just compensation to be paid by Petitioner in this case for the acquisition of the property identified within Exhibit C of the First Amended Petition in Condemnation, said sum inclusive of all damages, if any, and all fees, costs and interest which Respondent Brown would otherwise be entitled to. Respondent Brown agrees that Petitioner may at any time tender to the Court a Rule and

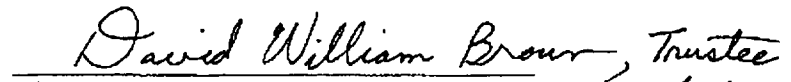
Order transferring title to the subject property from Respondent Brown to Petitioner. Respondent Brown concedes that good faith negotiations were conducted, that the Petitioner has the legal authority to condemn, that a proper public purpose is being served by the condemnation action, and that immediate possession of the property is warranted.

DATED this 13 day of FEB, 2008 and filed via Lexis/Nexis File & Serve pursuant to C.R.C.P. 121, § 1-26.

FAEGRE & BENSON LLP



/s/ Leslie A. Fields, No. 11232
Attorneys for Will-O-Wisp
Metropolitan District



Trustee
for
both
Trusts

/s/ David William Brown on behalf of The
David William Brown Living Trust and
Gail Marie Brown Living Trust (Lot 131)

In accordance with C.R.C.P. 121 §1-26(9) a printed copy of this document with original signatures is being maintained by the filing party and will be made available for inspection by other parties or the court upon request.

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of February, 2008, a true and correct copy of the foregoing **STIPULATION FOR IMMEDIATE POSSESSION (BROWN)** was sent via JusticeLink to the following:

Todd W. Miller, Esq.
Holland & Hart LLP
90 S. Cascade Ave., Suite 1000
Colorado Springs, CO 80903

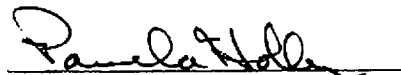
Kenneth K. Skogg
Lowe, Fell & Skogg
370 17th Street, Suite 4950
Denver, CO 80202

Anne J. Castle
Holland & Hart LLP
555 17th Street, Suite 3200
P.O. Box 8749
Denver, CO 80201-8749

Michael C. Schaefer
500 Meadow Drive
Pine, CO 80470
schaefermc@central.com & Hard Copy

The David William Brown Living Trust
Gail Marie Brown Living Trust
c/o David Brown
665 Meadow Drive
Pine, Colorado 80470

Mark E. May
May & Associates, P.C.
8008 E. Arapahoe Court, Suite 100
Centennial, CO 80112-6839


/s/ Pamela Hollen

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▲ COURT USE ONLY ▲

Case Number: 06-CV-320

Division B

ORDER GRANTING IMMEDIATE POSSESSION (BROWN)

THIS MATTER having come before the Court on Petitioner, Will-O-Wisp Metropolitan District, and Respondents The David William Brown Living Trust and Gail Marie Brown Living Trust (“Brown”) Stipulation for Immediate Possession of the property described in the First Amended Petition in Condemnation, and the Court being fully advised in the premises, does hereby:

ORDER that upon Petitioner’s deposit of the sum of \$5,266 into the Registry of the Court (which amount shall be immediately invested in an interest bearing account pending further orders of this Court), the Petitioner shall be entitled to immediate possession of the property identified in Exhibit C of the First Amended Petition in Condemnation pursuant to the terms and conditions of the Stipulation for Immediate Possession executed by Petitioner and Respondents Brown. Exhibit C is attached hereto and incorporated herein.

ORDER that upon deposit the Petitioner and its contractors, agents, directors, employees, and all others acting by or on behalf of it or with its permission may use and enjoy the property against the Respondents Brown, their successors, assigns, heirs, devisees and personal representatives, and all persons claiming any right, title or interest in or to the property by and through or under the Respondents for the purposes identified in the First Amended Petition in Condemnation.

ORDER that Respondent Brown has agreed to accept the sum of \$5,266 as total just compensation in this case and the parties will therefore tender at the appropriate time a Rule and Order to be entered by this court to transfer title to the property to Petitioner herein.

IT IS FURTHER ORDERED that the Stipulation for Immediate Possession between Petitioner and Respondents Brown is hereby approved and made an Order of this Court, together with all the terms and conditions of the Stipulation. .

APPROVED AS TO FORM:

FAEGRE & BENSON LLP

/s/ Leslie A. Fields, No. 11232
Attorneys for Will-O-Wisp
Metropolitan District

/s/ David William Brown on behalf of The
David William Brown Living Trust and
Gail Marie Brown Living Trust (Lot 131)

DATED this ____ of _____, 2008

BY THE COURT:

District Judge

CERTIFICATE OF SERVICE

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Lowe, Fell & Skogg
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Denver, CO 80202

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Denver, CO 80201-8749

Michael C. Schaefer
500 Meadow Drive
Pine, CO 80470
schaefermc@ecentral.com. & Hard Copy

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Gail Marie Brown Living Trust
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665 Meadow Drive
Pine, Colorado 80470

Mark E. May
May & Associates, P.C.
8008 E. Arapahoe Court, Suite 100
Centennial, CO 80112-6839

/s/ Pamela Hollen

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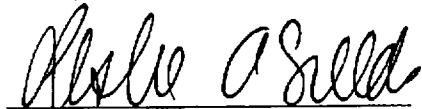
ORDER that upon deposit the Petitioner and its contractors, agents, directors, employees, and all others acting by or on behalf of it or with its permission may use and enjoy the property against the Respondents Brown, their successors, assigns, heirs, devisees and personal representatives, and all persons claiming any right, title or interest in or to the property by and through or under the Respondents for the purposes identified in the First Amended Petition in Condemnation.

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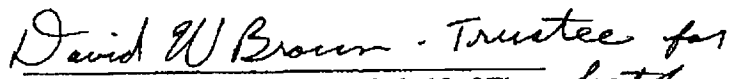
IT IS FURTHER ORDERED that the Stipulation for Immediate Possession between Petitioner and Respondents Brown is hereby approved and made an Order of this Court, together with all the terms and conditions of the Stipulation.

APPROVED AS TO FORM:

FAEGRE & BENSON LLP



/s/ Leslie A. Fields, No. 11232
Attorneys for Will-O-Wisp
Metropolitan District



/s/ David William Brown on behalf of The
David William Brown Living Trust and
Gail Marie Brown Living Trust (Lot 131)

*both
Trusts*

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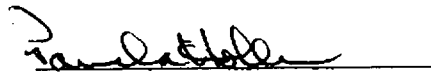


EXHIBIT C
(Brown Property – Lot 131)



2310 East Prospect
Fort Collins, CO 80525

ph: 970.484.7477
fo: 970.484.7488

www.tec-engrs.com

LEGAL DESCRIPTION
PERMANENT UTILITY EASEMENT
LOT 131, WOODSIDE PARK-UNIT 5

A 12.00 FOOT WIDE PERMANENT UTILITY EASEMENT OVER AND ACROSS LOT 131, PLAT OF WOODSIDE PARK-UNIT 5 RECORDED AT RECEPTION NUMBER 281451, PARK COUNTY RECORDS, LOCATED IN THE EAST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF SECTION 26, TOWNSHIP 6 SOUTH, RANGE 72 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF PARK, STATE OF COLORADO, FOR THE CONSTRUCTION OF A WATER PIPELINE; WATER INTAKE FACILITY, INCLUDING DIVERSION STRUCTURE AND INFILTRATION GALLERY; AND RELATED FACILITIES OR DEVICES; AND FOR AN ACCESS TRAIL FOR PEDESTRIAN AND VEHICLE TRAVEL, LYING NORTHWESTERLY OF THE FOLLOWING DESCRIBED LINE:

BASIS OF BEARINGS: THE LINE BETWEEN THE SOUTHWEST CORNER OF THE EAST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 26 AND THE NORTHWEST CORNER OF LOT 133 OF SAID PLAT BEING MONUMENTED AT EACH END BY A #4 REBAR IS ASSUMED TO BEAR N08°12'02"E AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE # 4 REBAR MARKING SAID NORTHWEST CORNER OF SAID LOT 133;
THENCE N78°34'59"E ON THE NORTH LINE OF SAID LOT 133 A DISTANCE OF 130.62 FEET TO THE POINT OF BEGINNING;
THENCE CONTINUING N78°34'59"E ON SAID NORTH LINE A DISTANCE OF 104.38 FEET TO THE NORTHEAST CORNER OF SAID LOT 133;
THENCE N38°19'58"E ON THE NORTHWESTERLY LINE OF LOT 132 OF SAID PLAT A DISTANCE OF 77.02 FEET TO THE POINT OF TERMINUS, SAID POINT BEING ON THE SOUTH RIGHT OF WAY LINE OF MEADOW DRIVE AS SHOWN ON SAID PLAT.


THE SIDELINE OF SAID EASEMENT TO BE EXTENDED OR SHORTENED TO END ON SAID SOUTH RIGHT OF WAY LINE OF SAID MEADOW DRIVE AT THE NORTHEASTERLY END.

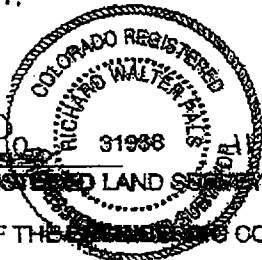
CONTAINING A CALCULATED AREA OF 0.046 ACRES (2,074 SQUARE FEET, MORE OR LESS).

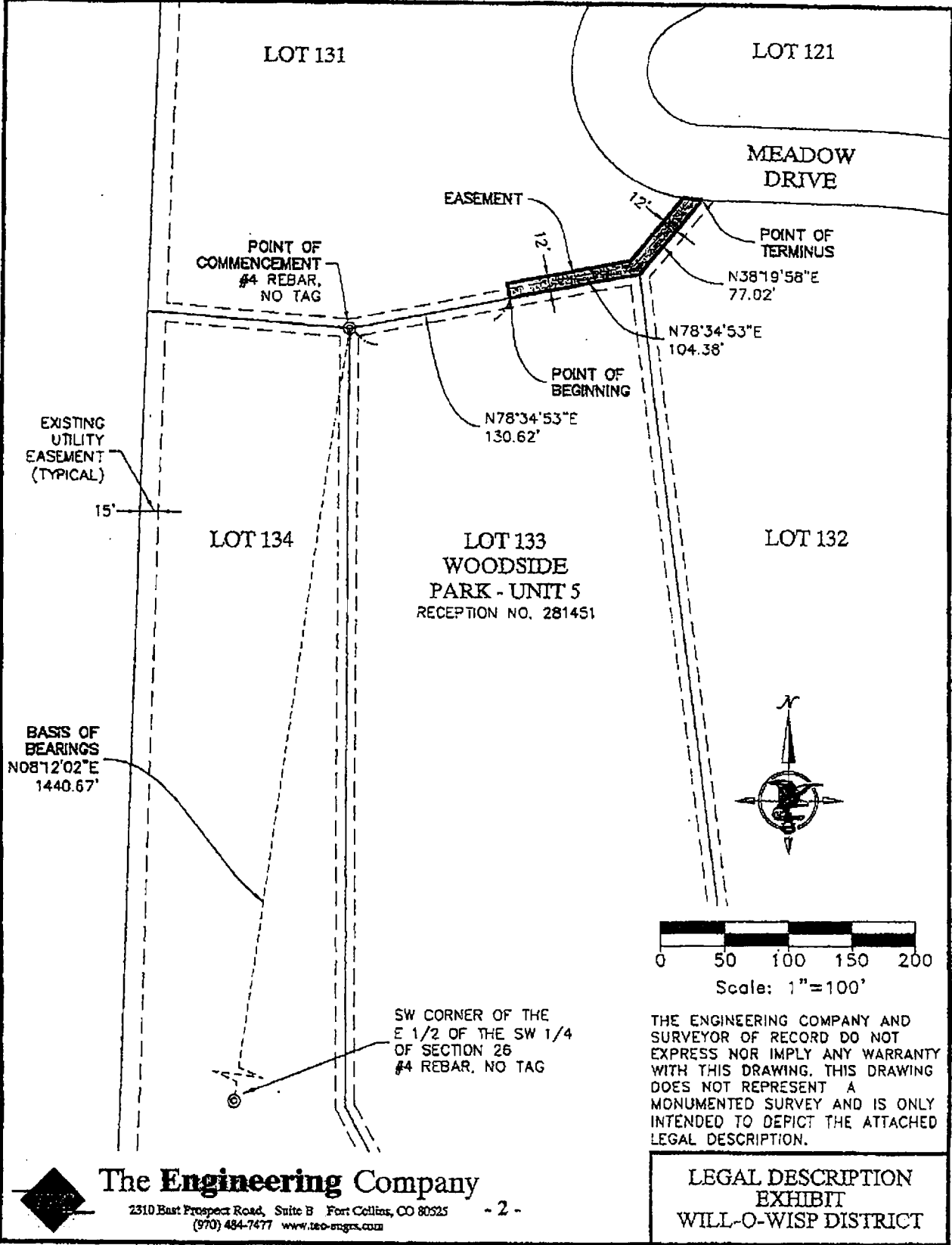
SUBJECT TO ALL EASEMENTS AND RIGHTS OF WAY OF RECORD OR EXISTING.

LEGAL DESCRIPTION STATEMENT:

I, RICHARD W. PALS, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED BY ME OR UNDER MY DIRECT RESPONSIBLE CHARGE, AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, IS CORRECT.


RICHARD W. PALS, REGISTERED LAND SURVEYOR
COLORADO NO. 31988
FOR AND ON BEHALF OF THE [REDACTED] COMPANY

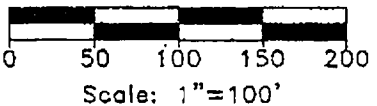




The Engineering Company
 2310 East Prospect Road, Suite B Fort Collins, CO 80525
 (970) 484-7477 www.teo-engr.com

LEGAL DESCRIPTION
 EXHIBIT
 WILL-O-WISP DISTRICT

THE ENGINEERING COMPANY AND SURVEYOR OF RECORD DO NOT EXPRESS NOR IMPLY ANY WARRANTY WITH THIS DRAWING. THIS DRAWING DOES NOT REPRESENT A MONUMENTED SURVEY AND IS ONLY INTENDED TO DEPICT THE ATTACHED LEGAL DESCRIPTION.



SW CORNER OF THE
 E 1/2 OF THE SW 1/4
 OF SECTION 26
 #4 REBAR, NO TAG

BASIS OF BEARINGS
 N08°12'02"E
 1440.67'

EXISTING UTILITY EASEMENT (TYPICAL)

15'

LOT 134

LOT 133
 WOODSIDE
 PARK - UNIT 5
 RECEPTION NO. 281451

LOT 132

N78°34'53"E
 130.62'

POINT OF BEGINNING

N78°34'53"E
 104.38'

POINT OF TERMINUS

N38°19'58"E
 77.02'

EASEMENT

12'

12'

LOT 131

LOT 121

MEADOW DRIVE

POINT OF COMMENCEMENT
 #4 REBAR,
 NO TAG

EXHIBIT C
(Brown Property – Lot 131)



2310 East Prospect
Fort Collins, CO 80525

ph: 970.484.7477
fa: 970.484.7488

www.tec-engrs.com

LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT
LOT 131, WOODSIDE PARK-UNIT 5

A 30.00 FOOT WIDE TEMPORARY CONSTRUCTION EASEMENT OVER AND ACROSS LOT 131, PLAT OF WOODSIDE PARK-UNIT 5 RECORDED AT RECEPTION NUMBER 281451, PARK COUNTY RECORDS, LOCATED IN THE EAST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF SECTION 26, TOWNSHIP 6 SOUTH, RANGE 72 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF PARK, STATE OF COLORADO, LYING NORTHWESTERLY OF THE FOLLOWING DESCRIBED LINE:

BASIS OF BEARINGS: THE LINE BETWEEN THE SOUTHWEST CORNER OF THE EAST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 26 AND THE NORTHWEST CORNER OF LOT 133 OF SAID PLAT BEING MONUMENTED AT EACH END BY A #4 REBAR IS ASSUMED TO BEAR N68°12'02"E AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE # 4 REBAR MARKING SAID NORTHWEST CORNER OF SAID LOT 133;
THENCE N78°34'53"E ON THE NORTH LINE OF SAID LOT 133 A DISTANCE OF 130.62 FEET;
THENCE N11°25'07"W A DISTANCE OF 12.00 FEET TO THE POINT OF BEGINNING;
THENCE N78°34'53"E A DISTANCE OF 99.98 FEET;
THENCE N38°19'58"E A DISTANCE OF 64.73 FEET TO THE POINT OF TERMINUS, SAID POINT BEING ON THE SOUTH RIGHT OF WAY LINE OF MEADOW DRIVE AS SHOWN ON SAID PLAT.

THE SIDELINE OF SAID EASEMENT TO BE EXTENDED OR SHORTENED TO END ON SAID SOUTH RIGHT OF WAY LINE OF SAID MEADOW DRIVE AT THE NORTHEASTERLY END.

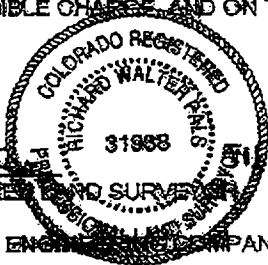
CONTAINING A CALCULATED AREA OF 0.101 ACRES (4,416 SQUARE FEET, MORE OR LESS).

SUBJECT TO ALL EASEMENTS AND RIGHTS OF WAY OF RECORD OR EXISTING.

THIS EASEMENT SHALL TERMINATE ONE YEAR FROM THE DATE POSSESSION IS GRANTED.

LEGAL DESCRIPTION STATEMENT:

I, RICHARD W. PALS, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED BY ME OR UNDER MY DIRECT RESPONSIBLE CHARGE, AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, IS CORRECT.



RICHARD W. PALS, REGISTERED LAND SURVEYOR
COLORADO NO. 31938
FOR AND ON BEHALF OF THE ENGINEERING COMPANY

