



**TO:** Denver Neighborhoods and Planning Committee  
**FROM:** Curt Upton, Senior City Planner  
**DATE:** April 21, 2016  
**RE:** Official Zoning Map Amendment Application #2015I-00167  
3515 S. Tamarac Dr., 3525 S. Tamarac Dr., 3535 S. Tamarac Dr., and 3545 S. Tamarac Dr.  
Rezoning from B-1 and B-3 to S-MX-3

## Staff Report and Recommendation

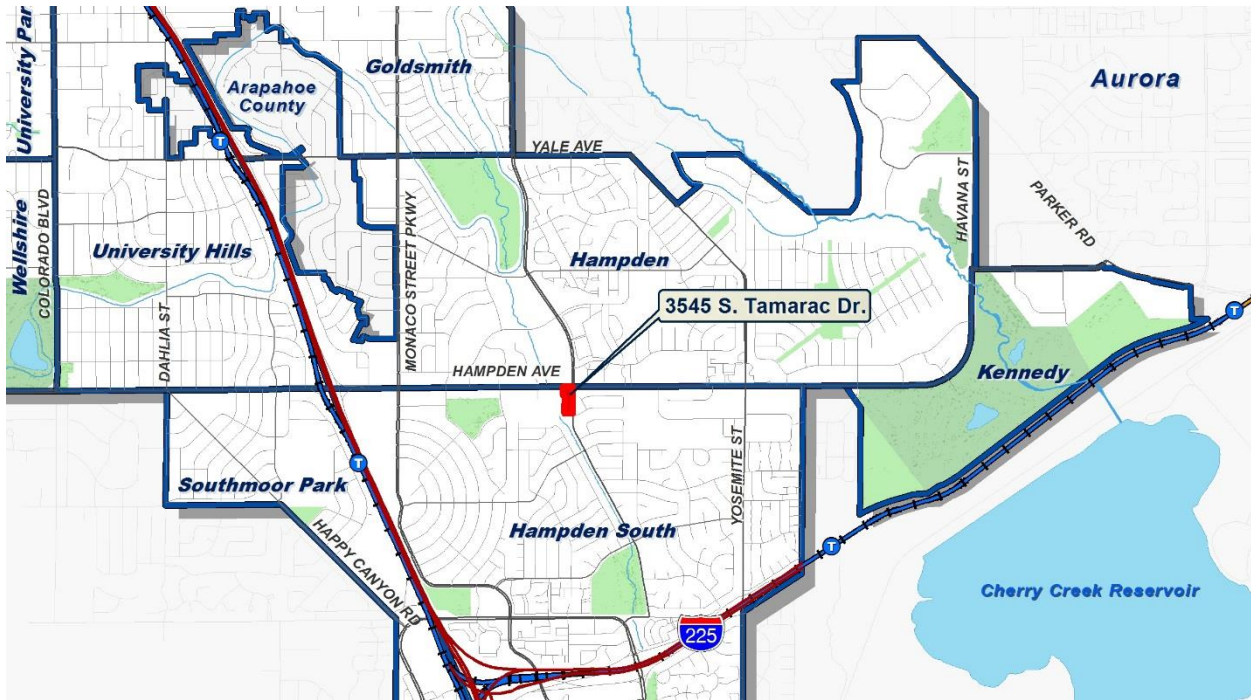
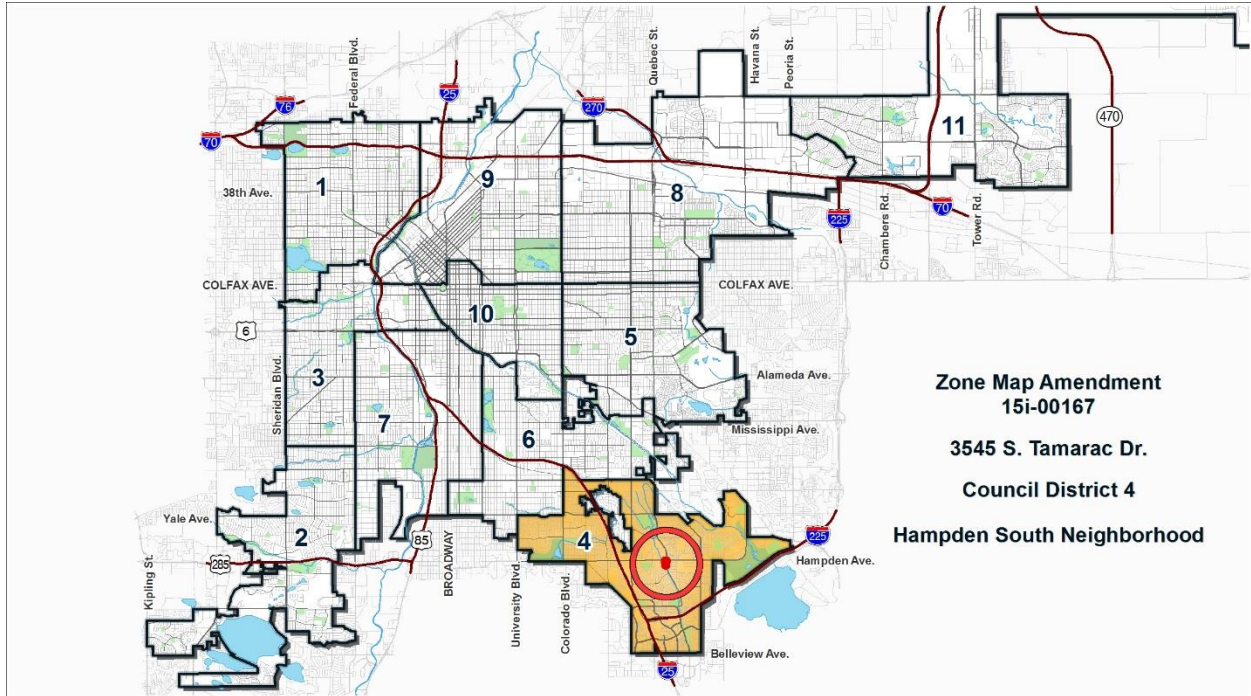
Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2015I-00167 for a rezoning from B-1 and B-3 to S-MX-3.

## Request for Rezoning

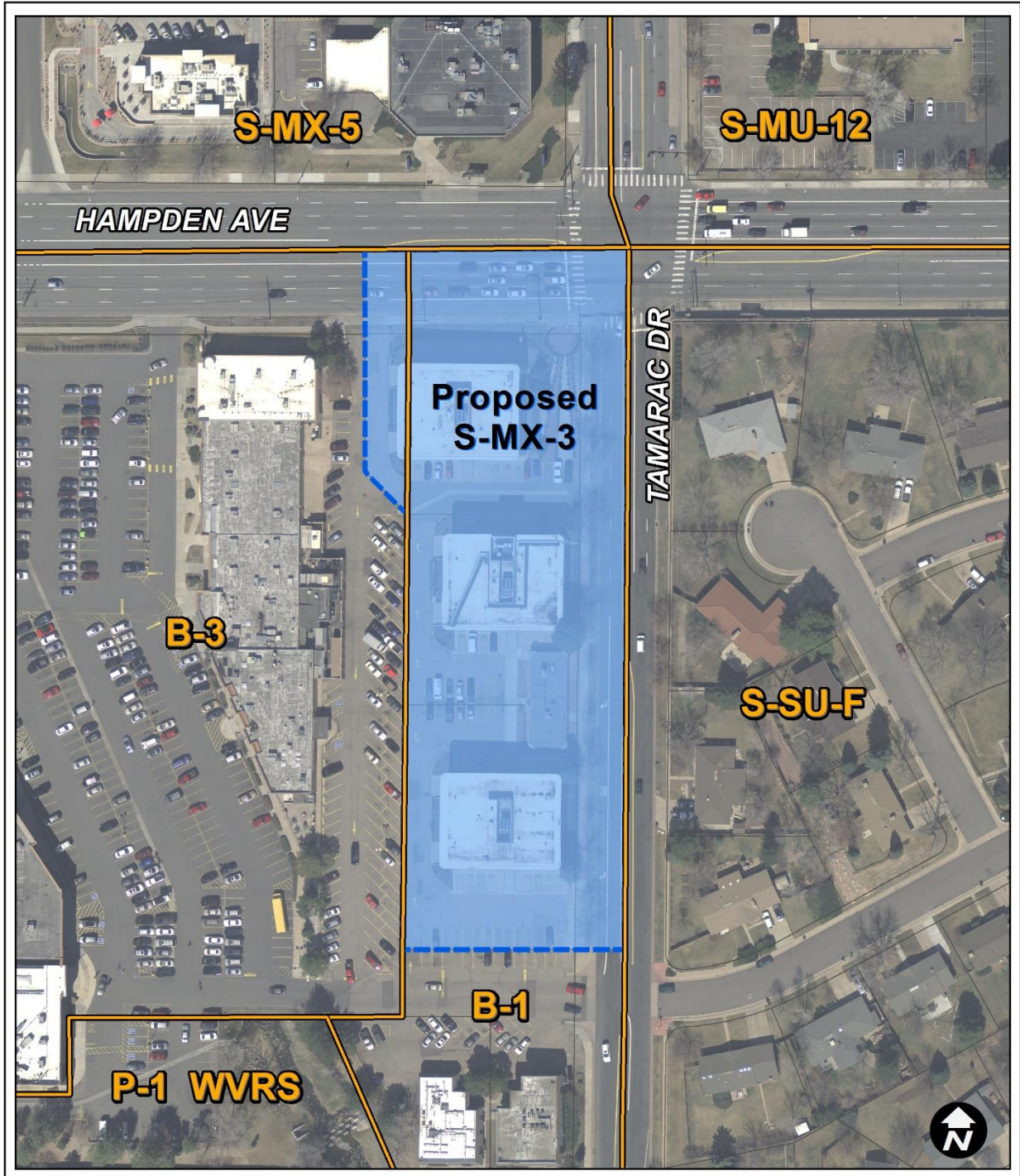
Application:	#2015I-00167
Address:	3515, 3525, 3535, and 3545 S. Tamarac Dr.
Neighborhood/Council District:	Hampden South / Council District 4
RNOs:	Denver Neighborhood Association, Inc.; Inter-Neighborhood Cooperation (INC); Southmoor Park South Neighborhood Association, & Hutchinson Hills/Willow Point Homeowners, Inc.
Area of Property:	+/- 1.72 acres
Current Zoning:	B-1 and B-3
Proposed Zoning:	S-MX-3
Property Owner(s):	Maxsam Capital Corporation
Owner Representative:	John Heiberger

## Summary of Rezoning Request

- The subject property is located in the Hampden South Statistical Neighborhood, near the intersection of Hampden Ave. and Tamarac Dr. The site is currently occupied by three 3-story office buildings and one 1-story office building.
- The site is zoned Former Chapter 59 B-1 (Business District) and a small sliver is B-3. The zoning encourages commercial uses, with B-1 allowing fewer uses compared to B-3. The maximum Floor Area Ratio is 1:1 for both districts.
- The property owner is requesting a rezoning to change the mix of uses allowed on the site and facilitate redevelopment.
- The requested S-MX-3 zone district is in the Suburban Neighborhood Context, allowing a **Mix** of uses, up to **3** stories in height.
- Further details of the zone district can be found in Article 3 of the Denver Zoning Code (DZC).



**Proposed Rezoning**



## Existing Context

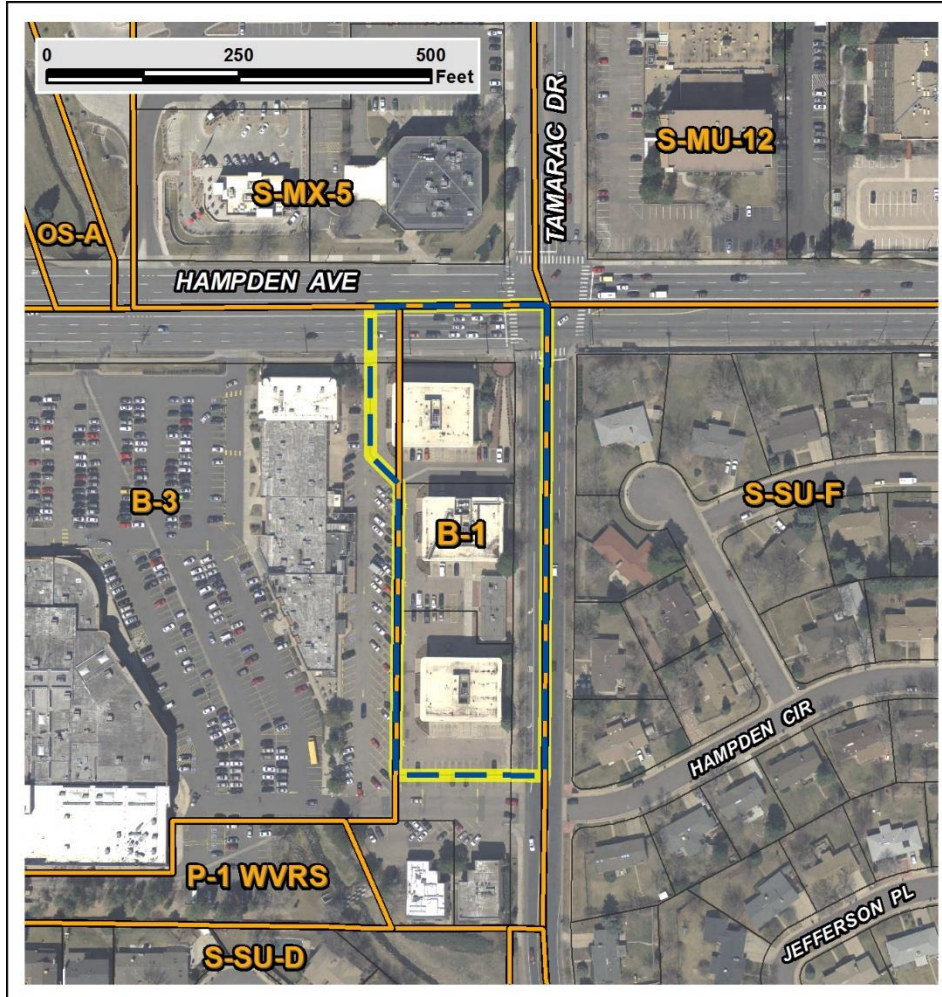


The property is located on the corner of Hampden Ave. and Tamarac Dr. Three office buildings are located on the site, three 3-story and one single-story with surface parking. Conventional suburban character surrounds the site, with a single family cul-de-sac subdivision to the east, a 3-story suburban-scaled courtyard apartment building to the south and auto-oriented retail centers to the north and west.

The following table summarizes the existing context proximate to the subject site:

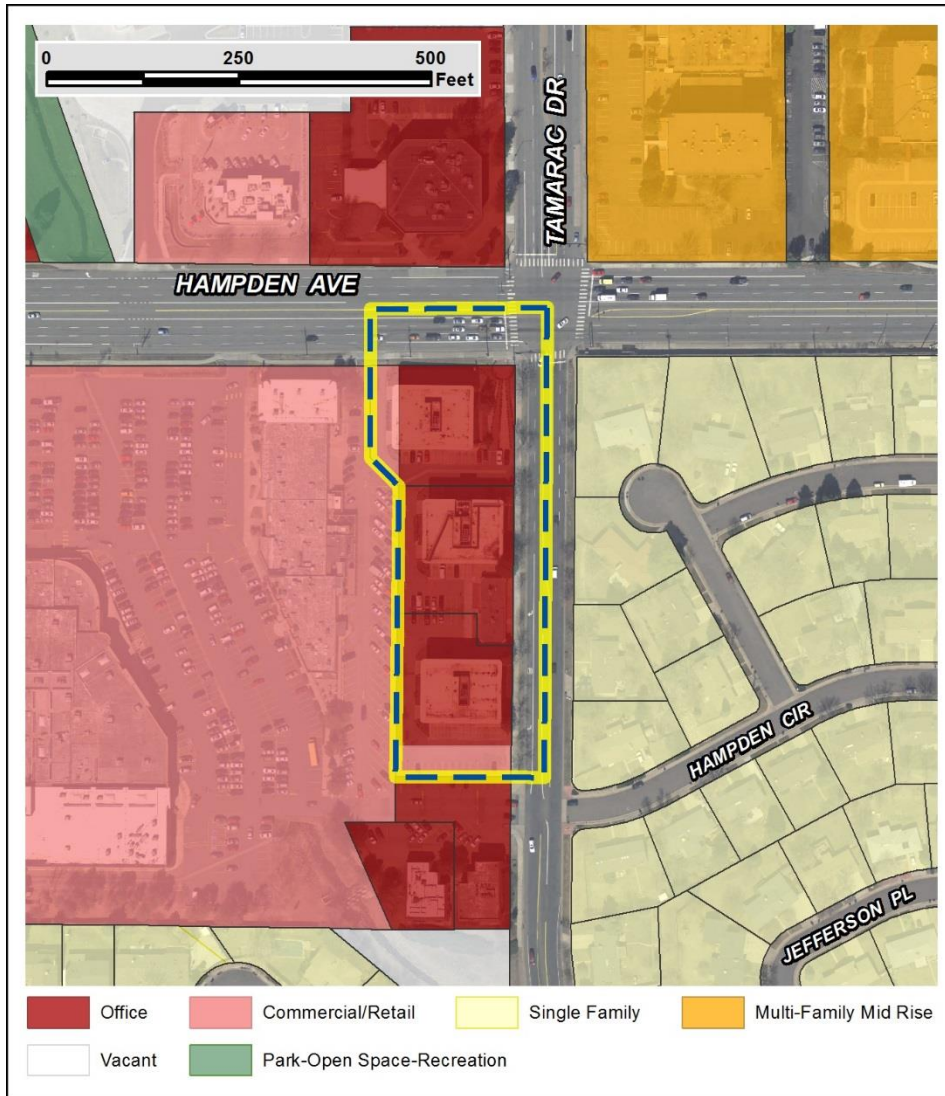
	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	B-1, B-3	Office	3-story and 1-story office buildings. Surface and underground parking.	Conventional suburban lot and block patterns. Auto-oriented collector and arterial streets; curvilinear local streets with cul-de-sacs and elongated blocks. A pedestrian trail runs northwest / southeast along with Goldsmith Gulch greenway.
North	S-MX-5	Retail	One story suburban big box and drive through bank branch and fast food buildings.	
South	B-1	Multi-family residential	3 story courtyard-style suburban apartment building with surface parking.	
East	S-SU-F	Single family residential	Suburban single family subdivision with cul-de-sacs and front loaded garages	
West	B-3	Retail	Suburban 1-story retail center with large anchor and strip buildings and surface parking.	

## 1. Existing Zoning



The current zoning applied to the site and the adjacent property to the south is B-1, a Former Chapter 59 zone district that encourages low to medium intensity commercial uses with a maximum floor area ratio of 1:1. B-3, a more intensive Former Chapter 59 commercial district, covers a small portion of the northwest corner of the site as well as the retail shopping center to the west. The site remained in the Former Chapter 59 because it is subject to the Hampden Executive Plaza North Planned Building Group (PBG). The boundary of the PBG coincides with the boundary of the area to be rezoned. If this rezoning is approved, the PBG can be wholly rescinded with no effect on adjacent properties, which are located in different PBGs. Property to the east is zoned S-SU-F, a single unit zone district in the suburban context with an 8,500 square foot minimum lot size. Property to the north of the subject site is zoned S-MX-5, a suburban mixed use zone district allowing up to five stories, and S-MU-12, a suburban multi-unit residential zone district allowing up to 12 stories.

## 2. Existing Land Use Map



**3. Existing Building Form and Scale**



Subject Site, looking west



Subject Site, looking north





Subject Site, looking east



Subject Site, looking south

## **Summary of City Agency Referral Comments**

As part of the DZC review process, the rezoning application is referred to potentially affected city agencies and departments for comment. A summary of agency referral responses follows:

**Development Services:** Approved - Will require additional information at Site Plan Review

**Asset Management:** Approved - No Comments

**Environmental Health** – Approved; Notes: DEH concurs with the proposed zoning change. The Denver Department of Environmental Health (DEH) has information indicating the presence of a Superfund site at the property and surrounding area. Under oversight by the U.S. Environmental Protection Agency, the majority of the site was cleaned up and conditions are protective of human health and the environment. Contaminated soils in residential yards were excavated and disposed off-site where necessary and institutional controls have been implemented for the remaining few residential properties where access was not granted.

General Notes: Most of Colorado is high risk for radon, a naturally occurring radioactive gas. Due to concern for potential radon gas intrusion into buildings, DEH suggests installation of a radon mitigation system in structures planned for human occupation or frequent use. It may be more cost effective to install a radon system during new construction rather than after construction is complete.

Scope & Limitations: DEH performed a limited search for information known to DEH regarding environmental conditions at the subject site. This review was not intended to conform to ASTM standard practice for Phase I site assessments, nor was it designed to identify all potential environmental conditions. In addition, the review was not intended to assess environmental conditions for any potential right-of-way or easement conveyance process. The City and County of Denver provides no representations or warranties regarding the accuracy, reliability, or completeness of the information provided.

**City Surveyor** – Approved; – No Comments

## **Public Review Process**

- CPD staff provided informational notice of receipt of the rezoning application to affected members of City Council and registered neighborhood organizations (RNOs) on February 5, 2016.
- The property has been legally posted for a period of 15 days announcing the May 4th, 2016, Denver Planning Board public hearing, and written notification of the hearing has been sent to all affected registered neighborhood organizations and City Council members.
- Following Planning Board review, the rezoning application will be referred to the Neighborhoods and Planning (PLAN) Committee of the City Council for review at a public meeting. The PLAN Committee meeting is tentatively scheduled for June 22, 2016.
- Following the Neighborhoods and Planning Committee review, the rezoning application is typically referred to the full City Council for final action at a public hearing.
- The RNOs identified on page 1 were notified of this application.
- At the time of this staff report, no public comment had been received.

## **Criteria for Review / Staff Evaluation**

The criteria for review of this rezoning application are found in DZC, Sections 12.4.10.7 and 12.4.10.8, as follows:

### **DZC Section 12.4.10.7**

1. Consistency with Adopted Plans
2. Uniformity of District Regulations and Restrictions
3. Public Health, Safety and General Welfare

### **DZC Section 12.4.10.8**

1. Justifying Circumstances
2. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

## **1. Consistency with Adopted Plans**

The following adopted plans apply to this property:

- *Denver Comprehensive Plan 2000*
- *Blueprint Denver (2002)*

### **Denver Comprehensive Plan 2000**

The proposal is consistent with many *Denver Comprehensive Plan 2000* strategies, including:

- Environmental Sustainability Strategy 2-F – Conserve land by: promoting infill development within Denver at sites where services and infrastructure are already in place and designing mixed-use communities and reducing sprawl, so that residents can live, work and play within their own neighborhoods.
- Land Use Strategy 3-B – Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses;
- Legacies Strategy 3-A - Identify areas in which increased density and new uses are desirable and can be accommodated.
- Mobility Strategy 4-E – Continue to promote mixed-use development, which enables people to live near work, retail and services. (pg 78)

The proposed map amendment will enable mixed-use development at an infill location where services and infrastructure are already in place and at a scale that is consistent with the surrounding context. The mixed use proposal will also facilitate additional opportunities for live, work, and play within the neighborhood and support commercial activity along an arterial corridor.

### **Blueprint Denver**

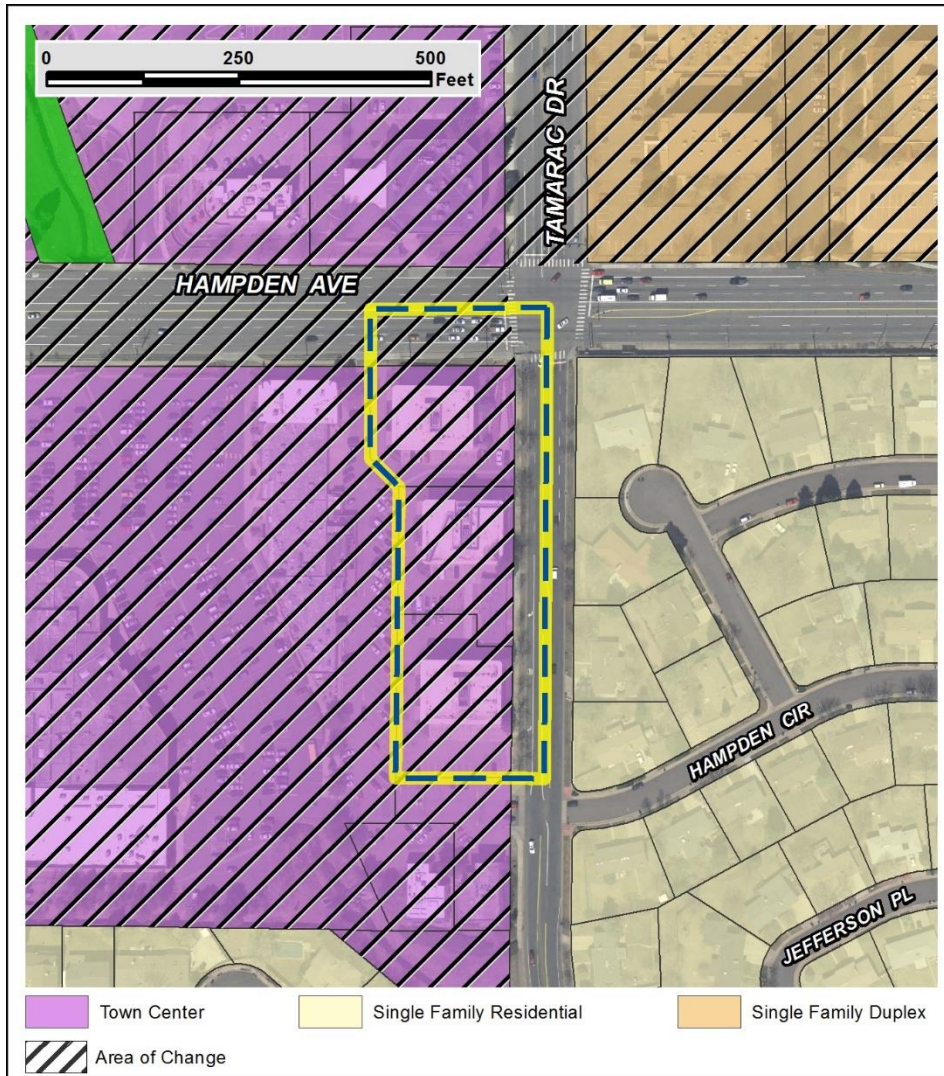
According to the 2002 Plan Map adopted in *Blueprint Denver*, this site has a concept land use of Town Center and is located within an Area of Change.

### **Future Land Use**

According to *Blueprint Denver*, Town Centers meet a variety of shopping, entertainment, service and employment needs and are large enough to serve several neighborhoods. They also contain unique services that attract people from across the city. Unlike many shopping centers and malls, town centers should be pedestrian-friendly places that are focal points of nearby neighborhoods. Urban design features such as plazas, landscaping, small parks and civic features contribute to making these places focal points of community activity (p. 43).

The proposed Map Amendment is consistent with *Blueprint Denver's* recommendations for the Town Center concept land use, as the S-MX-3 zone district will encourage mixed use development, such as retail, entertainment, and office with pedestrian friendly design features.

### 2002 Blueprint Denver Future Land Use Map



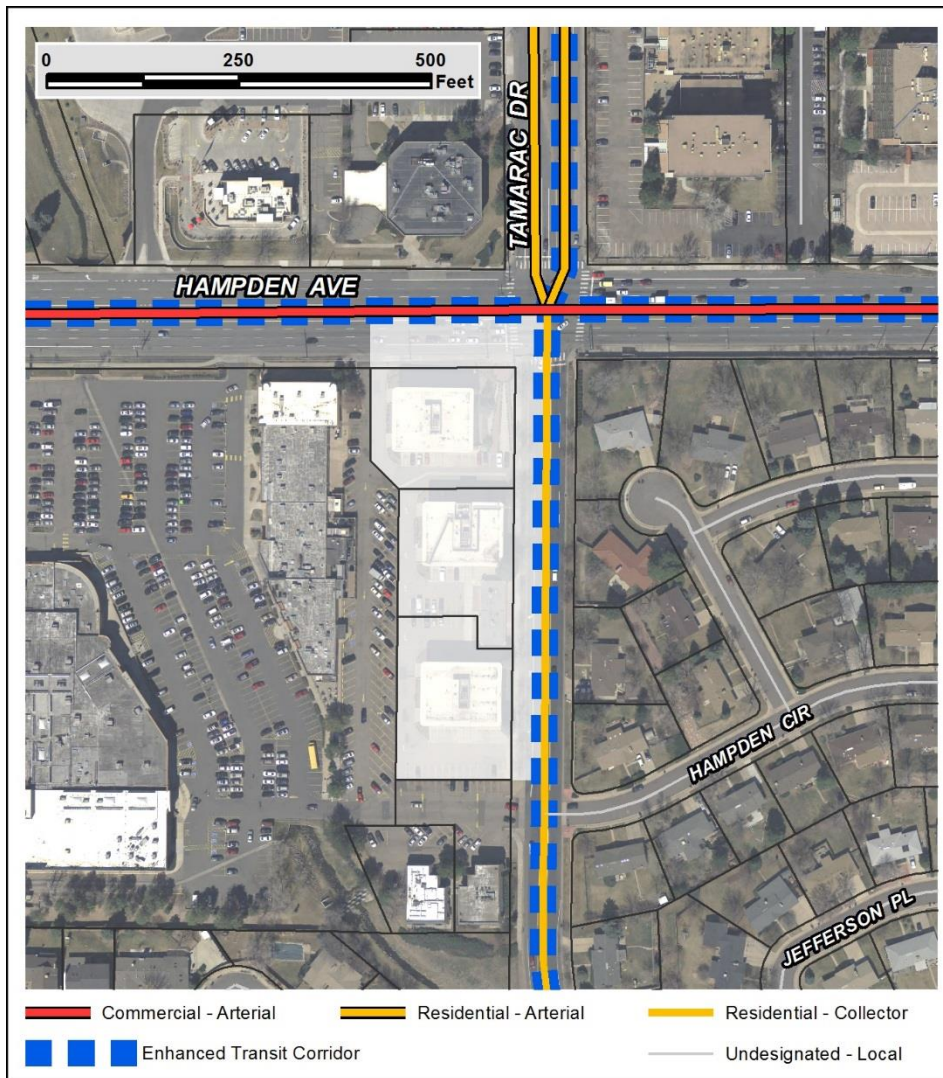
### Area of Change

According to Blueprint Denver, the purpose of Areas of Change is to “channel growth where it will be beneficial and can best improve access to jobs, housing and services with fewer and short auto trips. Areas of Change are parts of the city where most people agree that development or redevelopment would be beneficial” (p.127). In the Hampden commercial corridor Area of Change, there is “modest potential to add urban residential and a more mixed-use town center at Hampden and Tamarac. Most notable was a concept to better organize access and parking to serve each block of strip commercial, thereby making it

possible to add sidewalks and landscaping. This also would create a more attractive business environment” (p. 140).

The Map Amendment application is consistent with *Blueprint Denver’s* Area of Change recommendations, as the proposed rezoning will encourage redevelopment in the form of mixed use development with pedestrian friendly elements.

### Street Classifications



According to Blueprint Denver, Hampden Avenue has a concept street classification of Commercial Arterial. Commercial streets serve commercial areas that contain many small retail strip centers with buildings set back behind front parking lots. They have many intersections and access points, so they often become congested (p. 58). Adjacent to this site, Tamarac Drive is a Residential Collector.

“Residential Streets tend to be more pedestrian-oriented and give a higher priority to landscaped medians, tree lawns, sidewalks, on-street parking and bicycle lanes” (p. 55). In addition, both Hampden Avenue and Tamarac Drive are designated Enhanced Transit Corridors. These corridors are recommended for “enhanced bus transit services such as higher frequency bus service, BRT and priorities for intelligent transportation systems (ITS) investments (including bus priority signalization)” (p. 98)

The Map Amendment application is consistent with *Blueprint Denver’s* recommendations for Commercial-Arterial, Residential-Collector and Enhanced Transit Corridors, as the proposed zone district will encourage higher intensity, mixed use development with pedestrian oriented street frontages.

## **2. Uniformity of District Regulations and Restrictions**

The proposed rezoning to S-MX-3 will result in the uniform application of zone district building form, use, and design regulations.

## **3. Public Health, Safety and General Welfare**

The proposed official map amendment furthers the public health, safety, and general welfare of the City primarily through the implementation of the City’s adopted plans.

## **4. Justifying Circumstance**

The application identifies changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.8.A.4, “The land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area.” Several properties in the area have redeveloped over the past few years, including the Tamarac Square Mall across the street to the north and Tiffany Plaza immediately to the west. In addition, the property is approximately 1 mile from two light rail stations, which enhance multi-modal access and create opportunities for new development patterns. In addition, some of the properties surrounding the site have been rezoned to the new Denver Zoning Code, including S-MX-5 across Hampden Dr. to the north. The adoption of the new zoning code and the availability of the S-MX zone districts provides a new opportunity to rezone the property and further encourage the mixed use destination envisioned in Blueprint Denver.

## **5. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements**

### Neighborhood Context Description

The requested zone district is within the Suburban Neighborhood Context, which consists of single and multi-unit residential and mixed-use commercial strips, town centers, and office development. Development in this context has a higher reliance on the automobile but still includes access to multimodal transportation facilities. Hampden Avenue is considered an enhanced transit corridor and

the subject site is proximate to connecting corridors to both Southmoor and Dayton Light Rail Stations.

#### Zone District Purpose and Intent

According to the general purpose stated in the Denver Zoning Code, Mixed Use zone districts are intended to promote safe, active, pedestrian-scaled, diverse areas. They are also intended to ensure new development contributes positively to established residential neighborhoods and character, and improves the transition between commercial development and adjacent residential neighborhoods. In particular, the S-MX-3 district applies to areas or intersections served primarily by collector or arterial streets where a building scale of 1 to 3 stories is desired. The S-MX-3 district matches the suburban neighborhood context of the surrounding area and will be applied along a collector and an arterial street.

#### **Staff Recommendation**

Based on the analysis set forth above, CPD staff finds that the application for rezoning the property located at 3515, 3525, 3535, and 3545 S. Tamarac Dr. (#2015I-00167) to the S-MX-3 zone district meets the requisite review criteria. Accordingly, staff recommends approval of the rezoning.

#### **Planning Board Recommendation**

Following the public hearing, the Planning Board Voted to recommend that the Denver City Council approve the rezoning application.

#### **Attachments**

1. Application



## Zone Map Amendment (Rezoning) - Application

PROPERTY OWNER INFORMATION*		PROPERTY OWNER(S) REPRESENTATIVE**	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input checked="" type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
Property Owner Name	CVS 10831 CO, L.L.C.	Representative Name	John Heiberger, P.E.
Address	501 Pennsylvania Pkwy, Suite 160	Address	4582 South Ulster Street, Suite 1500
City, State, Zip	Indianapolis, IN 46280	City, State, Zip	Denver, CO, 80237
Telephone	317-705-8800	Telephone	(303) 228-2314
Email	ajbarbato@tmcrowley.com	Email	john.heiberger@kimley-horn.com
<p><b>*If More Than One Property Owner:</b>            All standard zone map amendment applications shall be initiated by all the owners of at least 51% of the total area of the zone lots subject to the rezoning application, or their representatives authorized in writing to do so. See page 3.</p>		<p><b>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</b></p>	
Please attach Proof of Ownership acceptable to the Manager for each property owner signing the application, such as (a) Assessor's Record, (b) Warranty deed or deed of trust, or (c) Title policy or commitment dated no earlier than 60 days prior to application date.			
SUBJECT PROPERTY INFORMATION			
Location (address and/or boundary description):	3515 S. Tamarac Dr., 3525 S. Tamarac Dr., 3535 S. Tamarac Dr., 3545 S. Tamarac Dr.		
Assessor's Parcel Numbers:	070420003800, 0704200018000, 0704200039000		
Area in Acres or Square Feet:	1.968 AC (85,713 SQ. FT.) more or less		
Current Zone District(s):	B-1		
PROPOSAL			
Proposed Zone District:	S-MX-3		
Does the proposal comply with the minimum area requirements specified in DZC Sec. 12.4.10.3:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	

REVIEW CRITERIA	
<p>General Review Criteria: The proposal must comply with all of the general review criteria DZC Sec. 12.4.10.7</p>	<input checked="" type="checkbox"/> Consistency with Adopted Plans: The proposed official map amendment is consistent with the City's adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of adoption of the City's Plan.  Please provide an attachment describing relevant adopted plans and how proposed map amendment is consistent with those plan recommendations; or, describe how the map amendment is necessary to provide for an unanticipated community need.
	<input checked="" type="checkbox"/> Uniformity of District Regulations and Restrictions: The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.
	<input checked="" type="checkbox"/> Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety, and general welfare of the City.
<p>Additional Review Criteria for Non-Legislative Rezoning: The proposal must comply with both of the additional review criteria DZC Sec. 12.4.10.8</p>	<p><b>Justifying Circumstances - One of the following circumstances exists:</b></p> <input type="checkbox"/> The existing zoning of the land was the result of an error. <input type="checkbox"/> The existing zoning of the land was based on a mistake of fact. <input type="checkbox"/> The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage. <input checked="" type="checkbox"/> The land or its surroundings has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area to recognize the changed character of the area. <input type="checkbox"/> It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (Overlay Zone Districts), of this Code.
	<p>Please provide an attachment describing the justifying circumstance.</p>
	<input checked="" type="checkbox"/> The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District.  Please provide an attachment describing how the above criterion is met.

## REQUIRED ATTACHMENTS

Please ensure the following required attachments are submitted with this application:

- Legal Description (required to be attached in Microsoft Word document format)
- Proof of Ownership Document(s)
- Review Criteria

## ADDITIONAL ATTACHMENTS

Please identify any additional attachments provided with this application:

- Written Authorization to Represent Property Owner(s)

Please list any additional attachments:

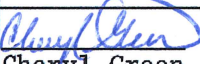


# REZONING GUIDE

Rezoning Application Page 3 of 3

## PROPERTY OWNER OR PROPERTY OWNER(S) REPRESENTATIVE CERTIFICATION/PETITION

We, the undersigned represent that we are the owners of the property described opposite our names, or have the authorization to sign on behalf of the owner as evidenced by a Power of Attorney or other authorization attached, and that we do hereby request initiation of this application. I hereby certify that, to the best of my knowledge and belief, all information supplied with this application is true and accurate. I understand that without such owner consent, the requested official map amendment action cannot lawfully be accomplished.

Property Owner Name(s) (please type or print legibly)	Property Address City, State, Zip Phone Email	Property Owner Interest % of the Area of the Zone Lots to Be Rezoned	Please sign below as an indication of your consent to the above certification statement (must sign in the exact same manner as title to the property is held)	Date	Indicate the type of ownership documentation provided: (A) Assessor's record, (B) warranty deed or deed of trust, (C) title policy or commitment, or (D) other as approved	Property owner representative written authorization? (YES/NO)
<b>EXAMPLE</b> John Alan Smith and Josie Q. Smith	123 Sesame Street Denver, CO 80202 (303) 555-5555 sample@sample.gov	100%	<i>John Alan Smith</i> <i>Josie Q. Smith</i>	01/01/12	(A)	NO
CVS 10831 CO, L.L.C	3515, 3525 3535, 3545 S. Tamarac Drive	100%	 Cheryl Green, Assistant Secretary	01/05/16	(c)	NO

Last updated: February 4, 2015

Return completed form to [rezoning@denvergov.org](mailto:rezoning@denvergov.org)

**311** FOR INFORMATION & CITY SERVICES

201 W. Colfax Ave., Dept. 205

Denver, CO 80202

720-865-2974 • [rezoning@denvergov.org](mailto:rezoning@denvergov.org)



**CVS 10831 CO, L.L.C.  
CERTIFICATE OF INCUMBENCY AND AUTHORIZATION**

I, Melanie K. Luker, being the duly elected and acting Assistant Secretary of CVS Pharmacy, Inc., sole member of CVS 10831 CO, L.L.C., a Delaware limited liability company (the "Company"), do hereby certify that the individual listed below holds the title set forth opposite her name, and that she has been duly authorized to execute and deliver documents on behalf of the Company, including without limitation documents relating to the purchase, sale or lease of real estate located in the State of Colorado.

<u>Name</u>	<u>Title</u>
Cheryl A. Green	Assistant Secretary

IN WITNESS WHEREOF, the undersigned has executed this certificate on behalf of the Company this 2<sup>nd</sup> day of February, 2016.

CVS 10831 CO, L.L.C.  
CVS Pharmacy, Inc.

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Melanie K Luker  
Assistant Secretary

CVS 10831 CO, L.L.C.  
c/o CVS Health  
One CVS Drive  
Woonsocket, RI 02895  
Attn: Property Administration Store 10831

January 4, 2016

TO: City and County of Denver, CO

RE: **3515, 3525, 3535 & 3545 S. Tamarac Drive, Denver, Colorado (the "Property")**

By its signature below, CVS 10831 CO, L.L.C., as owner of the subject property, hereby gives its consent to:

Kimley-Horn and Associates, Inc.  
and  
TM Crowley & Associates

To act as its agent with respect to applications, permits and approvals relating to the subject Property.

**CVS 10831 CO, L.L.C.,**  
a Colorado limited liability company

By:   
Cheryl Green, Assistant Secretary

CVS Legal Approval:  
Daniel Monger, Hinckley, Allen & Snyder LLP

## Legal Description

A PARCEL OF LAND BEING A PART OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 5 SOUTH, RANGE 67 WEST OF THE 6 TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 4, AND CONSIDERING THE NORTH LINE OF SAID NORTHWEST QUARTER TO BEAR NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, AS SHOWN HEREON; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 1326.64 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 4, SAID POINT ALSO BEING ON THE NORTHERLY EXTENSION OF THE WESTERLY RIGHT-OF-WAY OF SOUTH TAMARAC DRIVE; THENCE SOUTH 00 DEGREES 46 MINUTES 02 SECONDS WEST ALONG THE EAST LINE OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER AND ALONG SAID WESTERLY RIGHT-OF-WAY EXTENSION, A DISTANCE OF 70.01 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF HAMPDEN AVENUE AS DESCRIBED IN THE OFFICE OF THE CITY AND COUNTY OF DENVER RECORDS IN DEED RECORDED IN BOOK 1214 AT PAGE 371; THENCE CONTINUING SOUTH 00 DEGREES 46 MINUTES 02 SECONDS WEST ALONG SAID EAST LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER AND THE WESTERLY RIGHT-OF-WAY OF SAID SOUTH TAMARAC DRIVE, A DISTANCE OF 537.28 FEET; THENCE NORTH 89 DEGREES 56 MINUTES 34 SECONDS WEST, A DISTANCE OF 150.01 FEET; THENCE NORTH 00 DEGREES 46 MINUTES 02 SECONDS EAST A DISTANCE OF 379.88 FEET; THENCE NORTH 44 DEGREES 33 MINUTES 48 SECONDS WEST, A DISTANCE OF 52.00 FEET; THENCE NORTH 00 DEGREES 46 MINUTES 02 SECONDS EAST, A DISTANCE OF 120.20 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID HAMPDEN AVENUE; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, ALONG SAID SOUTHERLY RIGH-OF-WAY LINE, A DISTANCE OF 187.00 FEET TO THE POINT OF BEGINNING



® Chicago Title Insurance Company

POLICY NO.: CO-FWCO-IMP-72306-1-15-C2012004

## OWNER'S POLICY OF TITLE INSURANCE

*Issued by*

**Chicago Title Insurance Company**

Any notice of claim and any other notice or statement in writing required to be given the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.

### COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, CHICAGO TITLE INSURANCE COMPANY, a Nebraska corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
  - (a) A defect in the Title caused by
    - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
    - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
    - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
    - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
    - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
    - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
    - (vii) a defective judicial or administrative proceeding.
  - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
  - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (a) the occupancy, use, or enjoyment of the Land;

72306 (6/06)

ALTA Owner's Policy (6/17/06)

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- (b) the character, dimensions, or location of any improvement erected on the Land;
- (c) the subdivision of land; or
- (d) environmental protection

if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.

6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
9. Title being vested other than as stated Schedule A or being defective
  - (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
  - (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records
    - (i) to be timely, or
    - (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

IN WITNESS WHEREOF, CHICAGO TITLE INSURANCE COMPANY has caused this policy to be signed and sealed by its duly authorized officers.

**Chicago Title Insurance Company**

Countersigned:

By: *Lou B Payne*  
Authorized Signature



By: *Randy Quirk*  
Randy Quirk, President  
Attest: *Michael Gravelle*  
Michael Gravelle, Secretary





### EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters:
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
  - (a) a fraudulent conveyance or fraudulent transfer; or
  - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

### CONDITIONS

#### 1. DEFINITION OF TERMS

The following terms when used in this policy mean:

(a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions.

(b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.

(c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.

(d) "Insured": The Insured named in Schedule A.

(i) The term "Insured" also includes

(A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;

(B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;

(C) successors to an Insured by its conversion to another kind of Entity;

(D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title

(1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,

(2) if the grantee wholly owns the named Insured,

(3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or

(4) if the grantee is a trustee or beneficiary of a trust created by a written

instrument established by the Insured named in Schedule A for estate planning purposes.

(ii) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.

(e) "Insured Claimant": An Insured claiming loss or damage.

(f) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.

(g) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is intended by this policy.

(h) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.

(i) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.

(j) "Title": The estate or interest described in Schedule A.

(k) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to

purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

#### 2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

#### 3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

#### 4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

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**5. DEFENSE AND PROSECUTION OF ACTIONS**

(a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.

(b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.

(c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

**6. DUTY OF INSURED CLAIMANT TO COOPERATE**

(a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium

maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

**7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY**

In case of a claim under this policy, the Company shall have the following additional options:

(a) **To Pay or Tender Payment of the Amount of Insurance.**

To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

(b) **To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.**

(i) To pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or

(ii) To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

**8. DETERMINATION AND EXTENT OF LIABILITY**

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred

by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

(a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of

(i) the Amount of Insurance; or  
(ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.

(b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,

(i) the Amount of Insurance shall be increased by 10%, and

(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.

(c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

**9. LIMITATION OF LIABILITY**

(a) If the Company establishes the Title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.

(c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

**10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY**

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

**11. LIABILITY NONCUMULATIVE**

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

**12. PAYMENT OF LOSS**

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

**13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT**

(a) Whenever the Company shall have settled and paid a claim under this policy, it shall be

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subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

(b) The Company's right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

#### 14. ARBITRATION

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy

provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

#### 15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

(a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.

(c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

#### 16. SEVERABILITY

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

#### 17. CHOICE OF LAW; FORUM

(a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

(b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

#### 18. NOTICES, WHERE SENT

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at Chicago Title Insurance Company, Attn: Claims Department, Post Office Box 45023, Jacksonville, Florida 32232-5023.

## NOTICE CONCERNING FRAUDULENT INSURANCE ACTS

(This Notice is Permanently Affixed Hereto)

It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the department of regulatory agencies.

C. R. S. A. § 10-1-128 (6)(a).

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**Chicago Title Insurance Company**

**SCHEDULE A**

Name and Address of Title Insurance Company: **Chicago Title**  
**8055 E. Tufts Avenue, Suite 300**  
**Denver, CO 80237**

Policy No.: CO-FWCO-IMP-72306-1-15-C2012004

Order No.: C2012004-058-LG1

Address Reference: **3515, 3525, 3535 & 3545 South Tamarac Dr, CVS STORE 10831, Denver, CO 80237-1420**

Amount of Insurance: **\$11,156,009.00**

Date of Policy: **November 30, 2015 at 6:00 PM**

1. Name of Insured:  
**CVS 10831 CO, L.L.C., a Colorado limited liability company**
2. The estate or interest in the Land that is insured by this policy is:  
**Fee Simple**
3. Title is vested in:  
**CVS 10831 CO, L.L.C., a Colorado limited liability company**
4. The Land referred to in this policy is described as follows:  
**See Exhibit A attached hereto and made a part hereof.**

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**EXHIBIT A**  
**LEGAL DESCRIPTION**

**THE LAND REFERRED TO IN THIS POLICY IS DESCRIBED AS FOLLOWS:**

**A PARCEL OF LAND BEING A PART OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 5 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 4, AND CONSIDERING THE NORTH LINE OF SAID NORTHWEST QUARTER TO BEAR NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, AS SHOWN HEREON;**

**THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 1326.64 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 4, SAID POINT ALSO BEING ON THE NORTHERLY EXTENSION OF THE WESTERLY RIGHT-OF-WAY OF SOUTH TAMARAC DRIVE;**

**THENCE SOUTH 00 DEGREES 46 MINUTES 02 SECONDS WEST ALONG THE EAST LINE OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER AND ALONG SAID WESTERLY RIGHT-OF-WAY EXTENSION, A DISTANCE OF 70.01 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF HAMPDEN AVENUE AS DESCRIBED IN THE OFFICE OF THE CITY AND COUNTY OF DENVER RECORDS IN DEED RECORDED IN BOOK 1214 AT PAGE 371;**

**THENCE CONTINUING SOUTH 00 DEGREES 46 MINUTES 02 SECONDS WEST ALONG SAID EAST LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER AND THE WESTERLY RIGHT-OF-WAY OF SAID SOUTH TAMARAC DRIVE, A DISTANCE OF 537.28 FEET;**

**THENCE NORTH 89 DEGREES 56 MINUTES 34 SECONDS WEST, A DISTANCE OF 150.01 FEET;**

**THENCE NORTH 00 DEGREES 46 MINUTES 02 SECONDS EAST A DISTANCE OF 379.88 FEET;**

**THENCE NORTH 44 DEGREES 33 MINUTES 48 SECONDS WEST, A DISTANCE OF 52.00 FEET;**

**THENCE NORTH 00 DEGREES 46 MINUTES 02 SECONDS EAST, A DISTANCE OF 120.20 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID HAMPDEN AVENUE;**

**THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, ALONG SAID SOUTHERLY RIGH-OF-WAY LINE, A DISTANCE OF 187.00 FEET TO THE POINT OF BEGINNING**

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**SCHEDULE B**  
**EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

- 1. Intentionally Deleted.
- 2. Intentionally Deleted.
- 3. Intentionally Deleted.
- 4. Intentionally Deleted.
- 5. Intentionally Deleted.
- 6. Water rights, claims of title to water, whether or not these matters are shown by the Public Records.
- 7. Taxes and assessments for the year 2015 and subsequent years, a lien, not yet due or payable.
- 8. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Public Service Company of Colorado  
 Purpose: Utilities and incidental purposes  
 Recording Date: October 2, 1972  
 Recording No: Book 574 Page 270

- 9. Intentionally Deleted.
- 10. Terms, conditions, provisions, easements, agreements and obligations contained in the Easement as set forth below:

Recording Date: May 28, 1974  
 Recording No.: Book 887 Page 430

Corrective Easement recorded July 12, 1974 in Book 912 Page 36

- 11. The rights of parties in possession as disclosed by the attached rent roll.
- 12. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Public Service Company of Colorado  
 Purpose: Utilities and incidental purposes  
 Recording Date: July 19, 1974  
 Recording No: Book 916 Page 161

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**SCHEDULE B**  
(Continued)

13. Intentionally Deleted.

14. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Public Service Company of Colorado  
Purpose: Utilities and incidental purposes  
Recording Date: October 26, 1978  
Recording No: Book 1777 Page 340

15. Easement(s) and rights incidental thereto, as granted in a document:

Granted to: City and County of Denver  
Recording Date: November 8, 1978  
Recording No: Book 1785 Page 45

16. Intentionally Deleted.

17. Terms, conditions, provisions, covenants, restrictions, agreements and obligations contained in the Covenant as set forth below:

Recording Date: September 20, 1972  
Recording No.: Book 567 Page 640

18. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Public Service Company of Colorado  
Purpose: Utilities and incidental purposes  
Recording Date: July 24, 1978  
Recording No: Book 1710 Page 616

As amended by Quitclaim Deed recorded September 7, 2011 at Reception No. 2011099477

19. Intentionally Deleted,

20. Terms, conditions, provisions, easements, agreements and obligations contained in the Amended and Restated Reciprocal Easement Agreement as set forth below:

Amendment recorded October 3, 2003 at Reception No 2003208787

As amended by Agreement recorded November 23, 2011 at Reception No. 2011133500

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**SCHEDULE B**  
**(Continued)**

21. Intentionally Deleted.

22. Intentionally Deleted.

23. Terms, conditions, provisions, agreements and obligations contained in the Resolution as set forth below:

Recording Date: March 11, 2009 at Reception No 2009029982

24. Intentionally Deleted.

25. Intentionally Deleted.

26. Easements, terms, conditions, provisions, agreements and obligations contained in the Deed of Easement as set forth below:

Recording Date: November 9, 1972  
Recording No.: Book 595 at Page 674

27. Easements, terms, conditions, provisions, agreements and obligations contained in the Mountain Bell Concealed Communications Wiring Agreement as set forth below:

Recording Date: January 8, 1973  
Recording No.: Book 624 at Page 584

28. Terms, conditions, provisions, agreements and obligations contained in the Easement as set forth below:

Recording Date: August 23, 1974  
Recording No.: Book 935 at Page 145

As amended by Corrective Easement  
Recording Date: September 11, 1974  
Recording No.: Book 943 at Page 577

29. Easements, terms, conditions, provisions, agreements and obligations contained in the Termination and Declaration of Access Easement as set forth below:

Recording Date: December 30, 1985  
Recording No.: Reception No. 009596

30. Terms, conditions, provisions, agreements and obligations contained in the Planned Building Group map as set forth below:

Recording Date: March 5, 2004  
Recording No.: Reception No. 2004062342

End of Exceptions

72306B (6/06)  
ALTA Owner's Policy (6/17/06)

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**SCHEDULE B**  
**(Continued)**

72306B (6/06)  
ALTA Owner's Policy (6/17/06)

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**ENDORSEMENT****Attached to Policy No.: CO-FWCO-IMP-72306-1-15-C2012004****Issued by****Chicago Title Insurance Company**

1. The insurance provided by this endorsement is subject to the exclusions in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.
2. For purposes of this endorsement only:
  - a. "Covenant" means a covenant, condition, limitation or restriction in a document or instrument in effect at Date of Policy.
  - b. "Future Improvement" means a building, structure, road, walkway, driveway, curb to be constructed on or affixed to the Land in the locations according to the Plans and that by law will constitute real property, but excluding any crops, landscaping, lawn, shrubbery, or trees.
  - c. "Improvement" means a building, structure located on the surface of the Land, road, walkway, driveway, or curb, affixed to the Land at Date of Policy and that by law constitutes real property, but excluding any crops, landscaping, lawn, shrubbery, or trees.
  - d. "Plans" means the survey, site and elevation plans or other depictions or drawings prepared by Aztec Consultants, Inc. dated June 16, 2015 and last revised November 2, 2015, and designated Job No. 48115-21. consisting of 2 sheets.
3. The Company insures against loss or damage sustained by the Insured by reason of:
  - a. A violation of an enforceable Covenant by an Improvement on the Land at Date of Policy or by a Future Improvement, unless an exception in Schedule B of the policy identifies the violation;
  - b. Enforced removal of an Improvement located on the Land or of a Future Improvement as a result of a violation of a building setback line shown on a plat of subdivision recorded or filed in the Public Records at Date of Policy, unless an exception in Schedule B of the policy identifies the violation; or
  - c. A notice of a violation, recorded in the Public Records at Date of Policy, of an enforceable Covenant relating to environmental protection describing any part of the Land and referring to that Covenant, but only to the extent of the violation of the Covenant referred to in that notice, unless an exception in Schedule B of the policy identifies the notice of the violation.
4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys' fees, or expenses) resulting from:
  - a. any Covenant contained in an instrument creating a lease;
  - b. any Covenant relating to obligations of any type to perform maintenance, repair, or remediation on the Land; or
  - c. except as provided in Section 3.c, any Covenant relating to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this



endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: November 30, 2015 at 6:00 PM

Chicago Title Insurance Company

Countersigned:

By: Lou B Payne  
Authorized Signature



By: Randy Quirk  
Randy Quirk, President  
Attest: Michael Gravelle  
Michael Gravelle, Secretary



**ENDORSEMENT**  
**Attached to Policy No.: CO-FWCO-IMP-72306-1-15-C2012004**  
**Issued by**  
**Chicago Title Insurance Company**

1. The insurance provided by this endorsement is subject to the exclusions in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.
2. For the purposes of this endorsement only:
  - a. "Covenant" means a covenant, condition, limitation or restriction in a document or instrument recorded in the Public Records at Date of Policy.
  - b. "Private Right" means (i) an option to purchase; (ii) a right of first refusal; or (iii) a right of prior approval of a future purchaser or occupant.
3. The Company insures against loss or damage sustained by the Insured under this Owner's Policy if enforcement of a Private Right in a Covenant affecting the Title at Date of Policy based on a transfer of Title on or before Date of Policy causes a loss of the Insured's Title.
4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys' fees, or expenses) resulting from:
  - a. any Covenant contained in an instrument creating a lease;
  - b. any Covenant relating to obligations of any type to perform maintenance, repair, or remediation on the Land;
  - c. any Covenant relating to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **November 30, 2015 at 6:00 PM**

**Chicago Title Insurance Company**

Countersigned:

By: *Laura B Payne*  
Authorized Signature



By: *Randy Quirk*  
Randy Quirk, President

Attest: *Michael Gravelle*  
Michael Gravelle, Secretary



**ENDORSEMENT**

**Attached to Policy No.: CO-FWCO-IMP-72306-1-15-C2012004**

**Issued by**

**Chicago Title Insurance Company**

The Company insures against loss or damage sustained by the Insured if, at Date of Policy (i) the Land does not abut and have both actual vehicular and pedestrian access to and from East Hampden and South Tamarac Drive (the "Streets"), (ii) the Street is not physically open and publicly maintained, or (iii) the Insured has no right to use existing curb cuts or entries along that portion of the Street abutting the Land.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements to it.

Dated: November 30, 2015

Chicago Title Insurance Company

Countersigned:

By: *Law B Payne*  
Authorized Signature



By: *Randy Quirk*  
Randy Quirk, President  
Attest: *Michael Gravelle*  
Michael Gravelle, Secretary



**ENDORSEMENT**  
**Attached to Policy No.: CO-FWCO-IMP-72306-1-15-C2012004**  
**Issued by**  
**Chicago Title Insurance Company**

The Company insures against loss or damage sustained by the Insured by reason of the Land being taxed as part of a larger parcel of land or failing to constitute a separate tax parcel for real estate taxes.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements to it.

Dated: November 30, 2015

Chicago Title Insurance Company

Countersigned:

By: *Law B Pope*  
 Authorized Signature



By: *Randy Quirk*  
 Randy Quirk, President

Attest: *Michael Gravella*  
 Michael Gravella, Secretary



**ENDORSEMENT**  
**Attached to Policy No.: CO-FWCO-IMP-72306-1-15-C2012004**  
**Issued by**  
**Chicago Title Insurance Company**

The Company insures against loss or damage sustained by the Insured by reason of:

1. the failure of the Land to be contiguous along the common boundary line(s); or
2. the presence of any gaps, strips, or gores separating the contiguous boundary lines described above.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements to it.

Dated: November 30, 2015

Chicago Title Insurance Company

Countersigned:

By: *Laura B Payne*  
Authorized Signature



By: *Randy Quirk*  
Randy Quirk, President  
Attest: *Michael Gravelle*  
Michael Gravelle, Secretary





**ENDORSEMENT**  
**Attached to Policy No.: CO-FWCO-IMP-72306-1-15-C2012004**  
**Issued by**  
**Chicago Title Insurance Company**

The Company insures against loss or damage sustained by the Insured by reason of the failure of the Land as described in Schedule A to be the same as that identified on the survey made by Aztec Consultants, Inc. dated June 16, 2015 and last revised November 2, 2015, and designated Job No. 48115-21.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: **November 30, 2015**

**Chicago Title Insurance Company**

Countersigned:

By: *Laura B Payne*  
Authorized Signature



By *Randy Quirk*  
Randy Quirk, President  
Attest *Michael Gravelle*  
Michael Gravelle, Secretary



**ENDORSEMENT**

**Attached to Policy No.: CO-FWCO-IMP-72306-1-15-C2012004**

**Issued by**

**Chicago Title Insurance Company**

The Company hereby insures the Insured against loss which the Insured shall sustain by reason of damage to existing improvements, including lawns, shrubbery or trees, resulting from the exercise of any right to use the surface of the Land for the extraction or development of water excepted from the description of the Land or shown as a reservation in Schedule B.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: November 30, 2015

Chicago Title Insurance Company

Countersigned:

By: *Laura B Payne*  
Authorized Signature



By: *Randy Quirk*  
Randy Quirk, President  
Attest: *Michael Gravelle*  
Michael Gravelle, Secretary

# Denver Duplicate Reception Numbers

In 1972 Denver County recorded documents with reception numbers 55034 through 98308 twice, first between 1/3/1972 and 4/28/1972 and again between 9/12/1972 and 12/29/1972.

This document is within this duplicate reception number range. Following this cover page are all copies of this document that SKLD currently has.

If you are looking for a map and it is not contained in the following pages, try retrieving it by SKLD assigned Map ID or the Sales map process.

Approved: James P. Henderson

Plat No. 12-335-436

Document No. 83425

Bill Croley R.O.W. Agent

### UTILITY EASEMENT

The undersigned Grantor hereby acknowledges receipt of \$ 1.00 from PUBLIC SERVICE COMPANY OF COLORADO in consideration of which he hereby grants unto said Company, its successors and assigns, an easement to construct, operate and maintain utility lines and all fixtures and devices, used or useful in the operation of said lines, through, over, under, across and along a course as said lines may be hereafter constructed in Lot \_\_\_\_\_ Block \_\_\_\_\_ Subdivision \_\_\_\_\_

in the NW $\frac{1}{4}$  of Section 4, Township 5S, Range 67W, of the 6th Principal Meridian in the City of Denver, County of Denver, State of Colorado, the approximate center line of the easement is described as follows:

Beginning at a point 83' South of the NW corner of the NW $\frac{1}{4}$  of Section 4 Township 5S, Range 67W, Thence Easterly and parallel to the Southerly line of Hampden Avenue a distance of 1330' more or less to a point of terminus of Westerly line of South Tamarac Drive.

063012  
 STATE OF COLORADO  
 CITY & COUNTY  
 DENVER  
 PUBLIC RECORDS OFFICE OR  
 RECORDER  
 Oct 2 1 28 PM '72  
 F. J. SERAFINI  
 RECORDER IN  
 574 270  
 861-2-72 618839 LST - HIS 2.00

Said easement is 6 feet in width.

Together with the right to enter upon said premises, survey, construct, maintain, operate, repair, replace, control and use said utility lines and related fixtures and devices, and to remove objects interfering therewith, including the trimming of trees and bushes, and together with the right to use so much of the adjoining premises of Grantor during surveying, construction, maintenance, repair, removal, or replacement of said utility lines and related fixtures and devices as may be required to permit the operation of standard utility construction or repair machinery, and the right to permit the installation of the facilities of any other company. The Grantor reserves the right to use and occupy said premises for any purpose consistent with the right and privileges above granted and which will not interfere with or endanger any of the said Company's facilities therein or use thereof. Such reservation by the Grantor shall in no event include the right to erect or cause to be erected any buildings or structures upon the right of way herein granted. In case of the permanent abandonment of said right of way, all right, privilege and interest herein granted shall terminate.

The work of installing said lines and related fixtures and devices shall be done with care; the surface along said right-of-way shall be restored substantially to its original level and condition.

"Grantor" shall include the plural and the feminine.

Signed this 12<sup>th</sup> day of September, 1972.

WITNESSES: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

GRANTOR \_\_\_\_\_  
Michael Cooper  
Michael Cooper  
Gary Cooper  
Gary Cooper  
Richard Cooper  
Richard Cooper

STATE OF COLORADO, ) ss.  
County of )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_ by\* \_\_\_\_\_

My commission expires \_\_\_\_\_  
Witness my hand and official seal.

Notary Public  
574 270

\* If acting in official or representative capacity, insert name and also office or capacity and for whom acting.

DIVISION Denver TOWN Denver METHOD OF PAYMENT \_\_\_\_\_ W.O.-J.O. NO. \_\_\_\_\_  
 NAME OF LINE OR EXTENSION Cooper, Michael, Gary, Richard



CORRECTIVE EASEMENT

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, the undersigned, as owner of those certain buildings located upon the real property which is more particularly described on Exhibit 1, which is attached hereto and by reference expressly incorporated herein, hereby grants a perpetual Easement for ingress and egress along a thirty (30) foot private roadway which is more particularly described on Exhibit 2 which is attached hereto and by reference expressly incorporated herein. Said Easement for ingress and egress shall be for private road purposes only.

FURTHER, this Easement for ingress and egress shall run with the land that is described in Exhibit 1.

FURTHER, this Easement is for the sole use and exclusive benefit of the owner, the tenants and lawful occupants of the improvements located on the real property described in Exhibit 1, as well as, their officers, employees, agents, principals and invitees.

FURTHER, under no terms and conditions is this Easement which is described in Exhibit 2 to be considered for any reason whatsoever a public thoroughfare. Rather, the same shall be maintained by the undersigned, and the aforesaid grantees, as well as, the undersigned shall utilize the right of way described in Exhibit 2 only for lawful purposes and in order to gain ingress and egress to and from the improvements located upon the real property described in Exhibit 1.

FURTHER, this Corrective Easement is for the sole and exclusive purpose of correcting the legal description of the easement defined in that certain Easement which was recorded May 28, 1974, in Book 887 at Page 430 of the records of the City and County of Denver, State of Colorado. All of the terms and conditions contained within said Easement are hereby adopted, ratified and approved; save and except as to the legal description defining the easement for ingress and egress set forth therein.

FURTHER, in the event any tenant or lawful occupants of the improvements located on the real property described on Exhibit 1

shall in any way abuse the purposes above set forth for this Easement for ingress and egress; then and in such event, the undersigned owner reserves the right to deny any such wrongful usage to a tenant or lawful occupant which may be so abusing the terms and conditions hereinabove prescribed.

DATED this 7th day of June, A.D., 1974, at Denver, Colorado.

COOPER INVESTMENTS, a  
General Partnership

By: *Michael K. Cooper*  
Michael K. Cooper

By: *Gary Cooper*  
Gary Cooper

By: *Richard Cooper*  
Richard Cooper

STATE OF COLORADO            )  
  ) ss.  
City and County of Denver )

The above and foregoing Corrective Easement was subscribed and sworn to before me this 28<sup>th</sup> day of June, A.D., 1974, by MICHAEL K. COOPER, GARY COOPER and RICHARD COOPER as General Partners of COOPER INVESTMENTS, a General Partnership.

My commission expires: November 20, 1977

*Rebecca J. Kozicki*  
Notary Public



EXHIBIT 1

HAMPDEN EXECUTIVE PLAZA NO. I

A parcel of land lying in the Northwest One-Quarter of Section 4, Township 5 South, Range 67 West of the 6th Principal Meridian and also lying within the City and County of Denver, being more particularly described as commencing at the Northwest corner of said Section 4; thence, along the Northerly line of said Section 4, East 1,326.97 feet to the one-sixteenth corner of said Section 4; thence along the Westerly right of way line of said Tamarac Drive, South 00°47'27" West, 227.21 feet to the TRUE POINT OF BEGINNING; thence continuing along said line South 00°47'27" West, 208.00 feet; thence leaving said line West 46.00 feet; thence North 00°47'27" East, 42.00 feet; thence West 104.00 feet; thence North 00°47'27" East, 166.00 feet; thence East 150.00 feet to the TRUE POINT OF BEGINNING. A portion of the above and foregoing legal description includes the "recreational and conference facilities".

HAMPDEN EXECUTIVE PLAZA NO. II

That part of the Northwest Quarter of Section 4, Township 5 South, Range 67 West of the 6th P.M., described as follows:

Commencing at the Northwest corner of said Section 4; thence along the Northerly line of said Section 4, East 1,326.97 feet to the one-sixteenth corner of said Section 4; thence along the Westerly right-of-way line of South Tamarac Drive, South 00°47'27" West, 435.21 feet to the TRUE POINT OF BEGINNING; thence leaving said line West 46.00 feet; thence North 00°47'27" East, 42.00 feet; thence West, 104.00 feet; thence South 00°47'27" West, 173.00 feet; thence South 89°12'33" East, 150.00 feet to a point which bears South 00°47'27" West from the TRUE POINT OF BEGINNING; thence North 00°47'27" East, 131.00 feet to the TRUE POINT OF BEGINNING, City and County of Denver, Colorado.

HAMPDEN EXECUTIVE PLAZA NO. III

A parcel of land lying in the Northwest One-Quarter of Section Four, Township Five South, Range Sixty-Seven West of the Sixth Principal Meridian, and also lying within the City and County of Denver, being more particularly described as commencing at the Northwest Corner of said Section Four; thence along the Northerly line of said Section Four, East 1,326.97 feet to the one-sixteenth corner of said Section Four; thence along the Westerly right-of-way line of South Tamarac Drive, S 00°47'27" W, 60.00 feet to the TRUE POINT OF BEGINNING; thence continuing along said line, S 00°47'27" W, 167.21 feet; thence leaving said line, West 150.00 feet; thence N 00°47'27" E, 167.21 feet more or less to the South right-of-way line of Hampden Avenue; thence East along said right-of-way line of Hampden Avenue 150.00 feet more or less to the TRUE POINT OF BEGINNING, City and County of Denver, State of Colorado.

3605 and 3615 SOUTH TAMARAC DRIVE

A tract of land in the Northwest One-Quarter of the Northwest One-Quarter of Section 4, Township 5 South, Range 67 West of the 6th P.M., City and County of Denver, State of Colorado, more particularly described as follows: Commencing at the Northwest corner of said Northwest One-Quarter of the Northwest One-Quarter; thence East along the North line of said Northwest One-Quarter of the Northwest One-Quarter, a distance of 1326.97 feet to the point of intersection between said North line and the West line of Tamarac Drive, extended; thence Southerly along said West line of Tamarac Drive, extended, and along said West line of Tamarac Drive, a distance of 664.90 feet to the TRUE POINT OF BEGINNING; thence continuing along said West line of Tamarac Drive, an additional distance of 140 feet, thence on an angle to the right of 89°51'08" a distance of 153.18 feet; thence on an angle to the right of 66°02'37" a distance of 153.20 feet; thence on an angle to the right of 113°57'23" a distance of 215.76 feet to the TRUE POINT OF BEGINNING.

EXHIBIT 2

A portion of the Northwest one-quarter of the Northwest one-quarter of Section 4, Township 5 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado, more particularly described as follows:

Beginning at the Northwest corner of said Section 4; thence along the North line of said Section 4, East, 1139.97 feet; thence S 0°47'27" W, 60.00 feet to the TRUE POINT OF BEGINNING of a strip of land 30.00 feet in width lying 15.00 feet on each side of the following described line:

1. S 0°47'27" W, 130.21 feet;
2. Thence S 45°00'00" E, 52.33 feet;
3. Thence S 0°47'27" W, 400.00 feet;
4. Thence perpendicular to the Westerly Right-of-Way line of South Tamarac Drive, S 89°12'33" E, 150.00 feet more or less to said Westerly Right-of-Way line.

Beginning at the most Southerly terminus of Course No. 3 in the above description; thence S 0°47'27" W, 15.00 feet to the TRUE POINT OF BEGINNING of a strip of land 30.00 feet in width lying 15.00 feet on each side of the following described line:

1. S 0°47'27" W, 22.69 feet more or less to a point which lies 664.90 feet South, measured perpendicularly, from the North line of said Section 4.

555233 412 008.00 A :IL

STATE OF COLORADO  
CITY & COUNTY  
OF DENVER  
FILED IN DISTRICT OFFICE 98  
JUN 12 11 07 AM '74  
RECORDED # 912 36  
F. A. SERAFINI,  
CITY AND COUNTY CLERK

015768

912 39



FORM (B) 410-10-1468  
Correct:

F. H. Evans  
R.O.W. Agent

Approved:

RETAIN PERMANENTLY

Plat No. \_\_\_\_\_

Document No. 87140

### UTILITY EASEMENT

The undersigned Grantor hereby acknowledges receipt of \$ 1.00 (ONE AND NO/100) from PUBLIC SERVICE COMPANY OF COLORADO in consideration of which he hereby grants unto said Company, its successors and assigns, an easement to construct, operate and maintain utility lines and all fixtures and devices, used or useful in the operation of said lines, through, over, under, across and along a course as said lines may be hereafter constructed in Lot \_\_\_\_\_ Block \_\_\_\_\_ Subdivision \_\_\_\_\_

in the NW¼ OF THE NW¼ of Section 4, Township 5 SOUTH, Range 67 WEST, of the SIXTH Principal Meridian in the City of DENVER, County of DENVER, State of Colorado, the approximate center line of the easement is described as follows:

002.00 A ∞ 1

Beginning at a point on the east line of the NW¼ of the NW¼ of Section 4, Township 5 South, Range 67 West, which point is seventy six (76) feet south of the northeast corner of the said NW¼ of the NW¼ of Section 4, thence west and substantially parallel with the north line of said Section 4 a distance of two hundred (200) feet, thence south one hundred two (110) feet, thence southeasterly to a point which is one hundred fifty (150) feet west of and two hundred twenty seven (227) feet south of the said northeast corner of the said NW¼ of the NW¼ of Section 4, thence south three hundred eleven (311) feet, thence on an angle to the right of 30° 15' a distance of one hundred forty five (145) feet.

STATE OF COLORADO  
CLAY COUNTY  
CITY OF DENVER  
FILED IN DEPT. OF REVENUE ON  
JUL 19 2 20 PM '74  
RECORDED 916 161  
F. S. SEARATIN  
CLERK AND RECORDER

018818

Said easement is 8 feet in width.

Together with the right to enter upon said premises, survey, construct, maintain, operate, repair, replace, control and use said utility lines and related fixtures and devices, and to remove objects interfering therewith, including the trimming of trees and bushes, and together with the right to use so much of the adjoining premises of Grantor during surveying, construction, maintenance, repair, removal, or replacement of said utility lines and related fixtures and devices as may be required to permit the operation of standard utility construction or repair machinery, and the right to permit the installation of the facilities of any other company. The Grantor reserves the right to use and occupy said premises for any purpose consistent with the right and privileges above granted and which will not interfere with or endanger any of the said Company's facilities therein or use thereof. Such reservation by the Grantor shall in no event include the right to erect or cause to be erected any buildings or structures upon the right of way herein granted. In case of the permanent abandonment of said right of way, all right, privilege and interest herein granted shall terminate.

The work of installing said lines and related fixtures and devices shall be done with care; the surface along said right-of-way shall be restored substantially to its original level and condition.  
"Grantor" shall include the plural and the feminine.

Signed this 16<sup>th</sup> day of July, 1974

WITNESSES: F. H. Evans GRANTOR M. COOPER

PRESIDENT FOR COOPER INVESTMENTS

STATE OF COLORADO, ) ss.  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this

\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ by\* \_\_\_\_\_

My commission expires \_\_\_\_\_  
Witness my hand and official seal.

Notary Public

916 161

\* If acting in official or representative capacity, insert name and also office or capacity and for whom acting.

METHOD OF PAYMENT: Cash  
TOWN: DENVER  
NAME OF LINE OR EXTENSION: 3661 TAMARAC STREET  
W.O.-J.O. NO. \_\_\_\_\_

FORM (E) 410-10-1488  
Correct:

Marvin Sexson

R.O.W. Agent

Approved: Ben Cutler

RETAIN PERMANENTLY

Document No. 92598

Plat No. 12-335-436

Grid No.

### UTILITY EASEMENT

The undersigned Grantor hereby acknowledges receipt of \$ 1.00 from PUBLIC SERVICE COMPANY OF COLORADO, 550 15th Street, Denver, Colorado 80202, in consideration of which he hereby grants unto said Company, its successors and assigns, an easement to construct, operate and maintain utility lines and all fixtures and devices, used or useful in the operation of said lines, through, over, under, across and along a course as said lines may be hereafter constructed in Lot \_\_\_\_\_ Block \_\_\_\_\_ Subdivision 002.00 A

in the NW 1/4 NW 1/4 of Section 4 Township 5 South Range 67 West of the 6th Principal Meridian in the City of Denver County of Denver State of Colorado, the approximate center line of the easement is described as follows:

Commencing at the NE corner of the NW 1/4 of the NW 1/4 of said Section 4;  
thence S 0°47'27" W, along the East line of said NW 1/4 NW 1/4 Section 4, said East line also being the West R.O.W. line of S. Tamarac Drive, a distance of 222.21 feet to the true point of beginning;  
thence N 89°12'33" W, a distance of 208 feet;  
thence N 0°47'27" E, a distance of 152.21 feet to the point of terminus.

038087

F. J. SERAFINI  
COUNTY CLERK  
DENVER COUNTY  
1777 340

BIB OCT 26 PM 2 1978

Said easement is 10 feet in width.

Together with the right to enter upon said premises, survey, construct, maintain, operate, repair, replace, control and use said utility lines and related fixtures and devices, and to remove objects interfering therewith, including the trimming of trees and bushes, and together with the right to use so much of the adjoining premises of Grantor during surveying, construction, maintenance, repair, removal, or replacement of said utility lines and related fixtures and devices as may be required to permit the operation of standard utility construction or repair machinery, and the right to permit the installation of the facilities of any other company. The Grantor reserves the right to use and occupy said premises for any purpose consistent with the right and privileges above granted and which will not interfere with or endanger any of the said Company's facilities therein or use thereof. Such reservation by the Grantor shall in no event include the right to erect or cause to be erected any buildings or structures upon the utility easement granted or to locate any mobile home trailer units thereon. In case of the permanent abandonment of said utility easement all right, privilege and interest granted shall terminate.

The work of installing said lines and related fixtures and devices shall be done with care; the surface along said right-of-way shall be restored substantially to its original level and condition.

"Grantor" shall include the plural and the feminine.

Signed this 23<sup>rd</sup> day of October, 1978.

WITNESSES: \_\_\_\_\_

GRANTOR COOPER INVESTMENTS  
a General Partnership

Michael Poy

STATE OF COLORADO, ) ss.  
County of Denver

23<sup>rd</sup> day of Oct., 1978 by Michael Cooper Investments, Partner

My commission expires Oct. 4, 1982  
Witness my hand and official seal.

Shirley [Signature]  
Notary Public

\* If acting in official or representative capacity, insert name and also office or capacity and for whom acting.

1777 340

METHOD OF PAYMENT (CASH) (VOUCHER NO. \_\_\_\_\_) W.O.J.O. NO. \_\_\_\_\_  
DIVISION S.E.M.D. TOWN Denver LOCATION E. Hampden Ave. & S. Tamarac Drive

040217

1978 NOV -8 AM 8 52

F. J. SERAFINI  
COUNTY CLERK  
DENVER COUNTY

DEED OF EASEMENT

1785 45

KNOWN ALL MEN BY THESE PRESENTS:

That (Name) Cooper Investments  
(Address) 3605 South Tamarac Drive  
Denver, Colorado 80237

000.00 A

of the County of Denver State of Colorado,

a general partnership  
~~a corporation~~ duly organized and existing under the laws of the State of Colorado, hereinafter sometimes referred to as "Grantor", for and in consideration of One Dollar (\$1.00), receipt of which is acknowledged, and the prospective benefits to be derived by reason of the locating, establishing and constructing drainage facilities for water and sewage under the supervision of and for the City and County of Denver, and other good and valuable considerations in hand paid, do hereby grant, convey and release to the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado, its successors and assigns, sometimes hereinafter referred to as the "City" or "Grantee", an exclusive and perpetual easement and right-of-way for drainage facilities across lands owned by Grantor, and situated in the City and County of Denver, State of Colorado, and more particularly described as follows, to-wit:

Grantor hereby grants to Grantee the perpetual right to enter, re-enter and use the hereinafter described easement to locate, construct, inspect, operate, maintain, repair, remove, replace, relocate and reconstruct drainage facilities, including underground and surface facilities and appurtenances thereto, into, within, over, upon, across, through and under the parcel of land for which the easement and right-of-way is hereby granted, and said parcel of land is more particularly described as follows, to wit:

(Legal Description of land for easement itself)

A parcel of land described in Exhibit A, attached hereto, which by reference is expressly incorporated herein.

The Grantor hereby warrants that Grantor has full right and lawful authority to make the grant herein contained and that Grantor has fee simple title to the land over which said easement is granted, and more particularly described as follows, to wit:

Land owned by Grantor as described by deed(s) recorded  
in the records of the City and County of Denver  
on May 5, 1967, in Book 9730, at Page 305,  
and on \_\_\_\_\_, in Book \_\_\_\_\_, at Page \_\_\_\_\_.  
EXCLUDING a parcel of land recorded on March 19, 1976, in Book 1214,  
at Page 371 and 372.

APPROVED FOR RECORDING  
LAND OFFICE

AS TO FORM

*W. N. Van Dyke*  
CITY/STATE'S OFFICE

TIFFANY PLAZA

SP-53-77

RW-107203-DE

1785 45

Grantor further grants to Grantee:

(a) the right of ingress to and egress from the strip over and across the land owned by Grantor by means of roads and lanes thereon, if such exist, otherwise by such route or routes as shall occasion the least practicable damage and inconvenience to Grantor; provided that such right of ingress and egress shall not extend to any portion of the land which is isolated from the strip by any public road or highway now crossing or hereafter crossing the land; provided, further, that if any portion of the land is or shall be subdivided and dedicated roads or highways on such portion shall extend to the strip, the right of ingress and egress on that portion shall be confined to such dedicated roads and highways;

(b) The right from time to time to trim and to cut down and clear away any and all trees and brush now or hereafter on the strip and to trim and to cut down and clear away any trees on either side of the strip which now or hereafter in the opinion of Grantee may be a hazard to the pipelines, valves, appliances or fittings, by reason of the danger of falling thereon, or may interfere with the exercise of Grantee's rights hereunder; provided, however, that all trees which Grantee is hereby authorized to cut and remove, if valuable for timber or wood, shall continue to be the property of Grantor, but all tops, lops, brush and refuse wood shall be burned or removed by Grantee.

Grantor releases the City and County of Denver from any and all claims for damages arising in any way or incident to the construction and maintenance of the sewers across the described land.

RESERVING, however, to the undersigned and their successors in interest and assigns the right to use and enjoy the above-described premises, PROVIDING such use and enjoyment shall not interfere with the installation, construction, maintenance, repair, inspection, and operation of sewers, installed or permitted to be installed by the City and County of Denver, and PROVIDING FURTHER that the Grantor shall not erect or place any building, tree or other obstruction on the above-described easement and right-of-way and the City shall not be liable for their removal if they are so placed.

Signed and delivered this 20th day October A.D., 19 77.

ATTEST:

(Name) Cooper Investments  
By Michael Cooper  
Partner

by \_\_\_\_\_  
Secretary

STATE OF COLORADO )  
CITY OF Denver )  
COUNTY OF Denver

The foregoing instrument was acknowledged before me this 20th day of October A.D., 19 77, by Michael Cooper as Partner and by \_\_\_\_\_ as President of Cooper Investments a general partnership association.

My Commission expires October 4, 1978

[Signature]  
Notary Public

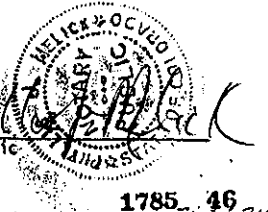


EXHIBIT A

LEGAL DESCRIPTION

Twenty (20.00) Foot Storm Sewer and Utility Easement

A part of the northwest quarter of the northwest quarter of Section 4, Township 5 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado, being more particularly described as follows:

A twenty (20.00) foot wide storm sewer and utility easement lying 10.00 feet on each side of the following described centerline;  
 Commencing at the northeast corner of the northwest quarter of said northwest quarter;  
 thence westerly along the north line of said Section 4 a distance of 338.82 feet;  
 thence on a deflection angle to the left of 90°00'00", 80.00 feet to the True Point of Beginning;  
 thence on a deflection angle to the left of 90°00'00" and 10.00 feet south of and parallel to the south right-of-way line of Hampden Avenue as recorded in Book 1214 at Page 371-372 of the City and County of Denver Records and also parallel to said north line 343.70 feet;  
 thence on a deflection angle to the right of 90°47'27" and parallel to the east line of the northwest quarter of said northwest quarter 135.00 feet;  
 thence on a deflection angle to the left of 90°47'27" and parallel to said south line and also parallel to said north line 194.02 feet to a point on the east line of the northwest quarter of said northwest quarter and also on the west right-of-way line of South Tamarac Drive, said point also being the Point of Terminus, containing 13,454.3 square feet or 0.309 acres, more or less, SUBJECT to all easements and rights-of-way existing or of record.

I, James V. Laraby, a Registered Land Surveyor in the State of Colorado, do hereby certify that the above legal description is accurate and properly delineates said subdivision.

*James V. Laraby*  
 CERTIFICATION: REGISTERED LAND SURVEYOR

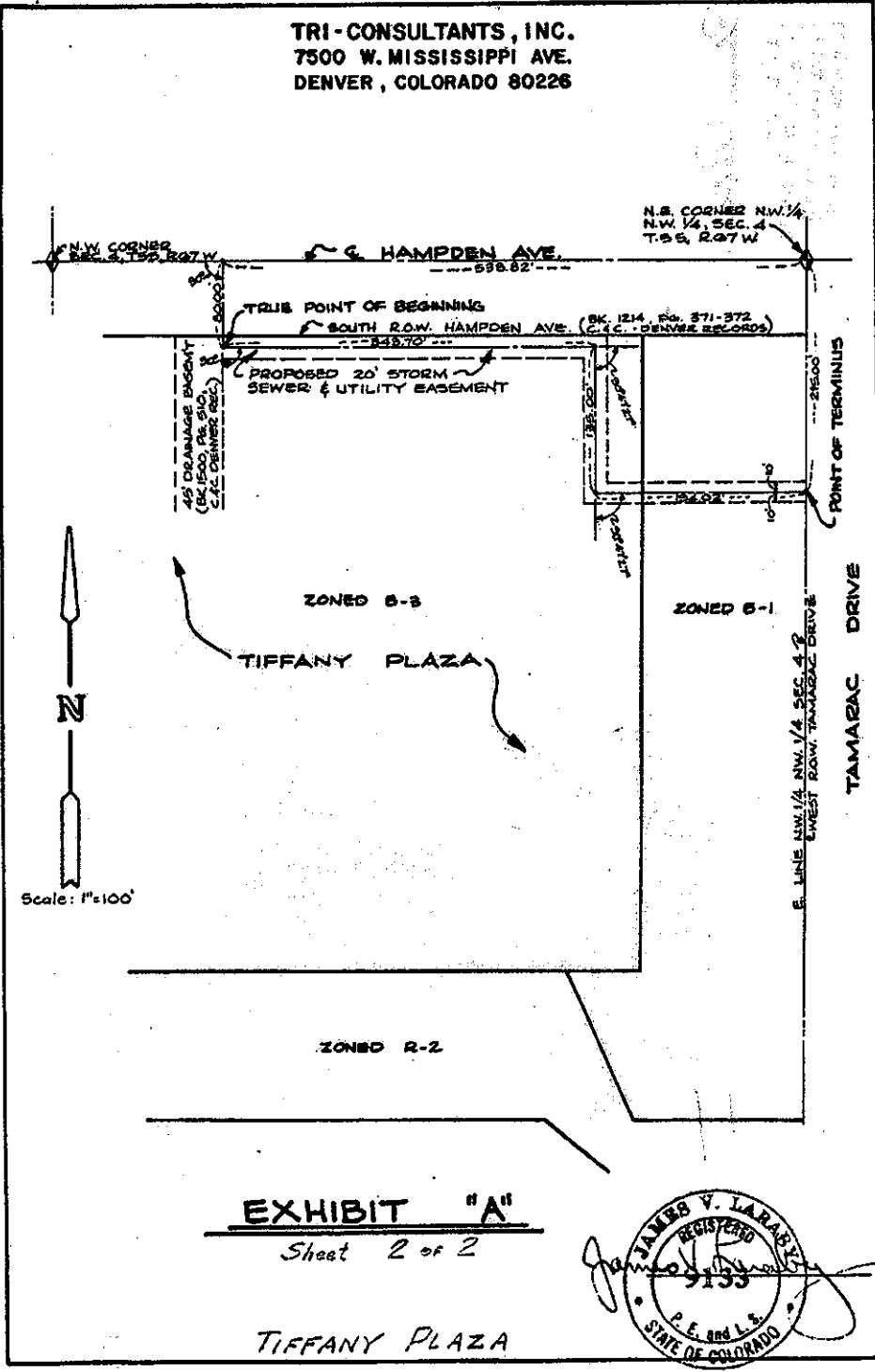
				EXHIBIT A			
		REVISED	JEC	10-2-78	PREPARED BY	TRI-CONSULTANTS, INC. 7500 West Mississippi, Suite 030 Denver, Colorado 80226	
		APPROVED			PROJECT	TIFFANY PLAZA	
		CHECKED	JEC	9-20-77	LOCATION (INT. - 50)	R 67 W. T 5 S., SEC 4, NW 4 - NW 4 (675-04.22)	
		DRAWN			PROJECT NO.	57-53-77	
SURVEYED			FILE NO.	1072.03-DE			
ACTION	BY	DATE	03322	57-53-77	1072.03-DE	SHEET	1 of 2

CITY AND COUNTY OF DENVER, DEPARTMENT OF PUBLIC WORKS, WASTEWATER MANAGEMENT DIVISION

FORM 3107 (3/78) WMD

1785 47

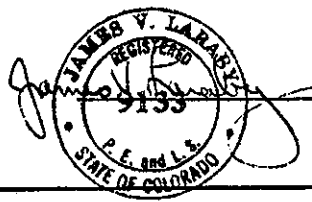
TRI-CONSULTANTS, INC.  
7500 W. MISSISSIPPI AVE.  
DENVER, COLORADO 80226



**EXHIBIT "A"**

Sheet 2 of 2

TIFFANY PLAZA



RW-1072.03-DE

SP-53-77

(675-0422)

1785 48

# Denver Duplicate Reception Numbers

In 1972 Denver County recorded documents with reception numbers 55034 through 98308 twice, first between 1/3/1972 and 4/28/1972 and again between 9/12/1972 and 12/29/1972.

This document is within this duplicate reception number range. Following this cover page are all copies of this document that SKLD currently has.

If you are looking for a map and it is not contained in the following pages, try retrieving it by SKLD assigned Map ID or the Sales map process.

C O V E N A N T

THIS COVENANT, made and entered into by MICHAEL COOPER, GARY COOPER and RICHARD COOPER, the record title owners of the real property described below, hereinafter referred to as the OWNERS.

W I T N E S S E T H

WHEREAS, MICHAEL COOPER, GARY COOPER and RICHARD COOPER, are the owners of certain real property described below, upon which is constructed one (1) building unit; and

WHEREAS, the OWNERS have requested permission from the City and County of Denver to make a single extended sanitary sewer connection to the building on the described property rather than extending a City sanitary sewer main; and

WHEREAS, the City is willing to permit such single extended sanitary sewer connection, upon condition that the Owners make, execute, and record this Covenant;

NOW, THEREFORE, in consideration of the granting by the City and County of Denver of a permit for a single extended sanitary sewer connection serving one (1) building unit located on the described real estate, the Owners covenant as follows:

1. That the real property covered by this Covenant is described as follows:

That part of the Northwest one-quarter of Section 4 Township 5 South, Range 67 of the 6th P.M. described as follows:  
Commencing at the Northwest corner of said Section 4; thence, along the Northerly line of said Section 4, East 1,326.97 feet to the one-sixteenth corner of said Section 4; thence, along the Westerly right-of-way line of South Tamarac Drive, South 00°47'27" West, 227.21 feet to the TRUE POINT OF BEGINNING; thence, continuing along said line South 00°47'27" West, 208 feet; thence, leaving said line West, 46.00 feet; thence, North 00°47'27" East, 42.00 feet; thence; West, 104.00 feet; thence, North 00°47'27" East 166.00 feet; thence, East, 150.00 feet to the True Point of Beginning.

City and County of Denver, Colorado

2. That the Owners will construct and maintain the said sanitary sewer connection and lines serving the described property to the point of connection with the sanitary sewer line of the City and County of Denver.

3. That the Owners will not sell, transfer, or convey the described real property except as a single unit, and this Covenant shall run with the land.

567 640



IN WITNESS WHEREOF, this instrument has been executed as of this  
19<sup>th</sup> day of September, A.D., 1972.

Michael Cooper  
Michael Cooper

Gary Cooper  
Gary Cooper

Richard Cooper  
Richard Cooper

STATE OF COLORADO  
CITY AND COUNTY OF DENVER } ss:

The foregoing instrument was acknowledged before me this  
19<sup>th</sup> day of September 1972, A.D. by Michael Cooper, Gary Cooper and  
Richard Cooper - tenants in common

My commission expires: February 14, 1975



Francis P. Frank  
Notary Public

APPROVED AND ACCEPTED:  
MANAGER OF PUBLIC WORKS

By J. A. Bruce  
J. A. Bruce  
Director of Engineering

W. H. Van Duzer  
Deputy City Attorney

SEP-20-72 6 13 6 0 7 I FEEMIS 350

STATE OF COLORADO  
CITY & COUNTY  
DENVER  
OFFICE ON  
FILE  
SEP 20 2 38 PM '72  
RECORDED IN 567 640  
F. J. SERAFINI  
CLERK AND RECORDER

058710

567 941

FORM (E) 410-10-1468

RETAIN PERMANENTLY

Correct:

Approved:

Document No. 92853

F. G. Evans/jl

Plot No.

*F. G. Evans* R.O.W. Agent

Grid No.

89/10

UTILITY EASEMENT

One Dollar and no/100

The undersigned Grantor hereby acknowledges receipt of \$ \_\_\_\_\_ from PUBLIC SERVICE COMPANY OF COLORADO, 550 15th Street, Denver, Colorado 80202, in consideration of which he hereby grants unto said Company, its successors and assigns, an easement to construct, operate and maintain utility lines and all fixtures and devices, used or useful in the operation of said lines, through, over, under, across and along a course as said lines may be hereafter constructed in Lot \_\_\_\_\_ of Block \_\_\_\_\_ Subdivision \_\_\_\_\_

in the W 1/2 NW 1/4 of Section 4, Township 5 South, Range 67 West, of the Sixth Principal Meridian in the City of Denver, County of Denver, State of Colorado, the approximate center line of the easement is described as follows:

Commencing at a point which is Three Hundred and Fifty (350) Feet South of the NE corner of the W 1/2, NW 1/4, Section 4, Township 5 South, Range 67 West, of the 6th Principal Meridian, Thence on a deflection angle to the Right of of 90° 47' 27" One Hundred Forty-Five (145) Feet to the true point of beginning; continuing on the same course Ninety (90) Feet to the point of terminus.

088739

REC JUL 26 AM 11:16  
F. J. SERRANO  
COUNTY CLERK  
DENVER, COLORADO  
1710 616

Said easement is Eight feet in width.

Together with the right to enter upon said premises, survey, construct, maintain, operate, repair, replace, control and use said utility lines and related fixtures and devices, and to remove objects interfering therewith, including the trimming of trees and bushes, and together with the right to use so much of the adjoining premises of Grantor during surveying, construction, maintenance, repair, removal, or replacement of said utility lines and related fixtures and devices as may be required to permit the operation of standard utility construction or repair machinery, and the right to permit the installation of the facilities of any other company. The Grantor reserves the right to use and occupy said premises for any purpose consistent with the right and privileges above granted and which will not interfere with or endanger any of the said Company's facilities therein or use thereof. Such reservation by the Grantor shall in no event include the right to erect or cause to be erected any buildings or structures upon the utility easement granted or to locate any mobile home trailer units thereon. In case of the permanent abandonment of said utility easement all right, privilege and interest granted shall terminate.

The work of installing said lines and related fixtures and devices shall be done with care; the surface along said right-of-way shall be restored substantially to its original level and condition.

"Grantor" shall include the plural and the feminine.

Signed this 11th day of July, 1978.

WITNESSES:

GRANTOR

*Michael Cooper*  
Michael Cooper, President  
Cooper Investments

STATE OF COLORADO, ) ss.  
County of )

The foregoing instrument was acknowledged before me this

\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ by\* \_\_\_\_\_

My commission expires \_\_\_\_\_

Witness my hand and official seal.

Notary Public

\* If acting in official or representative capacity, insert name and also office or capacity and for whom acting.

1710 616

DIVISION Southeast Metro TOWN 7800 East Hampden (Tiffany Plaza 4th Amended Phase III)  
LOCATION  
METHOD OF PAYMENT (CASH) (VOUCHER NO. C.A. 54)  
WARRANTY NO. 04-21962

(7)

**AMENDED AND RESTATED**  
**RECIPROCAL EASEMENT AGREEMENT**

THIS AMENDED AND RESTATED RECIPROCAL EASEMENT AGREEMENT ("Agreement") is made as of the 2 day of October, 2003, by and between the undersigned TIFFANY PLAZA ENTERPRISES, LLC, a Colorado limited liability company ("Tiffany Plaza"), MAXSAM CAPITAL CORPORATION, a California corporation ("ATEL"), and DAVID L. COOK ("Cook") (collectively referred to as the "Parties"), and replaces and restates in its entirety the Reciprocal Easement Agreement recorded November 13, 2002 at Reception No. 2002215334 in the records of the City and County of Denver, Colorado, Clerk and Recorder.

**RECITALS:**

WHEREAS:

A. The Parties hereto are the current owners of certain adjacent and contiguous real property which is depicted on **Exhibit A** attached hereto and identified on such Exhibit A as the cross-hatched area (hereinafter referred to as the "Parking Area").

B. The Parking Area is comprised of a portion of that certain real property described at **Exhibit B** ("Parcel A"), a portion of that certain real property described at **Exhibit C** ("Parcel B"), and a portion of that certain real property described at **Exhibit D** ("Parcel C").

C. The tenants of the owner of Parcel A, their employees, agents, customers, guests, licensees, invitees, vendors, suppliers, visitors, concessionaires, heirs, personal representatives, successors, and assigns (collectively referred to as the "Parcel A Parties") and the tenants of the owner of Parcel B, their employees, agents, customers, guests, licensees, invitees, vendors, suppliers, visitors, concessionaires, heirs, personal representatives, successors, and assigns (collectively referred to as the "Parcel B Parties"), and the tenants of the owner of Parcel C, their employees, agents, customers, guests, licensees, invitees, vendors, suppliers, visitors, concessionaires, heirs, personal representatives, successors, and assigns (collectively referred to as the "Parcel C Parties"), presently share in common the use of the parking spaces located on the Parking Area and the driveways and access ways for ingress and egress located on Parcel A, Parcel B, and Parcel C for access to the other Parcels and to public streets.

D. The Parties desire that the Parcel A Parties, Parcel B Parties, and Parcel C Parties continue to share in common the use of the parking spaces located on the Parking Area and the driveways and access ways for ingress and egress located on any of the Parcels for access to the other Parcels and to the public streets.

E. The Parties desire to provide for the maintenance and repairs of the Parking Area, the cost of which is to be shared by the owners of Parcel A, Parcel B, and Parcel C as provided herein.

Return to: Tom McCarty  
Sherman & Howard  
633 17th Street #3000  
Denver CO 80202





F. The Parties also desire to clarify the right of the owners of Parcel B to subdivide or replat Parcel B in the future without interference from the owners of Parcel A and Parcel C.

NOW, THEREFORE, for and in consideration of the mutual promises and agreements set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

1. Reciprocal Rights to Access. The owner of Parcel A hereby establishes, creates and grants for the benefit of the owners of Parcel B and Parcel C and the Parcel B Parties and Parcel C Parties a mutual, reciprocal and non-exclusive easement, license, right, and privilege to use and enjoy for the purposes for which they are intended, all driveways and access ways for ingress and egress located on Parcel A to provide access to Parcel B, Parcel C, the Parking Area, and to public streets. The owner of Parcel B hereby establishes, creates and grants for the benefit of the owners of Parcel A and Parcel C and the Parcel A Parties and Parcel C Parties a mutual, reciprocal and non-exclusive easement, license, right, and privilege to use and enjoy for the purposes for which they are intended, all driveways and access ways for ingress and egress located on Parcel B to provide access to Parcel A, Parcel C, the Parking Area, and to public streets. The owner of Parcel C hereby establishes, creates and grants for the benefit of the owners of Parcel A and Parcel B and the Parcel A Parties and Parcel B Parties a mutual, reciprocal and non-exclusive easement, license, right, and privilege to use and enjoy for the purposes for which they are intended, all driveways and access ways for ingress and egress located on Parcel C to provide access to Parcel A, Parcel B, the Parking Area, and to public streets. The rights and privileges granted and conferred by this Section 1 shall be exercised and enjoyed in common by the Parties hereto. The easement granted hereby shall be for ingress and egress to, from, upon, and over Parcel A to provide vehicular and pedestrian access to the Parking Area and public streets, and for ingress and egress to, from, upon, and over Parcel B to provide vehicular and pedestrian access to the Parking Area and public streets, and for ingress and egress to, from, upon, and over Parcel C to provide vehicular and pedestrian access to the Parking Area and public streets.

2. Alteration or Blocking of Certain Access ways Prohibited. Each of the owners of Parcel A, Parcel B and Parcel C covenants and agrees not to change, alter, or modify the following existing driveways and access ways located on such Parcels which provide vehicular access to a public street, nor shall the owner of any Parcel erect, cause or permit to be erected, any building or structure, whether permanent or temporary, or otherwise obstruct or interfere with such driveways and access ways (collectively referred to as the "Driveway and Access Limitations"): the driveway and access way to Tamarac Street; and the easternmost driveway and access way to East Hampden Avenue. Notwithstanding the above, the Driveway and Access Limitation shall not apply to an owner, if and to the extent a governmental agency or authority requires changes, alterations or modifications to the existing driveways and access ways effecting the Parking Area due to the redevelopment, reconfiguration or construction of improvements (collectively "Redevelopment") of that owner's Parcel, provided, however, that notwithstanding such Redevelopment, all of the Parcels retain similar access to and from Hampden Avenue and Tamarac Street and the costs associated with the changes, alterations or modifications are paid in full by the owner of the Parcel being redeveloped.



3. Reciprocal Rights to Use Parking Area. Subject to the termination provisions contained in Section 5, below, the owner of Parcel A hereby establishes, creates and grants for the benefit of the owners of Parcel B and Parcel C and the Parcel B Parties and Parcel C Parties a mutual, reciprocal and non-exclusive easement, license, right, and privilege to use and enjoy for the purposes for which they are intended, all parking spaces for vehicular use within the Parking Area which is located on Parcel A. The owner of Parcel B hereby establishes, creates and grants for the benefit of the owners of Parcel A and Parcel C and the Parcel A Parties and Parcel C Parties a mutual, reciprocal and non-exclusive easement, license, right, and privilege to use and enjoy for the purposes for which they are intended, all parking spaces for vehicular use within the Parking Area which is located on Parcel B. The owner of Parcel C hereby establishes, creates and grants for the benefit of the owners of Parcel A and Parcel B and the Parcel A Parties and Parcel B Parties a mutual, reciprocal and non-exclusive easement, license, right, and privilege to use and enjoy for the purposes for which they are intended, all parking spaces for vehicular use within the Parking area which is located on Parcel C. The rights and privileges granted and conferred by this Section 3 shall be exercised and enjoyed in common by the Parties hereto. Accordingly, Parcel A shall be burdened by said easement in favor of Parcel B and Parcel C, and Parcel B shall be burdened by said easement in favor of Parcel A and Parcel C, and Parcel C shall be burdened by said easement in favor of Parcel A and Parcel B.

4. Maintenance Obligations. Subject to the termination provisions in Section 5, below, the owner of Parcel B shall maintain the Parking Area in a safe, clean, and tenantable condition and in good order and repair, and shall undertake all activities related to such duties including, but not limited to, the following: sweeping, cleaning, and litter control; ice and snow removal; maintenance and replacement of lights, light fixtures, and landscape irrigation; resurfacing, repainting, re-striping, removal and replacement of pavement, curbs and car stops (collectively, the "Maintenance Obligations").

The owners of Parcels A, B, and C shall each be liable for their respective pro rata shares of the costs incurred by the owner of Parcel B in performing the Maintenance Obligations. The Pro Rata Shares shall be defined as follows: Parcel A — 26%; Parcel B — 63%; and Parcel C — 11%.

As soon as reasonably practicable following the end of each calendar year, the owner of Parcel B shall provide to the owners of Parcels A and C, a budget of the estimated Maintenance Obligations for the new year. On or before the 5<sup>th</sup> day of each calendar month, the owners of Parcels A and C shall pay an amount equal to one-twelfth (1/12<sup>th</sup>) of their respective Pro Rata Shares of the estimated Maintenance Obligations for the year. The owners of Parcels A and C shall continue to pay such amounts until a new budget is presented for the following calendar year. If the budget for a new calendar year reflects an estimate of Maintenance Obligations for the new year greater than the amounts actually paid for the new year up to the date of receipt of that budget, the owners of Parcels A and C shall pay such respective differences to the owner of Parcel B within thirty (30) days of receipt of the new budget. Upon receipt of the budget, the owners of Parcels A and C shall thereafter pay the amount of their respective shares of the Maintenance Obligations as set forth in the budget.



As soon as practicable following the end of each calendar year, but not later than the following May 1<sup>st</sup>, the owner of Parcel B shall submit to the owners of Parcels A and C a statement (the "Statement") in reasonable detail describing the computations of the Maintenance Obligations for the previous calendar year setting forth the exact amount of each owner's Pro Rata Share of Maintenance Obligations for the calendar year just completed, and the difference, if any, between the actual Pro Rata Share of Maintenance Obligations for the owners of Parcels A and C for the calendar year just completed and the estimated amount of Maintenance Obligations actually paid by each owner. If the actual Pro Rata Share of Maintenance Obligations of the owners of Parcels A and C for the period is higher than the estimated Pro Rata Shares that such owners previously paid during the calendar year just completed, the owners of Parcels A and C shall pay to the owner of Parcel B the difference within thirty (30) days following receipt of the Statement from the owner of Parcel B. If the actual Pro Rata Share of Maintenance Obligations of the owners of Parcels A and C is less than the estimated Pro Rata Share of Maintenance Obligations that the owners of Parcels A and C previously paid during the calendar year just completed, the owner of Parcel B shall credit the excess against any sums then owing or next becoming due from the owners of Parcels A and C under this Agreement.

The owner of Parcel A or Parcel C, or their representatives, shall have the right, upon not less than ten (10) days' prior written notice rendered no later than sixty (60) days after the delivery of a Statement, to review, at such owner's sole cost, the Parcel B owner's books and records with respect to the Maintenance Obligations during normal business hours, at the location of the owner of Parcel B's books and records. Unless the owner of Parcel A or Parcel C shall take written exception to any item contained in the Statement within sixty (60) days after delivery thereof, the Statement shall be deemed final and accepted by the owners of Parcel A and Parcel C. If, upon the owner of Parcel A or Parcel C's review of the Statement, such owner's share of the Maintenance Obligations decreases by more than five percent (5%), then the owner of Parcel B shall reimburse such owner for the reasonable audit costs.

If Parcel B is sold or transferred during any calendar year, a reconciliation of the estimated *versus* actual Maintenance Obligations through the closing date of the transfer shall be performed and the transferor of Parcel B shall reconcile with the owners of Parcels A and C the amounts due to and from the respective parties. The owners of Parcels A and C shall thereafter continue to pay to the transferee of Parcel B the estimated Maintenance Obligations under the current budget until a new budget is delivered for the next calendar year.

If the owners of Parcel A or the owners of Parcel C shall fail to pay timely their respective Pro Rata Shares of the maintenance costs to the owners of Parcel B, in addition to pursuing all legal and equitable remedies available to them, the owners of Parcel B may also, upon delivery of ten (10) days written notice, terminate the parking privileges of the respective delinquent Parcel A Parties and the Parcel C Parties and, at the expense of the delinquent owners of Parcel A or Parcel C, ticket and/or tow vehicles belonging to the respective Parcel A Parties and Parcel C Parties. The additional remedies of the owner of Parcel B contained in the immediately preceding sentence shall only apply during such period of delinquency and once such default for failure to pay maintenance costs is cured by the delinquent owner, the rights of the owner of Parcel B pertaining to the additional remedies shall cease.

5. Termination. Upon sixty (60) days' advance written notice (the "Notice Period") delivered by the owner of Parcel B to the owners of Parcels A and C, the owner of Parcel B may terminate its obligation to perform the Maintenance Obligations for the entire Parking Area and, except as provided below, the obligations of all of the parties under Section 4 shall cease as of the end of the Notice Period. The owner of Parcel B shall, within sixty (60) days after the end of the Notice Period, provide a final Statement to the owners of Parcels A and C and any amounts owed either to or from the owner of Parcel B shall be paid within thirty (30) days thereafter. As of the end of the Notice Period, each owner shall thereafter be obligated to perform, at their sole cost and expense, the Maintenance Obligations on the portion of the Parking Area owned by such owner.

As of the end of the Notice Period:

(i) The owner of Parcel A and the Parcel A Parties shall no longer have an easement, license, right, or privilege to use the parking spaces within the Parking Area which are located on Parcels B or C, but shall be restricted to parking only in those parking spaces located on Parcel A;

(ii) The owner of Parcel B and the Parcel B Parties shall no longer have an easement, license, right, or privilege to use the parking spaces within the Parking Area which are located on Parcels A or C, but shall be restricted to parking only in those parking spaces located on Parcel B, except that Parcel B Parties shall have a perpetual easement running with the land to use the parking spaces owned by Parcel A and adjacent to the western perimeter of Parcel B (indicated on the Exhibit A as the "Perpetual Spaces"), provided that such use shall be limited to the hours of 6:00 a.m. to 6:00 p.m. Mountain Time, Monday through Friday, excluding national holidays; and

(iii) The owner of Parcel C and the Parcel C Parties shall no longer have an easement, license, right, or privilege to use the parking spaces within the Parking Area which are located on Parcels A or B, but shall be restricted to parking only in those parking spaces located on Parcel C.

As of the end of the Notice Period, the owners of Parcels A, B and C shall post sufficient signage within the portions of the Parking Area owned by such owners that such parking spaces are restricted as to use only by parties associated with such parcels. Each owner may use whatever means reasonably deemed necessary to enforce such restrictions on such owner's parcel, including the towing of vehicles in violation. Notwithstanding the above, no owner of any parcel, nor their respective tenants, shall be required to take any action against any party wrongfully parking in any other owner's parking spaces. In addition, except as provided in Section 6 below, no owner shall be liable for any loss, cost, damage, or expense incurred by any other owner as a result of any party's violation of the parking restrictions.

Notwithstanding anything to the contrary contained in this Section 5, a termination hereunder shall in no way change, alter, or modify the reciprocal rights to access contained in Section 1 of this Agreement nor affect the covenants contained in Section 2 of this Agreement.

Specifically, no owner, in enforcing the parking restrictions described above, may take any action in contravention of Sections 1 or 2 of this Agreement.

Each party hereto hereby acknowledges and agrees that the underground parking spaces located on Parcel B are not part of the Parking Area and are not available for use by the owners of Parcels A or C or the Parcel A Parties or Parcel C Parties.

6. Indemnification. Each party hereto (the "Indemnifying Party") hereby agrees to indemnify and hold harmless each of the other parties hereto to the extent of any losses, damages, or injuries to any persons or property occurring in, on, or about the Parking Area resulting from the gross negligence or intentional acts of the Indemnifying Party.

7. Subdivision Approval. The owners of Parcel A and the owners of Parcel C acknowledge and agree that the owners of Parcel B may subdivide or replat Parcel B without objections from the owners of Parcel A and the owners of Parcel C provided that such subdivision or replat is not in contravention of any of the other terms and provisions contained in this Agreement..

8. Recording. This Agreement shall be recorded in the real property records of the City and County of Denver, State of Colorado, upon execution by the Parties. The Parties shall bear equal responsibility for the cost of recording.

9. Miscellaneous Provisions.

9.1 Final Agreement. This Agreement contains the final and entire agreement among the Parties hereto with respect to the Parking Area and related access, ingress and egress, and supersedes any and all other agreements or arrangements including any easements, covenants or other agreements of public record, relating to the subject matter contained herein, and they shall not be bound by any liens, conditions, statements or representations, oral or written, not contained herein. Any subsequent amendment to this Agreement shall be valid only if executed in writing by all of the Parties or their successors in interest.

9.2 Further Instruments. Each Party hereto shall, from time to time, execute and deliver such further instruments as another Party or its counsel may reasonably request to effectuate the intent of this Agreement.

9.3 Governing Law. This Agreement shall be construed and governed under the laws of the State of Colorado.

9.4 Severability. Each of the provisions of this Agreement shall be independent and severable from the other provisions of this Agreement, and the invalidity or unenforceability, or partial invalidity or partial unenforceability, of any provision or portion of this Agreement shall not affect the validity or enforceability of any other provision or portion of this Agreement.






9.5 Run with the Land; Binding on Successors and Assigns. The benefits, burdens, and all the provisions contained in this Agreement shall be covenants running with and binding upon Parcel A, Parcel B, and Parcel C. The benefits, burdens, and all other provisions contained in this Agreement shall be binding upon and inure to the benefit of each of the Parties, and upon and to their respective successors and assigns in ownership of any portion of their respective Parcels.

IN WITNESS WHEREOF, the Parties hereto have executed this Reciprocal Easement Agreement as of the day and year first above written.

**PARCEL A OWNER:**


TIFFANY PLAZA ENTERPRISES, LLC,  
a Colorado limited liability company

By: G & W, LLC, a Colorado limited  
liability company, Sole Manager


By:   
Charles P. Woods, Manager

**PARCEL B OWNER:**

ATEL PROPERTIES, INC., *Max Sam ...*  
a California corporation

By:   
Dean Cash  
President

**PARCEL C OWNER:**

  
David L. Cook

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Page: 7 of 17  
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City & County Of Denver EAS

STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of Sept., 2003, by CHARLES P. WOODS, Manager of G & W, LLC, a Colorado limited liability company, which is the Sole Manager of Tiffany Plaza Enterprises, LLC, a Colorado limited liability company, as to Parcel A.

WITNESS my hand and official seal.

My Commission expires: May 8, 2005



Kathryn A. Croan  
Notary Public

STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by \_\_\_\_\_, as \_\_\_\_\_ of ATEL Properties, Inc., a California corporation, as to Parcel B.

WITNESS my hand and official seal.

My Commission expires \_\_\_\_\_

*acknowledged present certificate attached*

\_\_\_\_\_  
Notary Public



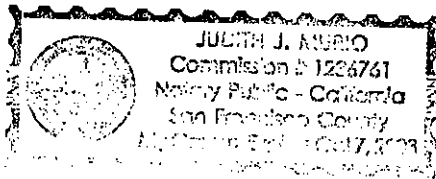
STATE OF CALIFORNIA }

ss.

COUNTY OF SAN FRANCISCO }

On September 30, 2003, before me, Judith J. Murio, the undersigned Notary Public, personally appeared Dean Cash, personally known to me to be the person whose name is subscribed to this instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



*Judith J. Murio*  
Judith J. Murio, Notary Public  
Commission Number 1236761

My Commission expires: October 7, 2003

(Notarial Seal)

(This Acknowledgment Certificate is attached to and a part of document  
Amendment and Restated Reciprocal Easement Agreement)

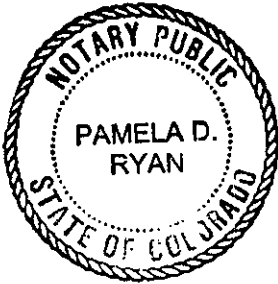
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City & County of Denver EAS R86.00 00.00

STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

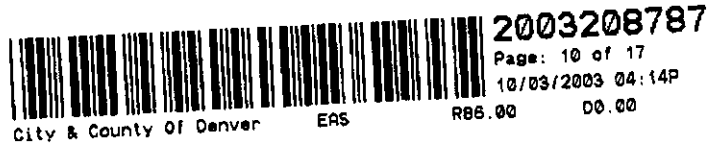
The foregoing instrument was acknowledged before me this 11th day of September, 2003, by DAVID L. COOK, as to Parcel C.

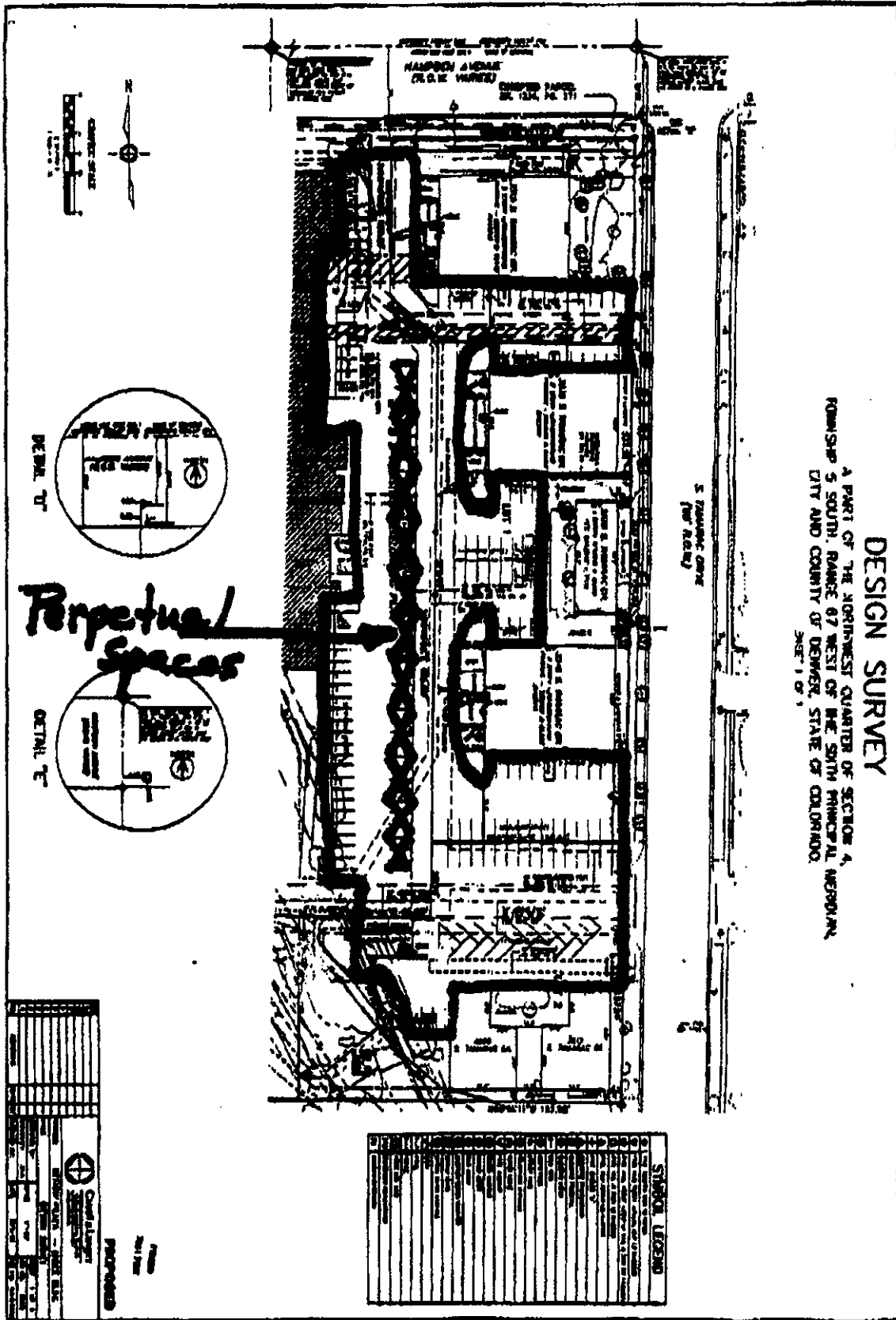
WITNESS my hand and official seal.

My Commission expires: August 5, 2007



Pamela D. Ryan  
Notary Public





**FIGURE A - PAINTING AREA**

**DESIGN SURVEY**

A PART OF THE NORTHWEST QUARTER OF SECTION 4,  
RANGE 5 SOUTH, RANGE 67 WEST OF THE 5TH PRINCIPAL MERIDIAN,  
CITY AND COUNTY OF DENVER, STATE OF COLORADO.  
SHEET 1 OF 1

*Perpetual  
Specs*

2003208787  
 Page: 11 of 17  
 10/03/2003 04:14P  
 City & County of Denver EAS R66.00 D0.00

PARCEL "A"

EXHIBIT

SHEET 1 OF 2

LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PART OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 5 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 4 AND CONSIDERING THE NORTH LINE OF SAID NORTHWEST QUARTER TO BEAR NORTH 90°00'00" EAST, AS SHOWN HEREWITH;

THENCE SOUTH 00°38'16" WEST, ALONG THE WEST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 80.01 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF HAMPDEN AVENUE AS DESCRIBED IN THE OFFICE OF THE DENVER COUNTY CLERK AND RECORDER IN BOOK 1214 AT PAGE 371 AND THE POINT OF BEGINNING;

THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) COURSES:

- 1. SOUTH 90°00'00" EAST, A DISTANCE OF 288.90 FEET;
- 2. NORTH 71°34'00" EAST, A DISTANCE OF 47.43 FEET;
- 3. SOUTH 89°17'53" EAST, A DISTANCE OF 408.17 FEET;
- 4. NORTH 90°00'00" EAST, A DISTANCE OF 397.56 FEET;

THENCE SOUTH 00°46'02" WEST, A DISTANCE OF 120.20 FEET;  
THENCE SOUTH 44°33'48" EAST, A DISTANCE OF 52.00 FEET;  
THENCE SOUTH 00°46'02" WEST, A DISTANCE OF 435.83 FEET TO A POINT ON THE SOUTHERLY LINE OF THAT 25' ACCESS EASEMENT AS DESCRIBED IN DEED RECORDED UNDER RECEPTION NO. 009596, CITY AND COUNTY OF DENVER RECORDS;

THENCE NORTH 89°21'44" WEST, ALONG SAID SOUTHERLY LINE A DISTANCE OF 65.52 FEET TO A POINT ON THE WESTERLY LINE OF THAT 20' SANITARY SEWER EASEMENT AS DESCRIBED DEED RECORDED IN BOOK 1341 AT PAGE 155, CITY AND COUNTY OF DENVER RECORDS;

THENCE SOUTH 23°19'12" EAST, ALONG SAID WESTERLY LINE A DISTANCE OF 153.24 FEET TO A POINT ON THE NORTHERLY LINE OF PINE RIDGE ESTATES SUBDIVISION, A RECORDED SUBDIVISION PLAT IN THE OFFICE OF THE DENVER COUNTY CLERK AND RECORDER IN BOOK 25 AT PAGE 91;

THENCE NORTH 89°21'11" WEST ALONG SAID NORTHERLY LINE OF SAID PINE RIDGE ESTATES SUBDIVISION, A DISTANCE OF 1171.77 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 4;

THENCE NORTH 00°38'16" EAST ALONG SAID WEST LINE, A DISTANCE OF 709.85 FEET TO THE POINT OF BEGINNING,

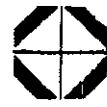
CONTAINING A CALCULATED AREA OF 19.333 ACRES, MORE OR LESS.

I, WILLIAM F. HESSELBACH, JR., A SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CHECKING.

*William F. Hesselbach, Jr.*  
WILLIAM F. HESSELBACH, JR., PLS.  
FOR AND ON BEHALF OF  
CARROLL & LANGE, INC.

DATE

4/29/03



Carroll & Lange Inc.  
Professional Engineers & Land Surveyors  
180 South Union Blvd., Suite 106  
Lakewood, Colorado 80128  
(303) 986-0200

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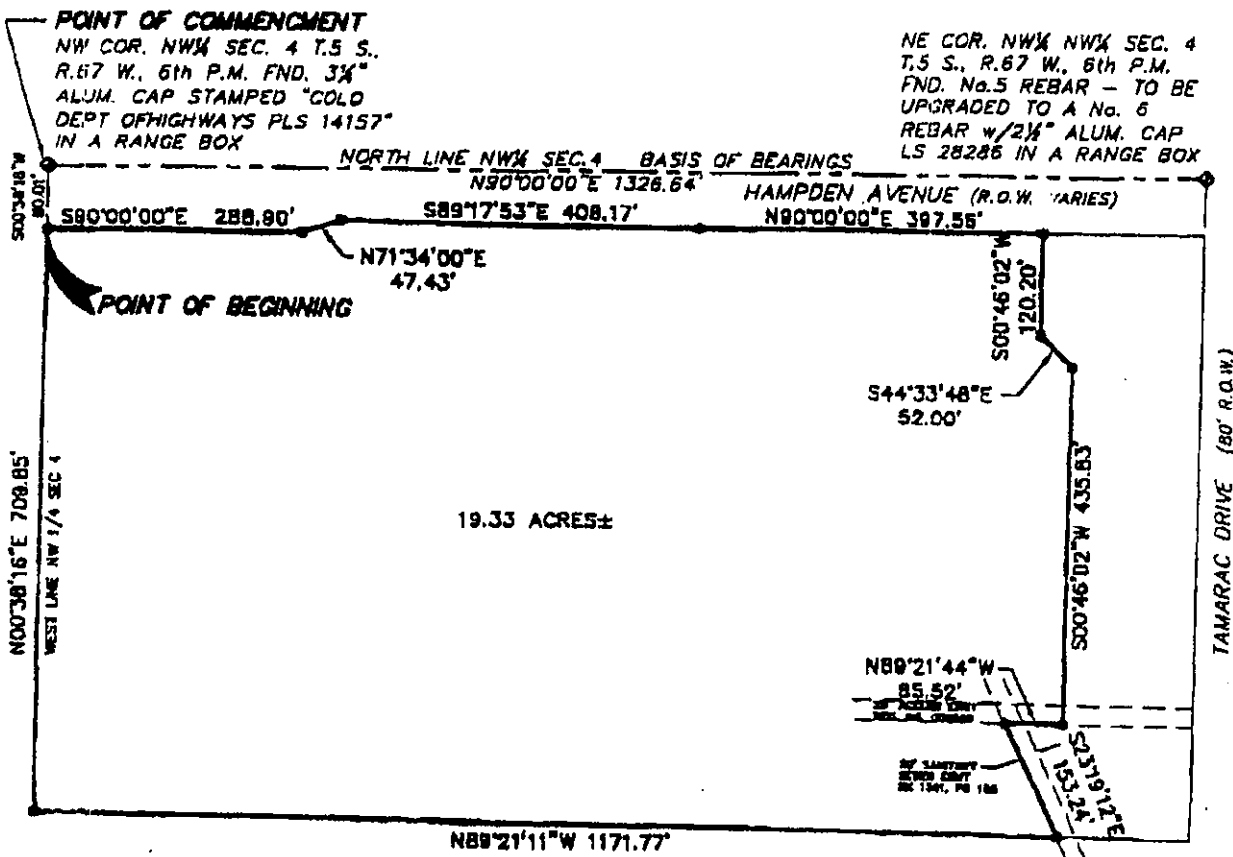
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City & County Of Denver ERS R66.00 D0.00

# EXHIBIT

SHEET 2 OF 2



PINE RIDGE ESTATES  
BK 25, PG 91



SCALE: 1"=200'

■ - INDICATES A CHANGE IN COURSE ONLY.  
 THIS EXHIBIT DOES NOT REPRESENT A  
 MONUMENTED SURVEY. IT IS INTENDED  
 ONLY TO DEPICT THE ATTACHED LEGAL DESCRIPTION.


**Carroll & Lange**  
 Professional Engineers & Land Surveyors  
 189 South Union Blvd., Suite 136  
 Lakewood, Colorado 80228  
 (303) 980-0200

EXHIBIT ATTACHED TO THE DEED OF 2 PARCELS 04/28/03


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PARCEL "B"

EXHIBIT

SHEET 1 OF 2

LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PART OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 5 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 4, AND CONSIDERING THE NORTH LINE OF SAID NORTHWEST QUARTER TO BEAR NORTH 90°00'00" EAST, AS SHOWN HEREON;

THENCE NORTH 90°00'00" EAST, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 1326.64 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 4, SAID POINT ALSO BEING ON THE NORTHERLY EXTENSION OF THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH TAMARAC DRIVE; THENCE SOUTH 00°46'02" WEST, ALONG THE EAST LINE OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER, AND ALONG SAID WESTERLY RIGHT-OF-WAY LINE EXTENSION, A DISTANCE OF 70.01 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF HAMPDEN AVENUE AS DESCRIBED IN DEED RECORDED IN BOOK 1214 AT PAGE 371, CITY AND COUNTY OF DENVER RECORDS, SAID POINT BEING THE POINT OF BEGINNING;

THENCE CONTINUING SOUTH 00°46'02" WEST, ALONG SAID EAST LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER AND ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID SOUTH TAMARAC DRIVE, A DISTANCE OF 537.28 FEET; THENCE NORTH 89°56'34" WEST, A DISTANCE OF 150.01 FEET; THENCE NORTH 00°46'02" EAST, A DISTANCE OF 379.88 FEET; THENCE NORTH 44°33'48" WEST, A DISTANCE OF 52.00 FEET; THENCE NORTH 00°46'02" EAST, A DISTANCE OF 120.20 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID HAMPDEN AVENUE; THENCE NORTH 90°00'00" EAST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 187.00 FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 1.97 ACRES, MORE OR LESS.

I, WILLIAM F. HESSELBACH, JR., A SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CHECKING.

*William F. Hesselbach, Jr.*  
WILLIAM F. HESSELBACH, JR., PLS 25369  
FOR AND ON BEHALF OF  
CARROLL & LANGE, INC.



DATE 4/22/03

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**Carroll & Lange**  
Professional Engineers & Land Surveyors  
166 South Union Blvd., Suite 108  
Lakewood, Colorado 80226  
(303) 840-8200



# EXHIBIT

SHEET 2 OF 2

N90°00'00"E 1326.84'  
NORTH LINE NW¼ SEC. 4 BASIS OF BEARINGS

HAMPDEN AVENUE

R.O.W. VARIES

NE COR. NW¼ NW¼ SEC. 4  
T.5 S., R.67 W., 6th P.M.  
FND. No. 5 REBAR - TO BE  
UPGRADED TO A No. 6  
REBAR w/2½" ALUM. CAP  
LS 28286 IN A RANGE BOX

POINT OF COMMENCEMENT

NW COR. NW¼ SEC. 4  
T.5 S., R.67 W., 6th P.M.  
FND. 3½" ALUM. CAP  
STAMPED "COLO DEPT OF  
HIGHWAYS PLS 14157"  
IN A RANGE BOX

POINT OF BEGINNING

N90°00'00"E 187.00'

N00°46'02"E  
120.20'

N44°33'48"W  
52.00'

N00°46'02"E 379.88'

1.97 ACRES±

S00°46'02"W 537.28'

SOUTH TAMARAC DRIVE

60' R.O.W.

N89°56'34"W 150.01'



SCALE: 1"=100'

● - INDICATES A CHANGE IN COURSE ONLY.

THIS EXHIBIT DOES NOT REPRESENT A  
MONUMENTED SURVEY. IT IS INTENDED  
ONLY TO DEPICT THE ATTACHED LEGAL DESCRIPTION.

FINE RIDGE ESTATES



**Carroll & Lange**

Professional Engineers & Land Surveyors  
143 South Union Blvd., Suite 104  
Littleton, Colorado 80228  
(303) 886-0200

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PARCEL "C"

EXHIBIT

SHEET 1 OF 2

LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PART OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 5 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 4, AND CONSIDERING THE NORTH LINE OF SAID NORTHWEST QUARTER TO BEAR NORTH 90°00'00" EAST, AS SHOWN HEREON;

THENCE NORTH 90°00'00" EAST, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 1326.64 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 4, SAID POINT ALSO BEING ON THE NORTHERLY EXTENSION OF THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH TAMARAC DRIVE; THENCE SOUTH 00°46'02" WEST, ALONG THE EAST LINE OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER, AND ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND THE NORTHERLY EXTENSION THEREOF, A DISTANCE OF 607.29 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING SOUTH 00°46'02" WEST, ALONG SAID EAST LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER AND ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID SOUTH TAMARAC DRIVE, A DISTANCE OF 197.54 FEET TO THE NORTHEASTERLY CORNER OF PINE RIDGE ESTATES SUBDIVISION;

THENCE NORTH 89°21'11" WEST, ALONG THE NORTHERLY LINE OF SAID PINE RIDGE ESTATES SUBDIVISION, A DISTANCE OF 152.98 FEET TO A POINT ON THE WESTERLY LINE OF THAT 20' SANITARY SEWER EASEMENT AS DESCRIBED DEED RECORDED IN BOOK 1341 AT PAGE 155, CITY AND COUNTY OF DENVER RECORDS;

THENCE NORTH 23°19'12" WEST, ALONG SAID WESTERLY LINE, A DISTANCE OF 153.24 FEET TO A POINT ON THE SOUTHERLY LINE OF THAT 25' ACCESS EASEMENT AS DESCRIBED IN DEED RECORDED UNDER RECEPTION NO. 009596, CITY AND COUNTY OF DENVER RECORDS;

THENCE SOUTH 89°21'44" EAST, ALONG SAID SOUTHERLY LINE, A DISTANCE OF 65.52 FEET TO A POINT BEING 150.00 FEET, BY PERPENDICULAR MEASUREMENT, WESTERLY OF THE WESTERLY RIGHT-OF-WAY LINE OF SAID SOUTH TAMARAC DRIVE;

THENCE NORTH 00°46'02" EAST, PARALLEL WITH SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 55.95 FEET;

THENCE SOUTH 89°58'34" EAST, A DISTANCE OF 150.01 FEET TO THE POINT OF BEGINNING,

CONTAINING A CALCULATED AREA OF 34,311 SQUARE FEET, MORE OR LESS.

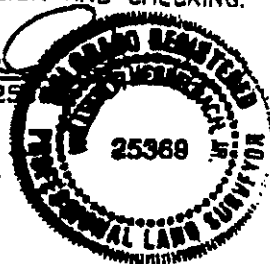
I, WILLIAM F. HESSELBACH, JR., A SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CHECKING.

*William F. Hesselbach, Jr.*

WILLIAM F. HESSELBACH, JR., PLS 25  
FOR AND ON BEHALF OF  
CARROLL & LANGE, INC.

DATE

4/22/09



**Carroll & Lange**  
Professional Engineers & Land Surveyors  
183 South Union Blvd., Suite 154  
Lakewood, Colorado 80226  
(303) 980-0700

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City & County of Denver    ERS    R86.00    D0.00

# EXHIBIT

SHEET 2 OF 2

N90°00'00"E 1325.64'  
NORTH LINE NW¼ SEC. 4 BASIS OF BEARINGS  
**HAMPDEN AVENUE**  
R.O.W. VARIES

NE COR. NW¼ NW¼ SEC. 4  
T.5 S., R.67 W., 6th P.M.  
FND. No. 3 REBAR - TO BE  
UPGRADED TO A No. 6  
REBAR w/2½" ALUM. CAP.  
LS 28286 IN A RANGE BOX

POINT OF COMMENCEMENT  
NW COR. NW¼ SEC. 4  
T.5 S., R.67 W., 6th P.M.  
FND. 3¼" ALUM. CAP  
STAMPED "COLO DEPT OF  
HIGHWAYS PLS 14157"  
IN A RANGE BOX

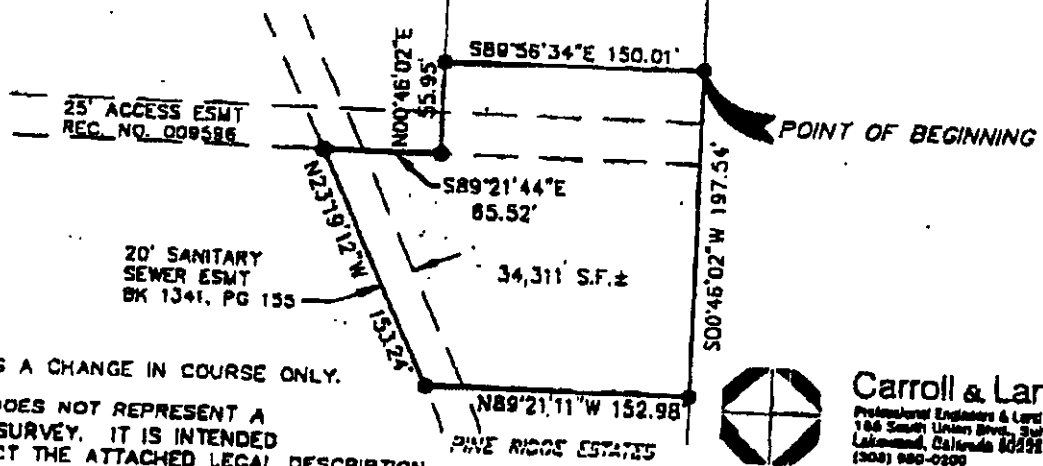


SCALE: 1"=100'

SOUTH TAMARAC DRIVE  
80' R.O.W.

500'46'02" W 607.29'

500'46'02" W 197.54'



● - INDICATES A CHANGE IN COURSE ONLY.  
THIS EXHIBIT DOES NOT REPRESENT A  
MONUMENTED SURVEY. IT IS INTENDED  
ONLY TO DEPICT THE ATTACHED LEGAL DESCRIPTION.



**Carroll & Lange**  
Professional Engineers & Land Surveyors  
186 South Union Blvd., Suite 136  
Lakewood, Colorado 80226  
(303) 980-0200

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RESOLUTION NO. **37**  
SERIES OF 2009

BY AUTHORITY

COMMITTEE OF REFERENCE:  
**Public Works**

A RESOLUTION

**Laying out, opening and establishing as part of the city street system a certain parcel of land as part of Hampden Avenue near South Tamarac Street.**

**WHEREAS**, the Manager of Public Works of the City and County of Denver has found and determined that the public use, convenience and necessity require the laying out, opening and establishing as a public street designated as part of the system of thoroughfares of the municipality those portions of real property hereinafter more particularly described, and, subject to approval by resolution has laid out, opened and established the same as a public street;

**NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

**Section 1.** That the action of the Manager of Public Works in laying out, opening and establishing as part of the system of thoroughfares of the municipality the following described portions of real property situate, lying and being in the City and County of Denver, State of Colorado, to wit:

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03/11/2009 11:27A  
City & County of Denver RES R0.00 D0.00

THAT PARCEL OF LAND DESCRIBED IN THAT DOCUMENT RECORDED ON MARCH 19, 1976, AT BOOK 1214 PAGE 371 IN THE RECORDS OF THE CLERK AND RECORDER, CITY AND COUNTY OF DENVER, SUBORDINATELY DESCRIBED IN SAID DOCUMENT AS FOLLOWS:

THAT PART OF THE NW ¼, NW ¼, SECTION 4, T.5S., R.67W. OF THE 6<sup>TH</sup> P.M., LOCATED WITHIN BOUNDARIES DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE NW ¼, NW ¼, OF SAID SECTION 4;  
THENCE SOUTHERLY ALONG THE WEST LINE OF SAID NW ¼, NW ¼, OF SECTION 4 A DISTANCE OF 80.01 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF HAMPDEN AVENUE;  
THENCE ON AN ANGLE TO THE LEFT OF 90°38'35" AND ALONG THE SOUTH RIGHT-OF-WAY LINE OF HAMPDEN AVENUE 288.90 FEET;  
THENCE ON AN ANGLE TO THE LEFT OF 18°26'00" AND CONTINUING ALONG SAID RIGHT-OF-WAY LINE 47.44 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE CONTINUING ALONG THE LAST DESCRIBED COURSE 15.81 FEET;  
THENCE ON AN ANGLE TO THE RIGHT OF 18°26'00" AND ALONG SAID RIGHT-OF-WAY LINE 978.14 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH TAMARAC DRIVE, SAID WESTERLY LINE BEING ALSO THE EAST LINE OF SAID NW ¼, NW ¼, OF SECTION 4;  
THENCE ON AN ANGLE TO THE RIGHT OF 90°47'27" AND ALONG SAID WESTERLY RIGHT-OF-WAY LINE 10 FEET;  
THENCE ON AN ANGLE TO THE RIGHT OF 89°12'33" AND PARALLEL WITH THE SAID SOUTHERLY RIGHT-OF-WAY LINE OF HAMPDEN AVENUE 584.86 FEET;  
THENCE ON AN ANGLE TO THE RIGHT OF 0°42'07", A DISTANCE OF 408.17 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 0.204 ACRE.

be and the same is hereby approved and said portions of real property are hereby laid out and established and declared laid out, opened and established as part of Hampden Avenue.

**Section 2.** That the real property described in Section 1 hereof shall henceforth be part of Hampden Avenue.

COMMITTEE APPROVAL DATE: N/A MAYOR-COUNCIL DATE: March 2, 2009

PASSED BY THE COUNCIL March 9 2009

Jeanne Robb - PRESIDENT

ATTEST: Stephanie J. Malley - CLERK AND RECORDER,  
EX-OFFICIO CLERK OF THE  
CITY AND COUNTY OF DENVER

PREPARED BY: KAREN A. AVILES, ASSISTANT CITY ATTORNEY, March 5, 2009

Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed resolution. The proposed resolution is not submitted to the City Council for approval pursuant to § 3.2.6 of the Charter.

David R. Fine, City Attorney

BY: [Signature], Assistant City Attorney DATE: March 5, 2009

### LENDER RATIFICATION

This Lender Ratification is made and executed this 22<sup>nd</sup> day of November, 2011, by U.S. BANK, N.A., as Successor Trustee for the Registered Holders of the TIAA Seasoned Commercial Mortgage Trust 2007-C4 Commercial Mortgage Pass-Through Certificates, Series 2007-C4 ("Lender"), whose address is c/o Wells Fargo Bank, N.A., Commercial Mortgage Servicing, 1901 Harrison St., 7th Floor, Oakland, California 94612, MAC #A0227-020.

WHEREAS, Lender is the holder of an indebtedness secured by that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing Statement (the "Deed of Trust"), executed by Tiffany Plaza Enterprises, LLC, a Colorado limited liability company ("Tiffany") to The Public Trustee of Denver County, Colorado, as trustee, for the benefit of GMAC Commercial Mortgage Corporation, a California corporation ("Original Lender"), and which Deed of Trust was recorded on November 18, 2005, as Document No. 2005197458 with the City and County of Denver ("Records"), the Original Lender's interest under which was assigned to Lender by instrument recorded on November 3, 2011, as Document No. 2011125172, in said Records, and which Deed of Trust encumbers certain real property and improvements in the City and County of Denver, State of Colorado, known as Tiffany Plaza Shopping Center, Denver, Colorado (the "Encumbered Property"); and

WHEREAS, on or about November 22, 2011, Tiffany, MaxSam Capital Corporation, a California corporation, David L. Cook, Jessica L. Schulze and Eric P. Schulze, executed and delivered that certain "Agreement" which was recorded in the Records concurrently herewith; and

WHEREAS, some or all of the Encumbered Property may be burdened by the Agreement; and

WHEREAS, Lender has agreed to ratify the Agreement for the limited purpose of confirming that the Deed of Trust is subject to the Agreement.

*[the rest of this page is blank]*

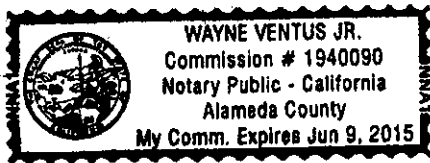


**CALIFORNIA NOTARY ACKNOWLEDGEMENT**


State of California            )  
  )ss  
County of Alameda            )

On November 17, 2011 before me, Wayne Ventus Jr., Notary Public, personally appeared Denil K. Barber, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.



WITNESS my hand and official seal.

  
\_\_\_\_\_



## AGREEMENT

This Agreement is made as of the 22<sup>nd</sup> day of November, 2011, by and between the undersigned, **TIFFANY PLAZA ENTERPRISES, LLC**, a Colorado limited liability company ("Tiffany"), whose address is 600 Grant Street, Suite 620, Denver, Colorado 80203; **MAXSAM CAPITAL CORPORATION**, a California corporation ("MaxSam"), whose address is 3535 South Tamarac Drive, Denver, Colorado 80237; **DAVID L. COOK** ("Cook"), whose address is 436 Monaco Parkway, Denver, Colorado 80220; and **JESSICA L. SCHULZE and ERIC P. SCHULZE** (collectively, the "Schulzes"), whose address is 3605 S. Tamarac Drive, Denver, Colorado 80237 (all of whom, collectively, the "Parties"), with respect real property and improvements known as the Tiffany Plaza Shopping Center and the Hampden Executive Plaza, located in the City and County of Denver, Colorado.

## RECITALS

### WHEREAS:

A. The Parties are the current owners of certain adjacent and contiguous parcels of real property which are the subject of, among other things:

(i) that certain Easement for a private road dated May 14, 1974, and recorded in the real estate records in the Office of the Clerk and Recorder, City and County of Denver, Colorado (the "Records"), on May 28, 1974, in Book 887 at Page 430, as modified by Corrective Easement recorded dated June 7, 1974, and recorded in the Records on July 12, 1974, in Book 912 at Page 36 (as modified, the "1974 Road/Parking Easement");

(ii) that certain Parking Covenant dated September 23, 1975, and recorded in the Records on October 27, 1975, in Book 1142 at Page 482 (the "1975 Parking Covenant");

(iii) that certain Reciprocal Easement Agreement dated November 12, 2002, and recorded in the Records on November 13, 2002, at Reception No. 2002215334 (the "2002 Reciprocal Easement");

(iv) that certain Reciprocal Easement Agreement dated July 17, 2003, and recorded in the Records on July 21, 2003, at Reception No. 2003149007 (the "2003 Reciprocal Easement"); and

(v) that certain Amended and Restated Reciprocal Easement Agreement dated October 2, 2003, and recorded in the Records on October 3, 2003, at Reception No. 2003208787 (the "Amended Easement");

and

B. The Parties, as the successors in interest to the 1974 Road/Parking Easement, agree that the 1974 Road/Parking Easement should be modified to the extent it conflicts with the Amended Easement; and

C. The Parties, as the successors in interest to the 1975 Parking Covenant, agree that the issues contemplated in the 1975 Parking Covenant are covered in the Amended Easement and, therefore, the 1975 Parking Covenant can be cancelled in conjunction with the other actions taken herein; and

D. The 2002 Reciprocal Easement never became effective and has terminated automatically by its terms, but may not have been adequately cancelled of record, and can and should be cancelled in conjunction with the other actions taken herein; and

E. The Parties own all the land encumbered by the 2003 Reciprocal Easement, and the Parties agree that the 2003 Reciprocal Easement should be cancelled as its terms have been replaced by the Amended Easement; and

F. Cook and the Schulzes own properties which together comprise all of Parcel C as described in the Amended Easement, and they now desire to have their *pro rata* shares of the Maintenance Obligation costs separately assessed to each of them.

G. The Parties wish to clarify, modify, affirm, and continue their relationship as established and set forth in the Amended Easement, as hereafter set forth.

#### AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises and agreements set forth below and the benefits derived therefrom, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

1. Modification of 1974 Road/Parking Easement. The Parties hereby agree that the 1974 Road/Parking Easement is amended, terminated and/or cancelled, as applicable, to the extent that it interferes or conflicts with the Amended Easement, or eliminates parking spaces located within the "Parking Area", as defined in the Amended Easement, which definition is incorporated herein as though fully set forth.

2. Cancellation of 1975 Parking Covenant. The 1975 Parking Covenant is hereby cancelled, of no further force or effect, and declared null and void.

3. Confirmation of Termination of 2002 Reciprocal Easement. The 2002 Reciprocal Easement is hereby confirmed to have terminated by its terms, is null and void, and shall be of no further force or effect.

4. Cancellation of 2003 Reciprocal Easement. The 2003 Reciprocal Easement is hereby cancelled, of no further force or effect, and declared null and void.

5. Modification of Amended Easement. The Amended Easement is hereby modified to provide that, so long as the owner of Parcel B is performing the Maintenance Obligations set forth in the Amended Easement, and to the extent that, from time to time, activities conducted by the Parcel A Parties, the Parcel B Parties, or the Parcel C Parties cause the owner of Parcel B to incur additional costs to fulfill its Maintenance Obligations that would have not been incurred, save for such extraordinary activities of such Parcel A Parties, Parcel B Parties, or Parcel C Parties, as applicable, to the extent the owner of Parcel B can reasonably establish and identify by whom such specific extraordinary activities were conducted and the additional costs to perform such Mainten-

ance Obligations attributable thereto, then in such event the owner of Parcel B shall be entitled to assess the owner of Parcel A, the owner of Parcel B, or the owner of the Schulzes Parcel or the Cook Remainder Parcel as hereafter defined, as is appropriate, a sum in addition to such owner's *pro rata* share of the Maintenance Obligations that would otherwise have been assessed to cover the additional costs incurred, which additional amount shall be billed separately to the responsible Parcel owner; provided that Parcel B owner describes such extraordinary activities and additional costs in reasonable detail to the owner so charged.

Further, since implementation of the Amended Easement, the ownership of Parcel C, as therein defined, has been further divided such that Schulzes own that portion of Parcel C described in the Warranty Deed In Lieu of Foreclosure dated June 10, 2011 and recorded in the Records on August 1, 2011 at Reception No. 2011082925 (the "Schulzes Parcel") with Cook owning the remainder of Parcel C (the "Cook Remainder Parcel"). The Parties agree that the respective *pro rata* share of Maintenance Obligation for Parcel C of 11% as described in the Amended Easement shall now be allocated 4.95% to the Schulzes Parcel and 6.05% to the Cook Remainder Parcel.

As so modified, the Amended Easement is hereby ratified, confirmed, and affirmed and continues to govern and bind the Parties, and specifically, but not by way of limitation, the Amended Easement does and shall run with the land and does now and shall continue to bind and inure to the benefit of the parties who executed the same and their respective successors and assigns.


6. Ratification by Additional Parties. Parcel A is currently encumbered by that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing Statement (the "Tiffany Deed of Trust"), for the benefit of GMAC Commercial Mortgage Corporation, a California corporation, recorded in the Records on November 18, 2005, under Reception No. 2005197458, which Tiffany Deed of Trust was assigned to U.S. BANK, N.A., as Successor Trustee for the Registered Holders of the TIAA Seasoned Commercial Mortgage Trust 2007-C4 Commercial Mortgage Pass-Through Certificates, Series 2007-C4 (the "Current Tiffany Lender") by instrument recorded in the Records on November 3, 2011, at Reception No. 2011125172. The ratification of this Agreement by the Current Tiffany Lender shall be a condition precedent to the effectiveness of this Agreement.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

7. Counterpart Signatures. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and, once signed by all the Parties hereto, all of which together shall constitute the contract of the Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

TIFFANY PLAZA ENTERPRISES, LLC, a  
Colorado limited liability company  
By: G&W, LLC, a Colorado limited liability  
company, Sole Manager

By:   
Charles P. Woods, Manager

MAXSAM CAPITAL CORPORATION, a  
California corporation

By: \_\_\_\_\_  
Dean Cash, President

\_\_\_\_\_  
DAVID L. COOK

\_\_\_\_\_  
JESSICA L. SCHULZE

\_\_\_\_\_  
ERIC P. SCHULZE

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Colorado limited liability company  
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company, Sole Manager

MAXSAM CAPITAL CORPORATION, a  
California corporation

By: \_\_\_\_\_  
Charles P. Woods, Manager

By: \_\_\_\_\_  
Dean Cash, President

  
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DAVID L. COOK

\_\_\_\_\_  
JESSICA L. SCHULZE

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California corporation

By: \_\_\_\_\_  
Charles P. Woods, Manager

By: \_\_\_\_\_  
Dean Cash, President

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DAVID L. COOK

\_\_\_\_\_  
JESSICA L. SCHULZE

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ERIC P. SCHULZE

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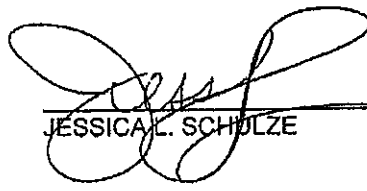
TIFFANY PLAZA ENTERPRISES, LLC, a  
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company, Sole Manager

MAXSAM CAPITAL CORPORATION, a  
California corporation

By: \_\_\_\_\_  
Charles P. Woods, Manager

By: \_\_\_\_\_  
Dean Cash, President

\_\_\_\_\_  
DAVID L. COOK

  
\_\_\_\_\_  
JESSICA L. SCHULZE

\_\_\_\_\_  
ERIC P. SCHULZE

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Colorado limited liability company  
By: G&W, LLC, a Colorado limited liability  
company, Sole Manager

MAXSAM CAPITAL CORPORATION, a  
California corporation

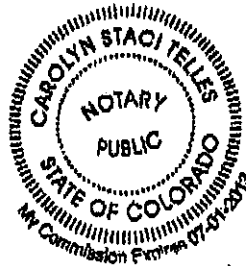
By: \_\_\_\_\_  
Charles P. Woods, Manager

By: \_\_\_\_\_  
Dean Cash, President

\_\_\_\_\_  
DAVID L. COOK

\_\_\_\_\_  
JESSICA L. SCHULZE

*C.P.S.* 11.21.11  
\_\_\_\_\_  
ERIC P. SCHULZE



*Carolyn Staci Telles* 11-21-11

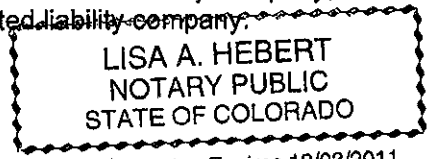


STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this 21st day of November, 2011, by Charles P. Woods as Manager of G&W, LLC, a Colorado limited liability company, the Sole Manager of Tiffany Plaza Enterprises, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 12/3/11



My Commission Expires 12/03/2011

*Lisa A Hebert*

\_\_\_\_\_  
Notary Public

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of November, 2011, by David L. Cook.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of November, 2011, by Jessica L. Schulze and Eric P. Schulze.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of November, 2011, by Charles P. Woods as Manager of G&W, LLC, a Colorado limited liability company, the Sole Manager of Tiffany Plaza Enterprises, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_.

Notary Public

STATE OF Florida )  
 ) ss.  
COUNTY OF Lee )



The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of November, 2011, by David L. Cook.

Witness my hand and official seal.

My commission expires: June 13, 2015.

Cheryl Bulta  
Notary Public

STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of November, 2011, by Jessica L. Schulze and Eric P. Schulze.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_.

Notary Public

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN FRANCISCO )

On November 21, 2011, before me, Vicki Kiele  
(insert name and title of the officer)

personally appeared Dean Cash, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity as President of MaxSam Capital Corporation, a California corporation, and that by his signature on the instrument the entity upon behalf of which he acted executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

My commission expires: Aug 30<sup>th</sup>, 2012.

(Seal)

Vicki Kiele  
Notary Public



STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of November, 2011, by Charles P. Woods as Manager of G&W, LLC, a Colorado limited liability company, the Sole Manager of Tiffany Plaza Enterprises, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of November, 2011, by David L. Cook.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

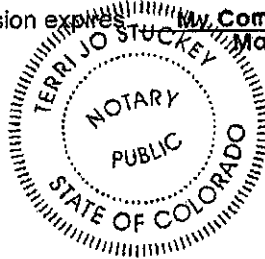
STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this 21 day of November, 2011, by Jessica L. Schulze and Eric P. Schulze.

Witness my hand and official seal.

My commission expires \_\_\_\_\_.

**My Commission Expires  
May 20, 2013**



*Terr Jo Stuckey*  
\_\_\_\_\_  
Notary Public

Storm Sewer

DEED OF EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

THAT MICHAEL COOPER, GARY COOPER and RICHARD COOPER OF THE CITY AND COUNTY OF DENVER, STATE OF COLORADO, FOR AND IN CONSIDERATION OF ONE (\$1.00) DOLLAR AND OTHER GOOD AND VALUABLE CONSIDERATIONS IN HAND PAID, DO HEREBY GRANT AND CONVEY TO THE CITY AND COUNTY OF DENVER, A MUNICIPAL CORPORATION DULY ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE CONSTITUTION OF THE STATE OF COLORADO, AN EASEMENT AND RIGHT-OF-WAY FOR A SEWER OVER, UPON, ACROSS, IN, THROUGH AND UNDER THE FOLLOWING DESCRIBED REAL PROPERTY SITUATE IN THE CITY AND COUNTY OF DENVER, STATE OF COLORADO, TO-WIT:

A parcel of land lying the NW<sup>1</sup>/<sub>4</sub> of Section 4, T.5S., R.67W. of the 6th P.M. and also lying within the City and County of Denver, being more particularly described as commencing at the Northwest corner of said Section 4; thence along the Northerly line of said Section 4, East 1326.97 feet to the one-sixteenth corner of said Section 4; thence along the Westerly right-of-way line of South Tamarac Drive South 00° 47' 27" West, 212.21 feet to the True Point of Beginning; thence West 375 feet; thence South 00° 47' 27" West, 10 feet; thence East 375 feet; thence North 00° 47' 27" East 10 feet to the True Point of beginning.

#162

STATE OF COLORADO  
DENVER COUNTY  
RECORDS & CLERK  
OFFICE ON  
NOV 9 2 30 PM '72  
RECORDED IN BOOK 6374  
E. J. SERAFINI  
RECORDER

078793

NOV-9-72 637840

1 FEELS

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RESERVING, HOWEVER, TO THE UNDERSIGNED, their HEIRS AND ASSIGNS, THE RIGHT TO UTILIZE AND ENJOY THE ABOVE DESCRIBED PREMISES PROVIDING THE SAME SHALL NOT INTERFERE WITH THE CONSTRUCTION, MAINTENANCE, REPAIRING, INSPECTION, AND OPERATION OF SAID SEWER, AND PROVIDING FURTHER THAT THE GRANTOR SHALL NOT ERECT OR PLACE ANY BUILDING OR TREE ON THE ABOVE DESCRIBED RIGHT-OF-WAY AND THE CITY SHALL NOT BE LIABLE FOR THEIR REMOVAL IF THEY ARE SO PLACED.

SIGNED AND DELIVERED THIS 2<sup>nd</sup> DAY OF November A.D. 19 72

Michael Cooper  
Gary Cooper  
Richard Cooper

STATE OF COLORADO }  
CITY AND } ss.  
COUNTY OF DENVER }

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 2<sup>nd</sup> DAY OF November A.D. 19 72, BY MICHAEL COOPER, GARY COOPER and RICHARD COOPER.

WITNESS MY HAND AND SEAL.

COMMISSION EXPIRES:

November 14, 1975

Frances P. Frank  
NOTARY PUBLIC

APPROVED FOR RECORDING  
LAND OFFICE

AS TO FORM

595 674

MOUNTAIN BELL  
CONCEALED COMMUNICATIONS WIRING AGREEMENT  
COVERING THE USE OF LAY-IN SUSPENDED CEILINGS

BUILDING COOPER INVESTMENTS DATE 11-13-72  
STREET ADDRESS 3525-3535 S.Tamarac COUNTY Denver  
CITY AND STATE Denver, Colorado

LEGAL DESCRIPTION:

E/2 NW/4 NW/4 4-5-67 South of Hampden Avenue and North of Pine Ridge Estates except beginning 664.90 feet South of North line said 1/4 1/4 on West line Tamarac Drive thence South 140 feet West 153.18 feet angle right 66 degrees 153.20 feet East 215.76 feet to point of beginning and except beginning most northerly corner Tract A Hutchinson Hills Filing No. 1 thence Southwest 85 feet thence Southeast 152.34 feet thence North 174.45 feet to point of beginning.

STATE OF COLORADO  
CITY & COUNTY  
OF DENVER  
FILED IN MY OFFICE ON  
JAN 8 9 56 AM '73  
RECORDED IN 624 584  
F. J. SERAFINI  
CLERK AND RECORDER

001230

A. To induce The Mountain States Telephone and Telegraph Company, a Colorado corporation (Mountain Bell), to conceal communications equipment and cables serving the above-noted building in the space above lay-in suspended ceilings and elsewhere, where practical and where no communications' duct or conduit system is available, the undersigned owner of, or of an interest in, the building, for himself, and for his successors in interest therein (Owner) does hereby agree as follows:

JAN--8-73 665169 LST--HIS

3.00

1. To provide access to and the use of such space above the suspended ceilings where required for Mountain Bell to provide requested communications service, and to be responsible for removing, storing and replacing ceiling tiles as required.
2. To obtain any required permission from occupants, whose possessory rights may be disturbed, prior to engaging in any preparatory construction or maintenance work, and prior to Mountain Bell's construction or maintenance work. Mountain Bell shall notify Owner of any work which will or may be likely to disturb the possessory interests of any building occupant, giving Owner sufficient time to obtain such permission in advance of the time when the work is to be performed.

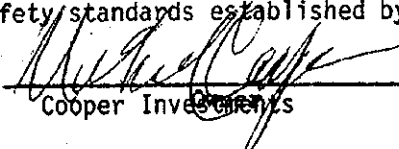
8-10-72

624 584

3. To be responsible for payment to Mountain Bell for all overtime work expenses and for all other unusual expenses and charges in accordance with applicable tariffs, which are incurred because of the necessity of using the suspended ceiling space, or because of other special working conditions or hours necessitated by request of the Owner. Mountain Bell shall advise or confirm to the Owner in writing any such expenses which it incurs, or may incur prior to the undertaking of such unusual work or expense.
4. To provide access through and seals to zone barriers, consistent with the applicable building codes, when the space above the suspended ceiling is used for an air plenum.

B. It is further understood and agreed by the Owner in connection with any communication equipment or cables of Mountain Bell in the above described building:

1. That Mountain Bell may refuse to place or maintain communications equipment and cables in any manner or location which will violate safety standards or practices.
2. That Mountain Bell will not be responsible for any damage to or from suspended ceilings, occasioned by its placing, maintenance, operation, servicing or removal of concealed communications equipment and cables in pursuance of this agreement, except damage caused by negligence of Mountain Bell employees.
3. That the applicable tariff provisions of Mountain Bell in the state in which the building is located will be applicable to all communications facilities furnished.
4. That Mountain Bell will complete its installation in accordance with all applicable building codes and the safety standards established by concerned governmental agencies.

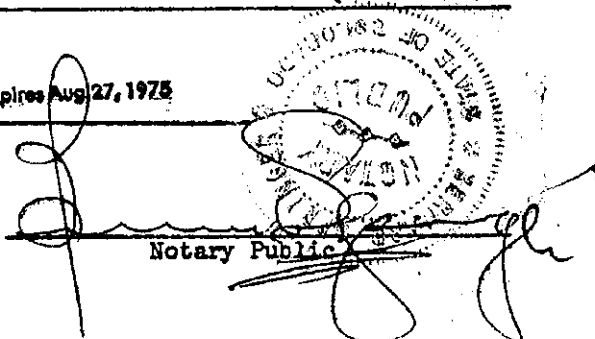
  
 \_\_\_\_\_  
 Cooper Investments

STATE OF COLORADO )  
 County of Denver ) ss.

The foregoing instrument was acknowledged before me this 13<sup>th</sup>  
 day of November, 1974, by Michael Cooper

WITNESS my hand and official seal.

My commission expires My Commission expires Aug 27, 1975

  
 \_\_\_\_\_  
 Notary Public

EASEMENT

FOR GOOD AND VALUABLE CONSIDERATION the receipt and sufficiency of which is hereby acknowledged, the undersigned, as owner of the real property and improvements described on Exhibit 1, which is attached hereto and by reference expressly incorporated herein, hereby grants and dedicates a perpetual Easement for a storm sewer only. An exact description of said Easement is attached hereto, marked Exhibit 2, and by reference expressly incorporated herein.

FURTHER, this Easement for a storm sewer shall run with the land that is described on Exhibit 1.

FURTHER, this Easement shall be for a sub-surface use only.

FURTHER, the undersigned expressly reserves the right to pave and/or landscape over the Easement described on Exhibit 2.

FURTHER, it is expressly understood that the Easement described on Exhibit 2 and the storm sewer to be placed therein shall be maintained at the sole cost and expense of the City and County of Denver, State of Colorado.

DATED this 23<sup>rd</sup> day of August, A.D., 1974, at Denver, Colorado.

COOPER INVESTMENTS, a  
General Partnership

By: Michael K. Cooper  
Michael K. Cooper, General Partner

By: Gary Cooper  
Gary Cooper, General Partner

By: Richard Cooper  
Richard Cooper, General Partner

STATE OF COLORADO )  
 )ss.  
City and County of Denver )

The above and foregoing Easement was subscribed and sworn to before me this 23 day of August, A.D., 1974, by MICHAEL K. COOPER, GARY COOPER and RICHARD COOPER as General Partners of COOPER INVESTMENTS a General Partnership.

My commission expires: June, 1978

Lora L. Cooper  
Notary Public



935 145



EXHIBIT 1

HAMPDEN EXECUTIVE PLAZA NO. -III

A parcel of land lying in the Northwest One-Quarter of Section Four, Township Five South, Range Sixty-Seven West of the Sixth Principal Meridian, and also lying within the City and County of Denver, being more particularly described as commencing at the Northwest Corner of said Section Four; thence along the Northerly line of said Section Four, East 1,326.97 feet to the one-sixteenth corner of said Section Four; thence along the Westerly right-of-way line of South Tamarac Drive, S 00°47'27" W, 60.00 feet to the TRUE POINT OF BEGINNING; thence continuing along said line, S 00°47'27" W, 167.21 feet; thence leaving said line, West 150.00 feet; thence N 00°47'27" E, 167.21 feet more or less to the South right-of-way line of Hampden Avenue; thence East along said right-of-way line of Hampden Avenue 150.00 feet more or less to the TRUE POINT OF BEGINNING, City and County of Denver, State of Colorado.

935 146

EXHIBIT 2

STANDARD FORM NO. 1  
FORM 20  
MAY 1962 EDITION  
GSA GEN. REG. NO. 27

Easement for Storm Drain

A 20 foot wide easement through a portion of the Northwest one-quarter of Section 4, Township 5 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado, lying 10 feet on each side of the following described centerline:

Beginning at the Northwest corner of said Section 4; thence East, 1176.97 feet along the North line of said Section 4; thence S 0°47'27" W, 170.00 feet to the TRUE POINT OF BEGINNING of said 20 foot wide easement:

1. Thence West and parallel to the North line of said Section 4 to a point of intersection with the centerline of Goldsmith Gulch.

555 472 223 006.00 A \$11

0 3 2 3 5 8

STATE OF COLORADO  
CITY & COUNTY  
OF DENVER  
FIELD OFFICE ON  
AUG 23 11 46 AM '74  
RECORDED 935 145  
F. J. SEAFIN  
CLERK AND RECORDER

935 147



EXHIBIT 1

That portion of the Northwest One-Quarter (NW1/4) of the Northwest One-Quarter (NW1/4) of Section 4, Township 5 South, Range 67 West of the 6th P.M., City and County of Denver, State of Colorado, more particularly described as follows:

Beginning at the Northwest corner of said Section 4; thence Easterly along the North line of said Section 4 a distance of 1176.97 feet to a point; thence on an angle to the right of  $90^{\circ}47'27''$  a distance of 663.21 feet to a point; thence on an angle to the right of  $89^{\circ}51'08''$  a distance of 1175.19 feet, more or less, to the West line of said Section 4; thence Northerly along said West line of said Section 4 a distance of 650.00 feet, more or less, to the true point of beginning; less the right of way for East Hampden Avenue.

943 578

EXHIBIT 2

Easement for Storm Drain

A 20 foot wide easement through a portion of the Northwest one-quarter of Section 4, Township 5 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado, lying 10 feet on each side of the following described centerline:

Beginning at the Northwest corner of said Section 4; thence East, 1176.97 feet along the North line of said Section 4; thence S 0°47'27" W, 170.00 feet to the TRUE POINT OF BEGINNING of said 20 foot wide easement:

1. Thence West and parallel to the North line of said Section 4 to a point of intersection with the centerline of Goldsmith Gulch.

943 579

EXHIBIT 3

HAMPDEN EXECUTIVE PLAZA NO. III

A parcel of land lying in the Northwest One-Quarter of Section Four, Township Five South, Range Sixty-Seven West of the Sixth Principal Meridian, and also lying within the City and County of Denver, being more particularly described as commencing at the Northwest Corner of said Section Four; thence along the Northerly line of said Section Four, East 1,326.97 feet to the one-sixteenth corner of said Section Four; thence along the Westerly right-of-way line of South Tamarac Drive, S 00°47'27" W, 60.00 feet to the TRUE POINT OF BEGINNING; thence continuing along said line, S 00°47'27" W, 167.21 feet; thence leaving said line, West 150.00 feet; thence N 00°47'27" E, 167.21 feet more or less to the South right-of-way line of Hampden Avenue; thence East along said right-of-way line of Hampden Avenue 150.00 feet more or less to the TRUE POINT OF BEGINNING, City and County of Denver, State of Colorado.

943 580

21.00

1.7

TERMINATION AND  
DECLARATION OF ACCESS EASEMENT

THIS TERMINATION AND DECLARATION OF ACCESS EASEMENT is made this 24<sup>TH</sup> day of DECEMBER, 1985, by COOPER INVESTMENTS, a Colorado general partnership ("Cooper").

W I T N E S S E T H:

WHEREAS, Cooper is the owner of those certain parcels of real property situate in the City and County of Denver, State of Colorado, more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, Cooper has previously executed a certain Easement Agreement dated October 1, 1980, and recorded on February 21, 1981, in Book 2329 at Page 206 of the records of the City and County of Denver, Colorado (the "Parcel A Easement") which granted a nonexclusive easement over and across that portion of the Property more particularly described on Exhibit B attached hereto and incorporated herein by this reference ("Parcel A"); and

MISC 1 21.00

WHEREAS, Cooper desires to terminate, cancel and rescind the Parcel A Easement and replace the Parcel A Easement with a new nonexclusive easement over and across that portion of the Property more particularly described on Exhibit C attached hereto and incorporated herein by this reference ("Parcel B") as more particularly set forth hereinafter (the "Parcel B Easement").

NOW, THEREFORE, for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Cooper hereby states, declares and agrees as follows:

1. Cooper hereby creates a nonexclusive easement over and across Parcel B for the purpose of providing vehicular and pedestrian access for the benefit of Cooper, its employees, partners, representatives, tenants, licensees and invitees. The Parcel B Easement is over property that is presently improved to accommodate pedestrian and vehicular traffic.

2. The owner(s) of portions of the Property that are benefitted by the Parcel B Easement and their respective successors and assigns shall be obligated to share any and all costs and expenses (collectively, the "Costs") related to the maintenance and repair of the Parcel B Easement, including, but not limited to, any and all costs and expenses in connection with any asphalt, curb, gutter, sidewalks, drainage facilities or utilities located within Parcel B, as they exist at the time of such maintenance and/or repair, on the following basis: (a) one-eighth (1/8) of the Costs shall be paid by the owner(s) of the office buildings bearing the following street addresses: 3515 South Tamarac, 3525 South Tamarac, 3535 South Tamarac, 3545 South Tamarac, 3605 South Tamarac and 3615 South Tamarac, and (b) the remaining seven-eighths (7/8) of the Costs shall be paid by the owner(s) of Tiffany Plaza Shopping Center which is constructed on a portion of the Property.

3. If any owner, its successors or assigns, fails to pay its respective share of the Costs, any one or more of the other owners shall have the right, but shall not be obligated, to advance the defaulting party's share of the Costs, and any such advance shall bear interest from the date of such advance until repaid at the rate of eighteen percent (18%) per annum. If the defaulting party has not repaid its share of the Costs within thirty (30) days after the date of such advance, any one or more of the other owners shall have the right to pursue any remedies available to it in law or in equity.

009596

123035 M 3 30

DEPARTMENT OF  
COUNTY CLERK  
FELIX W. WILSON

6-6000

4. Cooper, for itself, its successors and assigns, further agrees, by its execution hereof, that Parcel B shall not be obstructed or rendered impassable in any way by the construction or installation thereon of any building or improvement, by the storage or placement of any personal property thereon, or by the construction of any improvements upon the Property, provided that the foregoing shall in no way limit or restrict the rights of Cooper or its successors or assigns to install or provide for the installation of utility lines and appurtenances thereto through and across Parcel B.

5. The easement granted and created hereby is for pedestrian and vehicular access only and does not include or create any parking rights or privileges. Further, the easement granted and created hereby is nonexclusive, and Cooper hereby reserves the right, for itself, its successors and assigns, to create and grant such other easements, rights, and privileges over and across Parcel B to such persons and for such purposes as Cooper, in its reasonable discretion, may select, so long as such purposes do not unreasonably interfere with the easement created and granted herein.

6. Notwithstanding anything to the contrary contained herein, so long as Cooper is the owner of all of the Property, Cooper shall have the right, in its sole discretion, to supplement, modify, amend, terminate, cancel or rescind the Parcel B Easement. Further, so long as Cooper is the owner of all of the Property, Cooper shall have the right to relocate the Parcel B Easement at any time and from time to time, in its sole discretion.

7. The benefits and burdens hereof shall run with the land and shall be binding upon and inure to the benefit of Cooper and its successors and assigns. Notwithstanding the foregoing, if and to the extent that any of the covenants and restrictions would otherwise be unlawful or void for violation of (a) the rule against perpetuities, (b) the rule restricting restraints on alienation, or (c) any other applicable statute or common law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants or restrictions may be valid, then the provision concerned shall continue and endure only until the expiration of a period of twenty-one (21) years after the death of the last to survive of all of the lawful descendants of Ronald Reagan, President of the United States of America, living at the date hereof.

8. Subject to the terms of Paragraph 9 below, Cooper hereby terminates, cancels, and rescinds the Parcel A Easement and the Parcel A Easement is hereby rendered null, void and of no further force or effect.

9. If, by reason of its present ownership of all of the Property, Cooper is legally unable to create at the present time the easement provided for herein, then such easement shall arise and exist immediately upon the occurrence of any event, whether voluntary or involuntary, which results in a state of facts that would legally allow the creation of the easement provided for herein, and the Parcel A Easement shall not be terminated until the occurrence of such event.

IN WITNESS WHEREOF, Cooper has executed this Termination and Declaration of Access Easement as of the day and year first above written.

COOPER INVESTMENTS, a Colorado  
general partnership

By:   
General Partner



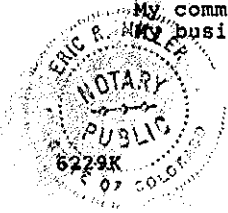
STATE OF COLORADO )  
 ) ss.  
City and County of Denver )

The foregoing instrument was acknowledged before me in the City and County of Denver, State of Colorado, this 24<sup>th</sup> day of December, 1985, by Gary Cooper as General Partner of COOPER INVESTMENTS, a Colorado general partnership.

WITNESS my hand an official.

My commission expires: August 9, 1988

My business address is: 4605 S. Tamarac Denver Colorado 80237



Eric R. Miller  
Notary Public

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EXHIBIT A

PARCEL 1 (Tiffany Plaza Shopping Center):

Part of the Northwest quarter of the Northwest quarter of Section 4, Township 5 South, Range 67 West of the Sixth Principal Meridian, more particularly described as follows: Beginning at the Northwest corner of said Section 4; thence Southerly along the West line of said Section 4, a distance of 80.00 feet to the Northwest corner of Tiffany Plaza Fourth Amended B-3 District Development Plan as recorded in Plan Building Group Book 1 at Page 11, December 10, 1977; thence continuing along aforesaid course, said course also being the West line of said Tiffany Plaza, 230.00 feet to the True Point of Beginning; thence on a deflection angle to the left 90 degrees 38'35", 174.41 feet; thence on a deflection angle to the left of 89 degrees 12'33", 230.00 feet to a point on the North property line of said Tiffany Plaza; thence along the boundary of said Tiffany Plaza the following seven (7) courses, course (1) through (4) are also along the South right-of-way of Hampden Avenue;

- (1) thence on a deflection angle to the right of 89 degrees 12'33", 113.90 feet;
- (2) thence on a deflection angle to the left of 18 degrees 26'00", 47.44 feet;
- (3) thence on a deflection angle to the right 19 degrees 08'07", 408.17 feet;
- (4) thence on a deflection angle to the left of 00 degrees 42'07", 434.86 feet to the Northeast corner of said Tiffany Plaza;
- (5) thence on a deflection angle to the right of 90 degrees 47'27", 593.21 feet to the Southeast corner of said Tiffany Plaza;
- (6) thence on a deflection angle to the right of 89 degrees 51'08", 1175.19 feet to the Southwest corner of said Tiffany Plaza, said point also being on the West line of said Section 4;
- (7) thence on a deflection angle to the right of 90 degrees 00'00" and along the West line of said Section 4 a distance of 340.00 feet to the True Point of Beginning,

City and County of Denver,  
State of Colorado

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PARCEL 2 (3515 South Tamarac):

That part of the Northwest Quarter of Section 4, Township 5 South, Range 67 West of the 6th P.M., more particularly described as follows:

Commencing at the Northwest corner of said Section 4; thence along the Northerly line of said Section 4, East 1326.97 feet to 1/16 corner of said Section 4; thence along the Westerly right of way line of South Tamarac Drive South 00°47'27" West 60.01 feet to TRUE POINT OF BEGINNING; thence continuing along said line South 00°47'27" West 167.20 feet thence leaving said line, West, 150 feet; thence North 00°47'27" East 167.20 feet more or less to South right of way line of Hampden Avenue; thence East along said right of way line 150 feet more or less to the True Point of Beginning,

Together with a non-exclusive right of way for ingress and egress across a thirty foot parcel of land abutting the Westerly boundary line of subject property.

City and County of Denver, Colorado

(Continued)

PARCEL 3 (3545 South Tamarac):

A parcel of land lying in the Northwest one-quarter of Section 4, Township 5 South, Range 67 West of the 6th Principal Meridian and also lying within the City and County of Denver, being more particularly described as commencing at the Northwest corner of said Section 4; thence along the Northerly line of said Section 4, East 1,326.97 feet to the 1/16th corner of said Section 4; thence along the Westerly right-of-way line of South Tamarac Drive, S 00°47'27" W, 435.21 feet to the TRUE POINT OF BEGINNING; thence leaving said line N 89°12'33" W, 46.00 feet; thence N 00°47'27" E, 42.00 feet; thence N 89°12'33" W, 104.00 feet; thence S 00°47'27" W, 173.00 feet; thence S 89°12'33" E, 150.00 feet to a point which bears S 00°47'27" W from the TRUE POINT OF BEGINNING; thence N 00°47'27" E, 131.00 feet to the TRUE POINT OF BEGINNING.

PARCEL 4 (3525 South Tamarac):

That part of the Northwest one-quarter of Section 4 Township 5 South, Range 67 of the 6th P.M. described as follows:  
Commencing at the Northwest corner of said Section 4; thence, along the Northerly line of said Section 4, East 1,326.97 feet to the one-sixteenth corner of said Section 4; thence, along the Westerly right-of-way line of South Tamarac Drive, South 00°47'27" West, 227.21 feet to the TRUE POINT OF BEGINNING; thence, continuing along said line South 00°47'27" West, 208 feet; thence, leaving said line West, 46.00 feet; thence, North 00°47'27" East, 42.00 feet; thence, West, 104.00 feet; thence, North 00°47'27" East 166.00 feet; thence, East, 150.00 feet to the True Point of Beginning.

City and County of Denver, Colorado

PARCEL 5 (3605 and 3615 South Tamarac):

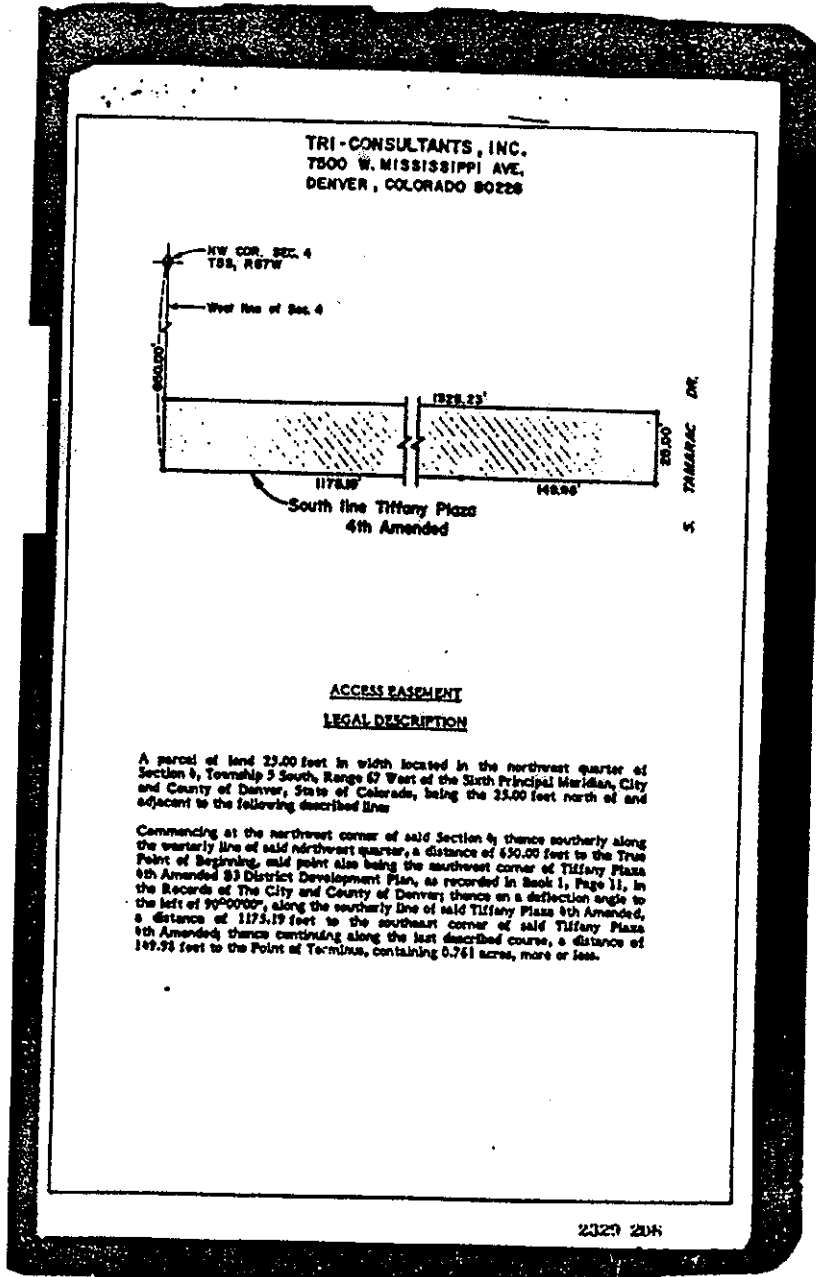
A tract of land in the Northwest Quarter of the Northwest Quarter of Section 4, Township 5 South, Range 67 West of the Sixth Principal Meridian, more particularly described as follows:

Commencing at the Northwest corner of said Northwest Quarter of the Northwest Quarter; thence East along the North line of said Northwest Quarter of the Northwest Quarter a distance of 1326.97 feet to the point of intersection between said North line and the West line of Tamarac Drive extended; thence Southerly along said West line of Tamarac Drive extended and along said West line of Tamarac Drive, a distance of 664.90 feet to the TRUE POINT OF BEGINNING; thence continuing along said West line of Tamarac Drive an additional distance of 42.0 feet; thence on an angle to the right of 89°51'08", a distance of 71.60 feet; thence on an angle to the left of 89°51'08" a distance of 98.0 feet; thence on an angle to the right of 89°51'08" a distance of 81.58 feet; thence on an angle to the right of 66°02'37" a distance of 153.20 feet; thence on an angle to the right of 113°57'23" a distance of 215.76 feet to the True Point of Beginning,

City and County of Denver, Colorado

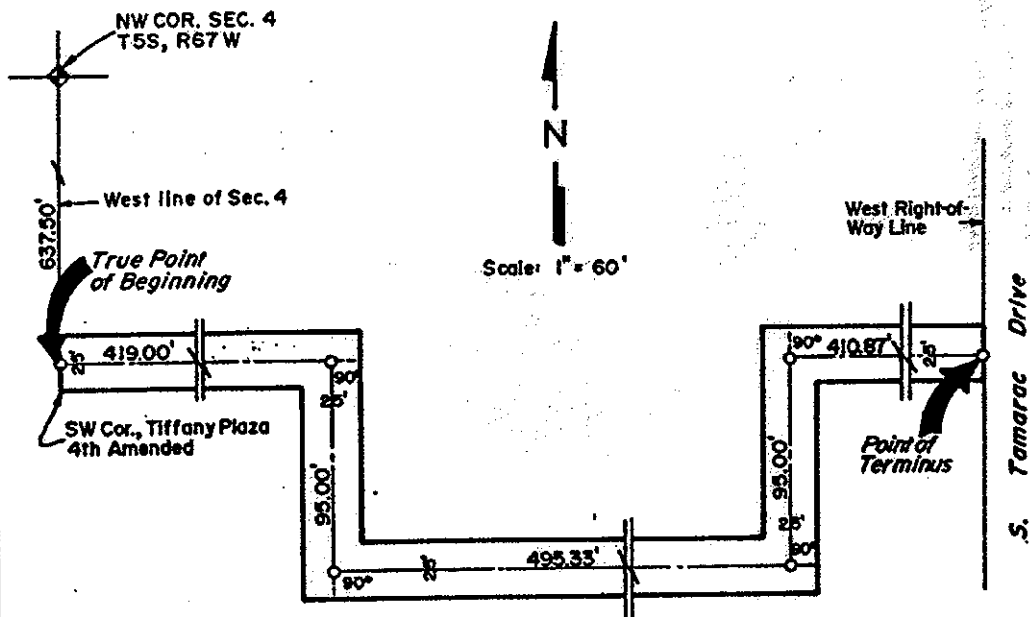
EXHIBIT B

PARCEL A LEGAL DESCRIPTION



TRI-CONSULTANTS, INC.  
7500 W. MISSISSIPPI AVE.  
DENVER, COLORADO 80226

EXHIBIT C  
PARCEL B LEGAL DESCRIPTION



ACCESS EASEMENT  
LEGAL DESCRIPTION

A parcel of land 25.00 feet in width located in the northwest quarter of Section 4, Township 5 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado, being 12.5 feet on each side of the following described centerline:

Beginning at the northwest corner of Section 4; thence southerly along the westerly line of said northwest quarter, a distance of 637.50 feet to the True Point of Beginning, said point being 12.5 feet north of the southwest corner of Tiffany Plaza 4th Amended B3 District Plan, as recorded in Book 1, Page 11, in the records of the City and County of Denver; thence parallel with the southerly line of said Tiffany Plaza on a deflection angle to the left of  $90^{\circ}00'00''$ , a distance of 419.00 feet; thence on a deflection angle to the right of  $90^{\circ}00'00''$ , a distance of 95.00 feet; thence on a deflection angle to the left of  $90^{\circ}00'00''$ , a distance of 495.33 feet; thence on a deflection angle to the left of  $90^{\circ}00'00''$ , a distance of 95.00 feet; thence on a deflection angle to the right of  $90^{\circ}00'00''$ , a distance of 410.87 feet to the Point of Terminus, said point also being on the westerly right-of-way line of South Tamarac Drive, containing 37,880 square feet or 0.870 acres, more or less.

TIFFANY 0660  
10-10-85 KR



# HAMPDEN EXECUTIVE PLAZA - NORTH

A PLANNED BUILDING GROUP

A PART OF THE NORTHWEST QUARTER OF SECTION 4,  
TOWNSHIP 5 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL  
MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO

ARCHITECTURAL SITE / LANDSCAPE PLAN

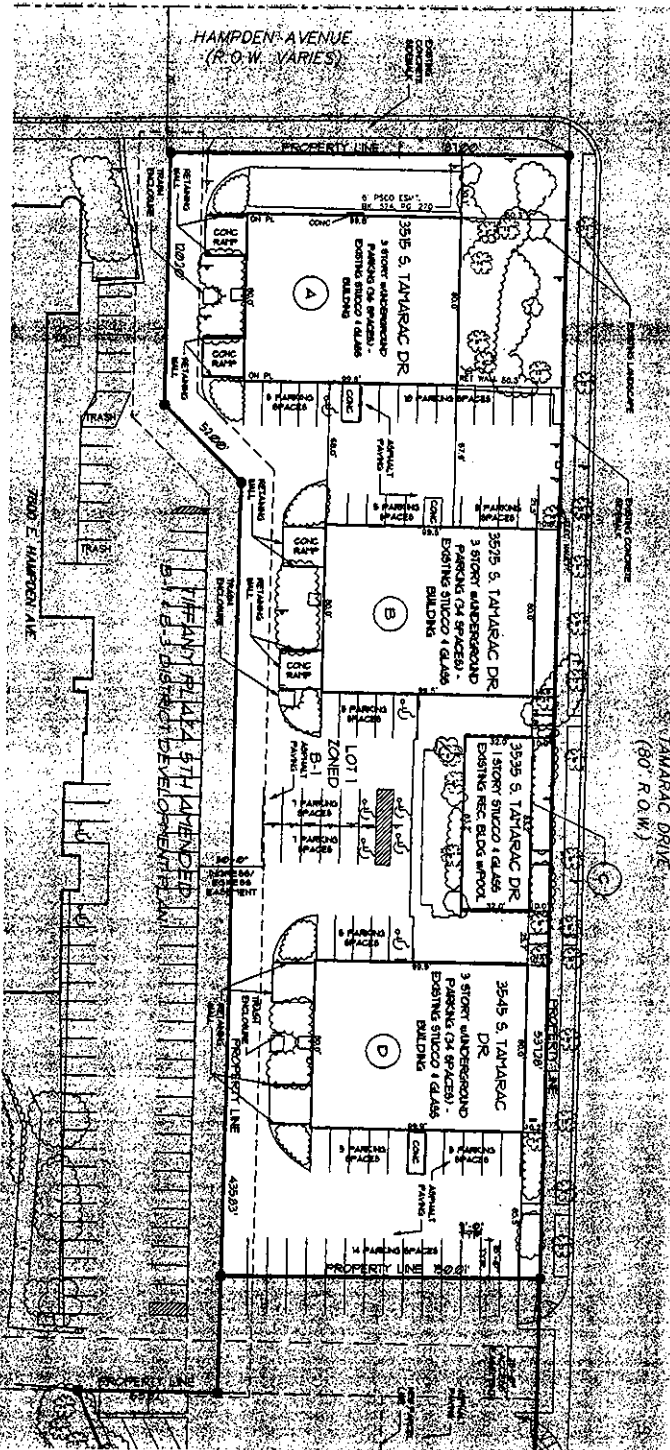
37-38  
2/3

SEM Architects Inc

Architecture  
Planning  
Interiors

677 South Colorado Blvd  
Suite 200  
Denver, Colorado 80246  
303.733.8800  
000.220.0700 fax

**SITE PLAN GENERAL NOTES**  
1. ALL IMPROVEMENTS WITHIN THIS PROPERTY  
ARE EXISTING UNLESS NOTED OTHERWISE.



ARCHITECTURAL SITE / LANDSCAPE PLAN  
SCALE: 1" = 30'-0"



HAMPDEN EXECUTIVE PLAZA - NORTH  
3515, 3525, 3535 & 3545 S. TAMARAC DR.

DENVER COUNTY, COLORADO

CHANDELLE DEVELOPMENT, LLC

Date: \_\_\_\_\_  
Proj. No.: 0759427  
Drawn: CCB  
Checked: TLR

Date: \_\_\_\_\_  
Drawn: \_\_\_\_\_  
Checked: \_\_\_\_\_

37H - ARCHITECTURAL SITE / LANDSCAPE PLAN

