

GROUND LEASE AGREEMENT
SWANK PROPERTY COMMUNICATIONS TOWER SITE

This Ground Lease Agreement ("Agreement") is made this 1st day of April 2015, by and between the Swank Family Properties, LLC, of Denver, Colorado, ("Lessor"), and the Board of County Commissioners of the County of Douglas, State of Colorado ("Lessee").

WHEREAS, this Agreement is for the lease of a site for a public safety telecommunications tower site ("Tower Site"), including an easement for access to the Tower Site ("Access Easement"), and including the use of the available electric utility service, provided by the Intermountain Rural Electric Association, located adjacent to the Tower Site ("Electric Service"); and

WHEREAS, Lessor owns a certain parcel of land located within Douglas County, Colorado, as more particularly described in Exhibit A ("Property"), attached hereto and incorporated herein by reference, and that said land has within its boundaries a site located in the northwest quadrant of the Property suitable for the location Tower Site, as described in Exhibit B, attached hereto and incorporated herein by reference; and

WHEREAS, the Lessee desires to enter into this Agreement to lease the Tower Site to design, construct, operate, modify and maintain radio transmitting and receiving antennas together with associated electronic equipment and supporting structures in connection with public safety telecommunications system in Douglas County; and

WHEREAS, Lessee desires access to the Site across and over Lessor's Property within an existing access easement or road; and

WHEREAS, Lessor will make those portions of its Property available to the Lessee for the Tower Site, Access Easement, and Electric Service on a fair and equitable basis, for a 180 foot tall telecommunications tower, related facilities and telecommunications uses.

NOW THEREFORE, in consideration of the mutual covenants and benefits stated herein, and in further consideration of the obligations, terms and considerations hereinafter set forth and recited, Lessor and Lessee agree as follows:

Section 1 - General Information

1.01 Line of Authority: Victoria Starkey is designated as the Authorized Representative of the Lessee ("Authorized Representative") for the purposes of: (1) administering, coordinating and approving work done on behalf of the Lessee for the management of this Agreement and (2) the design, construction, operation and maintenance of the Tower Site, appurtenances. Further, the Authorized Representative is the designee for the County Manager and the County Sheriff, however she is not authorized to enter into any agreements, contracts, letters of intent or

otherwise with respect to the lease of any real estate interest without the prior approval of the County Manager.

1.02 Definitions:

A. Access Easement: The easement containing the roadway from 28A Pine View Street, Palmer Lake, Colorado to the Tower Site.

B. Commencement Date: The effective date of the Agreement as stated in paragraph 3.01 A. below. The Commencement Date shall not be modified by subsequent changes to the leased Tower Site, Access Easement, Electric Service, and to the height of the telecommunications tower.

C. FCC: The Federal Communications Commission.

D. Radio Interference: Any emission, radiation or induction that endangers the functioning or degrades, obstructs, or repeatedly interrupts the telecommunication of Douglas County, the Douglas County Sheriff's Office, or any other telecommunications government users located on the site under the direction and control of Douglas County.

E. Tower Site: The 4,100 square foot site upon which a public safety telecommunications tower and any and all facilities, equipment, cable, space, land, required to effect wireless (voice, data, and video) radio telecommunications, including micro wave signals, is located.

F. Utilities: The existing electric service.

Section 2 - Grant of Rights

2.01 Communications Site: Lessor hereby grants to Lessee an exclusive ground lease for the location, installation, erection and operation of a public safety telecommunications tower, as described in Exhibit B, subject to the terms and conditions set forth herein.

2.02 Quiet Enjoyment: Lessee shall have and peacefully hold and enjoy the quiet possession of the Tower Site, subject to the terms and conditions hereof, provided that Lessee pays the rent herein recited and performs all of Lessee's covenants and agreements herein contained.

2.03 Access Easement: Lessor hereby grants to Lessee a non-exclusive Access Easement to the Site, as described in Exhibit C, attached hereto and incorporated herein by reference.

2.04 Electric Service: Lessor hereby grants to Lessee the access to and use of the electricity service provided to the Site, including a temporary construction easement to install the necessary electric utilities. Lessee shall be responsible for any and all costs associated with obtaining or using electric service.

2.05 Use of Communications Site: The Site shall be for the use and design, maintenance, repair, replacement and installation of communications antennas, tower and approved associated RF equipment as necessary and further shall include any and all appurtenances related thereto, including a small building, generator and propane supply.

Section 3 - Term

3.01 Term of the Agreement:

A. The term of this Agreement shall commence on the 1st day of May, 2015, or upon the date that the site is approved by the Douglas County Planning Commission, whichever is earlier, the "Commencement Date" and shall continue for ten (10) years from the Commencement Date.

B. Subject to Lessor's consent, Lessee shall have the option to renew this Agreement for three (3) successive ten (10) year terms subject to the condition that Lessee give Lessor written request of such renewal ninety (90) days prior to the expiration of the then current term. Lessor shall not unreasonably withhold approvals of such renewals.

3.02 Early Termination: The Lessee has the right to terminate this Agreement without cause upon giving six (6) months prior written notice to the Lessor.

Section 4 – Compensation

4.01 Rent:

A. Beginning on the Commencement Date, Lessee agrees to pay Lessor as initial base rent ("Rent") the amount of Sixty Thousand Dollars (\$60,000) annually. Rent shall be paid on an annual basis. The Rent shall be subject to an annual automatic escalation of six percent (6%), effective and due upon the Commencement Date anniversary.

B. Rent shall be due and payable for each successive year of the Term on the anniversary of the Commencement Date.

C. Lessor agrees that the Rent is reasonable in relation to the telecommunication uses by Lessee and the cost of the improvements made by Lessee for the design, construction and improvements to the Access Road and Site, taking into account the subjective visual and aesthetic impact to Lessor of a 180' tower and the previous costs incurred by Lessor and Swank Family predecessors to build the Access Road, acquire and manage the Property, etc.

4.02 Future Tower Space Subleasing:

A. **Commercial Purposes.** Lessor and Lessee agree that if up to three (3) cell phone providers or any other commercial purpose subtenant, in addition to tower space used by the Lessee, seek to sublease space on the tower on the Site, the Lessor shall receive fifty percent (50%) of any consideration paid, including but not limited to each monthly lease payment made to Lessee, by each cell phone provider or other commercial user. Lessee shall provide copies of leases with cell phone companies or commercial users upon request by Lessor. In the event Lessee desires to sublease space on the tower to more than three (3) cell phone providers or other commercial users, Lessee shall request Lessor's consent for additional subleases. Lessor's consent may be withheld at its sole discretion.

B. **Non-Commercial Purposes.** Lessee may sublease additional tower space to or permit co-location by other public safety users but shall first provide written notice to Lessor identifying the user and the public safety purpose and Lessee shall pay Lessor fifty percent of any consideration paid, including but not limited each monthly lease payment, if any.

4.03 Place and Manner of Payments: All sums payable to Lessor shall be made payable to Lessor, without notice, at the agreed upon intervals at the address stated in paragraph 7.12, Notices, or at such other place as the Lessor may hereafter designate by notice in writing to Lessee. All sums shall be made in legal tender of the United States. Any check given to Lessor shall be received by it subject to collection. Any payment not made when due to Lessor shall accrue interest at eight (8%) per annum commencing on the fifth calendar day after the date such amount is due and owing until paid by Lessee.

4.04 Real Property Taxes and Assessments; Personal Property Taxes: Real property taxes and special assessments, if any, payable with respect to the Site for each year during the term of this Agreement shall be paid by the Lessor. Lessee is a tax exempt organization. Lessor shall have no obligation for any personal property taxes with respect to the tower, buildings or any other personal property placed by Lessee on the site.

4.05 Effect of Lessee's Holding Over: Any holding over after the expiration of the term of this Agreement, with the consent of Lessor, shall be construed to be a tenancy from month-to-month, at the same monthly rental as required to be paid by Lessee for the period immediately prior to the expiration of the term of this Agreement, and shall otherwise be on the terms and conditions specified in this Agreement, so far as applicable.

Section 5 – Installations and Construction

5.01 Construction and Installation of the Site: Lessee shall, at its sole cost and expense, design, acquire, construct, and install upon or within the Tower Site, as identified by the site plan and specifications ("Tower Site Plan") as set forth in Exhibit D, attached hereto and incorporated by reference. The Tower Site shall in all respects be constructed in accordance with all

applicable rules and regulations of Douglas County, including but not limited to insurance requirements, and pursuant to building permit to be obtained by Lessee and according to the customary terms and conditions thereof, provided however, that wherever any such terms and conditions are inconsistent with this Agreement, then this Agreement shall control.

5.02 Installation:

A. Lessee shall not install any Tower Site improvements without the prior written review from, and written approval by, the Lessor or its designee, of the plans and specification for such Site and installation of electrical service. Such review and approval does not extend the technological specification for transmitting power, operating frequencies, filter pass-band and rejection characteristics, antenna model numbers and radiation patterns (both horizontal and vertical plane patterns), antenna height and location (collectively "Operation Specifications"); provided, however, that notice of such Operation Specifications and any alterations thereto will be provided to Lessor prior to implementation. It is understood by Lessee that Lessor has two existing towers located adjacent to the Tower Site and that the design, installation and erection of Lessee's Tower and facilities shall be coordinated to accommodate and protect the existing tower structures. Such review and approval, which cannot unreasonably be withheld, must be given no later than thirty (30) working days from the date such plans and specifications are submitted to Lessor.

B. Prior to the commencement of installation and construction of the Site, Lessee or its contractor shall obtain and pay for all required permits. Design and installation shall be done in a good and workmanlike manner, and shall be free of faults and defects. The Tower Site shall conform at a minimum with applicable statutes, ordinances, building codes, regulations, as amended.

5.03 Restoration of Damage to Site and Easements: All construction, maintenance and repair activities performed by Lessee shall be maintained within the Site, electric services access, and Access Easement, and upon completion of said activities, Lessee shall restore any disturbed ground to its original condition and use prior to Lessee's activities, which shall include contouring and stabilizing the surface of the ground and reseeding and mulching all disturbed areas with Douglas County's approved seed mix. Lessee shall also repair or replace any damaged improvements, including, but not limited to, fences, sprinkler systems and paved surfaces, and all damaged vegetation and trees shall be replaced.

5.04 Site Access: Lessee has the right of access, ingress to and egress from the Site, 7 days a week, 24 hours a day, for its employees, agents, suppliers of materials and furnishers of service, and its equipment, vehicles, machinery and other property necessary for the repair, maintenance, removal, installation or operation of the Site. Lessee shall be responsible for providing snow removal, if necessary. The perimeter of the Site shall be surrounded by an eight (8) foot high

chain link fence with a ten (10) foot gate and Lessee may undertake any other appropriate means to secure the Site at Lessee's expense.

Section 6 – Use and Operation

6.01 Compliance with Governmental Regulations: Both Lessor and Lessee shall, at all times, faithfully obey and comply with all existing and future laws, rules and regulations adopted by Federal, State, local and other governmental bodies and affecting Lessee and its operations and activities on the Site.

6.02 Care of Area; Repair and Maintenance:

A. Lessee agrees that it will keep the Site and Access Road, and installed equipment in a neat, clean, safe and sanitary and orderly condition at all times, and further agrees that it will keep such area free of all paper, rubbish, spills and debris. Accumulation of boxes, cartons, barrels or other similar items shall not be permitted within any area of the Site. Tools, test equipment, and work materials shall only be stored in such a manner as to not be unsightly. Further, Lessee agrees to perform noxious weed treatment and management adjacent to either side of the Access Road, at no cost to Lessor, during the term of this so long as this Agreement is in effect.

B. Lessee shall, at Lessee's expense, undertake and complete all routine maintenance, repair and replacement of the Site, Access Easement, Utility service related to the Site and any structures thereon and shall keep same in present condition, order and repair, or better, and in accordance with all applicable laws, ordinances, orders, rules and regulations of governmental authorities having jurisdiction.

6.03 Utilities: Lessee will provide access to utility companies for the installation of electrical service and maintenance, and repairs by Lessee shall be performed by or contracted for in Lessee's own name, shall be done promptly, in a good and workmanlike fashion, and without diminishing the present value of the Site. Lessee shall be responsible for the costs of installation of the electrical service to the Site. Lessee shall be responsible for utility usage costs for the Site.

6.04 Disposition of Improvements on Termination of Agreement: Upon termination of this Agreement for any cause, unless otherwise mutually agreed on between Lessor and Lessee, Lessee shall at its sole expense remove the tower and all buildings or improvements from the Site, and shall restore the property to the maximum extent reasonably possible to its condition immediately prior to the Commencement Date of this Lease.

6.05 Condition of Site at End of Term: Lessee agrees to deliver up and surrender to the Lessor possession of the Site at the expiration or termination of this Agreement in as good repair as the Lessee obtained the same at the commencement of said term, excepting only ordinary wear and tear.

Section 7 – Miscellaneous

7.01 Indemnification: Lessee cannot and by this Agreement does not agree to indemnify, hold harmless, exonerate or assume the defense of the Lessor or any other person or entity whatsoever for any purpose whatsoever.

7.02 No Waiver of Governmental Immunity Act: The parties hereto understand and agree that the Lessee, its commissioners, officials, officers, directors, agents and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101 to 120, C.R.S., as amended, or otherwise available to the Lessee.

7.03 Assignment: The parties agree that they will not assign or transfer any rights hereunder, either in whole or in part without the prior written approval of the other. Any attempt to assign or transfer any rights hereunder shall, at the option of the other party, void the assignment or automatically terminate this Agreement and all rights hereunder.

7.06 Governing Law; Venue: This Agreement shall be deemed to have been made in, and construed in accordance with the laws of the State of Colorado. Venue for any action hereunder shall be in the District Court, County of Douglas, State of Colorado. Lessor expressly waives the right to bring any action in or to remove any action to any other jurisdiction, whether state or federal.

7.07 Severability: In the event any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

7.08 No Third Party Beneficiaries: The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to Lessee and Lessor, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement.

7.09 Headings; Recitals: The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. The Recitals to this Agreement are incorporated herein.

7.10 Entire Agreement: The parties acknowledge and agree that the provisions contained herein constitute the entire agreement and that all representations made by any commissioner, official, officer, director, agent or employee of the respective parties unless included herein are null and void and of no effect. No alterations, amendments, changes or modifications to this Agreement, except those which are expressly reserved herein to the Authorized Representative,

shall be valid unless they are contained in writing and executed by all the parties with the same formality as this Agreement.

7.11 Insurance:

A. Lessee agrees to procure and maintain with insurers with an A- or better rating as determined by Best's Key Rating Guide, at its own expense, Commercial General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate. The policy will be applicable to all premises and operations. The policy will include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy will contain a severability of interests provision.

B. The required Commercial General Liability policy will name Lessor as a Certificate Holder and as an additional insured. A copy of the Certificates of Insurance shall be furnished to Lessor. Lessee and the insurer will endeavor to give Lessor thirty (30) days written notice before said policy is canceled.

C. The parties hereto understand and agree that Douglas County is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently \$350,000 per person and \$990,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Sections 24-10-101 *et seq.*, C.R.S., as from time to time amended, or otherwise available to Douglas County, its officers, or its employees.

7.12 Notices: Notices concerning termination of this Agreement, notices of alleged or actual violations of the terms or provisions of this Agreement, and all other notices shall be made as follows:

To the Lessor: Swank Family Properties LLC
Address: 4600 S. Syracuse Street, #900
Denver, CO 80237
Phone: 303-773-2000
E-mail: david@swanklawfirm.com

To the Lessee: Vicky Starkey, Director
Facilities, Fleet and Emergency Support Services
3026 N. Industrial Way
Castle Rock, CO 80109
Attn: Victoria Starkey

Phone: 303-660-7351
Email: vstarkey@douglas.co.us

Douglas County Sheriff's Office
Support Services Division
4000 Justice Way
Castle Rock, CO 80109
Attn: Captain
Phone: 303-814-7031

with a copy to: Douglas County Attorney's Office
100 Third Street
Castle Rock, CO 80104
Phone: (303) 660-74141
Email: attorney@douglas.co.us

Said notices shall be delivered personally during normal business hours to the appropriate office above, or by prepaid first class U.S. mail, via facsimile, electronic mail, or other method authorized in writing by the Authorized Representative. Mailed notices shall be deemed effective upon receipt or three (3) days after the date of mailing, whichever is earlier, facsimile and electronic mailed items shall be deemed effective upon sending. The parties may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed or delivered, but such substitutions shall not be effective until actual receipt of written notification.

7.13 Time of the Essence: Time is of the essence of this Agreement, and of each and every covenant, term, condition, and provision of this Agreement.

7.14 Waiver:

A. The waiver by either party of, or the failure of either party to take action with respect to, any breach of any term, covenant, or condition contained in this Agreement shall not be deemed to be a waiver of such term, covenant, or condition, or subsequent breach of the same, or any other term, covenant, or condition contained in this Agreement.

B. The subsequent acceptance of Rent under this Agreement by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant, or condition of this Agreement, other than the failure of Lessee to pay the particular rent so accepted, regardless of Lessor's knowledge of a preceding breach at the time of acceptance of Rent.

7.15 Default: In the event of any breach of this Agreement by Lessee, Lessor, in addition to the other rights or remedies it may have, shall have the immediate right of re-entry and may remove all persons and property from the Site. Should Lessor elect to re-enter, as provided in this Agreement, or should it take possession pursuant to legal proceedings or pursuant to any notice provided for by law, Lessor may terminate this Agreement at its sole discretion.

7.16 Force Majeure: No party shall be liable for failure to perform hereunder if such failure is the result of force majeure. Any time limit shall be extended for the period of any delay resulting from any force majeure, or this Agreement may be terminated if such delay makes performance of the Agreement impossible or impracticable. Force majeure shall mean causes beyond the reasonable control of a party such as, but not limited to, weather conditions, acts of God, strikes, work stoppages, unavailability of or delay in receiving labor or materials, faults by contractors, subcontractors, utility companies or third parties, fire or other casualty or action of government authorities.

7.17 Annual Appropriation: Any financial obligations of Lessee imposed by this Agreement shall be subject to annual appropriation of funds, pursuant to C.R.S. §29-1-110. In no event shall the Lessee be liable for payment under this Agreement for any amount in excess thereof. The Lessee is not under obligation to make any future apportionment or allocation to this Agreement. Any potential expenditure for this Agreement outside the current fiscal year is subject to future annual appropriation of funds for any such proposed expenditure.

7.18 Execution of Agreement: This Agreement is expressly subject to Lessor receiving approval from Douglas Land Conservancy that satisfactory arrangements or mitigations have been made to make the tower permissible pursuant to the Deed of Conservation Easement recorded on December 28, 2000 at Reception No. 00093735, as amended, in the Douglas County Clerk and Recorder's Office granted by Lessor, which Lessee acknowledges its awareness of. This Agreement is also expressly subject to the Lessee receiving approval by the Planning Commission pursuant to Lessee's submission of its application for a Location and Extent for the erection, operation and management of a 180 foot tall public safety radio communications tower within the Tower Site, or upon denial of such approval then subsequent approval by the Board of County Commissioners. In the event that any such approvals are not granted, Lessee shall have the right to terminate this Agreement. Any payments made to Lessor prior to such termination may be retained by Lessor. Neither party to this Agreement shall have any further obligations under this Agreement.

7.19 Counterparts: This Agreement may be signed in counterparts which, taken together shall constitute one document, to be effective upon the date first set forth above.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS

BY: Jill E. Repella
Jill E. Repella, Chair

DATE: _____

APPROVED AS TO CONTENT:

BY: oo
Douglas J. DeBord, County Manager

DATE: 3/27/15

APPROVED AS TO FISCAL CONTENT:

Andrew Copland
Andrew Copland
Director of Finance

DATE: 3/24/15

APPROVED AS TO LEGAL FORM:

G. Nicholas Pijoan
G. Nicholas Pijoan
Senior Assistant County Attorney

DATE: 3-23-15

EXHIBIT A

Legal Description of Property

A parcel of land located in the Southeast $\frac{1}{4}$ of Section 31, and the Southwest $\frac{1}{4}$ of Section 32, Township 10 South, Range 67 West of the 6th Principal Meridian, County of Douglas, State of Colorado.

EXHIBIT B

Site Legal Description

Sixth Principal Meridian, in the County of Douglas, State of Colorado, more particularly described as follows:

Commencing at the northwest corner of said northeast quarter of the southeast quarter of Section 31, whence the north line of said northeast quarter of the southeast quarter of Section 31 bears north 89°18'52" east. With all bearings herein being referenced to said north line;

Thence south 45°26'32" east, 492.80 feet to the point of beginning;

Thence south 14°06'15" east, 100.00 feet;

Thence south 75°53'45" west, 60.00 feet;

Thence north 14°06'15" west, 100.00 feet;

Thence north 75°53'45" east, 60.00 feet to the point of beginning.

Contains 0.138 acres or 6,000 square feet, more or less.

EXHIBIT C

Access Easement Legal Description

Use of the existing road, described as follows:

A strip of land 15.00 feet wide over that certain portion of the southeast quarter of Section 31 and the southwest quarter of Section 32, Township 10 South, Range 67 West, Sixth Principal Meridian, in the County of Douglas, state of Colorado, the centerline of said strip being more particularly described as follows:

Commencing at the northwest corner of the northeast quarter of the southeast quarter of said section 31, whence the north line of said northeast quarter of the southeast quarter of section 31 bears north 89°18'52" east, with bearings herein being referenced to said north line;

Thence south 45°26'32" east, 492.80 feet;

Thence south 14°06'15" east, 100.00 feet;

Thence north 75°53'45" east, 7.50 feet to the point of beginning;

Thence north 14°06'15" west, a distance of 132.46 feet to the beginning of a tangent curve concave southwesterly having a radius of 50.00 feet;

Thence northwesterly along said curve through a central angle of 72°51'12", an arc length of 63.58 feet;

Thence tangent to said curve, north 86°57'28" west, a distance of 60.52 feet;

Thence north 81°12'13" west, a distance of 38.62 feet to the beginning of a tangent curve concave southerly having a radius of 125.00 feet;

Thence westerly along said curve through a central angle of 45°03'09", an arc length of 98.29 feet;

Thence tangent to said curve, south 53°44'38" west, a distance of 31.62 feet to the beginning of a tangent curve concave northerly having a radius of 100.00 feet;

Thence westerly along said curve through a central angle of 55°23'50", an arc length of 96.69 feet;

Thence tangent to said curve, north 70°51'32" west, a distance of 81.69 feet to the beginning of a tangent curve concave southerly having a radius of 135.00 feet;

Thence westerly along said curve through a central angle of $17^{\circ}54'46''$, an arc length of 42.21 feet;

Thence tangent to said curve, north $88^{\circ}46'18''$ west, a distance of 34.44 feet to the beginning of a tangent curve concave northerly having a radius of 133.00 feet;

Thence westerly along said curve through a central angle of $12^{\circ}41'07''$, an arc length of 29.45 feet to the beginning of a reverse curve concave southerly having a radius of 72.30 feet;

Thence westerly along said curve through a central angle of $39^{\circ}50'18''$, an arc length of 50.27 feet to the beginning of a compound curve concave easterly having a radius of 22.50 feet;

Thence southerly along said curve through a central angle of $127^{\circ}20'13''$, an arc length of 50.01 feet;

Thence tangent to said curve, south $63^{\circ}15'42''$ east, a distance of 64.82 feet to the beginning of a tangent curve concave southwesterly having a radius of 270.00 feet;

Thence southeasterly along said curve through a central angle of $16^{\circ}23'27''$, an arc length of 77.24 feet;

Thence tangent to said curve, south $46^{\circ}52'15''$ east, a distance of 14.42 feet to the beginning of a tangent curve concave northeasterly having a radius of 220.00 feet;

Thence southeasterly along said curve through a central angle of $18^{\circ}21'48''$, an arc length of 70.51 feet;

Thence tangent to said curve, south $65^{\circ}14'03''$ east, a distance of 108.71 feet to the beginning of a tangent curve concave southwesterly having a radius of 50.00 feet;

Thence southeasterly along said curve through a central angle of $84^{\circ}54'09''$, an arc length of 74.09 feet;

Thence tangent to said curve, south $19^{\circ}40'07''$ west, a distance of 55.07 feet to the beginning of a tangent curve concave easterly having a radius of 210.00 feet;

Thence southerly along said curve through a central angle of $43^{\circ}00'01''$, an arc length of 157.60 feet to the beginning of a compound curve concave northeasterly having a radius of 117.00 feet;

Thence southeasterly along said curve through a central angle of $53^{\circ}52'43''$, an arc length of 110.02 feet to the beginning of a compound curve concave northerly having a radius of 240.00 feet;

Thence easterly along said curve through a central angle of $16^{\circ}00'48''$, an arc length of 67.08 feet;

Thence tangent to said curve, north 86°46'34" east, a distance of 37.30 feet to the beginning of a tangent curve concave southwesterly having a radius of 60.00 feet;

Thence southeasterly along said curve through a central angle of 89°00'37", an arc length of 93.21 feet to the beginning of a compound curve concave westerly having a radius of 230.00 feet;

Thence southerly along said curve through a central angle of 20°29'10", an arc length of 82.24 feet;

Thence tangent to said curve, south 16°16'22" west, a distance of 56.14 feet to the beginning of a tangent curve concave easterly having a radius of 400.00 feet;

Thence southerly along said curve through a central angle of 31°59'01", an arc length of 223.29 feet to the beginning of a reverse curve concave westerly having a radius of 340.00 feet;

Thence southerly along said curve through a central angle of 14°28'55", an arc length of 85.94 feet to the beginning of a reverse curve concave easterly having a radius of 190.00 feet;

Thence southerly along said curve through a central angle of 30°30'47", an arc length of 101.18 feet;

Thence tangent to said curve, south 30°52'21" east, a distance of 60.67 feet;

Thence south 37°10'47" east, a distance of 126.63 feet;

Thence south 33°07'11" east, a distance of 49.21 feet to the beginning of a tangent curve concave northeasterly having a radius of 110.00 feet;

Thence southeasterly along said curve through a central angle of 30°01'49", an arc length of 57.65 feet to the beginning of a reverse curve concave southwesterly having a radius of 430.00 feet;

Thence southeasterly along said curve through a central angle of 24°30'32", an arc length of 183.94 feet to the beginning of a reverse curve concave northerly having a radius of 56.00 feet;

Thence easterly along said curve through a central angle of 103°58'32", an arc length of 101.62 feet to the beginning of a compound curve concave westerly having a radius of 100.00 feet;

Thence northerly along said curve through a central angle of 37°52'10", an arc length of 66.09 feet;

Thence tangent to said curve, north 00°29'09" west, a distance of 57.93 feet to the beginning of a tangent curve concave easterly having a radius of 240.00 feet;

Thence northerly along said curve through a central angle of 20'02'44", an arc length of 83.97 feet to the beginning of a reverse curve concave westerly having a radius of 455.00 feet;

Thence northerly along said curve through a central angle of 27'12'58", an arc length of 216.13 feet to the beginning of a reverse curve concave southeasterly having a radius of 105.00 feet;

Thence northeasterly along said curve through a central angle of 79'44'26", an arc length of 146.13 feet to the beginning of a compound curve concave southerly having a radius of 52.50 feet;

Thence easterly along said curve through a central angle of 49'10'53", an arc length of 45.06 feet;

Thence tangent to said curve, south 58'44'05" east, a distance of 93.37 feet to the beginning of a tangent curve concave northerly having a radius of 135.00 feet;

Thence easterly along said curve through a central angle of 48'21'18", an arc length of 113.93 feet;

Thence tangent to said curve, north 72'54'37" east, a distance of 49.07 feet to the beginning of a tangent curve concave southwesterly having a radius of 70.00 feet;

Thence southeasterly along said curve through a central angle of 106'31'39", an arc length of 130.15 feet;

Thence tangent to said curve, south 00'33'44" east, a distance of 67.70 feet to the beginning of a tangent curve concave easterly having a radius of 350.00 feet;

Thence southerly along said curve through a central angle of 22'31'49", an arc length of 137.63 feet;

Thence south 23'05'33" east, a distance of 70.35 feet;

Thence south 23'12'09" east, a distance of 80.33 feet;

Thence south 37'13'11" east, a distance of 53.91 feet;

Thence south 45'57'44" east, a distance of 44.17 feet to the beginning of a tangent curve concave southwesterly having a radius of 95.00 feet;

Thence southeasterly along said curve through a central angle of 22'34'27", an arc length of 37.43 feet;

Thence tangent to said curve, south 23'23'17" east, a distance of 162.32 feet;

Thence south 30'23'39" east, a distance of 68.09 feet;

Thence south 33'10'16" east, a distance of 73.19 feet;

Thence south 25'16'40" east, a distance of 99.69 feet;

Thence south 36'01'14" east, a distance of 51.17 feet to the beginning of a tangent curve concave northerly having a radius of 50.00 feet;

Thence easterly along said curve through a central angle of 85'46'29", an arc length of 74.85 feet;

Thence tangent to said curve, north 58'12'17" east, a distance of 130.25 feet to the beginning of a tangent curve concave southerly having a radius of 350.00 feet;

Thence easterly along said curve through a central angle of 23'36'46", an arc length of 144.24 feet to the beginning of a compound curve concave southerly having a radius of 120.00 feet;

Thence easterly along said curve through a central angle of 13'04'24", an arc length of 27.38 feet to the beginning of a compound curve concave southwesterly having a radius of 50.00 feet;

Thence southeasterly along said curve through a central angle of 77'37'23", an arc length of 67.74 feet to the beginning of a reverse curve concave northeasterly having a radius of 55.00 feet;

Thence southeasterly along said curve through a central angle of 85'37'23", an arc length of 82.19 feet to the beginning of a compound curve concave northerly having a radius of 170.00 feet;

Thence easterly along said curve through a central angle of 17'45'45", an arc length of 52.70 feet;

Thence tangent to said curve, north 69'07'41" east, a distance of 124.93 feet;

Thence north 73'38'12" east, a distance of 63.52 feet;

Thence north 77'06'51" east, a distance of 81.44 feet;

Thence north 68'26'04" east, a distance of 36.65 feet;

Thence north 64'40'57" east, a distance of 55.13 feet to the beginning of a tangent curve concave southerly having a radius of 85.00 feet;

Thence easterly along said curve through a central angle of 39'52'19", an arc length of 59.15 feet;

Thence tangent to said curve, south 75'26'44" east, a distance of 32.48 feet to the beginning of a tangent curve concave northerly having a radius of 47.00 feet;

Thence easterly along said curve through a central angle of 65'49'57", an arc length of 54.00 feet;

Thence tangent to said curve, north 38'43'19" east, a distance of 48.38 feet to the beginning of a tangent curve concave southerly having a radius of 85.00 feet;

Thence easterly along said curve through a central angle of $68^{\circ}35'20''$, an arc length of 101.75 feet;

Thence tangent to said curve, south $72^{\circ}41'21''$ east, a distance of 59.61 feet to the beginning of a tangent curve concave northerly having a radius of 110.00 feet;

Thence easterly along said curve through a central angle of $70^{\circ}19'35''$, an arc length of 135.02 feet;

Thence tangent to said curve, north $36^{\circ}59'05''$ east, a distance of 21.51 feet to the beginning of a tangent curve concave southerly having a radius of 39.00 feet;

Thence easterly along said curve through a central angle of $103^{\circ}56'42''$, an arc length of 70.75 feet;

Thence tangent to said curve, south $39^{\circ}04'13''$ east, a distance of 28.35 feet to the beginning of a tangent curve concave westerly having a radius of 91.00 feet;

Thence southerly along said curve through a central angle of $53^{\circ}26'31''$, an arc length of 84.88 feet;

Thence tangent to said curve, south $14^{\circ}22'18''$ west, a distance of 48.52 feet to the beginning of a tangent curve concave northeasterly having a radius of 70.00 feet;

Thence southeasterly along said curve through a central angle of $120^{\circ}22'36''$, an arc length of 147.07 feet to the beginning of a compound curve concave northwesterly having a radius of 131.00 feet;

Thence northeasterly along said curve through a central angle of $63^{\circ}25'42''$, an arc length of 145.02 feet;

Thence tangent to said curve, north $09^{\circ}53'11''$ east, a distance of 52.79 feet to the beginning of a tangent curve concave southeasterly having a radius of 90.00 feet;

Thence northeasterly along said curve through a central angle of $37^{\circ}00'41''$, an arc length of 58.14 feet to the beginning of a compound curve concave southerly having a radius of 70.00 feet;

Thence easterly along said curve through a central angle of $81^{\circ}13'21''$, an arc length of 99.23 feet;

Thence tangent to said curve, south $51^{\circ}52'46''$ east, a distance of 67.02 feet;

Thence south $43^{\circ}32'48''$ east, a distance of 66.92 feet to the beginning of a tangent curve concave northerly having a radius of 45.00 feet;

Thence easterly along said curve through a central angle of $74^{\circ}06'36''$, an arc length of 58.21 feet;

Thence tangent to said curve, north 62'20'36" east, a distance of 45.95 feet to the beginning of a tangent curve concave southerly having a radius of 40.00 feet;

Thence easterly along said curve through a central angle of 80'50'44", an arc length of 56.44 feet to the beginning of a compound curve concave westerly having a radius of 25.00 feet;

Thence southerly along said curve through a central angle of 32'49'16", an arc length of 14.32 feet to the beginning of a compound curve concave northwesterly having a radius of 51.00 feet;

Thence southwestery along said curve through a central angle of 60'17'55", an arc length of 53.67 feet to the beginning of a compound curve concave northerly having a radius of 146.00 feet;

Thence westerly along said curve through a central angle of 32'53'46", an arc length of 83.83 feet;

Thence tangent to said curve, south 89'12'18" west, a distance of 48.81 feet to the beginning of a tangent curve concave easterly having a radius of 29.50 feet;

Thence southerly along said curve through a central angle of 167'03'46", an arc length of 86.02 feet;

Thence tangent to said curve, south 77'51'28" east, a distance of 78.69 feet;

Thence south 75'06'23" east, a distance of 140.93 feet;

Thence south 81'06'47" east, a distance of 62.49 feet to the beginning of a tangent curve concave southwestery having a radius of 43.00 feet;

Thence southeasterly along said curve through a central angle of 45'31'47", an arc length of 34.17 feet to the beginning of a compound curve concave southwestery having a radius of 82.00 feet;

Thence southeasterly along said curve through a central angle of 19'19'49", an arc length of 27.66 feet to the northerly boundary of the land described in the Access Easement recorded March 10, 1982 in Book 3540 at Page 716, in the Office of the Clerk and Recorder of said County and the point of terminus of said strip.

The sidelines of said strip of land are to be prolonged or shortened so as to terminate southerly at said northerly boundary of the land described in the Access Easement recorded March 10, 1982 in Book 3540 at Page 716.

Containing an area of 2.730 acres or 118,936 square feet, more or less.

Grantor also licenses to Grantee the use of the access road as described in an Access Easement dated April 24, 1994, recorded at Book 6436, Page 1449, and in an Access Easement dated

January 25, 1982, recorded in Book 3540, Page 716, both in the records of El Paso County, Colorado.

Grantee shall not block and shall permit access on and across the existing road as it crosses Grantee's site. This easement shall extend for the term of the Ground Lease and continue for so long as said Ground Lease is in force and has not expired. Said easement shall revert to Grantor upon abandonment by the Grantee.

EXHIBIT D

Site Plan

