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BEFORE THE SURACE TRANSPORTATION BOARD

DOCKET NO. AB-6 (Sub-No. 306X)

CITY OF FORT COLLINS, COLORADO
-ABANDONMENT EXEMPTION-
BETWEEN FORT COLLINS AND LAPORTE,
IN LARIMER COUNTY, COLORADO

PETITION TO REOPEN AND MODIFY
TO PARTIALLY VACATE THE NOTICE OF INTERIM TRAIL USE

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Attorney for Petitioner
City of Fort Collins, Colorado

ELECTRONIC FILING

Dated this 14th day of September, 2015.

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB-6 (Sub-No. 306X)

CITY OF FORT COLLINS, COLORADO
-ABANDONMENT EXEMPTION-
BETWEEN FORT COLLINS AND LAPORTE,
IN LARIMER COUNTY, COLORADO

CITY OF FORT COLLINS'
PETITION TO REOPEN AND MODIFY TO PARTIALLY VACATE
THE NOTICE OF INTERIM TRAIL USE

COMES NOW, the City of Fort Collins, a Colorado municipal corporation ("City") through its undersigned attorney, Ingrid Decker, Senior Assistant City Attorney, 300 LaPorte Avenue, P.O. Box 580, Fort Collins, Colorado 80522, and under 49 C.F.R. § 1152.29(c)(2), files this Petition to Reopen and Modify to Partially Vacate the Notice of Interim Trail Use.

Under a Decision and Notice of Interim Trail Use or Abandonment ("NITU") by the Interstate Commerce Commission ("ICC") dated January 19, 1989, the ICC authorized trail use for the 4-mile line of railroad owned by Burlington Northern Railroad Company ("BNSF") between milepost 75.00 near Fort Collins, and milepost 79.00 near LaPorte, both in Larimer County, Colorado, subject to certain conditions including negotiation of an interim trail use/railbanking agreement between the City and BNSF. The ICC issued a Decision on June 14,

1989 lifting a stay on the NITU. Copies of the NITU and the June 14, 1989 Decision are attached hereto and incorporated herein as **Exhibits "A" and "B"**.

The City respectfully requests the Surface Transportation Board ("Board") to reopen and modify the terms of the NITU to vacate the NITU for the right-of-way from milepost 75.82 to milepost 76.61, which is depicted in the legal description and drawing attached hereto and incorporated herein by reference as **Exhibit "C"**, and issue a replacement NITU covering certain remaining portions of the right-of-way from mileposts 75 to 75.82 and mileposts 76.61 to 77.83.

By filing this Petition, the City provides notice it intends to terminate and vacate its rights in the railroad property covered by the NITU, except those portions from mileposts 75 to 75.82, and mileposts 76.61 to 77.83, effective immediately.

BACKGROUND

On December 6, 1988, Burlington Northern Railroad Company ("BNSF") filed a notice of exemption under 49 CFR Subpart F to abandon a 4-mile line of railroad between milepost 75 near Fort Collins and Milepost 79 near LaPorte, in Larimer County Colorado (the "Abandonment Property"). The notice was served and published in the Federal Register on December 23, 1988 (53 FR 51936), and became effective on January 21, 1989.

On December 16, 1988, the City filed a statement expressing its willingness to assume financial responsibility for trail use of the Abandonment Property, and BNSF agreed to negotiate with the City for trail use under Section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d).

The ICC served a decision and notice of interim trail use or abandonment ("NITU") on January 19, 1989, authorizing trail use of the Abandonment Property with certain conditions based on the requirements of Section 106 of the National Historic Preservation Act (NHPA) and Section 7 of the Endangered Species Act (ESA), and the requirement that an interim trail use/railbanking agreement be reached. At the request of the City, ICC modified the NITU by a Decision dated June 9, 1989 to remove the NHPA and ESA conditions as to the 0.2-mile portion of the line segment between mileposts 75.0 and 75.2, in order to facilitate development of an adjacent City-owned property.

On July 13, 1989, the City and BNSF entered into an Offer to Purchase and Interim Trail Use/Railbanking Agreement ("Railbanking Agreement"), attached hereto and incorporated herein by reference as **Exhibit "D-1"**. On May 15, 1990, the City and BNSF entered into a First Amendment to Offer to Purchase and Interim Trail Use/Railbanking Agreement ("First Amendment") attached hereto and incorporated herein by reference as **Exhibit "D-2"**.

Under the Railbanking Agreement the City agreed to purchase, and BNSF agreed to convey by quitclaim deed, all of BNSF's right, title and interest in only that portion of the Abandonment Property from mileposts 75.00 to 77.83 (the "Railbanking Property"). The recorded Quitclaim Deed between the City and BNSF, dated May 18, 1990, is attached hereto and incorporated herein by reference as **Exhibit "E"**. BNSF reserved from such conveyance mineral rights, a communications easement, and a right of first refusal. The City did not assume any responsibility for the remaining portion of the Abandonment Property from mileposts 77.83 to 79.

The City has determined it no longer requires that portion of the Railbanking Property from milepost 75.82 to milepost 76.61 (the "Vacation Property"), and an adjacent property owner has approached the City about removing this encumbrance from his property. In light of these developments, the City has determined that the best course of action is to ask the Board to vacate the NITU and issue a replacement NITU covering only those portions of the Railbanking Property that the City wishes to retain. Upon vacation, the Vacation Property will become subject to the abandonment exemption authorized in this proceeding and can be disposed of under state property law.

On June 18, 2015, in compliance with BNSF's right of first refusal described at ¶ 25 of the Offer to Purchase (Exhibit D-1) and ¶ E of the Quitclaim Deed (Exhibit E), the City sent a letter to BNSF notifying BNSF of the City's intent to request a modification and partial vacation of the NITU, and asking whether BSNF wished to repurchase the Vacation Property. See the June 18, 2015 letter from the City to BNSF attached hereto and incorporated herein by reference as **Exhibit "F"**.

On July 28, 2015, BNSF's attorney, Walter J. Downing, emailed undersigned counsel indicating that BNSF is not interested in repurchasing the railroad right-of-way. See July 28, 2015 email from Walter J. Downing to Ingrid Decker attached hereto and incorporated herein by reference as **Exhibit "G"**.

In addition, BNSF previously abolished several crossings on its branch rail line east of the Railbanking Property, pursuant to Decision No. C10-0123 of the Colorado Public Utilities Commission, dated February 10, 2010, a copy of which is attached hereto and incorporated

herein by reference as **Exhibit "H-1"**, and has removed its track and warning signs from said crossings. These crossings are between BNSF's main rail line through Fort Collins and the Railbanking Property. The locations of the abolished crossings relative to the Railbanking Property are shown on **Exhibit "H-2"**, attached and incorporated herein by reference (note that Exhibit H-2 is based on the map attached to Exhibit D-1, the Railbanking Agreement, and Exhibit E, the Quitclaim Deed.)

Based on BNSF's disinterest in repurchasing the Vacation Property from the City and BNSF's prior abolishment of related crossings to the east, the City believes it is extremely unlikely that BNSF will ever seek to restore rail service to any portion of the Railbanking Property.

Conclusion and Request for Relief

The City respectfully requests the Board to:

(1) Reopen the exemption proceeding and modify the NITU issued by the ICC on January 19, 1989 and amended on June 9, 1989 to vacate the NITU with respect to the City's use of the BNSF railroad right-of-way from milepost 75.82 to milepost 76.61 between Fort Collins and LaPorte, Larimer County, Colorado;

(2) Issue a Decision permitting the immediate abandonment of the aforesaid portion of the railroad right-of-way from milepost 75.82 to milepost 76.61 between Fort Collins and LaPorte, Larimer County, Colorado;

(3) Issue an appropriate replacement NITU covering the two remaining portions of the Railbanking Property right-of-way from milepost 75 to milepost 75.82, and milepost 76.61 to milepost 77.83; and

(4) Pursuant to 49 C.F.R. § 1152.29(c)(2), send copies of its decision permitting the immediate abandonment of the above-described right-of-way to the following entities:

(a) BNSF Railway Company
2650 Lou Menk Drive
Fort Worth, Texas 76131

(b) City of Fort Collins, Colorado
300 LaPorte Avenue
P.O. Box 580
Fort Collins, CO 80522

Should further information be required, please contact the undersigned.

Respectfully submitted:

CITY OF FORT COLLINS, COLORADO,
a Colorado municipal corporation

By: _____
Ingrid Decker #28594
Senior Assistant Attorney
Attorney for City of Fort Collins

A printed or printable copy of the document bearing the original, electronic, or scanned signature is on file in the Fort Collins City Attorney's Office.

Certificate of Service

I hereby certify that on 15th day of September, 2015, a true and correct copy of the foregoing **PETITION TO REOPEN AND MODIFY AND TO PARTIALLY VACATE AND ABANDON THE NOTICE OF INTERIM TRAIL USE** was served via U.S. First Class Mail, postage pre-paid to the following parties:

BNSF Railway Company
2650 Lou Menk Drive
Fort Worth, Texas 76131

Teresa K. Schmitz

Teresa K. Schmitz, Paralegal

Exhibit A

CO

LATE RELEASE

SERVICE DATE

JAN 19 1989

3719

INTERSTATE COMMERCE COMMISSION

DECISION AND NOTICE OF INTERIM TRAIL USE
OR ABANDONMENT

Docket No. AB-6 (Sub-No. 306X)

BURLINGTON NORTHERN RAILROAD COMPANY--ABANDONMENT EXEMPTION--
BETWEEN FORT COLLINS AND LAPORTE, IN LARIMER COUNTY, CO

Decided: January 19, 1989

On December 6, 1988, Burlington Northern Railroad Company (BN) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon its 4-mile line of railroad between milepost 75.00 near Fort Collins and milepost 79.00 near LaPorte, in Larimer County, CO. The notice was served and published in the Federal Register on December 23, 1988 (53 FR 51936), and is scheduled to become effective January 21, 1989.

On December 28, 1988, the Section of Energy and Environment (SEE) made available its environmental assessment. In it, SEE notes that the Colorado State Historic Preservation Officer has requested additional information necessary to make a determination of historic significance of structures associated with the proposed abandonment. SEE also notes that the United States Fish and Wildlife Service is concerned that this abandonment may affect the habitat of the bald eagle, a Federally listed endangered species. SEE recommends that a condition be imposed prohibiting salvage or disposition of the right-of-way until BN has complied with all requirements of Section 106 of the National Historic Preservation Act (NHPA) and Section 7 of the Endangered Species Act (ESA). This condition is appropriate and will be imposed.

On December 16, 1988, the city of Fort Collins (the City) filed a statement expressing its willingness to assume financial responsibility for trail use of the right-of-way and, on December 24, 1988, BN agreed to negotiate with the City for trails use under Section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act). The City requested issuance of this Notice of Interim Trail Use or Abandonment (NITU) and also requested imposition of a public use condition under 49 U.S.C. 10906. SEE agrees that the right-of-way is suitable for public use.

Numerous comments from adjacent landowners have been received expressing opposition to the trails use request. In addition, on January 10, 1989, Mary Humston and George Burnette, adjacent landowners, filed a petition for reconsideration of the notice of exemption. They argue that the line is a spur and as such is exempt from both the Commission's abandonment jurisdiction by virtue of 49 U.S.C. 10907(b)(1) and from the Commission's Trails Act jurisdiction under section 1247(d).

The requirements for the issuance of a NITU have been met. Accordingly, the NITU will be issued subject to the conditions requested by SEE, and the petition for reconsideration will be addressed in a subsequent decision. However, the implementation of any trails use agreement that may be reached by the 180th day after service of this decision will be stayed.

Until this stay is lifted, BN will be precluded from turning the right-of-way over to the City for the commencement of trail operations. While the landowners' comments essentially raise individual concerns of a local nature, they also relate to the environmental effects of the conversion of the right-of-way to interim trail use. These issues will be addressed in a subsequent decision. A similar stay was imposed in Docket No. AB-298 (Sub-No. 1X), Iowa Southern R. Co.-Aband. In Iowa (not

Our public use procedures at 49 CFR 1152.28(a)(2) require that a request set forth: (1) the condition sought; (2) the public importance of the condition; (3) the period of time for which the condition would be effective; and (4) justification for imposition of this time period. The City avers that the right-of-way is suitable for public use as a recreational trail and that a full 180-day period may be necessary to complete the negotiations that have already commenced for its acquisition. Accordingly, a public use condition is appropriate and will also be imposed.

As conditioned, this decision will not significantly affect either the quality of the human environment or energy conservation.

It is ordered:

1. This proceeding is reopened.

2. The notice of exemption filed by Burlington Northern Railroad Company (BN) for the line described above is subject to the following conditions: (1) BN must keep intact all the right-of-way underlying the track, including bridges and culverts, for a period of 180 days from the effective date of this decision to enable any State or local government agencies or other interested person to negotiate the acquisition of the right-of-way for public use; and (2) no salvaging or disposal of the right-of-way is permitted until all requirements of Section 106 of the National Historic Preservation Act and Section 7 of the Endangered Species Act have been complied with as determined by further Commission decision.

3. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement: full responsibility for management of; any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability); and the payment of any and all taxes that may be levied or assessed against the right-of-way.

4. Interim trail use/rail banking is subject to the future restoration of rail service.

5. If the user intends to terminate trail use, it must send the Commission a copy of this notice and request that it be vacated on a specified date.

6. If no interim trail use/rail banking agreement is reached by the 180th day after service of this decision, BN may fully abandon this line. If an agreement for interim trail use/rail banking is reached by the 180th day after the service date of this decision, its implementation is stayed pending further decision of the Commission.

7. This decision is effective on the service date.

By the Commission, Heather J. Gradison, Chairman.

Noreta R. McGee
Secretary

(SEAL)

DO

Exhibit B

SERVICE DATE
JUN 14 1989

INTERSTATE COMMERCE COMMISSION

DECISION

Docket No. AB-6 (Sub-No. 306X)

BURLINGTON NORTHERN RAILROAD COMPANY--ABANDONMENT EXEMPTION--
BETWEEN FORT COLLINS AND LAPORTE, IN LARIMER COUNTY, CO

Decided: June 9, 1989

On December 23, 1988, a notice of exemption, filed under 49 CFR 1152 Subpart F--Exempt Abandonments, was served and published in the Federal Register (53 FR 51936), permitting Burlington Northern Railroad Company (BN) to abandon its 4-mile line of railroad between milepost 75.00 near Fort Collins and milepost 79.00 near Laporte, in Larimer County, CO. The notice of exemption became effective on January 21, 1989.

On December 16, 1988, the City of Fort Collins (Fort Collins) filed a statement of its willingness to assume financial responsibility for trail use of the right-of-way, and BN subsequently agreed to negotiate with Fort Collins for trails use under section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d). Following Fort Collins' compliance with the requirements of section 1247(d), a decision and notice of interim trail use or abandonment (NITU) was served on January 19, 1989, authorizing trail use. It noted that numerous comments had been received from adjacent landowners and that a petition for reconsideration of the notice of exemption had been filed. Accordingly, it stayed implementation of any trails use agreement to permit Commission consideration of the comments and petition in a subsequent decision. The NITU also imposed: (1) a public use condition under 49 U.S.C. 10906 prohibiting BN from disposing of the right-of-way for 180 days without first offering the property for sale for public purposes; and (2) a condition prohibiting salvage until BN complied with the requirements of section 106 of the National Historic Preservation Act (NHPA) and section 7 of the Endangered Species Act (ESA).

On May 17, 1989, a letter was received from Fort Collins stating that it owns a large parcel of property adjacent to the 0.2-mile line segment between mileposts 75.0 and 75.2. Assertedly, its municipal electric utility has long planned to construct facilities on this parcel of land, but the construction plans require removal of the adjacent 0.2-mile rail line to permit efficient and safe construction. Fort Collins requests that the stay imposed in the NITU be lifted to permit BN to commence salvage of the 0.2-mile line segment. It states that salvage of the 0.2-mile segment will not interfere with interim trail use/rail banking because a right-of-way adequate for these purposes is preserved in the municipal utility's construction plans. Further, Fort Collins states that if construction is to begin this summer, the stay must be lifted expeditiously to permit salvage to commence. Any delay allegedly will result in additional and unwarranted expenses.

Lifting the stay will not permit the relief sought. As already noted, the stay was intended only to delay implementation of any negotiated trails use agreement. The only relief available to Fort Collins that would permit construction to commence is the removal of the condition prohibiting salvage.

Since issuance of the January 19 decision, the United States Department of Interior, Fish and Wildlife Service, has informed us of its conclusion that the abandonment will not affect

threatened or endangered species. Accordingly, the prohibition against salvage based on section 7 of the ESA is no longer an obstacle to the relief sought. The same is true with respect to the prohibition based on section 106 of the NHPA. The Colorado State Historic Preservation Officer has been contacted and states that there are no historically significant structures on the 0.2-mile line segment. Because there is no further reason to prohibit salvage of this 0.2-mile line segment, the relief sought by Fort Collins will be granted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The decision and notice of interim trail use or abandonment served January 19, 1989, is modified to remove the ESA and NHPA conditions as to this 0.2-mile portion of the line. Therefore, salvage of the line segment between mileposts 75.0 and 75.2 may begin.

2. This decision is effective on the date served.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

(SEAL)

KATHLEEN M. KING
ACTING SECRETARY

Exhibit C

DESCRIPTION OF A PORTION OF THE TRAIL USE EASEMENT SET FORTH IN DECREE RECORDED NOVEMBER 30, 1993 AT RECEPTION NO. 93089982 TO BE VACATED

A TRACT OF LAND LOCATED IN SECTION 3, TOWNSHIP 7 NORTH, RANGE 69 WEST OF THE SIXTH P.M.; COUNTY OF LARIMER, STATE OF COLORADO; BEING THAT PORTION OF THE TRACT OF LAND DESCRIBED IN EXHIBIT 3 OF THE DISTRICT COURT DECREE RECORDED NOVEMBER 30, 1993 AT RECEPTION NO. 93089982 LYING EAST OF THE EAST RIGHT-OF-WAY LINE OF TAFT HILL ROAD; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE LINE BETWEEN THE WEST QUARTER CORNER OF SAID SECTION 3 AND THE NORTHWEST CORNER OF SAID SECTION 3, TO BEAR N00°41'45"E, AS REFERENCED IN THE DESCRIPTION SET FORTH IN SAID EXHIBIT 3, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

COMMENCING AT THE SAID WEST QUARTER CORNER OF SAID SECTION 3;

THENCE ALONG THE WEST LINE OF NORTHWEST QUARTER OF SAID SECTION 3, N00°41'45"E, A DISTANCE OF 983.13 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF THE FORMER COLORADO AND SOUTHERN RAILROAD AS DETERMINED BY THE PRIOR LOCATION OF THE EXISTING RAILS AND FROM THE SAID RAILROAD'S RIGHT OF WAY MAPS;
THENCE ALONG THE SAID SOUTHERLY RIGHT OF WAY LINE, S55°31'25"E, A DISTANCE OF 36.09 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF TAFT HILL ROAD, SAID POINT BEING THE **POINT OF BEGINNING**;

THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE THE FOLLOWING THREE (3) COURSES AND DISTANCES:

1. S55°31'25"E, A DISTANCE OF 2,625.18 FEET;
2. ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 5,779.58 FEET AND AN ARC LENGTH OF 948.79 FEET, BEING SUBTENDED BY A CHORD OF S60°13'36"E FOR A DISTANCE OF 947.73 FEET;
3. S64°55'46"E, A DISTANCE OF 491.18 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF THE EXISTING W.A.P.A. POWER LINE EASEMENT, THE INTERSECTION OF THE CENTER LINE OF THE SAID RAILROAD RIGHT OF WAY WITH SAID NORTHWESTERLY RIGHT OF WAY LINE OF THE W.A.P.A. POWER LINE EASEMENT IS AT **APPROXIMATE RAILROAD MILE POST 75.82**;

THENCE ALONG THE SAID NORTHWESTERLY RIGHT OF WAY LINE OF THE POWER LINE EASEMENT, N75°33'35"E, A DISTANCE OF 157.18 FEET;
THENCE ALONG THE NORTHERLY RIGHT OF WAY LINE OF SAID RAILROAD THE FOLLOWING THREE (3) COURSES AND DISTANCES:

1. N64°55'46"W, A DISTANCE OF 612.44 FEET;
2. ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 5,679.58 FEET AND AN ARC LENGTH OF 932.37 FEET, BEING SUBTENDED BY A CHORD WHICH BEARS N60°13'36"W FOR A DISTANCE OF 931.33 FEET;
3. N55°31'25"W, A DISTANCE OF 2,692.08 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF TAFT HILL ROAD, THE INTERSECTION OF THE CENTER LINE OF THE SAID RAILROAD RIGHT OF WAY WITH SAID EAST RIGHT OF WAY LINE OF TAFT HILL ROAD IS AT **APPROXIMATE RAILROAD MILE POST 76.61**;

THENCE ALONG SAID EAST RIGHT OF WAY LINE, S00°41'45"W, A DISTANCE OF 120.31 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 415,113 SQUARE FEET (9.530 ACRES), MORE OR LESS.

I HEREBY STATE THAT THE ABOVE DESCRIPTION WAS PREPARED BY ME AND IS TRUE AND CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, BELIEF, AND OPINION.

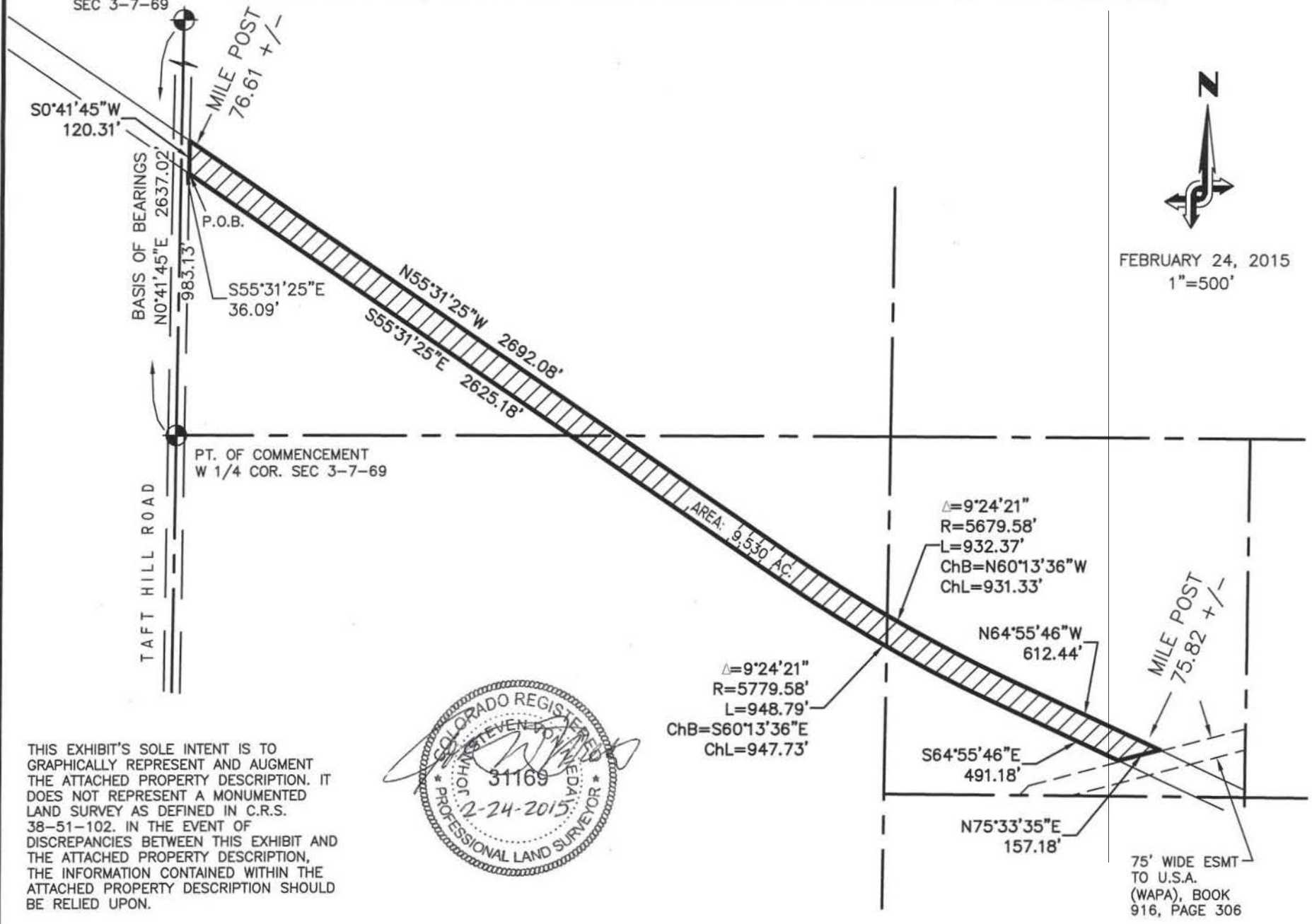
JOHN STEVEN VON NIEDA, COLORADO P.L.S. 31169
FOR AND ON BEHALF OF THE CITY OF FORT COLLINS
P.O. BOX 580, FORT COLLINS, CO 80522

COLORADO REGISTERED
JOHN STEVEN VON NIEDA
31169
2-24-2015
PROFESSIONAL LAND SURVEYOR

S:\Engineering\Departments\Survey\Projects\Park & Recreation\
Lincoln Mid School\legals\ Rails to Trails Vac MP75.82-76.61.doc

EXHIBIT OF

PORTION OF TRAIL USE EASEMENT SET FORTH IN DECREE RECORDED NOVEMBER 30, 1993 AT RECEPTION NO. 93089982 TO BE VACATED



THIS EXHIBIT'S SOLE INTENT IS TO GRAPHICALLY REPRESENT AND AUGMENT THE ATTACHED PROPERTY DESCRIPTION. IT DOES NOT REPRESENT A MONUMENTED LAND SURVEY AS DEFINED IN C.R.S. 38-51-102. IN THE EVENT OF DISCREPANCIES BETWEEN THIS EXHIBIT AND THE ATTACHED PROPERTY DESCRIPTION, THE INFORMATION CONTAINED WITHIN THE ATTACHED PROPERTY DESCRIPTION SHOULD BE RELIED UPON.

S:\Engineering\Departments\Survey\Projects\Park & Recreation\Lincoln Mid School\dwg\Lincoln MS trail c3d.dwg

Exhibit D-1

OFFER TO PURCHASE AND INTERIM
TRAIL USE/RAILBANKING AGREEMENT

This Offer to Purchase and Interim Trail Use/Railbanking Agreement entered into this ____ day of _____, 1989, by and between the CITY OF FT. COLLINS, Colorado, a municipality with its principal office at 300 LaPorte Avenue, Fort Collins, Colorado 80522, hereinafter called "Buyer", and BURLINGTON NORTHERN RAILROAD COMPANY, a corporation organized under the laws of the State of Delaware, with its principal office at 3800 Continental Plaza, 777 Main Street, Fort Worth, Texas 76102, hereinafter called "Seller"; whereas Buyer seeks to purchase all of Seller's right, title and interest in and to that parcel of land situated between Fort Collins and LaPorte, Larimer County, Colorado, from Mile Post 75.00 to Mile Post 77.83, as more particularly described in Exhibit "A" attached hereto and made a part hereof (said parcel of land being hereinafter called "the premises") at the price and upon the terms and conditions as follows:

PURCHASE PRICE AND PAYMENT

1. Buyer agrees to pay to Seller the purchase price of $30,873 for said premises, of which the amount of $3,000 hereinafter called the "deposit", is paid to Seller to be applied on the purchase price. The balance of said purchase price shall be paid in cash or by certified check to Seller at the time Seller's deed to the premises is delivered to Buyer. Delivery of the deed shall be made at Seller's above stated office. Acceptance of this offer by Seller shall be evidenced by delivery to Buyer of the duplicate copy properly executed by Seller.

CONVEYANCE

2. Seller shall convey or cause to be conveyed, all of Seller's right, title and interest, if any, in the premises to Buyer by quitclaim deed subject to all rights, easements and reservations in place or of record and in accordance with the other terms, conditions and reservations contained herein. In the event Seller's description of the premises as used in the deed is not acceptable to Buyer, Buyer shall so advise Seller of their objections to said description and within fifteen (15) days thereof, Buyer shall, at their expense, arrange for a survey of the premises to be furnished to Seller.

3. The Buyer, Buyer's designees, employees, agents or contractors shall have the right to enter upon the premises to perform soil tests and surveys upon execution of this Agreement by the Buyer and execution by Seller and Buyer of Seller's standard Right of Entry Agreement.

TRACKS, BUILDINGS AND OTHER IMPROVEMENTS

4. This offer relates only to land and bridges. Unless otherwise stated herein, any conveyance shall exclude Seller's railroad tracks and appurtenances thereto. Buyer warrants that it has examined the premises and purchases said premises as is, where is.

5. Salvage--Notwithstanding any other provision in this Agreement, it is agreed that all bridges, culverts, and other structures (other than rails, ties, wires, signals and other track materials, hereinafter referred to as "salvaged materials") on said premises shall remain in place and become the property of Buyer upon conveyance of said premises. The price of all such structures is included in the total purchase price, and Seller agrees to furnish Buyer a Bill of Sale for all such structures located on said premises at no additional cost. Seller has the exclusive right to remove all salvaged materials and shall do so within six (6) months from the appropriate ICC approval.

LIABILITY AND INDEMNIFICATION

6. Buyer assumes full and complete responsibility for the management, operation and maintenance of the conveyed premises and under no circumstances shall Seller be required to manage, operate or maintain the conveyed premises.

7. Buyer--Buyer will indemnify and hold Seller harmless from any and all liability, cost or expense, including attorneys' fees, arising after the date of closing or as a result of this sale, including injuries, death, or property loss or damage resulting from Buyer's acts or omissions in connection with Buyer's use, purchase, operation, maintenance or management of the premises. Buyer shall protect, hold harmless and indemnify Seller against any claim or liability arising from or based on the violation of any law, ordinance, regulation, injunction, or final order or decree of bodies or tribunals having any jurisdiction or authority, which in any way affect the performance of this Agreement, whether by Buyer or its employees, agents, or subcontractors. Buyer shall be responsible for defense of any litigation contesting the right of the parties hereto to enter into or effectuate this Agreement under 16 U.S.C. § 1247(d). Buyer agrees to pay Seller its out-of-pocket expenses, including reasonable attorneys' fees, incurred by Seller in connection with litigation arising out of the transfer or use of the premises covered by this Agreement for interim trail use and railbanking purposes; provided, however, that Seller must first tender any defense to the Buyer and provided further that, if Buyer elects to defend, Buyer shall be responsible only for actual out-of-pocket

expenses incurred by Seller and for only those reasonable attorneys' fees of Seller which relate directly to legal assistance, if any, expressly requested by Buyer or to any claims arising out of the transfer or use of the premises for which Seller may be individually or separably liable. Buyer will procure insurance for its own benefit and for the benefit and protection of Seller under this provision.

The Buyer warrants to Seller that it now has, and shall maintain, during the period of Trail Use/Railbanking, insurance coverage such as a reasonable and prudent municipality would maintain, having regard to the obligations assumed by it hereunder. Seller hereby acknowledges that, in satisfaction of its obligations hereunder, Buyer may self insure to a reasonable limit. As evidence of Buyer's insurance coverages as of June 1989, a letter dated June 8, 1989, from Buyer is attached hereto as Exhibit "B".

8. Seller--Seller will indemnify and hold Buyer harmless from any and all liability, cost or expense, including attorneys' fees, incurred by or assessed against Buyer arising before the date of closing on account of injuries, death, or property loss or damage resulting from Seller's acts or omissions in connection with Seller's use, operation or maintenance of the premises.

9. Environmental Liability--Buyer shall comply with any and all laws, ordinances, regulations or requirements pertaining to solid or other wastes; chemicals; oil and gas; toxic, corrosive, or hazardous materials; air, water (surface or ground water) or noise pollution; in the storage, handling, use or disposal of any such material. Buyer shall bear the expense of all practices or work, preventative or remedial, which may be required by such laws, ordinances, regulations or requirements because of the condition or use of the premises occurring or created by Buyer or those claiming by, through or under Buyer, and occurring after the date of closing. Buyer shall hold Seller harmless from any liability, cost or expense arising after the date of closing due to any environmental hazard or condition on the premises to the extent the condition was aggravated or occurred or created after the date of closing. Seller shall hold Buyer harmless from any liability, cost or expense arising prior to the date of closing due to any environmental hazard or condition of the premises existing on the date of closing discoverable from a prudent inspection of the premises prior to the date of closing.

LIQUIDATED DAMAGES AND SPECIFIC PERFORMANCE

10. Time is of the essence of this contract. If the Buyer shall fail to perform this contract within the time limits herein

specified, Seller may retain the deposit as liquidated damages, not as a penalty or forfeiture, and declare this contract terminated, or Seller may proceed to have this contract specifically enforced.

SUCCESSORS IN INTEREST

11. Wherever referred to herein, the term Buyer shall imply, mean and apply to the Buyer, any successors, assigns, heirs, or designees, who shall be severally and collectively liable for any and all performance hereunder. Wherever referred to herein the term Seller shall imply, mean and apply to the Seller, any successors, assigns, or designees, who shall be severally and collectively liable for any and all performance hereunder.

THE CONVEYANCE OF THE PREMISES SHALL BE SUBJECT TO THE FOLLOWING TERMS, CONDITIONS AND RESERVATIONS.

12. Retained Interest--A reservation of Seller's interest in the surface and subsurface of the premises is retained for future use for utility purposes (other than Buyer's utilities), including electric transmission line rights-of-way, telecommunication rights-of-way, pipeline rights-of-way, and other such purposes, provided that such use shall be consistent with the use of the premises by Buyer as an interim use trail and for other municipal purposes.

13. Natural Resources--A reservation to Seller of all coal, oil, gas, casinghead gas and all ores and minerals of every kind and nature including sand and gravel underlying the surface of the premises, together with the full right, privilege and license at any and all times to explore, or drill for and to protect, conserve, mine, take, remove and market any and all such products in any manner which will not damage structures on the surface of the premises, together with the right of access at all times to exercise said rights.

14. Real Estate Commissions--If any real estate broker or agent can establish a valid claim for commission or other compensation as a result of Buyer having used his services in connection with the purchase of the premises, all of such commission or other compensation shall be paid by Buyer.

15. Liens of Seller's Mortgages--Seller shall deliver to Buyer, who shall place of record, good and sufficient releases of the liens of Seller's mortgages, where required under the terms of any mortgage on the premises, within a reasonable period of time after closing. In the event the Seller shall be unable to obtain said releases for any reason within two (2) years from the date of closing, the Seller shall have the right to terminate this agreement upon serving written

notice of termination upon the Buyer within thirty (30) days thereafter, and both parties shall thereupon be released and discharged from all liabilities and obligations hereunder, except that Seller shall repay to Buyer any deposit paid by Buyer to Seller upon a reconveyance of title to the premises to Seller free and clear of defects or objections to the same extent as if no conveyance had been made to Buyer hereunder.

16. Other Liens--Any judgment against Seller which may appear of record as a lien against the premises shall be settled and satisfied by Seller if and when it is judicially determined to be valid, and Seller hereby indemnifies the Buyer for all loss arising out of Seller's failure to have a judgment lien so settled and satisfied.

17. General Real Estate Taxes--Real estate taxes payable or paid in the year the deed is delivered shall be prorated by Seller and Buyer as of the date on which the deed is delivered on the basis of the most recent ascertainable taxes assessed against the subject property, or as may be equitably apportioned thereto by the Seller if the property is not separately assessed. Buyer shall be responsible for the payment of any and all taxes that may be levied or assessed against the conveyed premises from and after the date of purchase.

18. Transfer Taxes--Buyer agrees to purchase, affix and cancel any and all documentary stamps in the amount prescribed by statute, and to pay any and all required transfer taxes, excise taxes and any and all fees incidental to recordation of the conveyance instrument. In the event of Buyer's failure so to do, if the Seller shall be obligated so to do, the Buyer shall be liable for all costs, expenses and judgments to or against the Seller, including all of Seller's legal fees and expenses and same shall constitute a lien against the premises to be conveyed until paid by the Buyer.

19. Notices and Demands--All notices, demands, payments and other instruments required or permitted to be given or served by either party shall be in writing and deemed to have been given or served by either party if sent by registered or certified mail, addressed to the other party at the address shown herein.

20. Government Approvals--This sale shall be dependent upon Seller obtaining authority to abandon these premises from the Interstate Commerce Commission ("ICC"). Buyer may elect to apply to the ICC for, and Seller shall consent to, a Notice of Interim Trail Use ("NITU") or Certificate of Interim Trail Use ("CITU") pursuant to 16 U.S.C. § 1247(d) and other applicable authorities. No obligations shall

accrue under this contract until the appropriate ICC approvals are received. The closing date shall be extended for such period as may be required to obtain such approvals. In the event said abandonment approval or, if applied for, NITU or CITU cannot be obtained, either party may terminate this agreement without liability to the other, except that Seller shall return the deposit to Buyer.

In the event the ICC, or any other federal or state authority having jurisdiction over any part of this conveyance, shall impose additional terms or conditions upon this conveyance, either party may terminate this agreement without liability to the other, except that Seller shall return any deposit to Buyer.

In the event a city, county, or other governing authority wherein said real estate is located requires a survey or plat or has a subdivision ordinance, the Buyer shall obtain such survey or plat, at Buyer's expenses. The survey or plat shall be submitted by Buyer to Seller for review and approval prior to recording and within a period of forty-five (45) days after the date of Seller's acceptance of this Agreement.

21. To the extent that the Buyer owns any real property south of the railroad right-of-way in blocks 286 and 296 of the City of Fort Collins, the Buyer will reasonably cooperate in assisting the Seller, at its request, in locating a spur track on such property as is owned by Buyer as mentioned aforesaid to serve any new industrial plants that may be developed in said blocks. Any such assistance shall be conditioned upon such spur track not interfering with Buyer's intended municipal activities on such property.

CLOSING

22. The obligation of Seller to convey the premises and to comply with all of the terms and conditions of this Agreement, as well as the obligation of Buyer to pay the purchase price and comply with all other terms and conditions of this Agreement, is subject to the prior satisfaction of the conditions set forth in this Agreement, unless waived in writing by both parties. After execution of this Agreement, satisfaction of the conditions precedent, and at a mutually agreeable date after signing, the parties agree to fix a time, date and location for consummation and closing of the transactions contemplated in this Agreement ("closing"). The closing shall occur as soon as practicable after satisfaction of the conditions precedent or waiver of said conditions by the parties and after final abandonment authority, including lifting of any of stays imposed by the ICC.

23. Deposit Authorization--Buyer hereby authorizes Seller to cash any checks that may be delivered to Seller as a deposit or option payment, and to take the amount of any such deposit or option payment into its accounts, with the understanding that it will not constitute acceptance of this Agreement; provided, however, that such authorization is given with the understanding that in the event this Agreement is not accepted the Seller agrees to refund the amount of any deposit in full.

24. Title Defects--If, within the ten (10) day period following Seller's notice to Buyer that Seller's deed is ready for delivery, Buyer notifies Seller that Buyer has requested evidence of title to the premises, the Buyer shall furnish to Seller at Buyer's expense such evidence of title within thirty (30) days of said notice from Buyer in the form of an abstract of title or a title commitment, and a written statement specifying the matters or defects other than said permitted exceptions and reservations and other than such usual exceptions contained in Owner's policies and the matters to which this sale is subject by the terms hereof, the time of payment of the balance of the purchase price shall be extended for a period of sixty (60) days after the receipt of said evidence of title and statement. If Seller is unable or unwilling to cure such matters or defects within said sixty (60) day period, and Buyer is unwilling to accept the deed subject to such matters or defects then either party may terminate this Agreement by serving written notice of termination upon the other party within fifteen (15) days thereafter and all further rights and liabilities under this Agreement shall cease and terminate except that Seller shall return the deposit to Buyer and Seller shall reimburse Buyer for the actual amount paid by Buyer, if any, to an abstractor for an abstract of title or to a title company for a title report (but not for title insurance), provided that said abstract or title report shall be delivered and assigned to Seller.

    In the event said evidence of title shows no title defects, Buyer shall pay to Seller the purchase price within ten (10) days of receipt of said evidence of title, provided Seller's deed is then ready for delivery.

INTERIM TRAIL USE/RAILBANKING

25. This Agreement and any subsequent conveyance or agreement shall be interpreted to conform to Section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d), and Buyer shall assume all financial, managerial and legal responsibility and liability for use of said premises upon conveyance, and agrees to defend, indemnify and hold Seller harmless therefor. To this end, Seller shall cooperate in

obtaining an "interim trail use" certificate from the ICC for the rail line to which this Agreement is applicable, and any other appropriate orders. It is agreed and understood that any conservation/recreation use by Buyer (or its assignees) shall not impair future public convenience and necessity or Seller's retained interests; Buyer (or its assigns) will allow reactivation of rail service on said premises pursuant to applicable Federal and State laws after repurchase of said premises and improvements by the appropriate agency or corporation at the actual cost or the then fair market value, whichever is the higher. Buyer further agrees to take all steps necessary, at no expense to Seller, to comply with any and all State and Federal requirements relating to such interim use and reactivation. The fair market value shall be determined by an appraisal process acceptable to all parties, upon the request of any party. Buyer agrees to grant the first right of refusal to repurchase the premises to Seller.

Between Mile Post 75 and Wood Street, the provisions of this Agreement relating to interim trail use and railbanking shall apply only to a limited area of that portion of the premises which area is more particularly described as a corridor 50 feet wide, measuring 25 feet either side of the center line of the main track of the Fort Collins to LaPorte branch as it exists on the date of this Agreement. The purpose of said corridor would be to permit the connection with the remainder of the premises covered by this Agreement should common carrier obligation be reinstituted in the future.

In the event that the Seller should reactivate rail service in that area of the corridor as above-described between Mile Post 75.00 and Wood Street in the City of Fort Collins, such reactivation and laying of trackage shall be done in such a manner as to minimize the burden and inconvenience upon the Buyer, and such reactivation and all construction activities related thereto shall be consistent to the maximum extent practicable to the Buyer's existing uses on the corridor and the areas surrounding the corridor. To the extent that such reactivation of rail service by Seller requires the destruction or removal of landscape plantings, walkways or parking lots placed upon the corridor by Buyer, Seller shall compensate Buyer for the reasonable replacement value thereof.

ADDENDUM PROVISION

26. All leases, licenses, permits and easements of any kind whatsoever in the premises, whether or not of record, shall be assigned to the Buyer, or cancelled, upon transfer of the premises to the Buyer.

27. Public Purpose: Buyer acknowledges that this Agreement serves a valid public purpose of the City of Fort Collins, and that all of the indemnities offered and all liabilities, costs, and expenses assumed by Buyer in this Agreement, including those stated in paragraphs 6, 7, 9, 22 and 25 are offered and assumed in furtherance of that public purpose.

28. Seller is not a foreign person as the term is used and defined in Section 1445 of the Internal Revenue Code of 1954, as amended and the regulations promulgated thereunder. Seller shall upon request of Buyer, complete an affidavit to this effect in the form as attached hereto, marked Exhibit "C" and deliver it to Buyer on or before closing of said sale.

Accepted by Buyer this 13th day of July, 1989.

THE CITY OF FORT COLLINS, COLORADO

[Buyer]

By: George K. Noe

Title: Deputy City Manager

Approved As To Form:

City Attorney

Attest:

City Clerk

Buyer must clearly set forth full and correct names of party or parties to whom title will be conveyed, their address, their relationship, if any, and whether conveyance is to be in joint tenancy or otherwise, and if a company, whether it is a partnership, trust, trustee or corporation; address of principal office and state of incorporation.

Grantee's name as it is to appear on deed: The City of Fort Collins, Colorado, a municipal corporation.
(Printed/Typed)

By: George K. Noe
Name (Printed/Typed)

Signature

Deputy City Manager
Title (or 2nd Signature if Partnership)

Colorado
State of Incorporation

P.O. Box 580	Fort Collins, CO 80522	(303) 221-6500
Address of Buyer	City, State & Zip Code	Telephone Number (Including Area Code)

Accepted by Seller this 18th day of July, 1989.

BURLINGTON NORTHERN RAILROAD COMPANY

By:

Title: ASSISTANT VICE PRESIDENT

EXHIBIT A-1

LEGAL DESCRIPTION

A tract of land located in the SW 1/4 of Section 2, Township 7 North, Range 69 West, 6th P.M. City of Fort Collins, Larimer County, State of Colorado, more particularly described as follows:

Considering the South line of the SW 1/4 of said Section as bearing South 89 35'01" East and all bearings contained herein relative thereto:

Commencing at the Southwest corner of said Section 2 monumented with 3" aluminum monument set in concrete in a cast iron box stamped L.S.20123, thence along South line of Section 2 South 89 35'01" East 1351.03 feet more or less to the extended West line of Block 296, thence North 00 09'37" East 16.84 feet along West line of said Block to the Southwesterly line of the Colorado and Southern railway company right-of-way to the true point of beginning, thence continuing along West line of said Block 296 to the Northeasterly line of said railway right-of-way North 00 09'37" East 110.26 feet, thence along the Northeasterly line of said railway right-of-way South 64 55'53" East 304.70 feet to the South line of said Section 2, thence along South line of said Section 2 North 39 35'01" West 239.64 feet to the Southwesterly line of said railway right-of-way, thence along Southwesterly line of said railway right-of-way North 64 55'53" West 40.49 feet to the point of beginning.

Said tract of land contains 0.396 acres more or less.

I hereby certify that the above legal description accurately describes a survey made under my supervision and is correct to the best of my knowledge.

Robert A. Bradshaw
PL.S. #20123

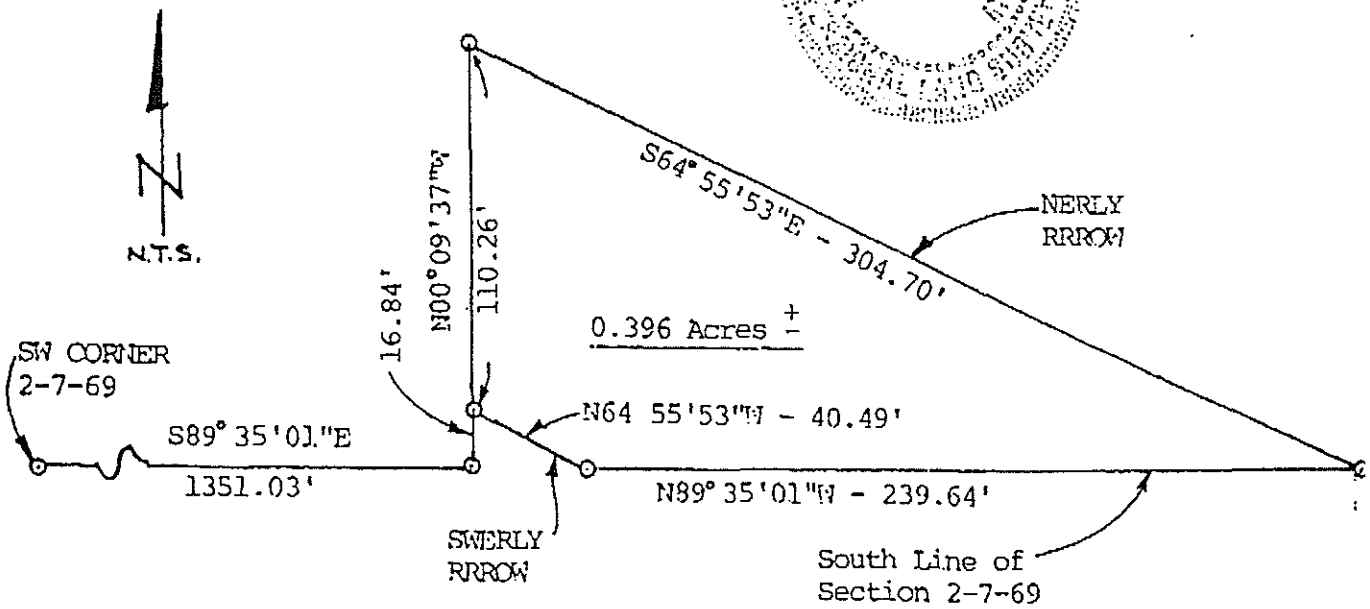


EXHIBIT A-2

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE NORTH 1/4 OF SECTION 11, TOWNSHIP 7 NORTH, RANGE 69 WEST, 6TH P.M., CITY OF FORT COLLINS, LARIMER COUNTY, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 11 AS BEARING SOUTH 89°35'01" EAST AND ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 11, MONUMENTED WITH 3" ALUMINUM MONUMENT SET IN CONCRETE STAMPED L.S. 20123; IN A CAST IRON BOX MARKED SURVEY THENCE ALONG THE NORTH LINE OF SECTION 11, SOUTH 89°35'01" EAST 1387.63 FEET TO THE SOUTHWESTERLY LINE OF THE COLORADO AND SOUTHERN RAILROAD RIGHT-OF-WAY, THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID RAILROAD RIGHT-OF-WAY SOUTH 64°55'53" EAST 993.10 FEET TO A POINT 90° TO MILE POST 75 AS PER COLORADO AND SOUTHERN RAILWAY RIGHT-OF-WAY PLANS: THENCE NORTH 25°04'07" EAST 100.00 FEET TO THE NORTHEASTERLY LINE OF SAID RAILROAD RIGHT-OF-WAY; THENCE ALONG THE NORTHEASTERLY LINE OF SAID RAILROAD RIGHT-OF-WAY NORTH 64°55'53" WEST 775.19 FEET TO THE NORTH LINE OF SAID SECTION 11; THENCE ALONG THE NORTH LINE OF SAID SECTION 11, NORTH 89°35'01" WEST 239.77 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 2.03 ACRES MORE OR LESS.

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES A SURVEY MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.

COLORADO REGISTERED PROJECT ALFRED BRAUN PROFESSIONAL LAND SURVEYOR

ROBERT [illegible]
P.L.S. 20123

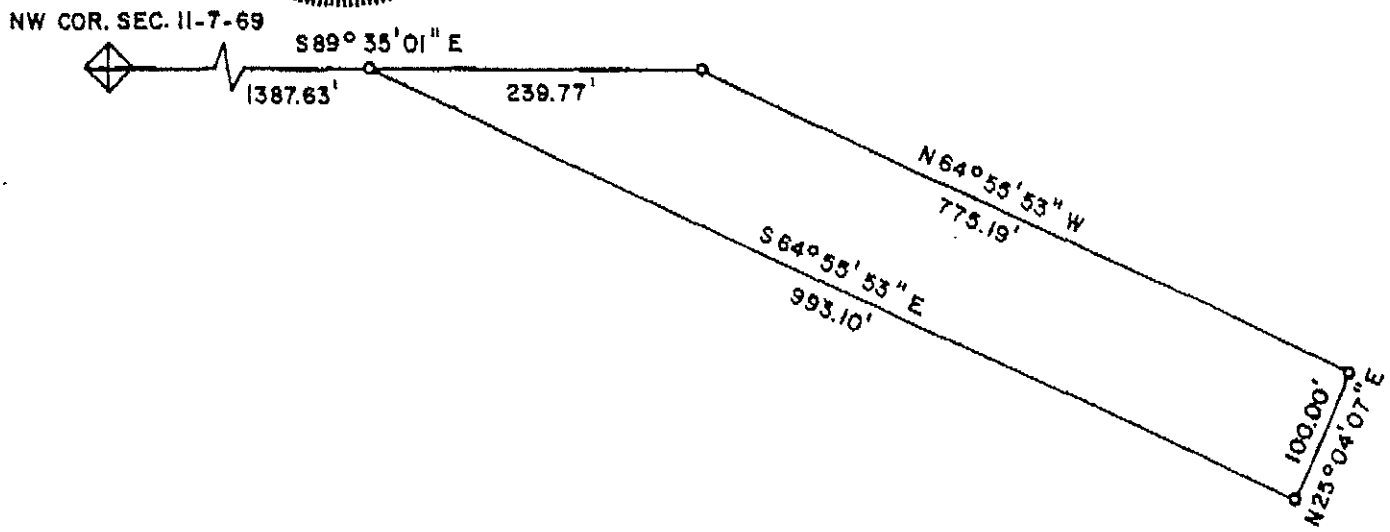


EXHIBIT A-3

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE SOUTHWEST 1/4 OF SECTION 2, TOWNSHIP 7 NORTH, RANGE 69 WEST, 6TH PRINCIPAL MERIDIAN, CITY OF FORT COLLINS, LARIMER COUNTY, STATE OF COLORADO, MORE PARTICULARLY AS FOLLOWS:

CONSIDERING THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SECTION 2 AS BEARING S 89°35'01" EAST, AND ALL BEARING CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 2, MONUMENTED WITH 3-INCH ALUMINUM MONUMENT STAMPED L.S. 20123 SET IN CONCRETE IN A CAST IRON BOX MARKED SURVEY; THENCE ALONG THE SOUTH LINE OF SECTION 2, S 89°35'01" EAST 1351.03 FEET MORE OR LESS TO THE EAST LINE OF WOOD STREET; THENCE N 00°09'37" WEST 16.84 FEET TO THE SOUTHWESTERLY LINE OF THE COLORADO AND SOUTHERN RAILWAY RIGHT-OF-WAY THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF SAID RAILWAY N 64°56'25" WEST 1486.67 FEET TO THE WEST SECTION LINE OF SAID SECTION 2; THENCE ALONG THE WEST LINE OF SAID SECTION 2 N 00°22'45" EAST 110.06 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY; THENCE ALONG NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY S 64°56'25" EAST 1485.60 FEET TO EAST LINE OF WOOD STREET; THENCE ALONG EAST LINE OF WOOD STREET, S 00°09'37" EAST 110.24 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 3.4072 ACRES MORE OR LESS.

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES A SURVEY MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.

ROBERT J. BRADSHAW
P.L.S. 20123

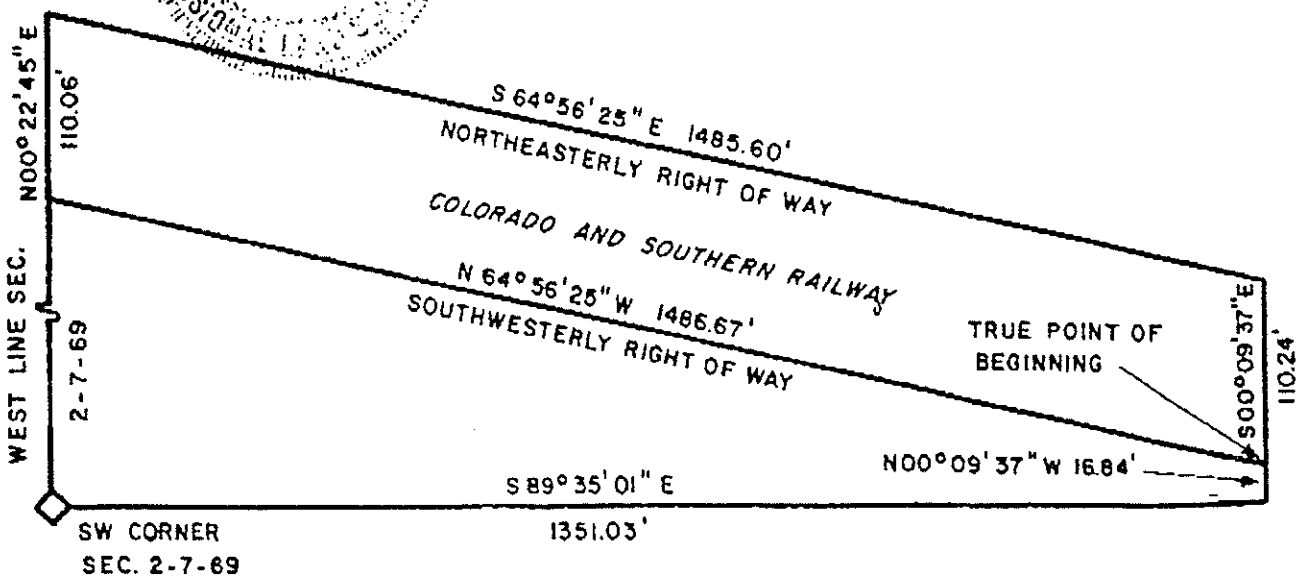


EXHIBIT A-4

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN SECTION 3, TOWNSHIP 7 NORTH, RANGE 69 WEST, 6TH PRINCIPAL MERIDIAN, CITY OF FORT COLLINS, LARIMER COUNTY, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 3 AS BEARING S 89°20'11" EAST, AND ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 3, MONUMENTED WITH A 3" ALUMINUM MONUMENT STAMPED L.S. 20123 SET IN CONCRETE IN A CAST IRON BOX MARKED SURVEY; THENCE ALONG THE EAST LINE OF SAID SECTION 3, N 00°22'45" EAST 636.59 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF THE COLORADO AND SOUTHERN RAILWAY, THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF SAID RAILWAY N 64°55'46" WEST 2463.33 FEET; THENCE ALONG SOUTHWESTERLY RIGHT-OF-WAY ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 9°24'21" WITH A RADIUS OF 5779.58 FEET CURVE LENGTH OF 948.80 FEET WHOSE CHORD BEARS N 60°13'35" WEST 947.73 FEET; THENCE ALONG SOUTHWESTERLY RIGHT-OF-WAY N 55°31'25" WEST 2661.40 FEET TO THE WEST LINE OF THE NORTHWEST 1/4 CORNER OF SAID SECTION 3, SAID POINT BEARS N 00°41'45" EAST 983.15 FEET; THENCE ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 3 N 00°41'45" EAST 120.31 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY; THENCE ALONG THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY S 55°31'25" EAST 2728.30 FEET; THENCE ALONG NORTHEASTERLY RIGHT-OF-WAY ALONG A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 9°24'21" WITH A RADIUS OF 5679.58 FEET CURVE LENGTH OF 932.38 FEET WHOSE CHORD BEARS S 60°13'36" EAST 931.33 FEET; THENCE ALONG NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY S 64°55'46" EAST 2417.36 FEET TO THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 3; THENCE ALONG THE EAST LINE OF SOUTHEAST 1/4 OF SAID SECTION 3, SOUTH 00°22'45" WEST 110.06 FEET TO THE POINT OF BEGINNING.

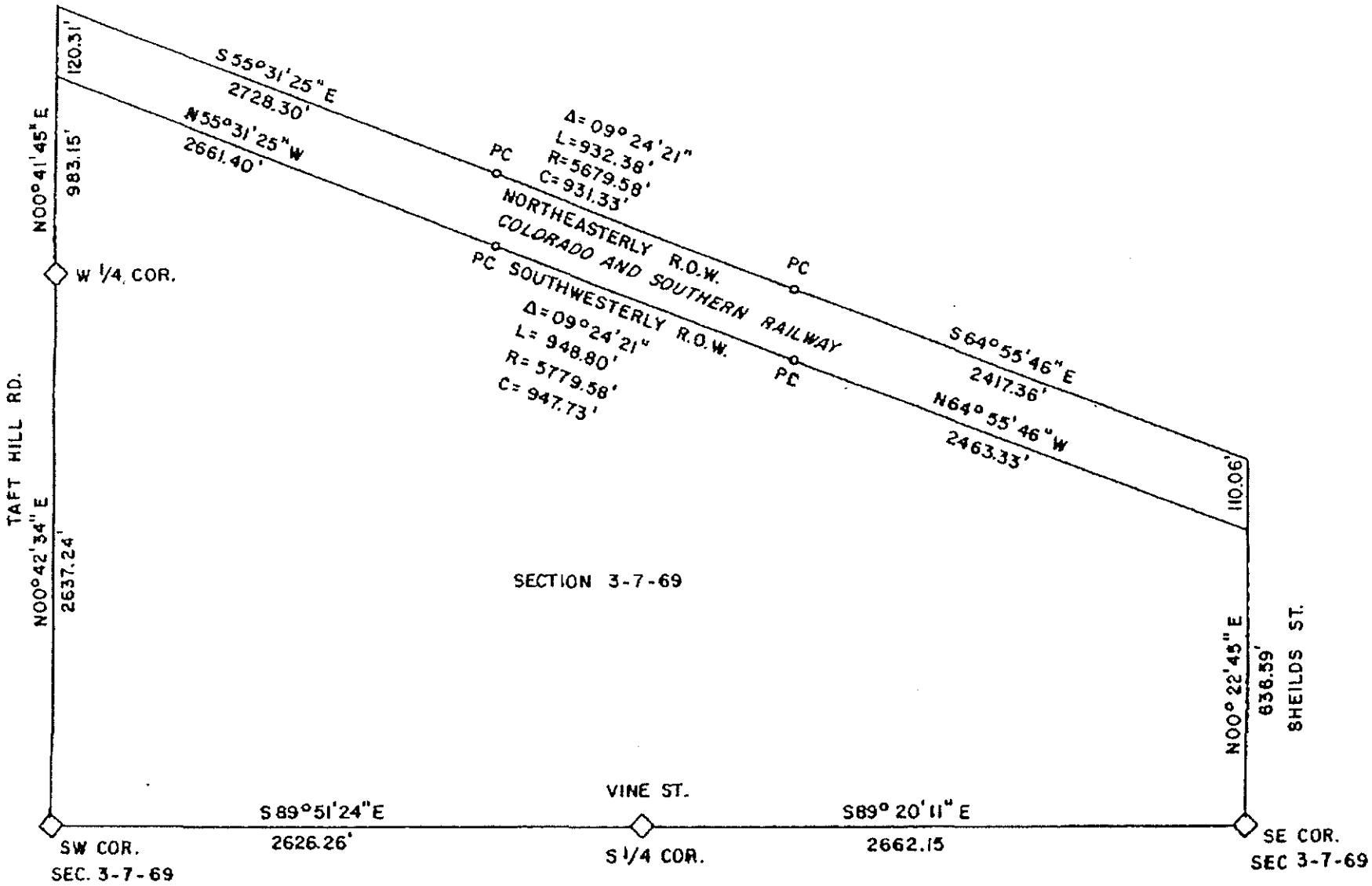
SAID TRACT OF LAND CONTAINS 14.4724 ACRES MORE OR LESS.

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES A SURVEY MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR

ROBERT A. [illegible]
P.L.S. 20[illegible]

EXHIBIT A-4



FT. COLLINS, CO
B 2216782

EXHIBIT A-5

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 7 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, LARIMER COUNTY, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4 AS BEARING NORTH 00°41'45" EAST AND ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 4, MONUMENTED WITH A 3-INCH ALUMINUM MONUMENT STAMPED L.S. 20123 SET IN CONCRETE IN A CAST IRON BOX MARKED SURVEY; THENCE ALONG THE EAST LINE OF SAID NORTHEAST 1/4 NORTH 00°41'45" EAST 983.15 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF THE COLORADO AND SOUTHERN RAILWAY TO THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF SAID RAILWAY NORTH 55°32'39" WEST 2978.09 FEET TO THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4, SAID POINT BEARS SOUTH 89°16'48" EAST 171.00 FEET OF THE NORTH 1/4 CORNER OF SAID NORTHEAST 1/4 OF SECTION 4; THENCE ALONG THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4 SOUTH 89°16'48" EAST 180.11 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY; THENCE ALONG THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY SOUTH 55°32'39" EAST 2761.45 FEET TO THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4; THENCE ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4 SOUTH 00°41'45" WEST 120.31 FEET TO THE TRUE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 6.5897 ACRES MORE OF LESS.

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES A SURVEY MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.

ROBERT A. BRADSHAW
P.L.S. 20123

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR ROBERT A. BRADSHAW 20123

EXHIBIT A-5 6

FT. COLLINS-CO

2216782

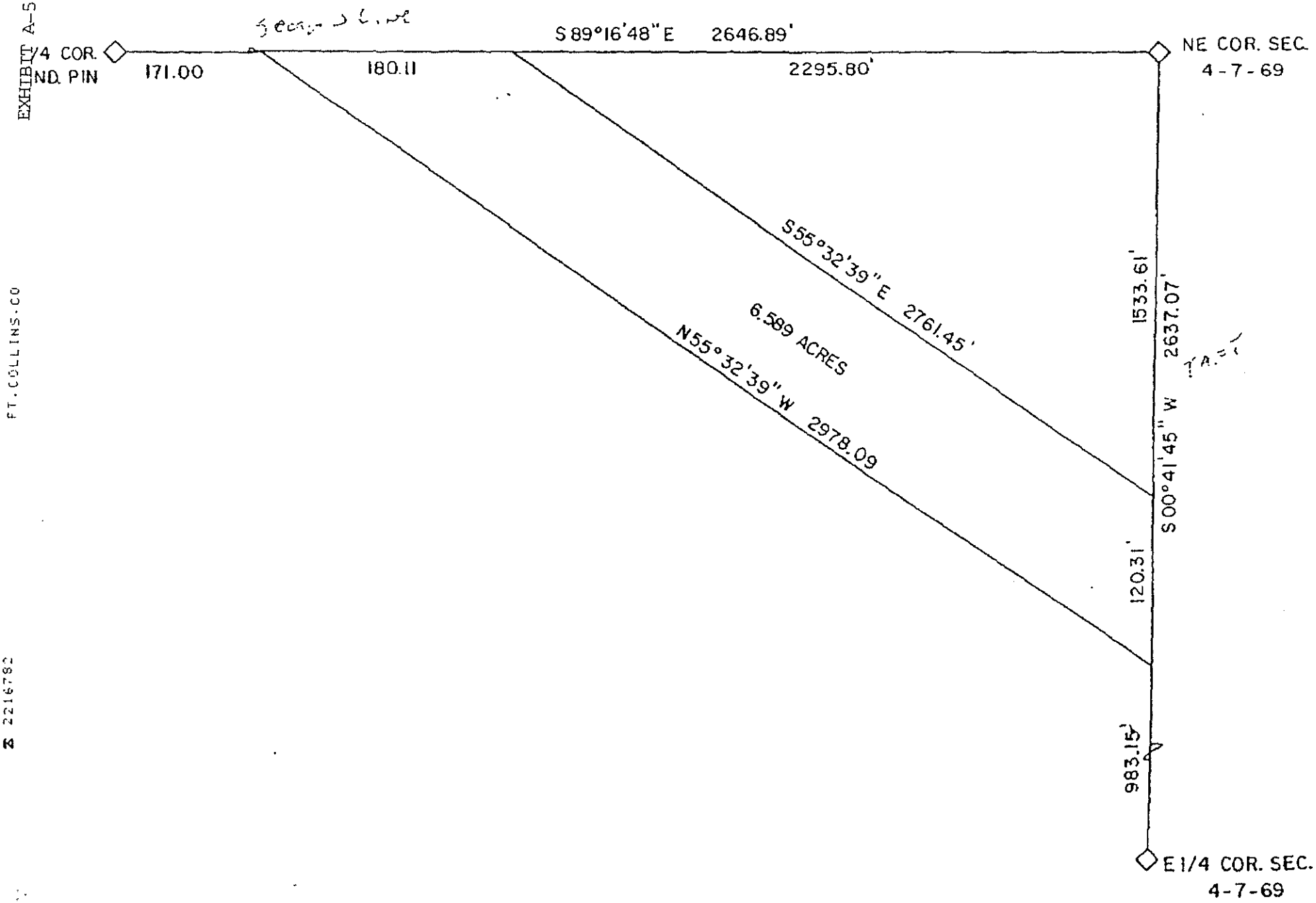


EXHIBIT A-6

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE SOUTH HALF OF SECTION 33, TOWNSHIP 8 NORTH, RANGE 69 WEST, 6TH PRINCIPAL MERIDIAN, LARIMER COUNTY, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 33, AS BEARING NORTH 00°48'57" EAST AND ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 33 MONUMENTED WITH A 3-INCH ALUMINUM MONUMENT SET IN CONCRETE STAMPED L.S. 20123 SET IN AN ALUMINUM BOX; THENCE ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 33 NORTH 00°48'57" EAST 1903.83 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF THE COLORADO AND SOUTHERN RAILWAY, THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF SAID RAILWAY SOUTH 55°32'39" EAST 3382.36 FEET TO THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 33, A POINT THAT BEARS SOUTH 89°16'48" EAST 171.00 FEET FROM THE SOUTH 1/4 OF SAID SECITON 33; THENCE ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 33, SOUTH 89°16'48" EAST 180.11 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY; THENCE ALONG THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY NORTH 55°32'39" WEST 3598.62 FEET TO THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 33; THENCE ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 33 SOUTH 00°48'57" WEST 120.00 FEET TO THE TRUE POINT OF BEGINNING.

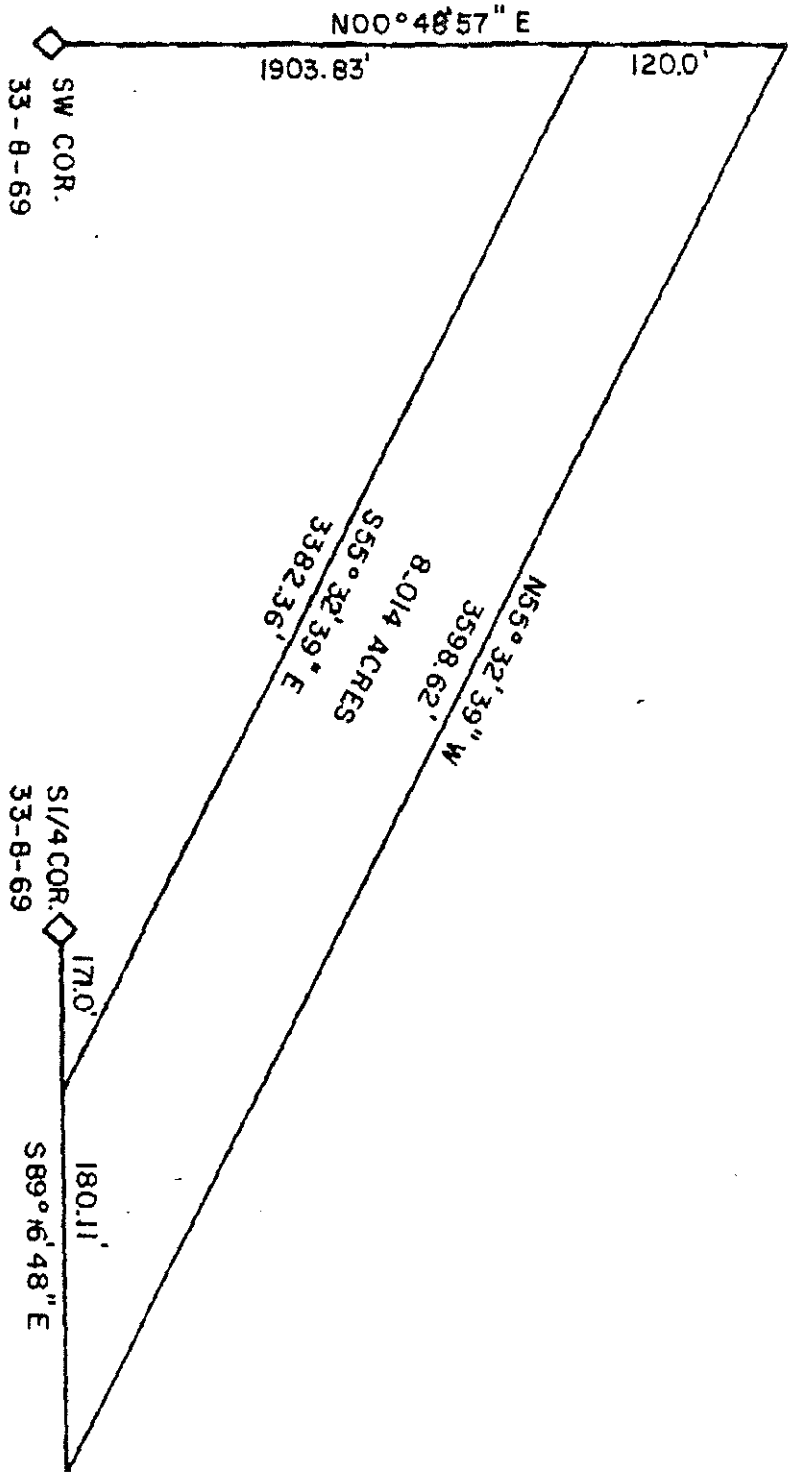
SAID TRACT OF LAND CONTAINS 8.014 ACRES MORE OR LESS.

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES A SURVEY MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.

ROBERT A. BRADSHAW
P.L.S. 20123

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR ROBERT ALFRED BRADSHAW 20123

EXHIBIT A-6


N00°48'57" E
1903.83'
120.0'
SW COR.
33-8-69
S55°32'39" E
3382.36'
8.014 ACRES
N55°32'39" W
3598.62'
S1/4 COR.
33-8-69
171.0'
180.11'
S89°16'48" E

City of Fort Collins

Administrative Services
Purchasing and Risk Management Division

EXHIBIT B

June 8, 1989

Ms. Ethyl A. Allen
Burlington Northern Railroad
3800 Continental Plaza
777 Main Street
Fort Worth, TX 76102

Dear Ms. Allen:

The City of Fort Collins has been self-insured for liability coverage since October 1, 1987. This includes coverage for general liability, police liability and public official liability.

The City self-insures up to $150,000 per person and $400,000 per occurrence, which are the maximum amounts that the City would be required to pay per the Colorado Governmental Immunity Act. These limits apply only to actions filed in state court.

The City has purchased an excess liability insurance policy from the Illinois Insurance Exchange which extends the limits to one million dollars per person with a two million dollar aggregate. This policy would come into use in the event that:

1. A lawsuit was filed in Federal Court, thus increasing the maximum amount of liability per claim.
2. Out of state lawsuits filed against the City.
3. The Governmental Immunity Act is overturned in the future.

Citizen claims filed against the City are adjusted by an independent third party administrator with a local Fort Collins office.

If you have any questions, please call me at 221-6774.

Sincerely,

Stewart J. Ellenberg, ARM
Risk Manager

pjn

256 W. Mountain Avenue • P.O. Box 580 • Fort Collins, CO 80522-0580 • (303) 221-6775

EXHIBIT C

OWNERSHIP DISCLOSURE

Property: Mile Post 75.00 to Mile Post 79.00 between Fort Collins and LaPorte in Larimer County, Colorado.

The undersigned ("Owner") hereby represents to the City of Fort Collins, Colorado, that the following is a complete list of all of the legal owners of the Property, and that there is no other person or entity who has an ownership interest in the Property:

Name	Country of Citizenship or Formation
Burlington Northern Railroad Company	Delaware Corporation

Owner understands that the City of Fort Collins, Colorado intends to rely on the foregoing representations in connection with the United States Foreign Investment in Real Property Tax Act.

Date: July 18, 1989

Owner: Burlington Northern Railroad Company

By: H. D. Shane

Title: ASSISTANT VICE PRESIDENT

Taft Hill Rd.
Shields St.
Wood St.
Sherwood St.
College Ave.
M.P. 74.31
Municipal
Golf Course
Prospect
Park
POUDRE
CANAL
Mountain View

Exhibit D-2

FIRST AMENDMENT TO OFFER TO PURCHASE AND INTERIM TRAIL USE/RAILBANKING AGREEMENT

This First Amendment to the Offer to Purchase and Interim Trail Use/Railbanking Agreement is entered into and executed by and between **BURLINGTON NORTHERN RAILROAD COMPANY** (Seller) and **THE CITY OF FORT COLLINS** (Buyer).

WHEREAS, Seller and Buyer entered into an Offer to Purchase and Interim Trail Use/Railbanking Agreement (Agreement) on July 18, 1989; and

WHEREAS, through subsequent negotiations, Seller and Buyer have agreed to amend the Agreement to reflect an amended legal description, an amended purchase price, and a waiver of certain closing requirements.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, each to the other in hand paid, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows (unless otherwise indicated, all capitalized terms used herein shall have the same meanings as are attributable thereto in the Agreement):

1. Exhibit A to the Agreement shall be amended so as to delete Exhibits A-1 and A-2 and the attached new Exhibit A-2 shall be inserted in their place.

2. Section 1 of the Agreement entitled PURCHASE PRICE AND PAYMENT shall be amended to delete the referenced purchase price of $30,873.00 and to insert in its place the agreed upon and amended purchase price of $21,464.49.

3. Section 22 of the Agreement entitled CLOSING shall be amended to reflect Seller's waiver of the requirement that all stays imposed by the ICC be lifted prior to closing.

No other modification to the Agreement is made or intended to be hereby made and, as amended herein, the Agreement is hereby confirmed and reaffirmed by Seller and Buyer and shall remain in full force and effect.

EXECUTED in multiple counterparts effective as of the 15 day of May, 1990.

BUYER:

THE CITY OF FORT COLLINS, COLORADO

By: _____

Title: City Manager

SELLER:

BURLINGTON NORTHERN RAILROAD COMPANY

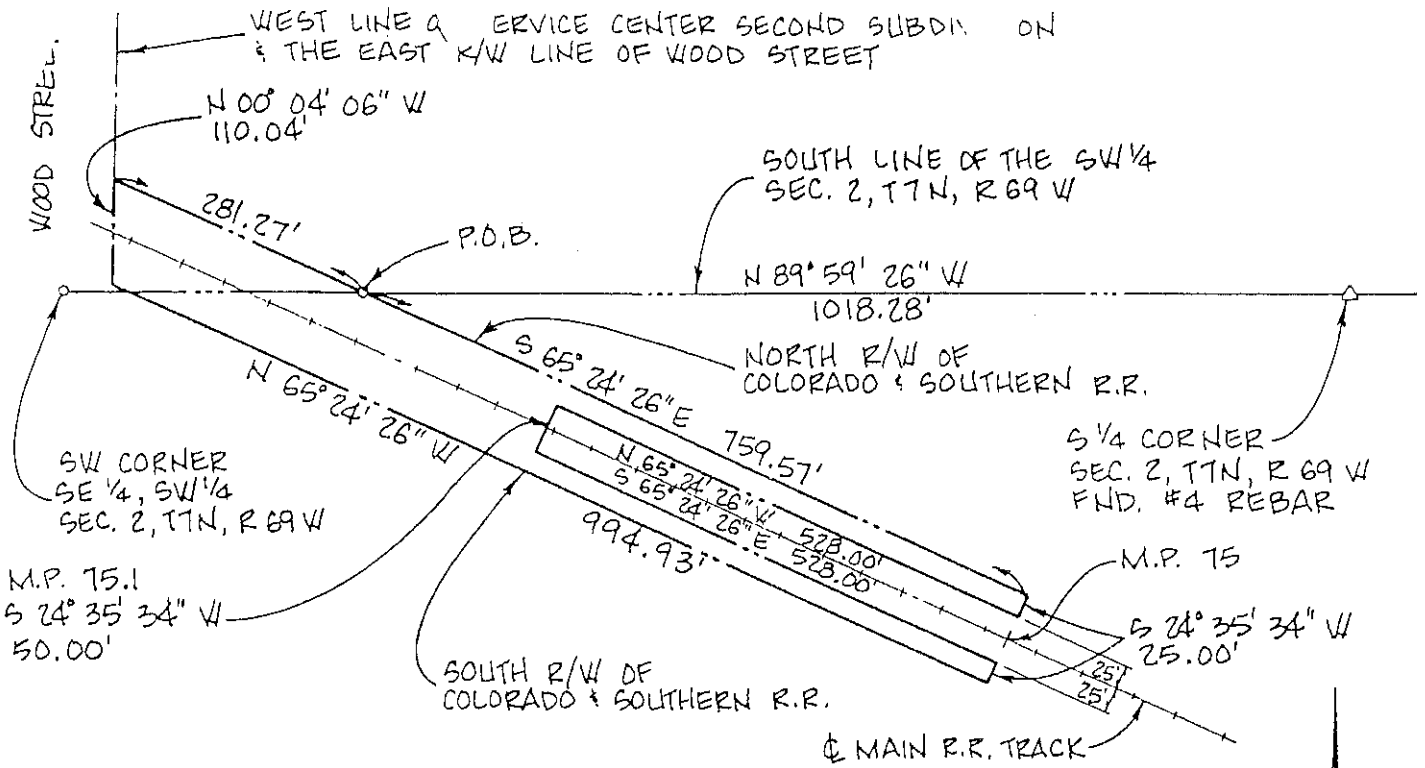
By: _____

Title: _____

Attachment: Exhibit A-2

Approved As To Form

Deputy City Attorney



DESCRIPTION OF RAILROAD R/W TAKE FOR THE FORT COLLINS SERVICE CENTER

A tract of land located in the Southwest Quarter of Section 2 and the Northwest Quarter of Section 11, Township 7 North, Range 69 West of the 6th Principal Meridian, City of Fort Collins, Larimer County, Colorado, being more particularly described as follows:

Considering the South line of the Southwest Quarter of said Section 2 as bearing North 89°59'26" West from a found number 4 rebar at the South Quarter corner of said Section 2 to a found number 5 rebar at the Southwest Corner of the Southeast Quarter of the Southwest Quarter of said Section 2 and with all bearings contained herein relative thereto:

Commencing at the South Quarter Corner of said Section 2; thence along said South line, North 89°59'26" West, 1018.28 feet to a point on the North right-of-way line of Colorado and Southern Railroad, said point being the POINT OF BEGINNING; thence along said North right-of-way line South 65°24'26" East, 759.57 feet; thence, South 24°35'34" West, 25.00 feet; thence, North 65°24'26" West, 528.00 feet; thence, South 24°35'34" West, 50.00 feet; thence, South 65°24'26" East, 528.00 feet; thence, South 24°35'34" West, 25.00 feet to a point on the South right-of-way line of Colorado and Southern Railroad; thence along said South right-of-way line, North 65°24'26" West, 994.93 feet to a point on the West line of Service Center Second Subdivision, recorded in Larimer County records; thence along the West line of said Subdivision and the East right-of-way line of Wood Street, North 00°04'06" West, 110.04 feet to a point on the North right-of-way line of Colorado and Southern Railroad; thence along said North right-of-way line, South 65°24'26" East, 281.27 feet to the Point of Beginning.

The above tract of land contains 1.731 acres, and is subject to all easements and right-of-way now on record or existing.

I, Gerald D. Gilliland, do hereby certify that this description was prepared by me or under my direct supervision this 1st Day of March, 1990, and the same is correct to the best of my knowledge.

GERALD DAVID GILLILAND
REGISTERED
14823
LAND SURVEYOR
STATE OF COLORADO

Gerald D Gilliland

Gerald D. Gilliland, P.L.S.
Colorado Registration No. 14823

RBD Inc
Engineering Consultants

RCPTN # 90023707 06/04/90 11:08:14 # PAGES - 14 FEE - $70.00
M RODENBERGER RECORDER, LARIMER COUNTY CO STATE DOC FEE - $.00

Exhibit E

QUITCLAIM DEED

EXEMPT

THIS INDENTURE, Made the 1/2 day of May, 1990, between BURLINGTON NORTHERN RAILROAD COMPANY, a Delaware corporation, Grantor, and the CITY OF FORT COLLINS, COLORADO, a municipal corporation, Grantee,

WITNESSETH: That the said Grantor, for Ten and No/100 Dollars ($10.00) and other good and valuable consideration in hand paid by the said Grantee, the receipt of which is hereby acknowledged, does convey, remise, release and forever quitclaim, without the covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, unto the said Grantee, and to its successors and assigns, all its right, title and interest, if any, in the real estate, situated in the County of Larimer and the state of Colorado, more particularly described on Exhibit A attached hereto and made a part hereof.

A. SUBJECT, however, to all existing tenancies, encumbrances (other than materialmen's or judgment liens or liens for borrowed money, pension benefits or taxes), easements, rights, licenses, privileges, agreements (including, without limitation sidetrack agreements), covenants, conditions, restrictions, rights of re-entry, possibilities of reverter, existing laws and ordinances, zoning regulations, orders of regulatory agencies, and any state of facts that an accurate survey and prudent inspection would disclose, and subject to the continued application and priority of the Burlington Northern, Inc. Consolidated Mortgage dated March 2, 1970 to Morgan Guaranty Trust Company of New York and Jacob M. Ford, II (Succeeded by W.A. Johnson), Trustees, as supplemented and amended; the Chicago, Burlington and Quincy Railroad Company First and Refunding Mortgage dated February 1, 1921 to Citibank, N.A., Corporate Trustee, as supplemented and amended; and the Great Northern Railway Company General Gold Bond Mortgage dated January 1, 1921 to Citibank, N.A., Corporate Trustee, as supplemented and amended. In accordance with Section 15 of the Offer to Purchase and Interim Trail Use/Railbanking Agreement, all referenced mortgages shall be released within two (2) years from the date of closing. Any judgment against Grantor which may appear of record as a lien against the conveyed premises shall be settled and satisfied by Grantor if and when it is judicially determined to be valid.

NO FEE PROPERTY DESCRIPTION REQUIRED
BY COUNTY CLERKS OFFICE
CLERKS NOTE

CITY OF FORT COLLINS

B. EXCEPTING AND RESERVING into said Grantor, its successors and assigns all right, title, privilege and license in and to all coal, oil, gas, casinghead gas and all ores and minerals of every kind and nature, including sand and gravel, underlying the surface of the conveyed real estate, together with the full right, privilege and license at any and all times to explore, or drill for and to protect, conserve, mine, take, remove and market any and all such products in any manner which will not damage structures on the surface of the premises, together with the right of access at all times to exercise said rights.

C. RESERVING, however, unto said Grantor, its successors and assigns, an easement for communication transmission above, below and on the surface of the premises herein conveyed, including, without limitation, transmission by conduit, fiberoptics, cable, wire, or other means, or electricity, voice data, video, digitized information, or other materials or information, together with the right, privilege and easement of ingress and egress to said premises for construction, placement, operation, maintenance, alteration, repair, replacement, renewal, improvement and removal of same in any such manner as does not unreasonably interfere with Grantee's use of the premises, and futher reserving unto Grantor, its successors and assigns, all right, privilege, and easement of ingress and egress to said premises as Grantor, its successors and assigns may require to investigate and remediate environmental contamination and hazards;

D. Real estate taxes payable or paid in the year this deed is delivered shall be prorated by Grantor and Grantee as of the date on which the deed is delivered on the basis of the most recent ascertainable taxes assessed against the conveyed real estate, or as may be equitably apportioned thereto by the Grantor if the property is not separately assessed. Grantee shall be responsible for the payment of any and all taxes that may be levied or assessed against the conveyed premises from and after the date of purchase.

E. Pursuant to Item 25 of the Offer to Purchase and Interim Trail Use/Railbanking Agreement dated July 18, 1989 (Agreement), Grantee has granted to Grantor a first right of refusal to repurchase the conveyed real estate as set forth in said Agreement.

F. ALSO, the Grantee, by acceptance of this deed, hereby releases and forever discharges the Grantor, its successors and assigns, from any and all present or future obligations of the Grantor, its successors and assigns, including but not limited to the construction of or continued maintenance thereto of any railroad fences, snow fences, road crossings, cattle guards, gates, farm crossings, bridges, drainage or irrigation pipes, if any, located and situated on the premises herein conveyed.

G. BUYER accepts the property "AS IS." In purchasing the property, Buyer acknowledges that Buyer is aware of the condition of the property.

H. Grantee and Grantor have entered into the above referenced Agreement dated July 18, 1989, the terms, conditions, duties, obligations, liabilities and indemnifications of which Grantee and Grantor herein reaffirm and stipulate survive the execution of this deed.

Together with all the tenements, hereditaments and appurtenances thereunto belonging, and all the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and also all the estate, right, title, interest, property, possessions, claim and demand whatsoever, as well in law as in equity, of the said Grantor, of, in or to the said premises and every part and parcel thereof.

TO HAVE AND TO HOLD, all and singular the said premises, with the appurtenances, unto the said Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, said Grantor has cause its corporate name to be subscribed and its corporate seal to be affixed, by its proper officer, thereunto duly authorized the day and year first above written.

BURLINGTON NORTHERN RAILROAD COMPANY

BY: _____

TITLE: ASSISTANT VICE PRESIDENT

ATTEST:

BY: _____
Assistant Secretary

ACCEPTED:

THE CITY OF FORT COLLINS, COLORADO

BY: _____

TITLE: City Manager

ATTEST:

BY: _____

TITLE: City Clerk

Approved As To Form

_____
Deputy City Attorney

STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

On this 16th day of May, 1990, before me, a Notary Public, personally appeared Steven C. Burkett and Wanda M. Krajicek known to me to be City Manager and City Clerk of the municipal corporation that executed the within instrument and acknowledged to me that such municipal corporation executed the same.

Rita R. Knoll
Notary Public
My commission expires: Sept 12, 1992
Residing at: _____

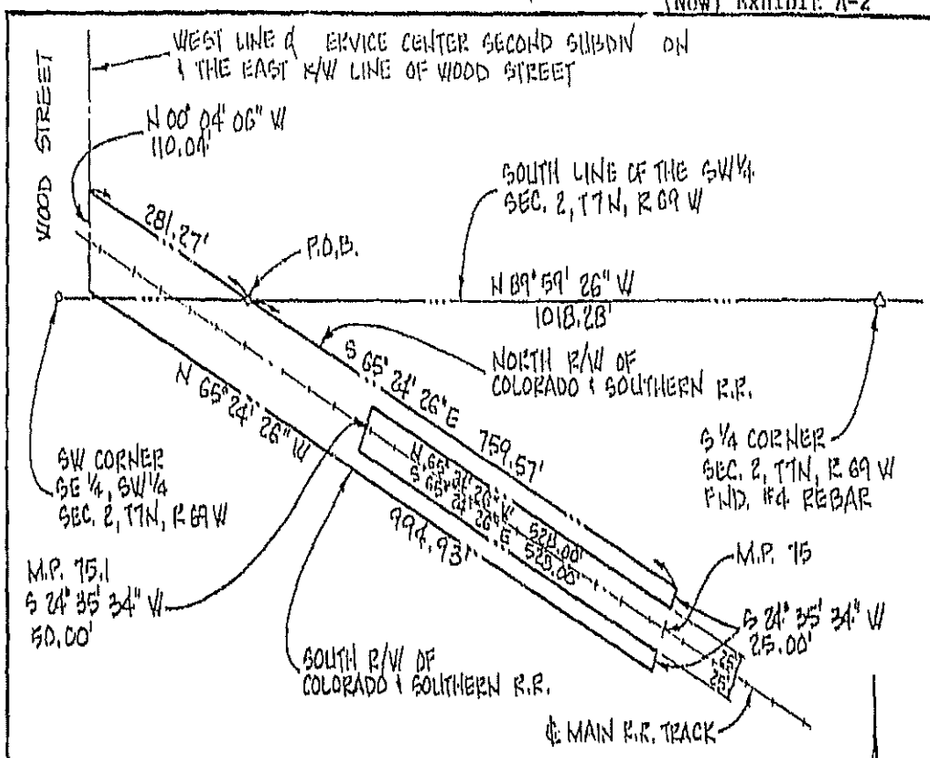
STATE OF TEXAS)
) ss.
COUNTY OF TARRANT)

On this 18th day of May, 1990, before me, a Notary Public, personally appeared H. D. SHANE known to me to be ASSISTANT VICE PRESIDENT of the corporation that executed the within instrument and acknowledged to me that such corporation executed the same.

Arline Nichols
Notary Public
My commission expires: 12/20/90
Residing at: Tarrant County

ARLINE NICHOLS
Notary Public State of Texas
My Commission Expires Dec. 20, 1990

(Now) Exhibit A-2



DESCRIPTION OF RAILROAD R/W TAKE FOR THE FORT COLLINS SERVICE CENTER

A tract of land located in the Southwest Quarter of Section 2 and the Northwest Quarter of Section 11, Township 7 North, Range 69 West of the 6th Principal Meridian, City of Fort Collins, Larimer County, Colorado, being more particularly described as follows:

Considering the South line of the Southwest Quarter of said Section 2 as bearing North 89°59'26" West from a found number 4 rebar at the South Quarter corner of said Section 2 to a found number 4 rebar at the Southwest Corner of the Southeast Quarter of the Southwest Quarter of said Section 2 and with all bearings contained herein relative thereto:

Commencing at the South Quarter Corner of said Section 2; thence along said South line, North 89°59'26" West, 1018.28 feet to a point on the North right-of-way line of Colorado and Southern Railroad, said point being the POINT OF BEGINNING; thence along said North right-of-way line South 65°24'26" East, 759.57 feet; thence, South 24°35'34" West, 25.00 feet; thence, North 65°24'26" West, 528.00 feet; thence, South 24°35'34" West, 50.00 feet; thence, South 65°24'26" East, 528.00 feet; thence, South 24°35'34" West, 25.00 feet to a point on the South right-of-way line of Colorado and Southern Railroad; thence along said South right-of-way line, North 65°24'26" West, 994.93 feet to a point on the West line of Service Center Second Subdivision, recorded in Larimer County records; thence along the West line of said Subdivision and the East right-of-way line of Wood Street, North 00°04'06" West, 110.04 feet to a point on the North right-of-way line of Colorado and Southern Railroad; thence along said North right-of-way line, South 65°24'26" East, 281.27 feet to the Point of Beginning.

The above tract of land contains 1.731 acres, and is subject to all easements and right-of-way now on record or existing.

I, Gerald D. Gilliland, do hereby certify that this description was prepared by me or under my direct supervision this 1st Day of March, 1990, and the same is correct to the best of my knowledge.

GERALD DAVID GILLILAND
REGISTERED
14823
LAND SURVEYOR
STATE OF COLORADO

Gerald D. Gilliland

Gerald D. Gilliland, P.L.S.
Colorado Registration No. 14823

RBD, Inc.
Engineering Consultants

EXHIBIT A-3

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE SOUTHWEST 1/4 OF SECTION 2, TOWNSHIP 7 NORTH, RANGE 69 WEST, 6TH PRINCIPAL MERIDIAN, CITY OF FORT COLLINS, LARIMER COUNTY, STATE OF COLORADO, MORE PARTICULARLY AS FOLLOWS:

CONSIDERING THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SECTION 2 AS BEARING S 89°35'01" EAST, AND ALL BEARING CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 2, MONUMENTED WITH 3-INCH ALUMINUM MONUMENT STAMPED L.S. 20123 SET IN CONCRETE IN A CAST IRON BOX MARKED SURVEY; THENCE ALONG THE SOUTH LINE OF SECTION 2, S 89°35'01" EAST 1351.03 FEET MORE OR LESS TO THE EAST LINE OF WOOD STREET; THENCE N 00°09'37" WEST 16.84 FEET TO THE SOUTHWESTERLY LINE OF THE COLORADO AND SOUTHERN RAILWAY RIGHT-OF-WAY THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF SAID RAILWAY N 64°56'25" WEST 1486.67 FEET TO THE WEST SECTION LINE OF SAID SECTION 2; THENCE ALONG THE WEST LINE OF SAID SECTION 2 N 00°22'45" EAST 110.06 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY; THENCE ALONG NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY S 64°56'25" EAST 1485.60 FEET TO EAST LINE OF WOOD STREET; THENCE ALONG EAST LINE OF WOOD STREET, S 00°09'37" EAST 110.24 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 3.4072 ACRES MORE OR LESS.

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES A SURVEY MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.

ROBERT W. BRADSHAW
P.L.S. 20123

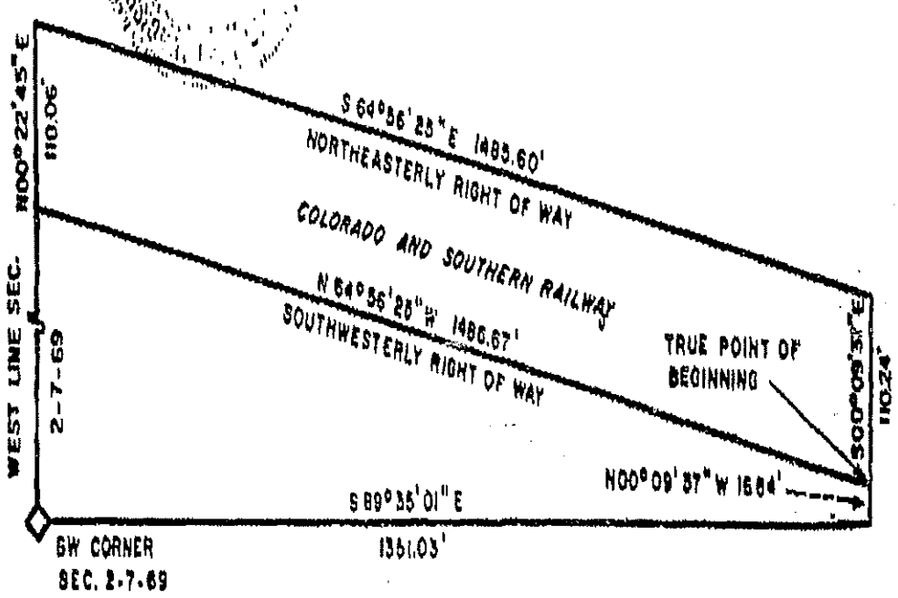


EXHIBIT A-4

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN SECTION 3, TOWNSHIP 7 NORTH, RANGE 69 WEST, 6TH PRINCIPAL MERIDIAN, CITY OF FORT COLLINS, LARIMER COUNTY, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 3 AS BEARING S 89°20'11" EAST, AND ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 3, MONUMENTED WITH A 3" ALUMINUM MONUMENT STAMPED L.S. 20123 SET IN CONCRETE IN A CAST IRON BOX MARKED SURVEY; THENCE ALONG THE EAST LINE OF SAID SECTION 3, N 00°22'45" EAST 636.59 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF THE COLORADO AND SOUTHERN RAILWAY, THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF SAID RAILWAY N 64°55'46" WEST 2463.33 FEET; THENCE ALONG SOUTHWESTERLY RIGHT-OF-WAY ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 9°24'21" WITH A RADIUS OF 5779.58 FEET CURVE LENGTH OF 948.80 FEET WHOSE CHORD BEARS N 60°13'35" WEST 947.73 FEET; THENCE ALONG SOUTHWESTERLY RIGHT-OF-WAY N 55°31'25" WEST 2661.40 FEET TO THE WEST LINE OF THE NORTHWEST 1/4 CORNER OF SAID SECTION 3, SAID POINT BEARS N 00°41'45" EAST 983.15 FEET; THENCE ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 3 N 00°41'45" EAST 120.31 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY; THENCE ALONG THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY S 55°31'25" EAST 2728.30 FEET; THENCE ALONG NORTHEASTERLY RIGHT-OF-WAY ALONG A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 9°24'21" WITH A RADIUS OF 5679.58 FEET CURVE LENGTH OF 932.38 FEET WHOSE CHORD BEARS S 60°13'36" EAST 931.33 FEET; THENCE ALONG NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY S 64°55'46" EAST 2417.36 FEET TO THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 3; THENCE ALONG THE EAST LINE OF SOUTHEAST 1/4 OF SAID SECTION 3, SOUTH 00°22'45" WEST 110.06 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 14.4724 ACRES MORE OR LESS.

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES A SURVEY MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.

ROBERT A. [illegible]
P.L.S. 20[illegible]

EXHIBIT A-4

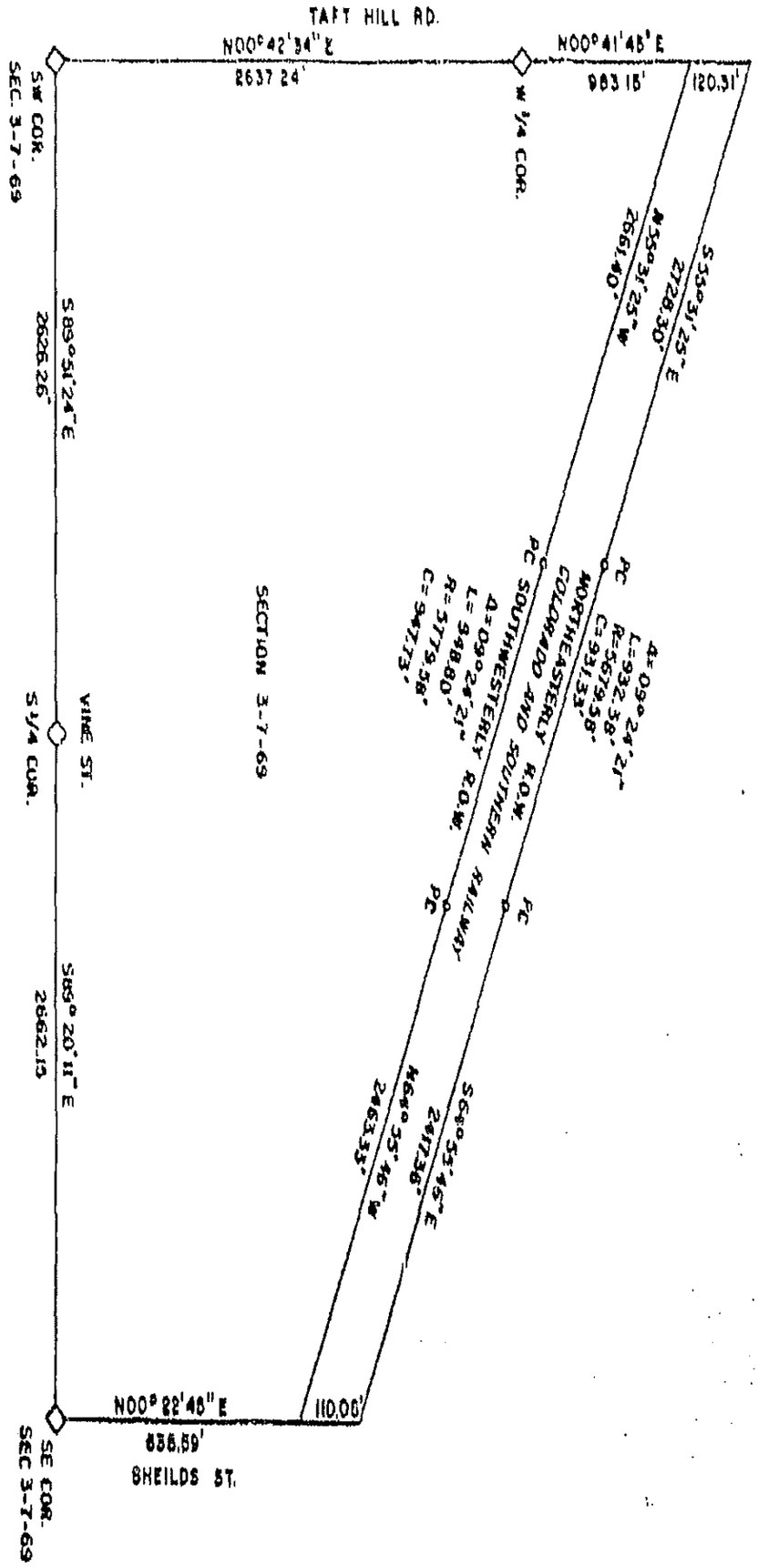

TAFT HILL RD.
N00°42'34" E
2637.24'
N00°41'45" E
983.15'
120.31'
SW COR.
SEC. 3-7-69
W 1/4 COR.
S 89°51'24" E
2626.26'
S 1/4 COR.
VINE ST.
S 89° 20' 11" E
2662.15
SECTION 3-7-69
N 55°31'25" W
2661.40'
S 55°31'25" E
2728.30'
PC
Δ=09°24'21"
L=932.38'
R=5679.58'
C=931.33'
NORTHEASTERLY R.O.W.
COLORADO AND SOUTHERN RAILWAY
PC SOUTHWESTERLY R.O.W.
Δ=09°24'21"
L=948.80'
R=5779.58'
C=947.73'
PC
PC
S 64°55'45" E
2417.36'
N 64°55'46" W
2463.33'
N00°22'45" E
110.06'
636.59'
SHEILDS ST.
SE COR.
SEC 3-7-69

EXHIBIT A-5

10

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 7 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, LARIMER COUNTY, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4 AS BEARING NORTH 00°41'45" EAST AND ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 4, MONUMENTED WITH A 3-INCH ALUMINUM MONUMENT STAMPED L.S. 20123 SET IN CONCRETE IN A CAST IRON BOX MARKED SURVEY; THENCE ALONG THE EAST LINE OF SAID NORTHEAST 1/4 NORTH 00°41'45" EAST 983.15 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF THE COLORADO AND SOUTHERN RAILWAY TO THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF SAID RAILWAY NORTH 55°32'39" WEST 2978.09 FEET TO THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4, SAID POINT BEARS SOUTH 89°16'48" EAST 171.00 FEET OF THE NORTH 1/4 CORNER OF SAID NORTHEAST 1/4 OF SECTION 4; THENCE ALONG THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4 SOUTH 89°16'48" EAST 180.11 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY; THENCE ALONG THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY SOUTH 55°32'39" EAST 2761.45 FEET TO THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4; THENCE ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4 SOUTH 00°41'45" WEST 120.31 FEET TO THE TRUE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 6.5897 ACRES MORE OF LESS.

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES A SURVEY MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.

ROBERT A. BRAUGHAM
P.L.S. 20123

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR 20123

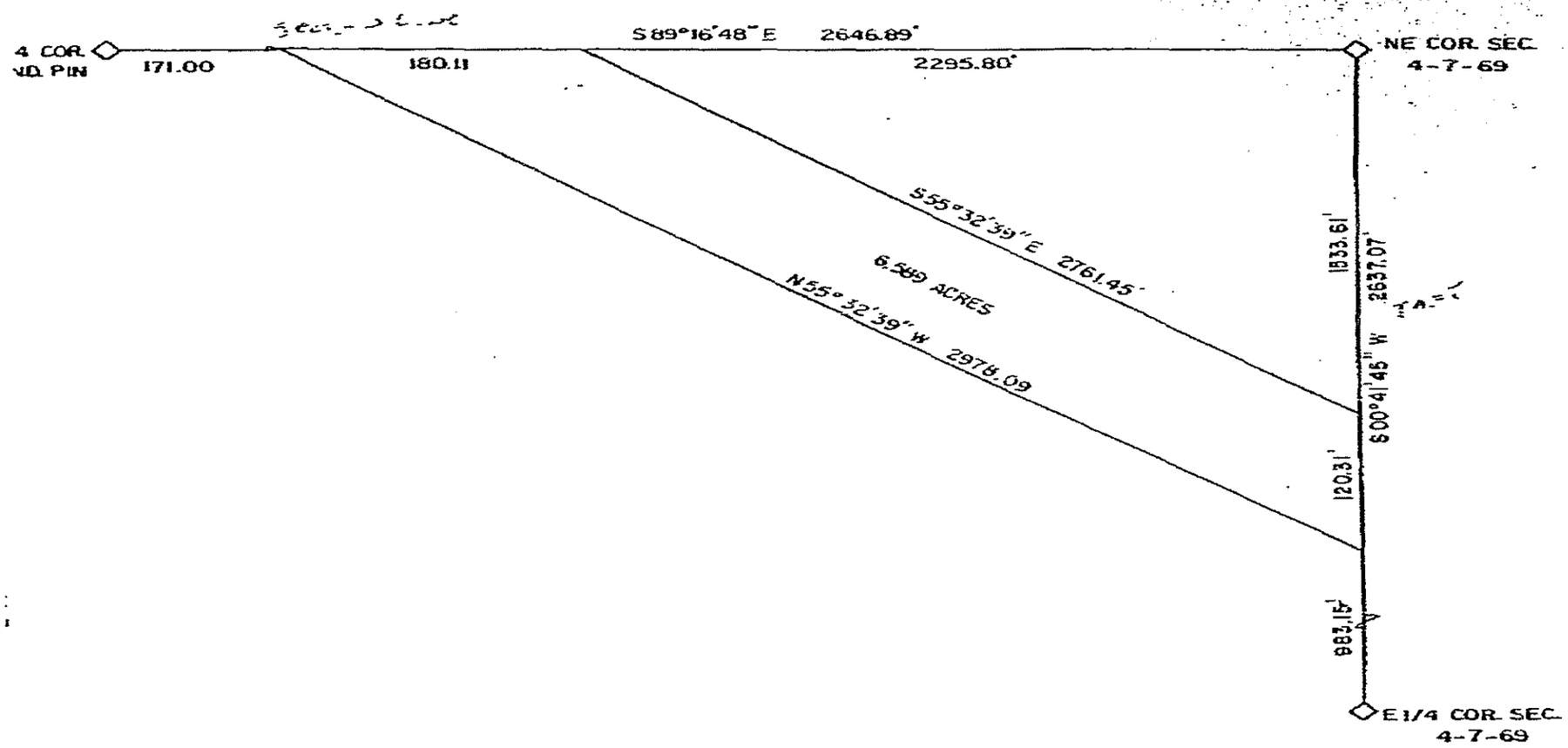

4 COR.
VD. PIN
171.00
180.11
S 89°16'48" E 2646.89'
2295.80'
NE COR. SEC.
4-7-69
S 55°32'39" E 2761.45'
6.589 ACRES
N 55°32'39" W 2974.09
1833.61'
2637.07'
S 00°41'48" W
120.31'
883.14'
E 1/4 COR. SEC.
4-7-69

EXHIBIT A-6

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE SOUTH HALF OF SECTION 33, TOWNSHIP 8 NORTH, RANGE 69 WEST, 6TH PRINCIPAL MERIDIAN, LARIMER COUNTY, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 33, AS BEARING NORTH 00°48'57" EAST AND ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

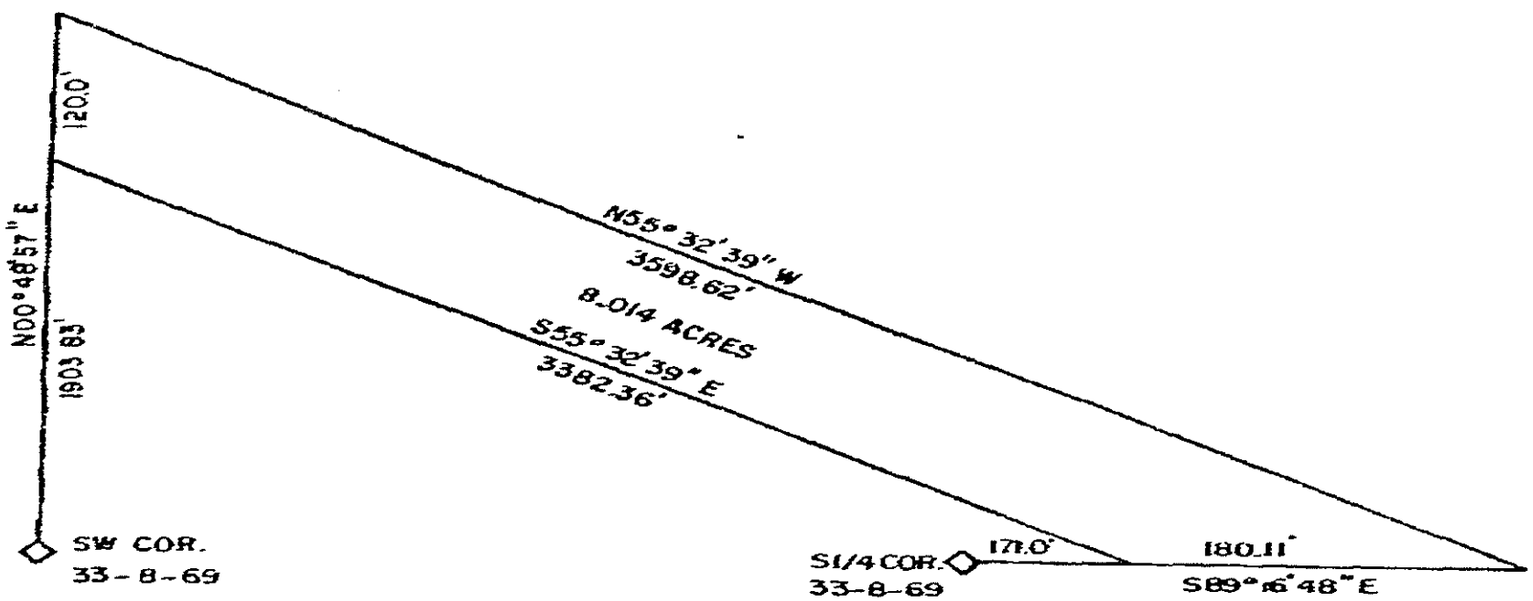
COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 33 MONUMENTED WITH A 3-INCH ALUMINUM MONUMENT SET IN CONCRETE STAMPED L.S. 20123 SET IN AN ALUMINUM BOX; THENCE ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 33 NORTH 00°48'57" EAST 1903.83 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF THE COLORADO AND SOUTHERN RAILWAY, THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF SAID RAILWAY SOUTH 55°32'39" EAST 3382.36 FEET TO THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 33, A POINT THAT BEARS SOUTH 89°16'48" EAST 171.00 FEET FROM THE SOUTH 1/4 OF SAID SECTION 33; THENCE ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 33, SOUTH 89°16'48" EAST 180.11 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY; THENCE ALONG THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY NORTH 55°32'39" WEST 3598.62 FEET TO THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 33; THENCE ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 33 SOUTH 00°48'57" WEST 120.00 FEET TO THE TRUE POINT OF BEGINNING.

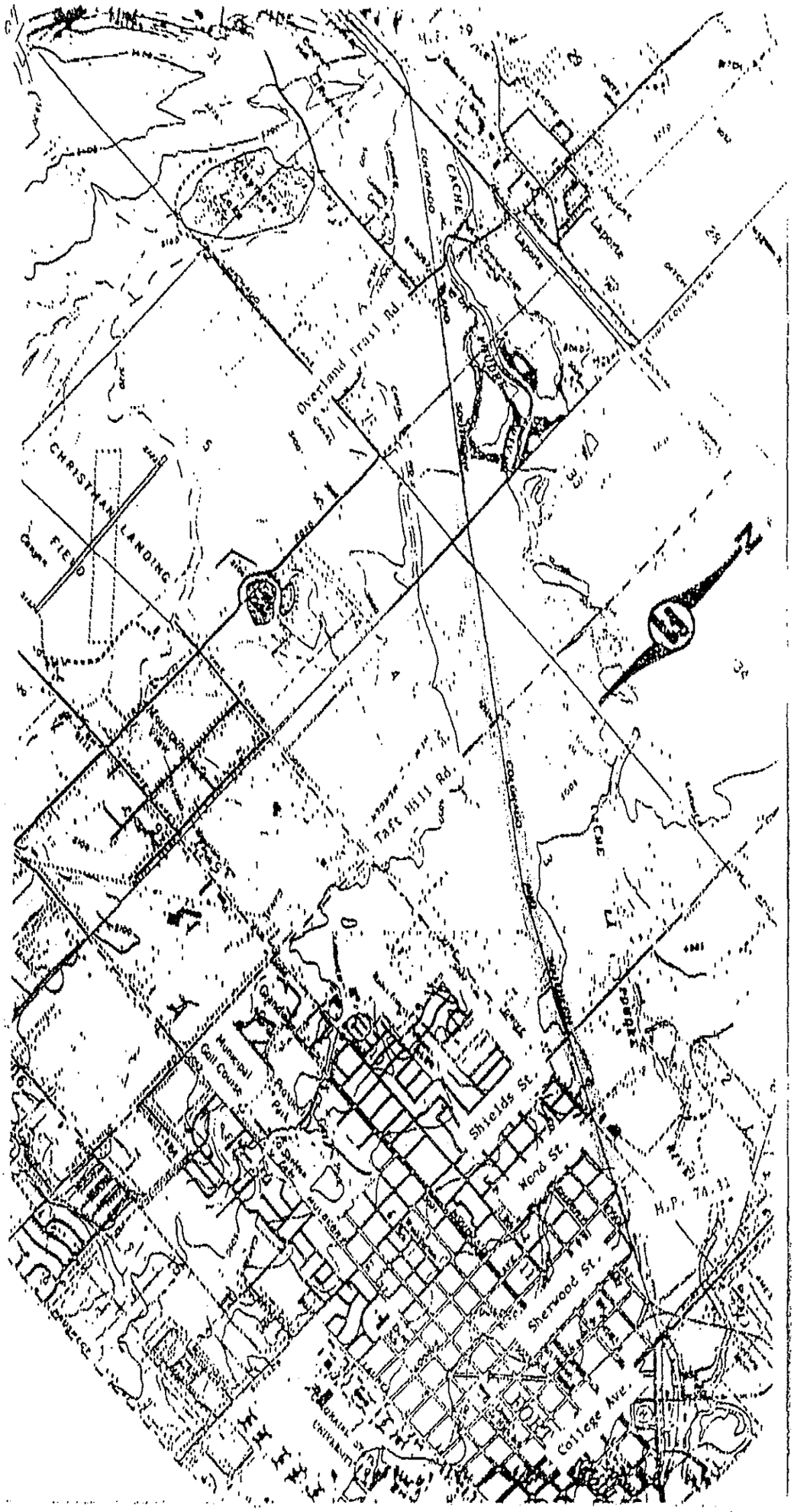
SAID TRACT OF LAND CONTAINS 8.014 ACRES MORE OR LESS.

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES A SURVEY MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.

ROBERT A. BRADSHAW
P.L.S. 20123

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR ALFRED A. BRADSHAW 20123


120.0'
N00°48'57" E
1601.83'
N55°32'39" W
3598.62'
8.014 ACRES
S55°32'39" E
3382.36'
SW COR.
33-8-69
S1/4 COR.
33-8-69
171.0'
180.11'
S89°16'48" E



CACHE
Laporte
Overland Trail Rd.
CHRISTMAN LANDING
FIELD
Taft Hill Rd.
Municipal Golf Course
Shields St.
Wood St.
Sherwood St.
College Ave.

Exhibit F

City of Fort Collins

City Attorney
300 LaPorte Avenue
PO Box 580
Fort Collins, CO 80522

970.221.6520
970.221.6327 - fax
fcgov.com

June 18, 2015

BNSF Railway Company
2650 Lou Menk Drive
Fort Worth, TX 76131

Attention: Real Estate Department

RE: BNSF First Right of Refusal to Purchase Railbanking Property in Larimer County, CO.

Dear Sir or Madam:

I am writing to inquire whether BNSF would like to repurchase a portion of the railroad right-of-way it quitclaimed to the City of Fort Collins, Colorado (City) in 1990.

On July 18, 1989, Burlington Northern Railroad Company and the City entered into an Offer to Purchase and Interim Trail Use/Railbanking Agreement ("Railbanking Agreement") in accordance with a Notice of Interim Trail Use (NITU) issued by the Interstate Commerce Commission on January 19, 1989, for a portion of BNSF's railroad right-of-way from Mile Post 75.00 to Mile Post 77.83 between Fort Collins and LaPorte, Larimer County, Colorado (the "Railbanking Property"). The Railbanking Agreement was amended on May 15, 1990 to modify the legal description of the subject property. On May 18, 1990, BNSF conveyed the Railbanking Property to the City by quitclaim deed. Copies of the NITU, Railbanking Agreement, First Amendment to the Railbanking Agreement, and Quitclaim Deed are attached hereto.

In the Railbanking Agreement and Quitclaim Deed BNSF reserved a first right of refusal to repurchase the Railbanking Property from the City should BNSF wish to reactivate its rail service in that area.

The City no longer wishes to use or maintain the majority of the Railbanking Property. The City intends to ask the Surface Transportation Board to terminate the existing NITU for that portion of the Railbanking Property from Mile Post 75.82 to Mile Post 76.61 and issue a replacement NITU for the remaining portions of the Railbanking Property. The City will then formally vacate any remaining rights the City has in that portion of the Railbanking Property. A legal description and drawing of the property the City intends to vacate is also attached.

If BNSF would like to repurchase at this time the interest it quitclaimed to the City in the portion of the Railbanking Property from Mile Post 75.82 to Mile Post 76.61, please notify me within 30 days at the address above. If the City has not received notice from BNSF within 30

days, the City will proceed with its application to the Surface Transportation Board and subsequent vacation.

Sincerely,

Ingrid Decker
Senior Assistant City Attorney

Encl.

cc: Walter J. Downing, Esq. (via email, w/ attachments)
Lindsay Kuntz (via email)

CO

LATE RELEASE

SERVICE DATE

JAN 19 1989

INTERSTATE COMMERCE COMMISSION

3719

DECISION AND NOTICE OF INTERIM TRAIL USE
OR ABANDONMENT

Docket No. AB-6 (Sub-No. 306X)

BURLINGTON NORTHERN RAILROAD COMPANY--ABANDONMENT EXEMPTION--
BETWEEN FORT COLLINS AND LAPORTE, IN LARIMER COUNTY, CO

Decided: January 19, 1989

On December 6, 1988, Burlington Northern Railroad Company (BN) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon its 4-mile line of railroad between milepost 75.00 near Fort Collins and milepost 79.00 near LaPorte, in Larimer County, CO. The notice was served and published in the Federal Register on December 23, 1988 (53 FR 51936), and is scheduled to become effective January 21, 1989.

On December 28, 1988, the Section of Energy and Environment (SEE) made available its environmental assessment. In it, SEE notes that the Colorado State Historic Preservation Officer has requested additional information necessary to make a determination of historic significance of structures associated with the proposed abandonment. SEE also notes that the United States Fish and Wildlife Service is concerned that this abandonment may affect the habitat of the bald eagle, a Federally listed endangered species. SEE recommends that a condition be imposed prohibiting salvage or disposition of the right-of-way until BN has complied with all requirements of Section 106 of the National Historic Preservation Act (NHPA) and Section 7 of the Endangered Species Act (ESA). This condition is appropriate and will be imposed.

On December 16, 1988, the city of Fort Collins (the City) filed a statement expressing its willingness to assume financial responsibility for trail use of the right-of-way and, on December 24, 1988, BN agreed to negotiate with the City for trails use under Section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act). The City requested issuance of this Notice of Interim Trail Use or Abandonment (NITU) and also requested imposition of a public use condition under 49 U.S.C. 10906. SEE agrees that the right-of-way is suitable for public use.

Numerous comments from adjacent landowners have been received expressing opposition to the trails use request. In addition, on January 10, 1989, Mary Humston and George Burnette, adjacent landowners, filed a petition for reconsideration of the notice of exemption. They argue that the line is a spur and as such is exempt from both the Commission's abandonment jurisdiction by virtue of 49 U.S.C. 10907(b)(1) and from the Commission's Trails Act jurisdiction under section 1247(d).

The requirements for the issuance of a NITU have been met. Accordingly, the NITU will be issued subject to the conditions requested by SEE, and the petition for reconsideration will be addressed in a subsequent decision. However, the implementation of any trails use agreement that may be reached by the 180th day after service of this decision will be stayed.

Until this stay is lifted, BN will be precluded from turning the right-of-way over to the City for the commencement of trail operations. While the landowners' comments essentially raise individual concerns of a local nature, they also relate to the environmental effects of the conversion of the right-of-way to interim trail use. These issues will be addressed in a subsequent decision. A similar stay was imposed in Docket No. AB-298 (Sub-No. 1X), Iowa Southern R. Co.-Aband. In Iowa (not

Our public use procedures at 49 CFR 1152.28(a)(2) require that a request set forth: (1) the condition sought; (2) the public importance of the condition; (3) the period of time for which the condition would be effective; and (4) justification for imposition of this time period. The City avers that the right-of-way is suitable for public use as a recreational trail and that a full 180-day period may be necessary to complete the negotiations that have already commenced for its acquisition. Accordingly, a public use condition is appropriate and will also be imposed.

As conditioned, this decision will not significantly affect either the quality of the human environment or energy conservation.

It is ordered:

1. This proceeding is reopened.

2. The notice of exemption filed by Burlington Northern Railroad Company (BN) for the line described above is subject to the following conditions: (1) BN must keep intact all the right-of-way underlying the track, including bridges and culverts, for a period of 180 days from the effective date of this decision to enable any State or local government agencies or other interested person to negotiate the acquisition of the right-of-way for public use; and (2) no salvaging or disposal of the right-of-way is permitted until all requirements of Section 106 of the National Historic Preservation Act and Section 7 of the Endangered Species Act have been complied with as determined by further Commission decision.

3. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement: full responsibility for management of; any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability); and the payment of any and all taxes that may be levied or assessed against the right-of-way.

4. Interim trail use/rail banking is subject to the future restoration of rail service.

5. If the user intends to terminate trail use, it must send the Commission a copy of this notice and request that it be vacated on a specified date.

6. If no interim trail use/rail banking agreement is reached by the 180th day after service of this decision, BN may fully abandon this line. If an agreement for interim trail use/rail banking is reached by the 180th day after the service date of this decision, its implementation is stayed pending further decision of the Commission.

7. This decision is effective on the service date.

By the Commission, Heather J. Gradison, Chairman.

Noreta R. McGee
Secretary

(SEAL)

DO

SERVICE DATE
JUN 14 1989

INTERSTATE COMMERCE COMMISSION

DECISION

Docket No. AB-6 (Sub-No. 306X)

BURLINGTON NORTHERN RAILROAD COMPANY--ABANDONMENT EXEMPTION--
BETWEEN FORT COLLINS AND LAPORTE, IN LARIMER COUNTY, CO

Decided: June 9, 1989

On December 23, 1988, a notice of exemption, filed under 49 CFR 1152 Subpart F--Exempt Abandonments, was served and published in the Federal Register (53 FR 51936), permitting Burlington Northern Railroad Company (BN) to abandon its 4-mile line of railroad between milepost 75.00 near Fort Collins and milepost 79.00 near Laporte, in Larimer County, CO. The notice of exemption became effective on January 21, 1989.

On December 16, 1988, the City of Fort Collins (Fort Collins) filed a statement of its willingness to assume financial responsibility for trail use of the right-of-way, and BN subsequently agreed to negotiate with Fort Collins for trails use under section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d). Following Fort Collins' compliance with the requirements of section 1247(d), a decision and notice of interim trail use or abandonment (NITU) was served on January 19, 1989, authorizing trail use. It noted that numerous comments had been received from adjacent landowners and that a petition for reconsideration of the notice of exemption had been filed. Accordingly, it stayed implementation of any trails use agreement to permit Commission consideration of the comments and petition in a subsequent decision. The NITU also imposed: (1) a public use condition under 49 U.S.C. 10906 prohibiting BN from disposing of the right-of-way for 180 days without first offering the property for sale for public purposes; and (2) a condition prohibiting salvage until BN complied with the requirements of section 106 of the National Historic Preservation Act (NHPA) and section 7 of the Endangered Species Act (ESA).

On May 17, 1989, a letter was received from Fort Collins stating that it owns a large parcel of property adjacent to the 0.2-mile line segment between mileposts 75.0 and 75.2. Assertedly, its municipal electric utility has long planned to construct facilities on this parcel of land, but the construction plans require removal of the adjacent 0.2-mile rail line to permit efficient and safe construction. Fort Collins requests that the stay imposed in the NITU be lifted to permit BN to commence salvage of the 0.2-mile line segment. It states that salvage of the 0.2-mile segment will not interfere with interim trail use/rail banking because a right-of-way adequate for these purposes is preserved in the municipal utility's construction plans. Further, Fort Collins states that if construction is to begin this summer, the stay must be lifted expeditiously to permit salvage to commence. Any delay allegedly will result in additional and unwarranted expenses.

Lifting the stay will not permit the relief sought. As already noted, the stay was intended only to delay implementation of any negotiated trails use agreement. The only relief available to Fort Collins that would permit construction to commence is the removal of the condition prohibiting salvage.

Since issuance of the January 19 decision, the United States Department of Interior, Fish and Wildlife Service, has informed us of its conclusion that the abandonment will not affect

threatened or endangered species. Accordingly, the prohibition against salvage based on section 7 of the ESA is no longer an obstacle to the relief sought. The same is true with respect to the prohibition based on section 106 of the NHPA. The Colorado State Historic Preservation Officer has been contacted and states that there are no historically significant structures on the 0.2-mile line segment. Because there is no further reason to prohibit salvage of this 0.2-mile line segment, the relief sought by Fort Collins will be granted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The decision and notice of interim trail use or abandonment served January 19, 1989, is modified to remove the ESA and NHPA conditions as to this 0.2-mile portion of the line. Therefore, salvage of the line segment between mileposts 75.0 and 75.2 may begin.

2. This decision is effective on the date served.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

(SEAL)

KATHLEEN M. KING
ACTING SECRETARY

OFFER TO PURCHASE AND INTERIM
TRAIL USE/RAILBANKING AGREEMENT

This Offer to Purchase and Interim Trail Use/Railbanking Agreement entered into this ____ day of _____, 1989, by and between the CITY OF FT. COLLINS, Colorado, a municipality with its principal office at 300 LaPorte Avenue, Fort Collins, Colorado 80522, hereinafter called "Buyer", and BURLINGTON NORTHERN RAILROAD COMPANY, a corporation organized under the laws of the State of Delaware, with its principal office at 3800 Continental Plaza, 777 Main Street, Fort Worth, Texas 76102, hereinafter called "Seller"; whereas Buyer seeks to purchase all of Seller's right, title and interest in and to that parcel of land situated between Fort Collins and LaPorte, Larimer County, Colorado, from Mile Post 75.00 to Mile Post 77.83, as more particularly described in Exhibit "A" attached hereto and made a part hereof (said parcel of land being hereinafter called "the premises") at the price and upon the terms and conditions as follows:

PURCHASE PRICE AND PAYMENT

1. Buyer agrees to pay to Seller the purchase price of $30,873 for said premises, of which the amount of $3,000 hereinafter called the "deposit", is paid to Seller to be applied on the purchase price. The balance of said purchase price shall be paid in cash or by certified check to Seller at the time Seller's deed to the premises is delivered to Buyer. Delivery of the deed shall be made at Seller's above stated office. Acceptance of this offer by Seller shall be evidenced by delivery to Buyer of the duplicate copy properly executed by Seller.

CONVEYANCE

2. Seller shall convey or cause to be conveyed, all of Seller's right, title and interest, if any, in the premises to Buyer by quitclaim deed subject to all rights, easements and reservations in place or of record and in accordance with the other terms, conditions and reservations contained herein. In the event Seller's description of the premises as used in the deed is not acceptable to Buyer, Buyer shall so advise Seller of their objections to said description and within fifteen (15) days thereof, Buyer shall, at their expense, arrange for a survey of the premises to be furnished to Seller.

3. The Buyer, Buyer's designees, employees, agents or contractors shall have the right to enter upon the premises to perform soil tests and surveys upon execution of this Agreement by the Buyer and execution by Seller and Buyer of Seller's standard Right of Entry Agreement.

TRACKS, BUILDINGS AND OTHER IMPROVEMENTS

4. This offer relates only to land and bridges. Unless otherwise stated herein, any conveyance shall exclude Seller's railroad tracks and appurtenances thereto. Buyer warrants that it has examined the premises and purchases said premises as is, where is.

5. Salvage--Notwithstanding any other provision in this Agreement, it is agreed that all bridges, culverts, and other structures (other than rails, ties, wires, signals and other track materials, hereinafter referred to as "salvaged materials") on said premises shall remain in place and become the property of Buyer upon conveyance of said premises. The price of all such structures is included in the total purchase price, and Seller agrees to furnish Buyer a Bill of Sale for all such structures located on said premises at no additional cost. Seller has the exclusive right to remove all salvaged materials and shall do so within six (6) months from the appropriate ICC approval.

LIABILITY AND INDEMNIFICATION

6. Buyer assumes full and complete responsibility for the management, operation and maintenance of the conveyed premises and under no circumstances shall Seller be required to manage, operate or maintain the conveyed premises.

7. Buyer--Buyer will indemnify and hold Seller harmless from any and all liability, cost or expense, including attorneys' fees, arising after the date of closing or as a result of this sale, including injuries, death, or property loss or damage resulting from Buyer's acts or omissions in connection with Buyer's use, purchase, operation, maintenance or management of the premises. Buyer shall protect, hold harmless and indemnify Seller against any claim or liability arising from or based on the violation of any law, ordinance, regulation, injunction, or final order or decree of bodies or tribunals having any jurisdiction or authority, which in any way affect the performance of this Agreement, whether by Buyer or its employees, agents, or subcontractors. Buyer shall be responsible for defense of any litigation contesting the right of the parties hereto to enter into or effectuate this Agreement under 16 U.S.C. § 1247(d). Buyer agrees to pay Seller its out-of-pocket expenses, including reasonable attorneys' fees, incurred by Seller in connection with litigation arising out of the transfer or use of the premises covered by this Agreement for interim trail use and railbanking purposes; provided, however, that Seller must first tender any defense to the Buyer and provided further that, if Buyer elects to defend, Buyer shall be responsible only for actual out-of-pocket

expenses incurred by Seller and for only those reasonable attorneys' fees of Seller which relate directly to legal assistance, if any, expressly requested by Buyer or to any claims arising out of the transfer or use of the premises for which Seller may be individually or separably liable. Buyer will procure insurance for its own benefit and for the benefit and protection of Seller under this provision.

The Buyer warrants to Seller that it now has, and shall maintain, during the period of Trail Use/Railbanking, insurance coverage such as a reasonable and prudent municipality would maintain, having regard to the obligations assumed by it hereunder. Seller hereby acknowledges that, in satisfaction of its obligations hereunder, Buyer may self insure to a reasonable limit. As evidence of Buyer's insurance coverages as of June 1989, a letter dated June 8, 1989, from Buyer is attached hereto as Exhibit "B".

8. Seller--Seller will indemnify and hold Buyer harmless from any and all liability, cost or expense, including attorneys' fees, incurred by or assessed against Buyer arising before the date of closing on account of injuries, death, or property loss or damage resulting from Seller's acts or omissions in connection with Seller's use, operation or maintenance of the premises.

9. Environmental Liability--Buyer shall comply with any and all laws, ordinances, regulations or requirements pertaining to solid or other wastes; chemicals; oil and gas; toxic, corrosive, or hazardous materials; air, water (surface or ground water) or noise pollution; in the storage, handling, use or disposal of any such material. Buyer shall bear the expense of all practices or work, preventative or remedial, which may be required by such laws, ordinances, regulations or requirements because of the condition or use of the premises occurring or created by Buyer or those claiming by, through or under Buyer, and occurring after the date of closing. Buyer shall hold Seller harmless from any liability, cost or expense arising after the date of closing due to any environmental hazard or condition on the premises to the extent the condition was aggravated or occurred or created after the date of closing. Seller shall hold Buyer harmless from any liability, cost or expense arising prior to the date of closing due to any environmental hazard or condition of the premises existing on the date of closing discoverable from a prudent inspection of the premises prior to the date of closing.

LIQUIDATED DAMAGES AND SPECIFIC PERFORMANCE

10. Time is of the essence of this contract. If the Buyer shall fail to perform this contract within the time limits herein

specified, Seller may retain the deposit as liquidated damages, not as a penalty or forfeiture, and declare this contract terminated, or Seller may proceed to have this contract specifically enforced.

SUCCESSORS IN INTEREST

11. Wherever referred to herein, the term Buyer shall imply, mean and apply to the Buyer, any successors, assigns, heirs, or designees, who shall be severally and collectively liable for any and all performance hereunder. Wherever referred to herein the term Seller shall imply, mean and apply to the Seller, any successors, assigns, or designees, who shall be severally and collectively liable for any and all performance hereunder.

THE CONVEYANCE OF THE PREMISES SHALL BE SUBJECT TO THE FOLLOWING TERMS, CONDITIONS AND RESERVATIONS.

12. Retained Interest--A reservation of Seller's interest in the surface and subsurface of the premises is retained for future use for utility purposes (other than Buyer's utilities), including electric transmission line rights-of-way, telecommunication rights-of-way, pipeline rights-of-way, and other such purposes, provided that such use shall be consistent with the use of the premises by Buyer as an interim use trail and for other municipal purposes.

13. Natural Resources--A reservation to Seller of all coal, oil, gas, casinghead gas and all ores and minerals of every kind and nature including sand and gravel underlying the surface of the premises, together with the full right, privilege and license at any and all times to explore, or drill for and to protect, conserve, mine, take, remove and market any and all such products in any manner which will not damage structures on the surface of the premises, together with the right of access at all times to exercise said rights.

14. Real Estate Commissions--If any real estate broker or agent can establish a valid claim for commission or other compensation as a result of Buyer having used his services in connection with the purchase of the premises, all of such commission or other compensation shall be paid by Buyer.

15. Liens of Seller's Mortgages--Seller shall deliver to Buyer, who shall place of record, good and sufficient releases of the liens of Seller's mortgages, where required under the terms of any mortgage on the premises, within a reasonable period of time after closing. In the event the Seller shall be unable to obtain said releases for any reason within two (2) years from the date of closing, the Seller shall have the right to terminate this agreement upon serving written

notice of termination upon the Buyer within thirty (30) days thereafter, and both parties shall thereupon be released and discharged from all liabilities and obligations hereunder, except that Seller shall repay to Buyer any deposit paid by Buyer to Seller upon a reconveyance of title to the premises to Seller free and clear of defects or objections to the same extent as if no conveyance had been made to Buyer hereunder.

16. Other Liens--Any judgment against Seller which may appear of record as a lien against the premises shall be settled and satisfied by Seller if and when it is judicially determined to be valid, and Seller hereby indemnifies the Buyer for all loss arising out of Seller's failure to have a judgment lien so settled and satisfied.

17. General Real Estate Taxes--Real estate taxes payable or paid in the year the deed is delivered shall be prorated by Seller and Buyer as of the date on which the deed is delivered on the basis of the most recent ascertainable taxes assessed against the subject property, or as may be equitably apportioned thereto by the Seller if the property is not separately assessed. Buyer shall be responsible for the payment of any and all taxes that may be levied or assessed against the conveyed premises from and after the date of purchase.

18. Transfer Taxes--Buyer agrees to purchase, affix and cancel any and all documentary stamps in the amount prescribed by statute, and to pay any and all required transfer taxes, excise taxes and any and all fees incidental to recordation of the conveyance instrument. In the event of Buyer's failure so to do, if the Seller shall be obligated so to do, the Buyer shall be liable for all costs, expenses and judgments to or against the Seller, including all of Seller's legal fees and expenses and same shall constitute a lien against the premises to be conveyed until paid by the Buyer.

19. Notices and Demands--All notices, demands, payments and other instruments required or permitted to be given or served by either party shall be in writing and deemed to have been given or served by either party if sent by registered or certified mail, addressed to the other party at the address shown herein.

20. Government Approvals--This sale shall be dependent upon Seller obtaining authority to abandon these premises from the Interstate Commerce Commission ("ICC"). Buyer may elect to apply to the ICC for, and Seller shall consent to, a Notice of Interim Trail Use ("NITU") or Certificate of Interim Trail Use ("CITU") pursuant to 16 U.S.C. § 1247(d) and other applicable authorities. No obligations shall

accrue under this contract until the appropriate ICC approvals are received. The closing date shall be extended for such period as may be required to obtain such approvals. In the event said abandonment approval or, if applied for, NITU or CITU cannot be obtained, either party may terminate this agreement without liability to the other, except that Seller shall return the deposit to Buyer.

In the event the ICC, or any other federal or state authority having jurisdiction over any part of this conveyance, shall impose additional terms or conditions upon this conveyance, either party may terminate this agreement without liability to the other, except that Seller shall return any deposit to Buyer.

In the event a city, county, or other governing authority wherein said real estate is located requires a survey or plat or has a subdivision ordinance, the Buyer shall obtain such survey or plat, at Buyer's expenses. The survey or plat shall be submitted by Buyer to Seller for review and approval prior to recording and within a period of forty-five (45) days after the date of Seller's acceptance of this Agreement.

21. To the extent that the Buyer owns any real property south of the railroad right-of-way in blocks 286 and 296 of the City of Fort Collins, the Buyer will reasonably cooperate in assisting the Seller, at its request, in locating a spur track on such property as is owned by Buyer as mentioned aforesaid to serve any new industrial plants that may be developed in said blocks. Any such assistance shall be conditioned upon such spur track not interfering with Buyer's intended municipal activities on such property.

CLOSING

22. The obligation of Seller to convey the premises and to comply with all of the terms and conditions of this Agreement, as well as the obligation of Buyer to pay the purchase price and comply with all other terms and conditions of this Agreement, is subject to the prior satisfaction of the conditions set forth in this Agreement, unless waived in writing by both parties. After execution of this Agreement, satisfaction of the conditions precedent, and at a mutually agreeable date after signing, the parties agree to fix a time, date and location for consummation and closing of the transactions contemplated in this Agreement ("closing"). The closing shall occur as soon as practicable after satisfaction of the conditions precedent or waiver of said conditions by the parties and after final abandonment authority, including lifting of any of stays imposed by the ICC.

23. Deposit Authorization--Buyer hereby authorizes Seller to cash any checks that may be delivered to Seller as a deposit or option payment, and to take the amount of any such deposit or option payment into its accounts, with the understanding that it will not constitute acceptance of this Agreement; provided, however, that such authorization is given with the understanding that in the event this Agreement is not accepted the Seller agrees to refund the amount of any deposit in full.

24. Title Defects--If, within the ten (10) day period following Seller's notice to Buyer that Seller's deed is ready for delivery, Buyer notifies Seller that Buyer has requested evidence of title to the premises, the Buyer shall furnish to Seller at Buyer's expense such evidence of title within thirty (30) days of said notice from Buyer in the form of an abstract of title or a title commitment, and a written statement specifying the matters or defects other than said permitted exceptions and reservations and other than such usual exceptions contained in Owner's policies and the matters to which this sale is subject by the terms hereof, the time of payment of the balance of the purchase price shall be extended for a period of sixty (60) days after the receipt of said evidence of title and statement. If Seller is unable or unwilling to cure such matters or defects within said sixty (60) day period, and Buyer is unwilling to accept the deed subject to such matters or defects then either party may terminate this Agreement by serving written notice of termination upon the other party within fifteen (15) days thereafter and all further rights and liabilities under this Agreement shall cease and terminate except that Seller shall return the deposit to Buyer and Seller shall reimburse Buyer for the actual amount paid by Buyer, if any, to an abstractor for an abstract of title or to a title company for a title report (but not for title insurance), provided that said abstract or title report shall be delivered and assigned to Seller.

    In the event said evidence of title shows no title defects, Buyer shall pay to Seller the purchase price within ten (10) days of receipt of said evidence of title, provided Seller's deed is then ready for delivery.

INTERIM TRAIL USE/RAILBANKING

25. This Agreement and any subsequent conveyance or agreement shall be interpreted to conform to Section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d), and Buyer shall assume all financial, managerial and legal responsibility and liability for use of said premises upon conveyance, and agrees to defend, indemnify and hold Seller harmless therefor. To this end, Seller shall cooperate in

obtaining an "interim trail use" certificate from the ICC for the rail line to which this Agreement is applicable, and any other appropriate orders. It is agreed and understood that any conservation/recreation use by Buyer (or its assignees) shall not impair future public convenience and necessity or Seller's retained interests; Buyer (or its assigns) will allow reactivation of rail service on said premises pursuant to applicable Federal and State laws after repurchase of said premises and improvements by the appropriate agency or corporation at the actual cost or the then fair market value, whichever is the higher. Buyer further agrees to take all steps necessary, at no expense to Seller, to comply with any and all State and Federal requirements relating to such interim use and reactivation. The fair market value shall be determined by an appraisal process acceptable to all parties, upon the request of any party. Buyer agrees to grant the first right of refusal to repurchase the premises to Seller.

Between Mile Post 75 and Wood Street, the provisions of this Agreement relating to interim trail use and railbanking shall apply only to a limited area of that portion of the premises which area is more particularly described as a corridor 50 feet wide, measuring 25 feet either side of the center line of the main track of the Fort Collins to LaPorte branch as it exists on the date of this Agreement. The purpose of said corridor would be to permit the connection with the remainder of the premises covered by this Agreement should common carrier obligation be reinstituted in the future.

In the event that the Seller should reactivate rail service in that area of the corridor as above-described between Mile Post 75.00 and Wood Street in the City of Fort Collins, such reactivation and laying of trackage shall be done in such a manner as to minimize the burden and inconvenience upon the Buyer, and such reactivation and all construction activities related thereto shall be consistent to the maximum extent practicable to the Buyer's existing uses on the corridor and the areas surrounding the corridor. To the extent that such reactivation of rail service by Seller requires the destruction or removal of landscape plantings, walkways or parking lots placed upon the corridor by Buyer, Seller shall compensate Buyer for the reasonable replacement value thereof.

ADDENDUM PROVISION

26. All leases, licenses, permits and easements of any kind whatsoever in the premises, whether or not of record, shall be assigned to the Buyer, or cancelled, upon transfer of the premises to the Buyer.

27. Public Purpose: Buyer acknowledges that this Agreement serves a valid public purpose of the City of Fort Collins, and that all of the indemnities offered and all liabilities, costs, and expenses assumed by Buyer in this Agreement, including those stated in paragraphs 6, 7, 9, 22 and 25 are offered and assumed in furtherance of that public purpose.

28. Seller is not a foreign person as the term is used and defined in Section 1445 of the Internal Revenue Code of 1954, as amended and the regulations promulgated thereunder. Seller shall upon request of Buyer, complete an affidavit to this effect in the form as attached hereto, marked Exhibit "C" and deliver it to Buyer on or before closing of said sale.

Accepted by Buyer this 13th day of July, 1989.

THE CITY OF FORT COLLINS, COLORADO

[Buyer]

By: George K. Noe

Title: Deputy City Manager

Approved As To Form:

City Attorney

Attest:

City Clerk

Buyer must clearly set forth full and correct names of party or parties to whom title will be conveyed, their address, their relationship, if any, and whether conveyance is to be in joint tenancy or otherwise, and if a company, whether it is a partnership, trust, trustee or corporation; address of principal office and state of incorporation.

Grantee's name as it is to appear on deed: The City of Fort Collins, Colorado, a municipal corporation.
(Printed/Typed)

By: George K. Noe
Name (Printed/Typed)

Signature

Deputy City Manager
Title (or 2nd Signature if Partnership)

Colorado
State of Incorporation

P.O. Box 580	Fort Collins, CO 80522	(303) 221-6500
Address of Buyer	City, State & Zip Code	Telephone Number (Including Area Code)

Accepted by Seller this 18th day of July, 1989.

BURLINGTON NORTHERN RAILROAD COMPANY

By:

Title: ASSISTANT VICE PRESIDENT

EXHIBIT A-1

LEGAL DESCRIPTION

A tract of land located in the SW 1/4 of Section 2, Township 7 North, Range 69 West, 6th P.M. City of Fort Collins, Larimer County, State of Colorado, more particularly described as follows:

Considering the South line of the SW 1/4 of said Section as bearing South 89 35'01" East and all bearings contained herein relative thereto:

Commencing at the Southwest corner of said Section 2 monumented with 3" aluminum monument set in concrete in a cast iron box stamped L.S.20123, thence along South line of Section 2 South 89 35'01" East 1351.03 feet more or less to the extended West line of Block 296, thence North 00 09'37" East 16.84 feet along West line of said Block to the Southwesterly line of the Colorado and Southern railway company right-of-way to the true point of beginning, thence continuing along West line of said Block 296 to the Northeasterly line of said railway right-of-way North 00 09'37" East 110.26 feet, thence along the Northeasterly line of said railway right-of-way South 64 55'53" East 304.70 feet to the South line of said Section 2, thence along South line of said Section 2 North 39 35'01" West 239.64 feet to the Southwesterly line of said railway right-of-way, thence along Southwesterly line of said railway right-of-way North 64 55'53" West 40.49 feet to the point of beginning.

Said tract of land contains 0.396 acres more or less.

I hereby certify that the above legal description accurately describes a survey made under my supervision and is correct to the best of my knowledge.

Robert A. Bradshaw
PL.S. #20123

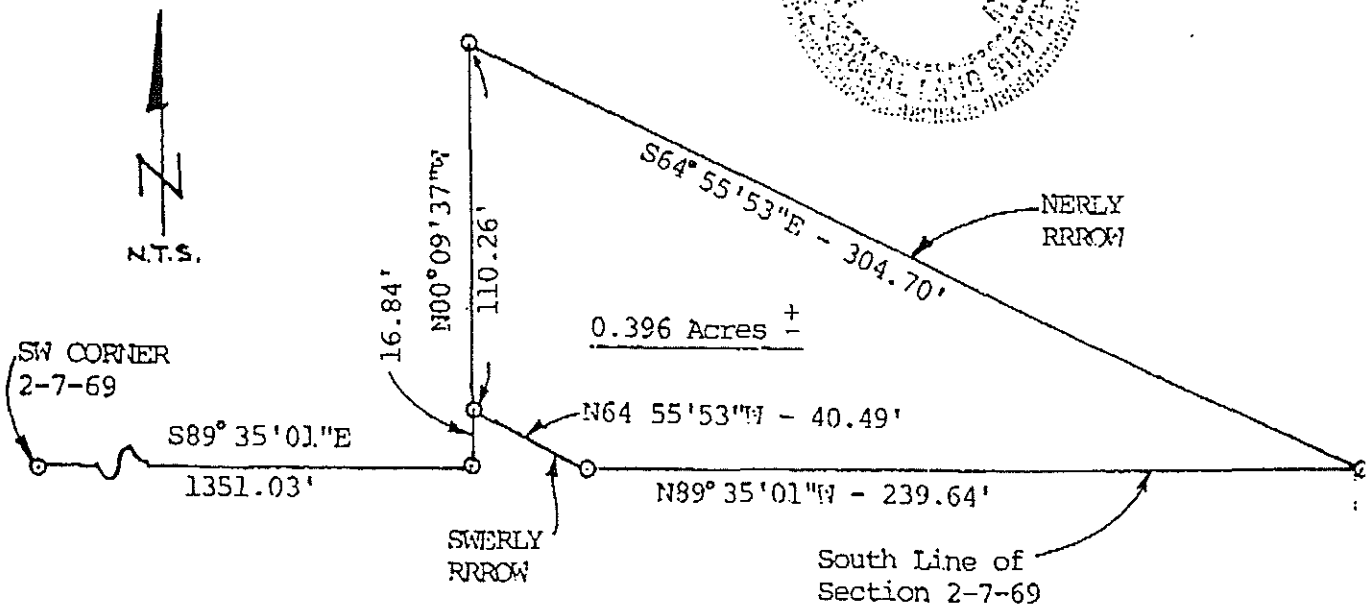


EXHIBIT A-2

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE NORTH 1/4 OF SECTION 11, TOWNSHIP 7 NORTH, RANGE 69 WEST, 6TH P.M., CITY OF FORT COLLINS, LARIMER COUNTY, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 11 AS BEARING SOUTH 89°35'01" EAST AND ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 11, MONUMENTED WITH 3" ALUMINUM MONUMENT SET IN CONCRETE STAMPED L.S. 20123; IN A CAST IRON BOX MARKED SURVEY THENCE ALONG THE NORTH LINE OF SECTION 11, SOUTH 89°35'01" EAST 1387.63 FEET TO THE SOUTHWESTERLY LINE OF THE COLORADO AND SOUTHERN RAILROAD RIGHT-OF-WAY, THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID RAILROAD RIGHT-OF-WAY SOUTH 64°55'53" EAST 993.10 FEET TO A POINT 90° TO MILE POST 75 AS PER COLORADO AND SOUTHERN RAILWAY RIGHT-OF-WAY PLANS: THENCE NORTH 25°04'07" EAST 100.00 FEET TO THE NORTHEASTERLY LINE OF SAID RAILROAD RIGHT-OF-WAY; THENCE ALONG THE NORTHEASTERLY LINE OF SAID RAILROAD RIGHT-OF-WAY NORTH 64°55'53" WEST 775.19 FEET TO THE NORTH LINE OF SAID SECTION 11; THENCE ALONG THE NORTH LINE OF SAID SECTION 11, NORTH 89°35'01" WEST 239.77 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 2.03 ACRES MORE OR LESS.

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES A SURVEY MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.

COLORADO REGISTERED PROJECT ALFRED BRAUN PROFESSIONAL LAND SURVEYOR

ROBERT B. BRAUN
P.L.S. 20123

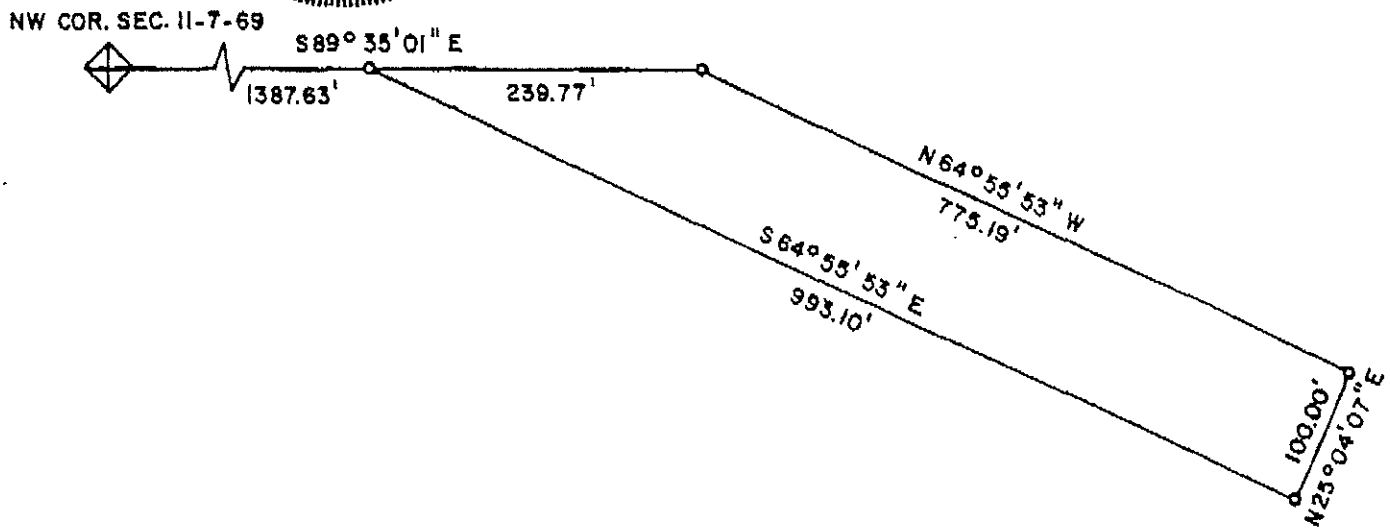


EXHIBIT A-3

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE SOUTHWEST 1/4 OF SECTION 2, TOWNSHIP 7 NORTH, RANGE 69 WEST, 6TH PRINCIPAL MERIDIAN, CITY OF FORT COLLINS, LARIMER COUNTY, STATE OF COLORADO, MORE PARTICULARLY AS FOLLOWS:

CONSIDERING THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SECTION 2 AS BEARING S 89°35'01" EAST, AND ALL BEARING CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 2, MONUMENTED WITH 3-INCH ALUMINUM MONUMENT STAMPED L.S. 20123 SET IN CONCRETE IN A CAST IRON BOX MARKED SURVEY; THENCE ALONG THE SOUTH LINE OF SECTION 2, S 89°35'01" EAST 1351.03 FEET MORE OR LESS TO THE EAST LINE OF WOOD STREET; THENCE N 00°09'37" WEST 16.84 FEET TO THE SOUTHWESTERLY LINE OF THE COLORADO AND SOUTHERN RAILWAY RIGHT-OF-WAY THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF SAID RAILWAY N 64°56'25" WEST 1486.67 FEET TO THE WEST SECTION LINE OF SAID SECTION 2; THENCE ALONG THE WEST LINE OF SAID SECTION 2 N 00°22'45" EAST 110.06 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY; THENCE ALONG NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY S 64°56'25" EAST 1485.60 FEET TO EAST LINE OF WOOD STREET; THENCE ALONG EAST LINE OF WOOD STREET, S 00°09'37" EAST 110.24 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 3.4072 ACRES MORE OR LESS.

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES A SURVEY MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.

ROBERT J. BRADSHAW
P.L.S. 20123

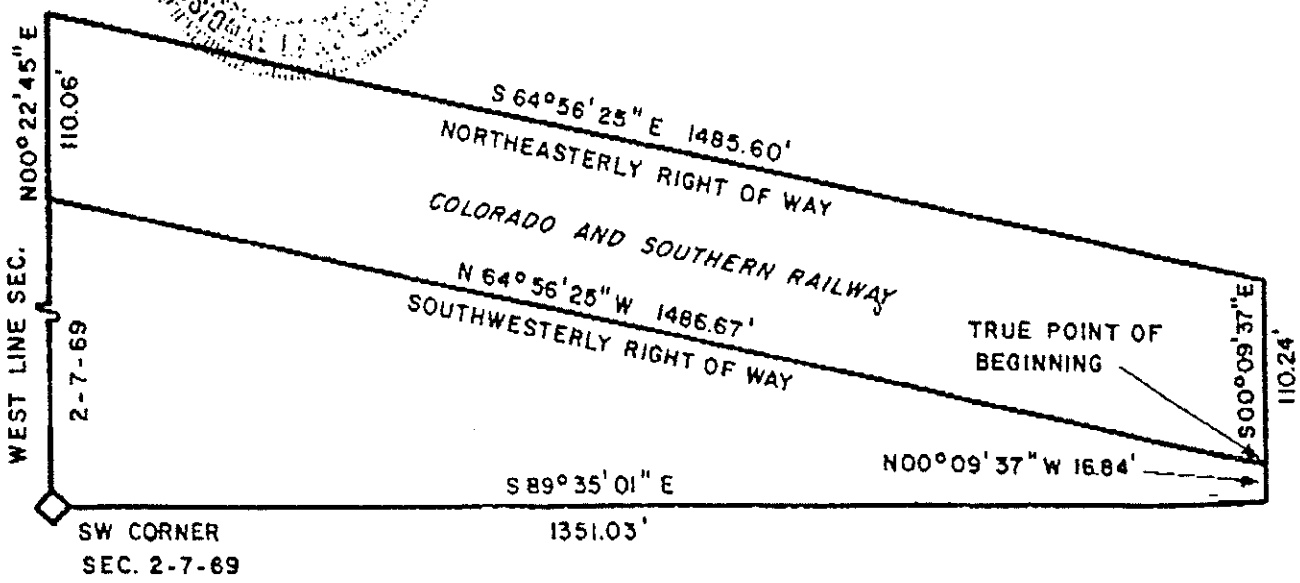


EXHIBIT A-4

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN SECTION 3, TOWNSHIP 7 NORTH, RANGE 69 WEST, 6TH PRINCIPAL MERIDIAN, CITY OF FORT COLLINS, LARIMER COUNTY, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 3 AS BEARING S 89°20'11" EAST, AND ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 3, MONUMENTED WITH A 3" ALUMINUM MONUMENT STAMPED L.S. 20123 SET IN CONCRETE IN A CAST IRON BOX MARKED SURVEY; THENCE ALONG THE EAST LINE OF SAID SECTION 3, N 00°22'45" EAST 636.59 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF THE COLORADO AND SOUTHERN RAILWAY, THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF SAID RAILWAY N 64°55'46" WEST 2463.33 FEET; THENCE ALONG SOUTHWESTERLY RIGHT-OF-WAY ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 9°24'21" WITH A RADIUS OF 5779.58 FEET CURVE LENGTH OF 948.80 FEET WHOSE CHORD BEARS N 60°13'35" WEST 947.73 FEET; THENCE ALONG SOUTHWESTERLY RIGHT-OF-WAY N 55°31'25" WEST 2661.40 FEET TO THE WEST LINE OF THE NORTHWEST 1/4 CORNER OF SAID SECTION 3, SAID POINT BEARS N 00°41'45" EAST 983.15 FEET; THENCE ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 3 N 00°41'45" EAST 120.31 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY; THENCE ALONG THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY S 55°31'25" EAST 2728.30 FEET; THENCE ALONG NORTHEASTERLY RIGHT-OF-WAY ALONG A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 9°24'21" WITH A RADIUS OF 5679.58 FEET CURVE LENGTH OF 932.38 FEET WHOSE CHORD BEARS S 60°13'36" EAST 931.33 FEET; THENCE ALONG NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY S 64°55'46" EAST 2417.36 FEET TO THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 3; THENCE ALONG THE EAST LINE OF SOUTHEAST 1/4 OF SAID SECTION 3, SOUTH 00°22'45" WEST 110.06 FEET TO THE POINT OF BEGINNING.

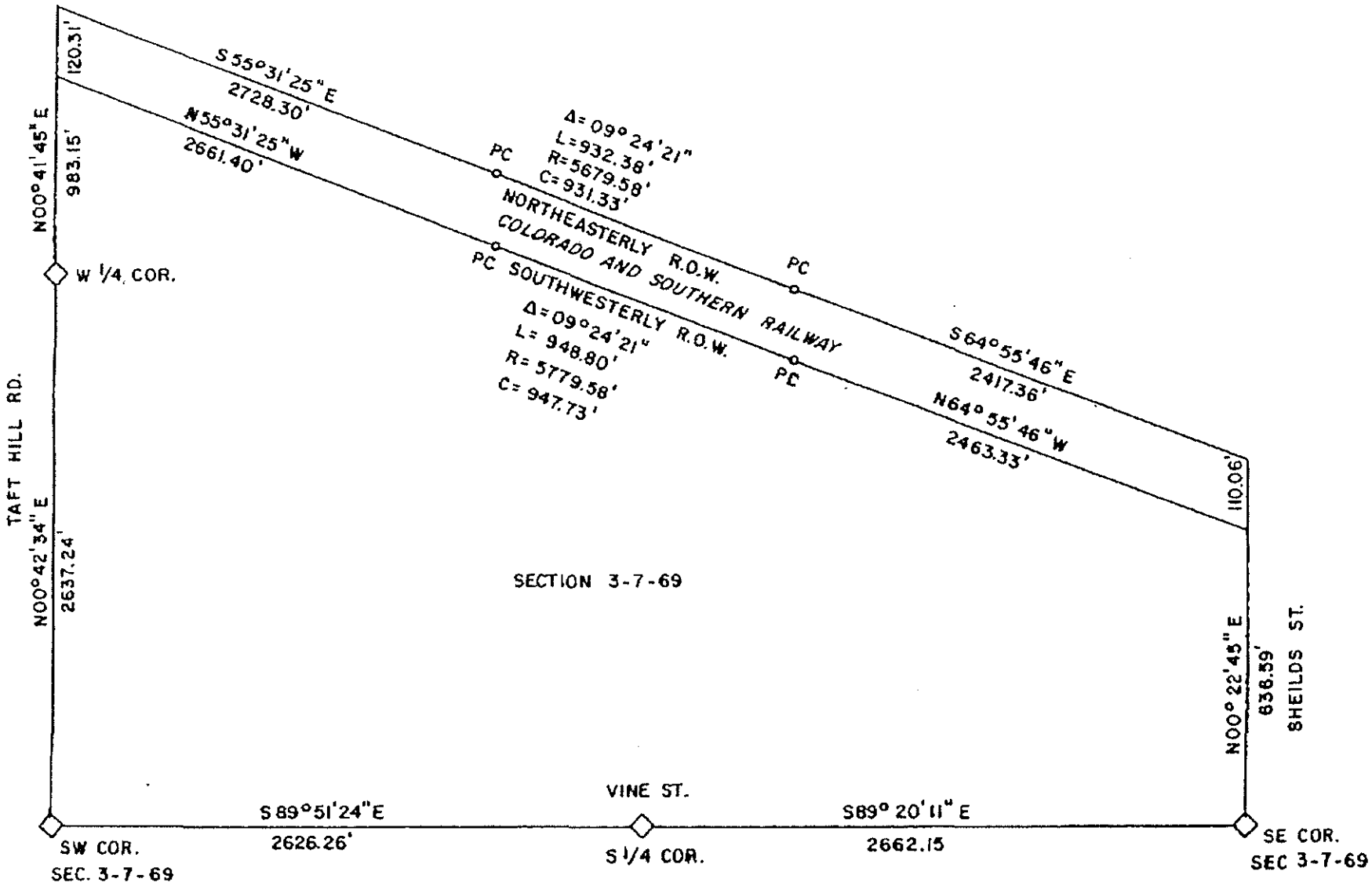
SAID TRACT OF LAND CONTAINS 14.4724 ACRES MORE OR LESS.

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES A SURVEY MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR

ROBERT A. [illegible]
P.L.S. 20[illegible]

EXHIBIT A-4



FT. COLLINS, CO
B 2216782

EXHIBIT A-5

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 7 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, LARIMER COUNTY, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4 AS BEARING NORTH 00°41'45" EAST AND ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 4, MONUMENTED WITH A 3-INCH ALUMINUM MONUMENT STAMPED L.S. 20123 SET IN CONCRETE IN A CAST IRON BOX MARKED SURVEY; THENCE ALONG THE EAST LINE OF SAID NORTHEAST 1/4 NORTH 00°41'45" EAST 983.15 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF THE COLORADO AND SOUTHERN RAILWAY TO THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF SAID RAILWAY NORTH 55°32'39" WEST 2978.09 FEET TO THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4, SAID POINT BEARS SOUTH 89°16'48" EAST 171.00 FEET OF THE NORTH 1/4 CORNER OF SAID NORTHEAST 1/4 OF SECTION 4; THENCE ALONG THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4 SOUTH 89°16'48" EAST 180.11 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY; THENCE ALONG THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY SOUTH 55°32'39" EAST 2761.45 FEET TO THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4; THENCE ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4 SOUTH 00°41'45" WEST 120.31 FEET TO THE TRUE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 6.5897 ACRES MORE OF LESS.

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES A SURVEY MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.

ROBERT A. BRADSHAW
P.L.S. 20123

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR ROBERT A. BRADSHAW 20123

EXHIBIT A-5 6

FT. COLLINS-CO

2216782

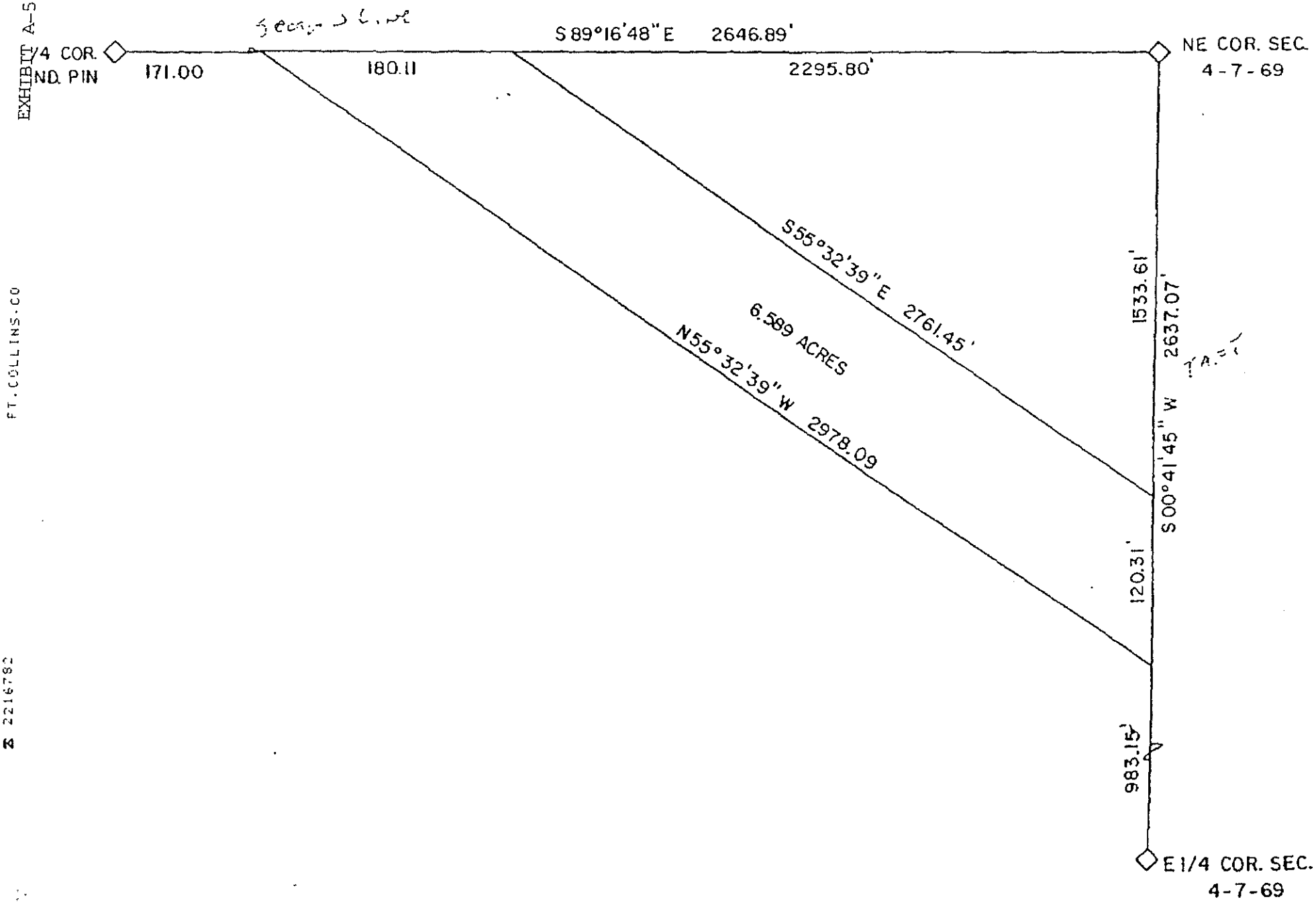


EXHIBIT A-6

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE SOUTH HALF OF SECTION 33, TOWNSHIP 8 NORTH, RANGE 69 WEST, 6TH PRINCIPAL MERIDIAN, LARIMER COUNTY, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 33, AS BEARING NORTH 00°48'57" EAST AND ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 33 MONUMENTED WITH A 3-INCH ALUMINUM MONUMENT SET IN CONCRETE STAMPED L.S. 20123 SET IN AN ALUMINUM BOX; THENCE ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 33 NORTH 00°48'57" EAST 1903.83 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF THE COLORADO AND SOUTHERN RAILWAY, THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF SAID RAILWAY SOUTH 55°32'39" EAST 3382.36 FEET TO THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 33, A POINT THAT BEARS SOUTH 89°16'48" EAST 171.00 FEET FROM THE SOUTH 1/4 OF SAID SECITON 33; THENCE ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 33, SOUTH 89°16'48" EAST 180.11 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY; THENCE ALONG THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY NORTH 55°32'39" WEST 3598.62 FEET TO THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 33; THENCE ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 33 SOUTH 00°48'57" WEST 120.00 FEET TO THE TRUE POINT OF BEGINNING.

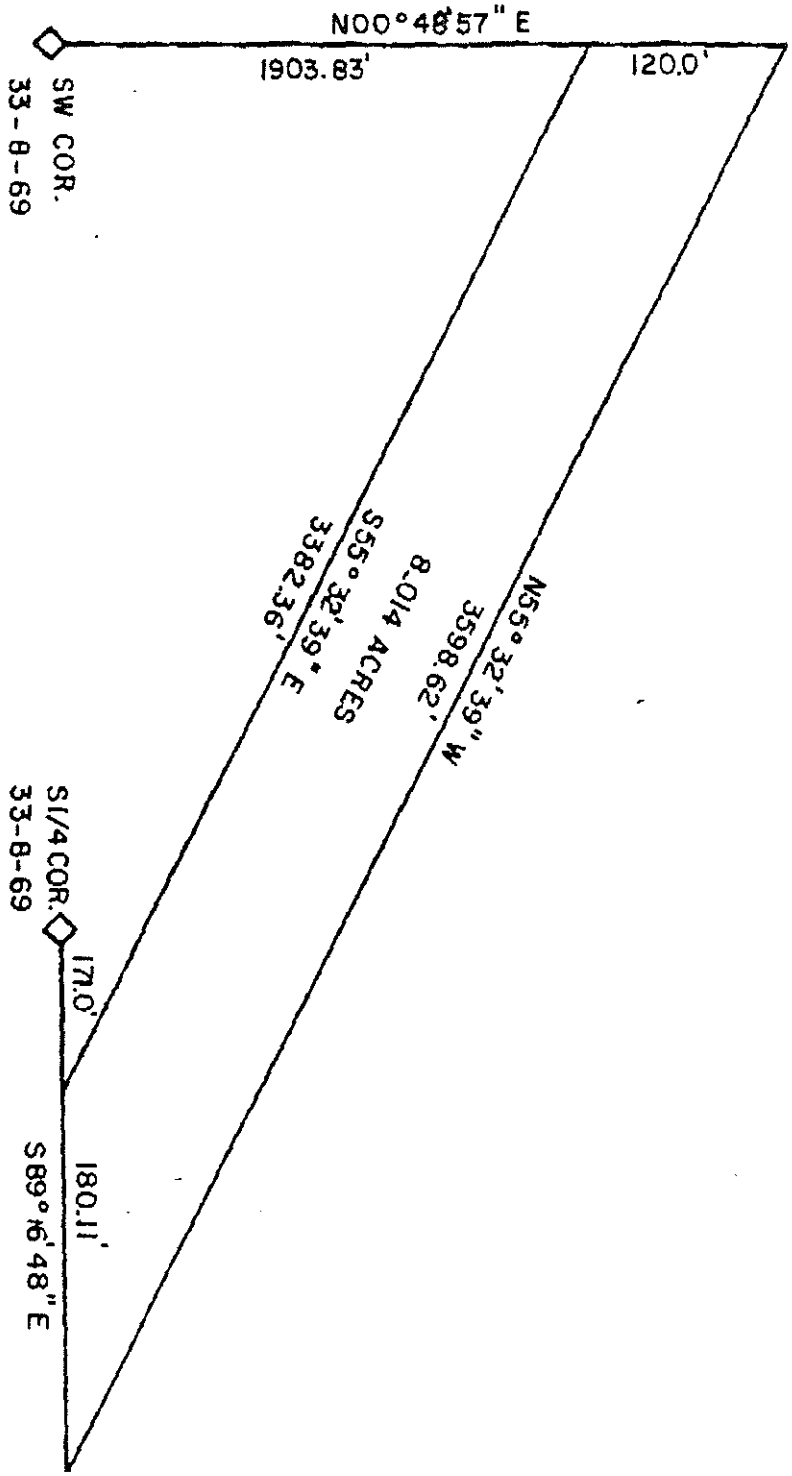
SAID TRACT OF LAND CONTAINS 8.014 ACRES MORE OR LESS.

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES A SURVEY MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.

ROBERT A. BRADSHAW
P.L.S. 20123

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR ROBERT ALFRED BRADSHAW 20123

EXHIBIT A-6


N00°48'57" E
1903.83'
120.0'
SW COR.
33-8-69
S55°32'39" E
3382.36'
8.014 ACRES
N55°32'39" W
3598.62'
S1/4 COR.
33-8-69
171.0'
180.11'
S89°16'48" E

City of Fort Collins

Administrative Services
Purchasing and Risk Management Division

EXHIBIT B

June 8, 1989

Ms. Ethyl A. Allen
Burlington Northern Railroad
3800 Continental Plaza
777 Main Street
Fort Worth, TX 76102

Dear Ms. Allen:

The City of Fort Collins has been self-insured for liability coverage since October 1, 1987. This includes coverage for general liability, police liability and public official liability.

The City self-insures up to $150,000 per person and $400,000 per occurrence, which are the maximum amounts that the City would be required to pay per the Colorado Governmental Immunity Act. These limits apply only to actions filed in state court.

The City has purchased an excess liability insurance policy from the Illinois Insurance Exchange which extends the limits to one million dollars per person with a two million dollar aggregate. This policy would come into use in the event that:

1. A lawsuit was filed in Federal Court, thus increasing the maximum amount of liability per claim.
2. Out of state lawsuits filed against the City.
3. The Governmental Immunity Act is overturned in the future.

Citizen claims filed against the City are adjusted by an independent third party administrator with a local Fort Collins office.

If you have any questions, please call me at 221-6774.

Sincerely,

Stewart J. Ellenberg, ARM
Risk Manager

pjn

256 W. Mountain Avenue • P.O. Box 580 • Fort Collins, CO 80522-0580 • (303) 221-6775

EXHIBIT C

OWNERSHIP DISCLOSURE

Property: Mile Post 75.00 to Mile Post 79.00 between Fort Collins and LaPorte in Larimer County, Colorado.

The undersigned ("Owner") hereby represents to the City of Fort Collins, Colorado, that the following is a complete list of all of the legal owners of the Property, and that there is no other person or entity who has an ownership interest in the Property:

Name	Country of Citizenship or Formation
Burlington Northern Railroad Company	Delaware Corporation

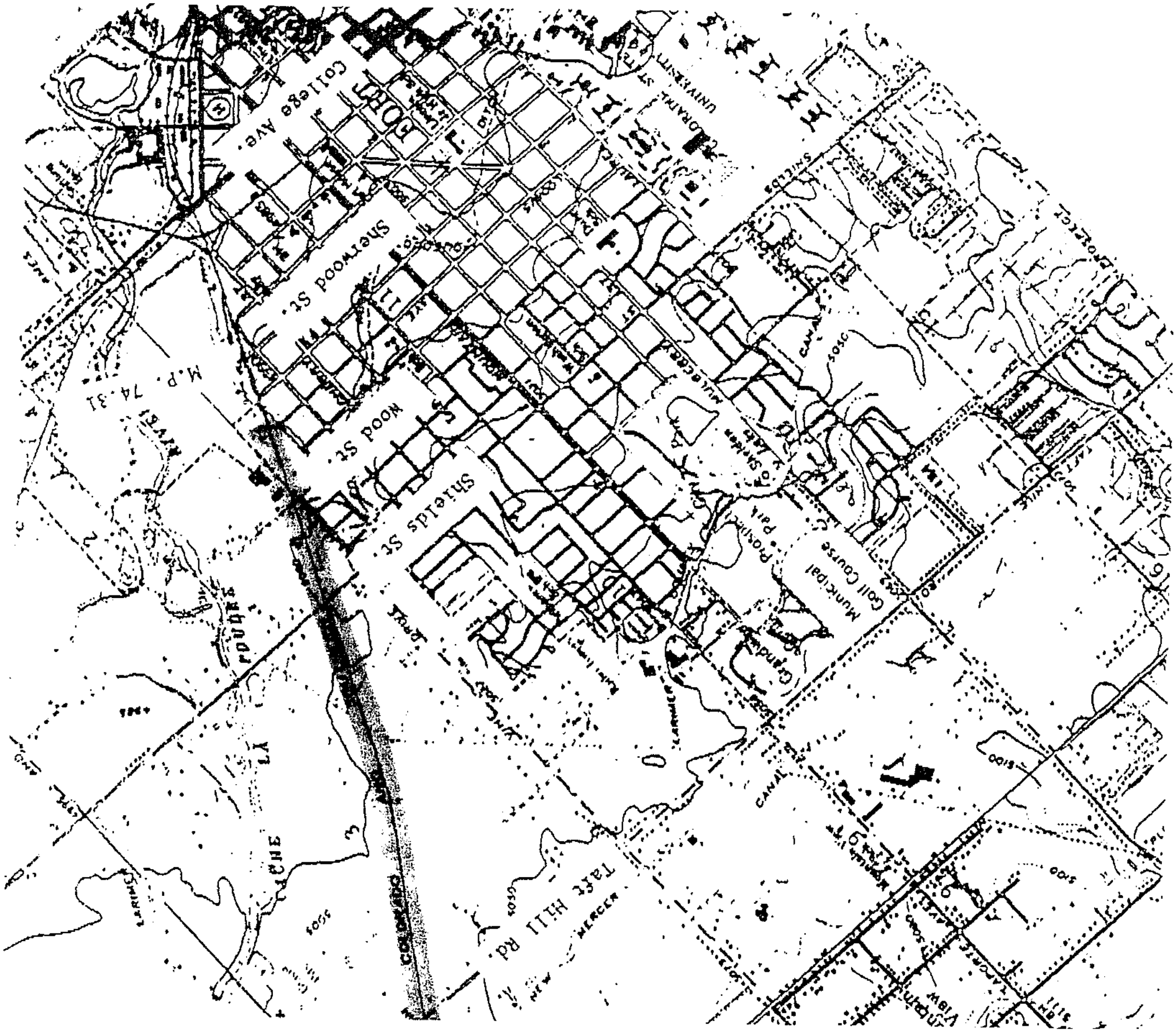
Owner understands that the City of Fort Collins, Colorado intends to rely on the foregoing representations in connection with the United States Foreign Investment in Real Property Tax Act.

Date: July 18, 1989

Owner: Burlington Northern Railroad Company

By: H. D. Shane

Title: ASSISTANT VICE PRESIDENT



College Ave.
Sherwood St.
Wood St.
Shields St.
M.P. 74.31
Municipal Golf Course
Taft Hill Rd.

FIRST AMENDMENT TO OFFER TO PURCHASE AND INTERIM TRAIL USE/RAILBANKING AGREEMENT

This First Amendment to the Offer to Purchase and Interim Trail Use/Railbanking Agreement is entered into and executed by and between **BURLINGTON NORTHERN RAILROAD COMPANY** (Seller) and **THE CITY OF FORT COLLINS** (Buyer).

WHEREAS, Seller and Buyer entered into an Offer to Purchase and Interim Trail Use/Railbanking Agreement (Agreement) on July 18, 1989; and

WHEREAS, through subsequent negotiations, Seller and Buyer have agreed to amend the Agreement to reflect an amended legal description, an amended purchase price, and a waiver of certain closing requirements.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, each to the other in hand paid, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows (unless otherwise indicated, all capitalized terms used herein shall have the same meanings as are attributable thereto in the Agreement):

1. Exhibit A to the Agreement shall be amended so as to delete Exhibits A-1 and A-2 and the attached new Exhibit A-2 shall be inserted in their place.

2. Section 1 of the Agreement entitled PURCHASE PRICE AND PAYMENT shall be amended to delete the referenced purchase price of $30,873.00 and to insert in its place the agreed upon and amended purchase price of $21,464.49.

3. Section 22 of the Agreement entitled CLOSING shall be amended to reflect Seller's waiver of the requirement that all stays imposed by the ICC be lifted prior to closing.

No other modification to the Agreement is made or intended to be hereby made and, as amended herein, the Agreement is hereby confirmed and reaffirmed by Seller and Buyer and shall remain in full force and effect.

EXECUTED in multiple counterparts effective as of the 15 day of May, 1990.

BUYER:

THE CITY OF FORT COLLINS, COLORADO

By: _____

Title: City Manager

SELLER:

BURLINGTON NORTHERN RAILROAD COMPANY

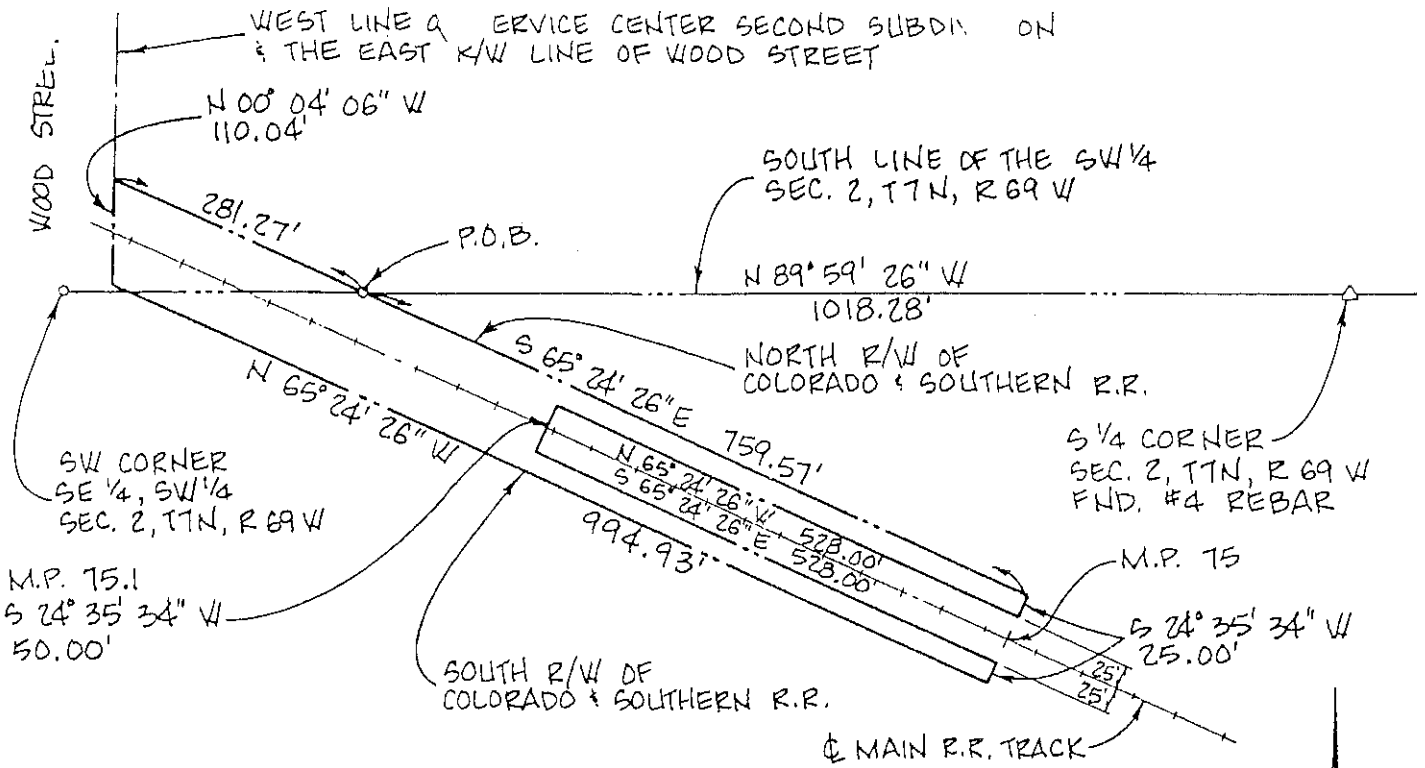
By: _____

Title: _____

Attachment: Exhibit A-2

Approved As To Form

Deputy City Attorney



DESCRIPTION OF RAILROAD R/W TAKE FOR THE FORT COLLINS SERVICE CENTER

A tract of land located in the Southwest Quarter of Section 2 and the Northwest Quarter of Section 11, Township 7 North, Range 69 West of the 6th Principal Meridian, City of Fort Collins, Larimer County, Colorado, being more particularly described as follows:

Considering the South line of the Southwest Quarter of said Section 2 as bearing North 89°59'26" West from a found number 4 rebar at the South Quarter corner of said Section 2 to a found number 5 rebar at the Southwest Corner of the Southeast Quarter of the Southwest Quarter of said Section 2 and with all bearings contained herein relative thereto:

Commencing at the South Quarter Corner of said Section 2; thence along said South line, North 89°59'26" West, 1018.28 feet to a point on the North right-of-way line of Colorado and Southern Railroad, said point being the POINT OF BEGINNING; thence along said North right-of-way line South 65°24'26" East, 759.57 feet; thence, South 24°35'34" West, 25.00 feet; thence, North 65°24'26" West, 528.00 feet; thence, South 24°35'34" West, 50.00 feet; thence, South 65°24'26" East, 528.00 feet; thence, South 24°35'34" West, 25.00 feet to a point on the South right-of-way line of Colorado and Southern Railroad; thence along said South right-of-way line, North 65°24'26" West, 994.93 feet to a point on the West line of Service Center Second Subdivision, recorded in Larimer County records; thence along the West line of said Subdivision and the East right-of-way line of Wood Street, North 00°04'06" West, 110.04 feet to a point on the North right-of-way line of Colorado and Southern Railroad; thence along said North right-of-way line, South 65°24'26" East, 281.27 feet to the Point of Beginning.

The above tract of land contains 1.731 acres, and is subject to all easements and right-of-way now on record or existing.

I, Gerald D. Gilliland, do hereby certify that this description was prepared by me or under my direct supervision this 1st Day of March, 1990, and the same is correct to the best of my knowledge.

GERALD DAVID GILLILAND
REGISTERED
14823
LAND SURVEYOR
STATE OF COLORADO

Gerald D Gilliland

Gerald D. Gilliland, P.L.S.
Colorado Registration No. 14823

RBD Inc
Engineering Consultants

RCPTN # 90023707 06/04/90 11:08:14 # PAGES - 14 FEE - $70.00
M RODENBERGER RECORDER, LARIMER COUNTY CO STATE DOC FEE - $.00

QUITCLAIM DEED

EXEMPT

THIS INDENTURE, Made the 1st day of May, 1990, between BURLINGTON NORTHERN RAILROAD COMPANY, a Delaware corporation, Grantor, and the CITY OF FORT COLLINS, COLORADO, a municipal corporation, Grantee,

WITNESSETH: That the said Grantor, for Ten and No/100 Dollars ($10.00) and other good and valuable consideration in hand paid by the said Grantee, the receipt of which is hereby acknowledged, does convey, remise, release and forever quitclaim, without the covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, unto the said Grantee, and to its successors and assigns, all its right, title and interest, if any, in the real estate, situated in the County of Larimer and the state of Colorado, more particularly described on Exhibit A attached hereto and made a part hereof.

A. SUBJECT, however, to all existing tenancies, encumbrances (other than materialmen's or judgment liens or liens for borrowed money, pension benefits or taxes), easements, rights, licenses, privileges, agreements (including, without limitation sidetrack agreements), covenants, conditions, restrictions, rights of re-entry, possibilities of reverter, existing laws and ordinances, zoning regulations, orders of regulatory agencies, and any state of facts that an accurate survey and prudent inspection would disclose, and subject to the continued application and priority of the Burlington Northern, Inc. Consolidated Mortgage dated March 2, 1970 to Morgan Guaranty Trust Company of New York and Jacob M. Ford, II (Succeeded by W.A. Johnson), Trustees, as supplemented and amended; the Chicago, Burlington and Quincy Railroad Company First and Refunding Mortgage dated February 1, 1921 to Citibank, N.A., Corporate Trustee, as supplemented and amended; and the Great Northern Railway Company General Gold Bond Mortgage dated January 1, 1921 to Citibank, N.A., Corporate Trustee, as supplemented and amended. In accordance with Section 15 of the Offer to Purchase and Interim Trail Use/Railbanking Agreement, all referenced mortgages shall be released within two (2) years from the date of closing. Any judgment against Grantor which may appear of record as a lien against the conveyed premises shall be settled and satisfied by Grantor if and when it is judicially determined to be valid.

CLERKS NOTE
NO REAL PROPERTY DESCRIPTION RECEIVED
BY COUNTY CLERKS OFFICE

CITY OF FORT COLLINS

B. EXCEPTING AND RESERVING into said Grantor, its successors and assigns all right, title, privilege and license in and to all coal, oil, gas, casinghead gas and all ores and minerals of every kind and nature, including sand and gravel, underlying the surface of the conveyed real estate, together with the full right, privilege and license at any and all times to explore, or drill for and to protect, conserve, mine, take, remove and market any and all such products in any manner which will not damage structures on the surface of the premises, together with the right of access at all times to exercise said rights.

C. RESERVING, however, unto said Grantor, its successors and assigns, an easement for communication transmission above, below and on the surface of the premises herein conveyed, including, without limitation, transmission by conduit, fiberoptics, cable, wire, or other means, or electricity, voice data, video, digitized information, or other materials or information, together with the right, privilege and easement of ingress and egress to said premises for construction, placement, operation, maintenance, alteration, repair, replacement, renewal, improvement and removal of same in any such manner as does not unreasonably interfere with Grantee's use of the premises, and futher reserving unto Grantor, its successors and assigns, all right, privilege, and easement of ingress and egress to said premises as Grantor, its successors and assigns may require to investigate and remediate environmental contamination and hazards;

D. Real estate taxes payable or paid in the year this deed is delivered shall be prorated by Grantor and Grantee as of the date on which the deed is delivered on the basis of the most recent ascertainable taxes assessed against the conveyed real estate, or as may be equitably apportioned thereto by the Grantor if the property is not separately assessed. Grantee shall be responsible for the payment of any and all taxes that may be levied or assessed against the conveyed premises from and after the date of purchase.

E. Pursuant to Item 25 of the Offer to Purchase and Interim Trail Use/Railbanking Agreement dated July 18, 1989 (Agreement), Grantee has granted to Grantor a first right of refusal to repurchase the conveyed real estate as set forth in said Agreement.

F. ALSO, the Grantee, by acceptance of this deed, hereby releases and forever discharges the Grantor, its successors and assigns, from any and all present or future obligations of the Grantor, its successors and assigns, including but not limited to the construction of or continued maintenance thereto of any railroad fences, snow fences, road crossings, cattle guards, gates, farm crossings, bridges, drainage or irrigation pipes, if any, located and situated on the premises herein conveyed.

G. BUYER accepts the property "AS IS." In purchasing the property, Buyer acknowledges that Buyer is aware of the condition of the property.

H. Grantee and Grantor have entered into the above referenced Agreement dated July 18, 1989, the terms, conditions, duties, obligations, liabilities and indemnifications of which Grantee and Grantor herein reaffirm and stipulate survive the execution of this deed.

Together with all the tenements, hereditaments and appurtenances thereunto belonging, and all the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and also all the estate, right, title, interest, property, possessions, claim and demand whatsoever, as well in law as in equity, of the said Grantor, of, in or to the said premises and every part and parcel thereof.

TO HAVE AND TO HOLD, all and singular the said premises, with the appurtenances, unto the said Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, said Grantor has cause its corporate name to be subscribed and its corporate seal to be affixed, by its proper officer, thereunto duly authorized the day and year first above written.

BURLINGTON NORTHERN RAILROAD COMPANY

BY: _____

TITLE: ASSISTANT VICE PRESIDENT

ATTEST:

BY: _____
Assistant Secretary

ACCEPTED:

THE CITY OF FORT COLLINS, COLORADO

BY: _____

TITLE: City Manager

ATTEST:

BY: _____

TITLE: City Clerk

Approved As To Form

_____
Deputy City Attorney

STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

On this 16th day of May, 1990, before me, a Notary Public, personally appeared Steven C. Burkett and Wanda M. Krajicek known to me to be City Manager and City Clerk of the municipal corporation that executed the within instrument and acknowledged to me that such municipal corporation executed the same.

Rita R. Knoll
Notary Public
My commission expires: Sept 12, 1992
Residing at: _____

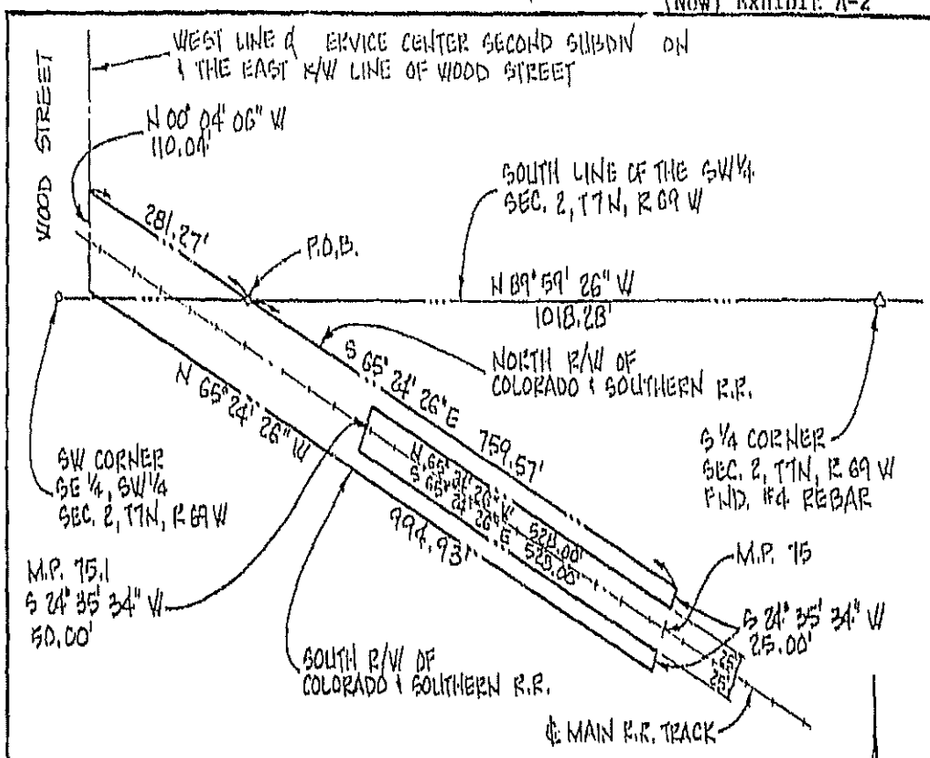
STATE OF TEXAS)
) ss.
COUNTY OF TARRANT)

On this 18th day of May, 1990, before me, a Notary Public, personally appeared H. D. SHANE known to me to be ASSISTANT VICE PRESIDENT of the corporation that executed the within instrument and acknowledged to me that such corporation executed the same.

Arline Nichols
Notary Public
My commission expires: 12/20/90
Residing at: Tarrant County

ARLINE NICHOLS
Notary Public State of Texas
My Commission Expires Dec. 20, 1990

(Now) Exhibit A-2



DESCRIPTION OF RAILROAD R/W TAKE FOR THE FORT COLLINS SERVICE CENTER

A tract of land located in the Southwest Quarter of Section 2 and the Northwest Quarter of Section 11, Township 7 North, Range 69 West of the 6th Principal Meridian, City of Fort Collins, Larimer County, Colorado, being more particularly described as follows:

Considering the South line of the Southwest Quarter of said Section 2 as bearing North 89°59'26" West from a found number 4 rebar at the South Quarter corner of said Section 2 to a found number 4 rebar at the Southwest Corner of the Southeast Quarter of the Southwest Quarter of said Section 2 and with all bearings contained herein relative thereto:

Commencing at the South Quarter Corner of said Section 2; thence along said South line, North 89°59'26" West, 1018.28 feet to a point on the North right-of-way line of Colorado and Southern Railroad, said point being the POINT OF BEGINNING; thence along said North right-of-way line South 65°24'26" East, 759.57 feet; thence, South 24°35'34" West, 25.00 feet; thence, North 65°24'26" West, 528.00 feet; thence, South 24°35'34" West, 50.00 feet; thence, South 65°24'26" East, 528.00 feet; thence, South 24°35'34" West, 25.00 feet to a point on the South right-of-way line of Colorado and Southern Railroad; thence along said South right-of-way line, North 65°24'26" West, 994.93 feet to a point on the West line of Service Center Second Subdivision, recorded in Larimer County records; thence along the West line of said Subdivision and the East right-of-way line of Wood Street, North 00°04'06" West, 110.04 feet to a point on the North right-of-way line of Colorado and Southern Railroad; thence along said North right-of-way line, South 65°24'26" East, 281.27 feet to the Point of Beginning.

The above tract of land contains 1.731 acres, and is subject to all easements and right-of-way now on record or existing.

I, Gerald D. Gilliland, do hereby certify that this description was prepared by me or under my direct supervision this 1st Day of March, 1990, and the same is correct to the best of my knowledge.

GERALD DAVID GILLILAND
REGISTERED
14823
LAND SURVEYOR
STATE OF COLORADO

Gerald D. Gilliland

Gerald D. Gilliland, P.L.S.
Colorado Registration No. 14823

RBD, Inc.
Engineering Consultants

EXHIBIT A-3

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE SOUTHWEST 1/4 OF SECTION 2, TOWNSHIP 7 NORTH, RANGE 69 WEST, 6TH PRINCIPAL MERIDIAN, CITY OF FORT COLLINS, LARIMER COUNTY, STATE OF COLORADO, MORE PARTICULARLY AS FOLLOWS:

CONSIDERING THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SECTION 2 AS BEARING S 89°35'01" EAST, AND ALL BEARING CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 2, MONUMENTED WITH 3-INCH ALUMINUM MONUMENT STAMPED L.S. 20123 SET IN CONCRETE IN A CAST IRON BOX MARKED SURVEY; THENCE ALONG THE SOUTH LINE OF SECTION 2, S 89°35'01" EAST 1351.03 FEET MORE OR LESS TO THE EAST LINE OF WOOD STREET; THENCE N 00°09'37" WEST 16.84 FEET TO THE SOUTHWESTERLY LINE OF THE COLORADO AND SOUTHERN RAILWAY RIGHT-OF-WAY THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF SAID RAILWAY N 64°56'25" WEST 1486.67 FEET TO THE WEST SECTION LINE OF SAID SECTION 2; THENCE ALONG THE WEST LINE OF SAID SECTION 2 N 00°22'45" EAST 110.06 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY; THENCE ALONG NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY S 64°56'25" EAST 1485.60 FEET TO EAST LINE OF WOOD STREET; THENCE ALONG EAST LINE OF WOOD STREET, S 00°09'37" EAST 110.24 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 3.4072 ACRES MORE OR LESS.

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES A SURVEY MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.

ROBERT W. BRADSHAW
P.L.S. 20123

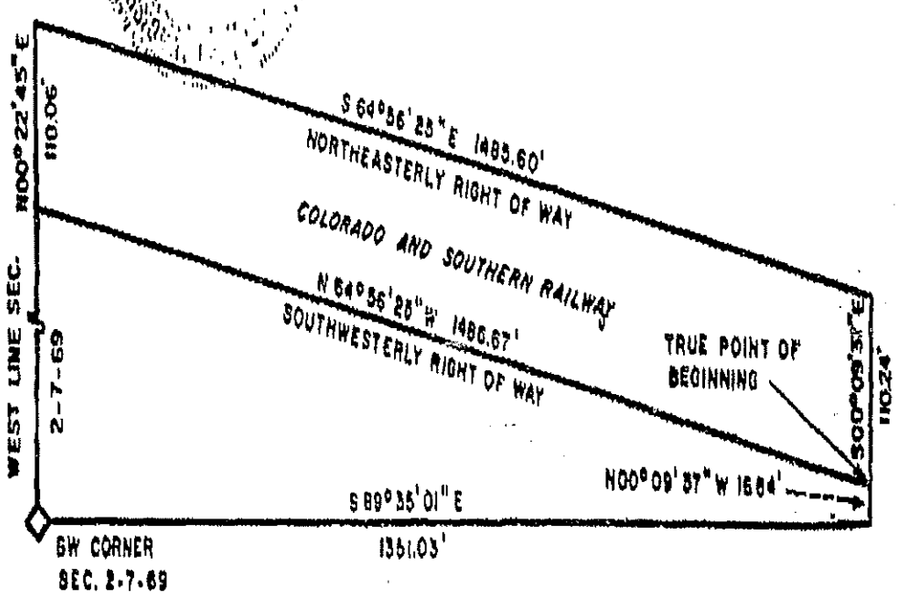


EXHIBIT A-4

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN SECTION 3, TOWNSHIP 7 NORTH, RANGE 69 WEST, 6TH PRINCIPAL MERIDIAN, CITY OF FORT COLLINS, LARIMER COUNTY, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 3 AS BEARING S 89°20'11" EAST, AND ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 3, MONUMENTED WITH A 3" ALUMINUM MONUMENT STAMPED L.S. 20123 SET IN CONCRETE IN A CAST IRON BOX MARKED SURVEY; THENCE ALONG THE EAST LINE OF SAID SECTION 3, N 00°22'45" EAST 636.59 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF THE COLORADO AND SOUTHERN RAILWAY, THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF SAID RAILWAY N 64°55'46" WEST 2463.33 FEET; THENCE ALONG SOUTHWESTERLY RIGHT-OF-WAY ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 9°24'21" WITH A RADIUS OF 5779.58 FEET CURVE LENGTH OF 948.80 FEET WHOSE CHORD BEARS N 60°13'35" WEST 947.73 FEET; THENCE ALONG SOUTHWESTERLY RIGHT-OF-WAY N 55°31'25" WEST 2661.40 FEET TO THE WEST LINE OF THE NORTHWEST 1/4 CORNER OF SAID SECTION 3, SAID POINT BEARS N 00°41'45" EAST 983.15 FEET; THENCE ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 3 N 00°41'45" EAST 120.31 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY; THENCE ALONG THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY S 55°31'25" EAST 2728.30 FEET; THENCE ALONG NORTHEASTERLY RIGHT-OF-WAY ALONG A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 9°24'21" WITH A RADIUS OF 5679.58 FEET CURVE LENGTH OF 932.38 FEET WHOSE CHORD BEARS S 60°13'36" EAST 931.33 FEET; THENCE ALONG NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY S 64°55'46" EAST 2417.36 FEET TO THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 3; THENCE ALONG THE EAST LINE OF SOUTHEAST 1/4 OF SAID SECTION 3, SOUTH 00°22'45" WEST 110.06 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 14.4724 ACRES MORE OR LESS.

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES A SURVEY MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.

ROBERT A. [illegible]
P.L.S. 20[illegible]

EXHIBIT A-4

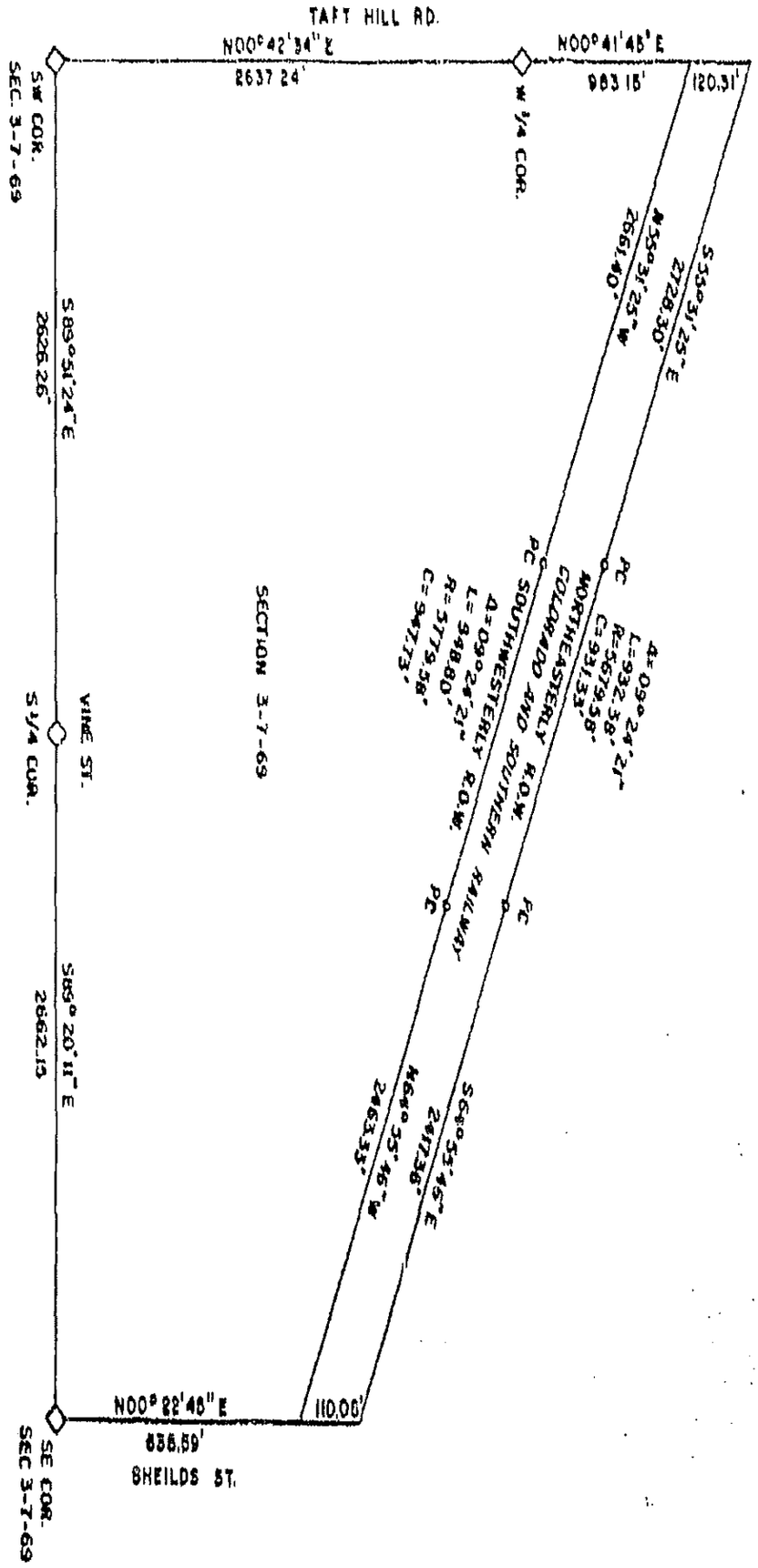

TAFT HILL RD.
N00°42'34" E
2637.24'
N00°41'45" E
983.15'
120.31'
SW COR.
SEC. 3-7-69
W 1/4 COR.
S 89°51'24" E
2626.26'
S 1/4 COR.
VINE ST.
SECTION 3-7-69
S 89° 20' 11" E
2662.15
N00° 22'45" E
636.59'
SHEILDS ST.
110.06'
SE COR.
SEC 3-7-69
S 55°31'25" E
2728.30'
N 55°31'25" W
2661.40'
PC
Δ=09°24'21"
L=932.38'
R=5679.58'
C=931.33'
NORTHEASTERLY R.O.W.
COLORADO AND SOUTHERN RAILWAY
PC SOUTHWESTERLY R.O.W.
Δ=09°24'21"
L=948.80'
R=5779.58'
C=947.73'
PC
PC
S 64°55'45" E
2417.36'
N 64°55'45" W
2463.33'

EXHIBIT A-5

10

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 7 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, LARIMER COUNTY, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4 AS BEARING NORTH 00°41'45" EAST AND ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 4, MONUMENTED WITH A 3-INCH ALUMINUM MONUMENT STAMPED L.S. 20123 SET IN CONCRETE IN A CAST IRON BOX MARKED SURVEY; THENCE ALONG THE EAST LINE OF SAID NORTHEAST 1/4 NORTH 00°41'45" EAST 983.15 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF THE COLORADO AND SOUTHERN RAILWAY TO THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF SAID RAILWAY NORTH 55°32'39" WEST 2978.09 FEET TO THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4, SAID POINT BEARS SOUTH 89°16'48" EAST 171.00 FEET OF THE NORTH 1/4 CORNER OF SAID NORTHEAST 1/4 OF SECTION 4; THENCE ALONG THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4 SOUTH 89°16'48" EAST 180.11 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY; THENCE ALONG THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY SOUTH 55°32'39" EAST 2761.45 FEET TO THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4; THENCE ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4 SOUTH 00°41'45" WEST 120.31 FEET TO THE TRUE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 6.5897 ACRES MORE OF LESS.

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES A SURVEY MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.

ROBERT A. BRAUGHAM
P.L.S. 20123

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR 20123

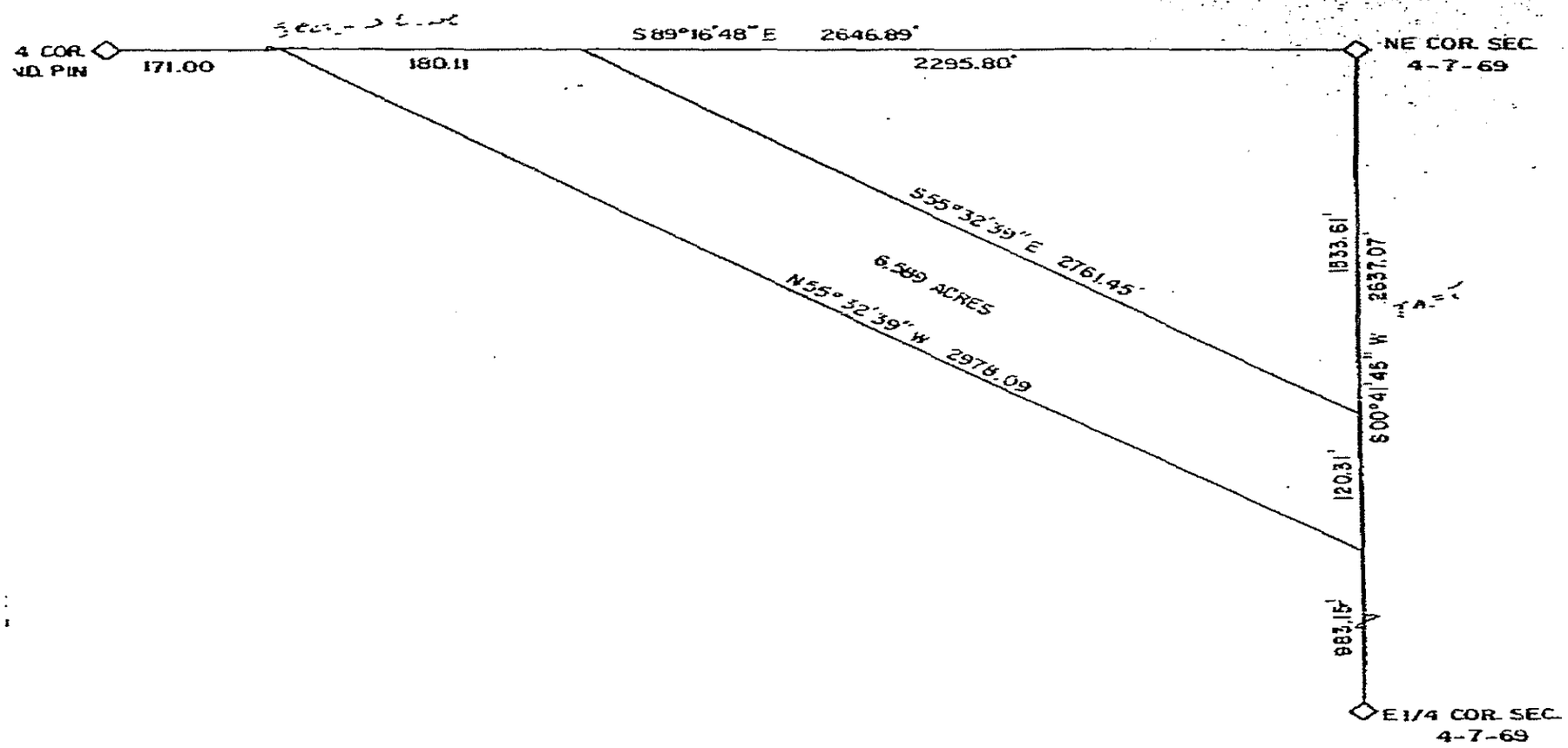

4 COR.
VD. PIN
171.00
180.11
S 89°16'48" E 2646.89'
2295.80'
NE COR. SEC.
4-7-69
S 55°32'39" E 2761.45'
6.589 ACRES
N 55°32'39" W 2974.09
1833.61'
2637.07'
S 00°41'48" W
120.31'
883.14'
E 1/4 COR. SEC.
4-7-69

EXHIBIT A-6

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE SOUTH HALF OF SECTION 33, TOWNSHIP 8 NORTH, RANGE 69 WEST, 6TH PRINCIPAL MERIDIAN, LARIMER COUNTY, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 33, AS BEARING NORTH 00°48'57" EAST AND ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

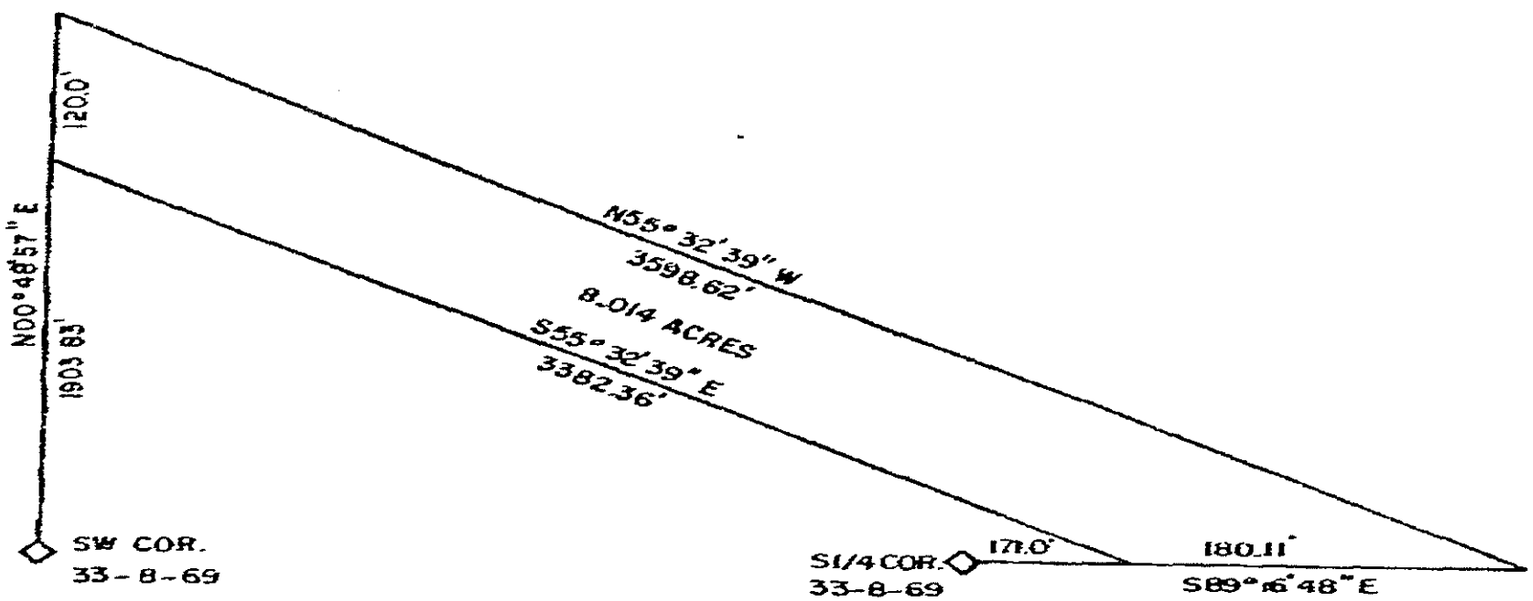
COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 33 MONUMENTED WITH A 3-INCH ALUMINUM MONUMENT SET IN CONCRETE STAMPED L.S. 20123 SET IN AN ALUMINUM BOX; THENCE ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 33 NORTH 00°48'57" EAST 1903.83 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF THE COLORADO AND SOUTHERN RAILWAY, THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF SAID RAILWAY SOUTH 55°32'39" EAST 3382.36 FEET TO THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 33, A POINT THAT BEARS SOUTH 89°16'48" EAST 171.00 FEET FROM THE SOUTH 1/4 OF SAID SECTION 33; THENCE ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 33, SOUTH 89°16'48" EAST 180.11 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY; THENCE ALONG THE NORTHEASTERLY RIGHT-OF-WAY OF SAID RAILWAY NORTH 55°32'39" WEST 3598.62 FEET TO THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 33; THENCE ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 33 SOUTH 00°48'57" WEST 120.00 FEET TO THE TRUE POINT OF BEGINNING.

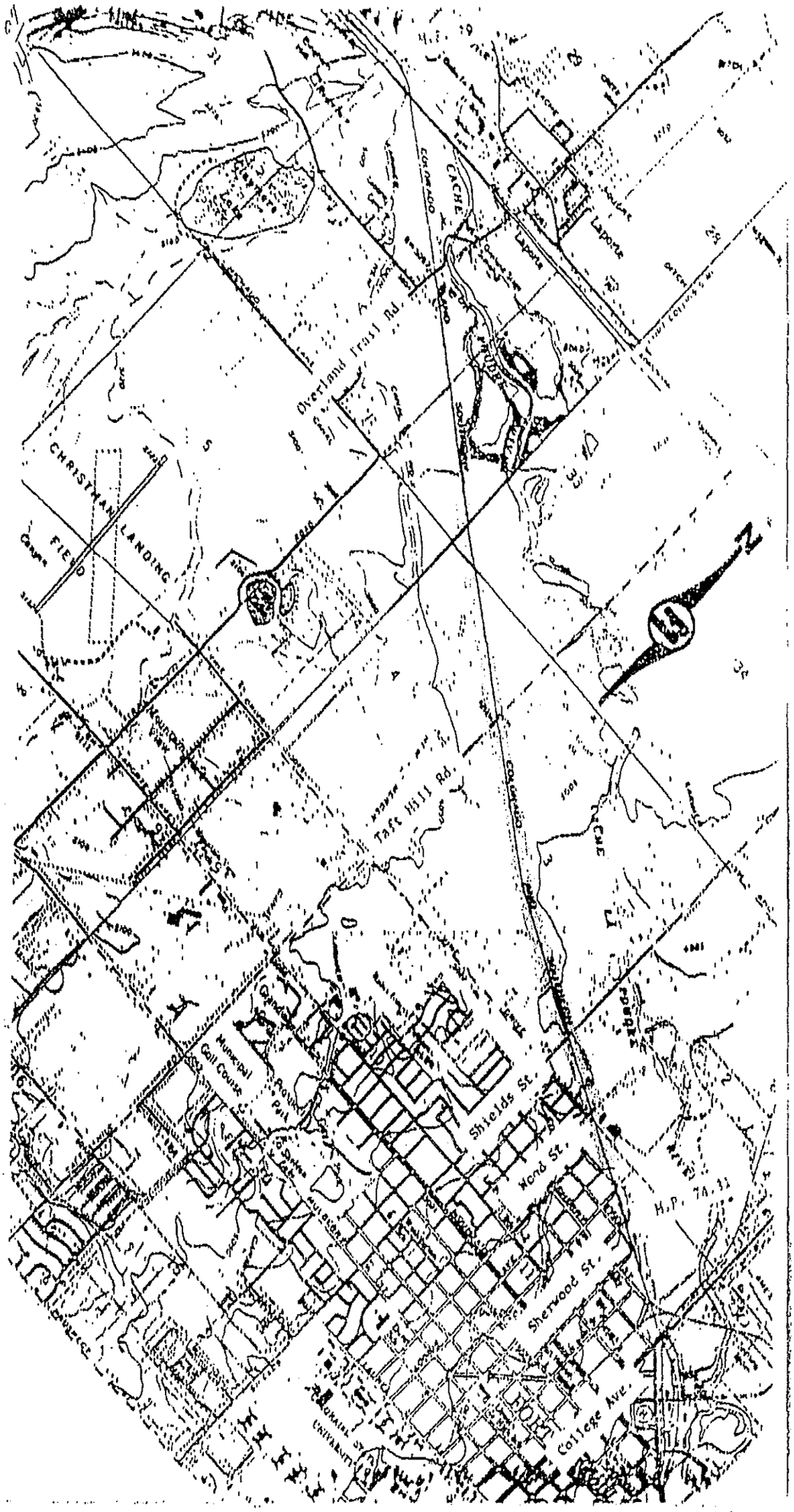
SAID TRACT OF LAND CONTAINS 8.014 ACRES MORE OR LESS.

I HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES A SURVEY MADE UNDER MY SUPERVISION AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.

ROBERT A. BRADSHAW
P.L.S. 20123

COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR ALFRED A. BRADSHAW 20123


120.0'
N00°48'57" E
1601.83'
N55°32'39" W
3598.62'
8.014 ACRES
S55°32'39" E
3382.36'
SW COR.
33-8-69
S1/4 COR.
33-8-69
171.0'
180.11'
S89°16'48" E



CACHE
Laporte
Overland Trail Rd.
CHRISTMAN LANDING
FIELD
Taft Hill Rd.
Municipal Golf Course
Shields St.
Wood St.
Sherwood St.
College Ave.

DESCRIPTION OF A PORTION OF THE TRAIL USE EASEMENT SET FORTH IN DECREE RECORDED NOVEMBER 30, 1993 AT RECEPTION NO. 93089982 TO BE VACATED

A TRACT OF LAND LOCATED IN SECTION 3, TOWNSHIP 7 NORTH, RANGE 69 WEST OF THE SIXTH P.M.; COUNTY OF LARIMER, STATE OF COLORADO; BEING THAT PORTION OF THE TRACT OF LAND DESCRIBED IN EXHIBIT 3 OF THE DISTRICT COURT DECREE RECORDED NOVEMBER 30, 1993 AT RECEPTION NO. 93089982 LYING EAST OF THE EAST RIGHT-OF-WAY LINE OF TAFT HILL ROAD; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE LINE BETWEEN THE WEST QUARTER CORNER OF SAID SECTION 3 AND THE NORTHWEST CORNER OF SAID SECTION 3, TO BEAR N00°41'45"E, AS REFERENCED IN THE DESCRIPTION SET FORTH IN SAID EXHIBIT 3, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

COMMENCING AT THE SAID WEST QUARTER CORNER OF SAID SECTION 3;

THENCE ALONG THE WEST LINE OF NORTHWEST QUARTER OF SAID SECTION 3, N00°41'45"E, A DISTANCE OF 983.13 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF THE FORMER COLORADO AND SOUTHERN RAILROAD AS DETERMINED BY THE PRIOR LOCATION OF THE EXISTING RAILS AND FROM THE SAID RAILROAD'S RIGHT OF WAY MAPS;
THENCE ALONG THE SAID SOUTHERLY RIGHT OF WAY LINE, S55°31'25"E, A DISTANCE OF 36.09 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF TAFT HILL ROAD, SAID POINT BEING THE **POINT OF BEGINNING**;

THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE THE FOLLOWING THREE (3) COURSES AND DISTANCES:

1. S55°31'25"E, A DISTANCE OF 2,625.18 FEET;
2. ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 5,779.58 FEET AND AN ARC LENGTH OF 948.79 FEET, BEING SUBTENDED BY A CHORD OF S60°13'36"E FOR A DISTANCE OF 947.73 FEET;
3. S64°55'46"E, A DISTANCE OF 491.18 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF THE EXISTING W.A.P.A. POWER LINE EASEMENT, THE INTERSECTION OF THE CENTER LINE OF THE SAID RAILROAD RIGHT OF WAY WITH SAID NORTHWESTERLY RIGHT OF WAY LINE OF THE W.A.P.A. POWER LINE EASEMENT IS AT **APPROXIMATE RAILROAD MILE POST 75.82**;

THENCE ALONG THE SAID NORTHWESTERLY RIGHT OF WAY LINE OF THE POWER LINE EASEMENT, N75°33'35"E, A DISTANCE OF 157.18 FEET;
THENCE ALONG THE NORTHERLY RIGHT OF WAY LINE OF SAID RAILROAD THE FOLLOWING THREE (3) COURSES AND DISTANCES:

1. N64°55'46"W, A DISTANCE OF 612.44 FEET;
2. ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 5,679.58 FEET AND AN ARC LENGTH OF 932.37 FEET, BEING SUBTENDED BY A CHORD WHICH BEARS N60°13'36"W FOR A DISTANCE OF 931.33 FEET;
3. N55°31'25"W, A DISTANCE OF 2,692.08 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF TAFT HILL ROAD, THE INTERSECTION OF THE CENTER LINE OF THE SAID RAILROAD RIGHT OF WAY WITH SAID EAST RIGHT OF WAY LINE OF TAFT HILL ROAD IS AT **APPROXIMATE RAILROAD MILE POST 76.61**;

THENCE ALONG SAID EAST RIGHT OF WAY LINE, S00°41'45"W, A DISTANCE OF 120.31 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 415,113 SQUARE FEET (9.530 ACRES), MORE OR LESS.

I HEREBY STATE THAT THE ABOVE DESCRIPTION WAS PREPARED BY ME AND IS TRUE AND CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, BELIEF, AND OPINION.

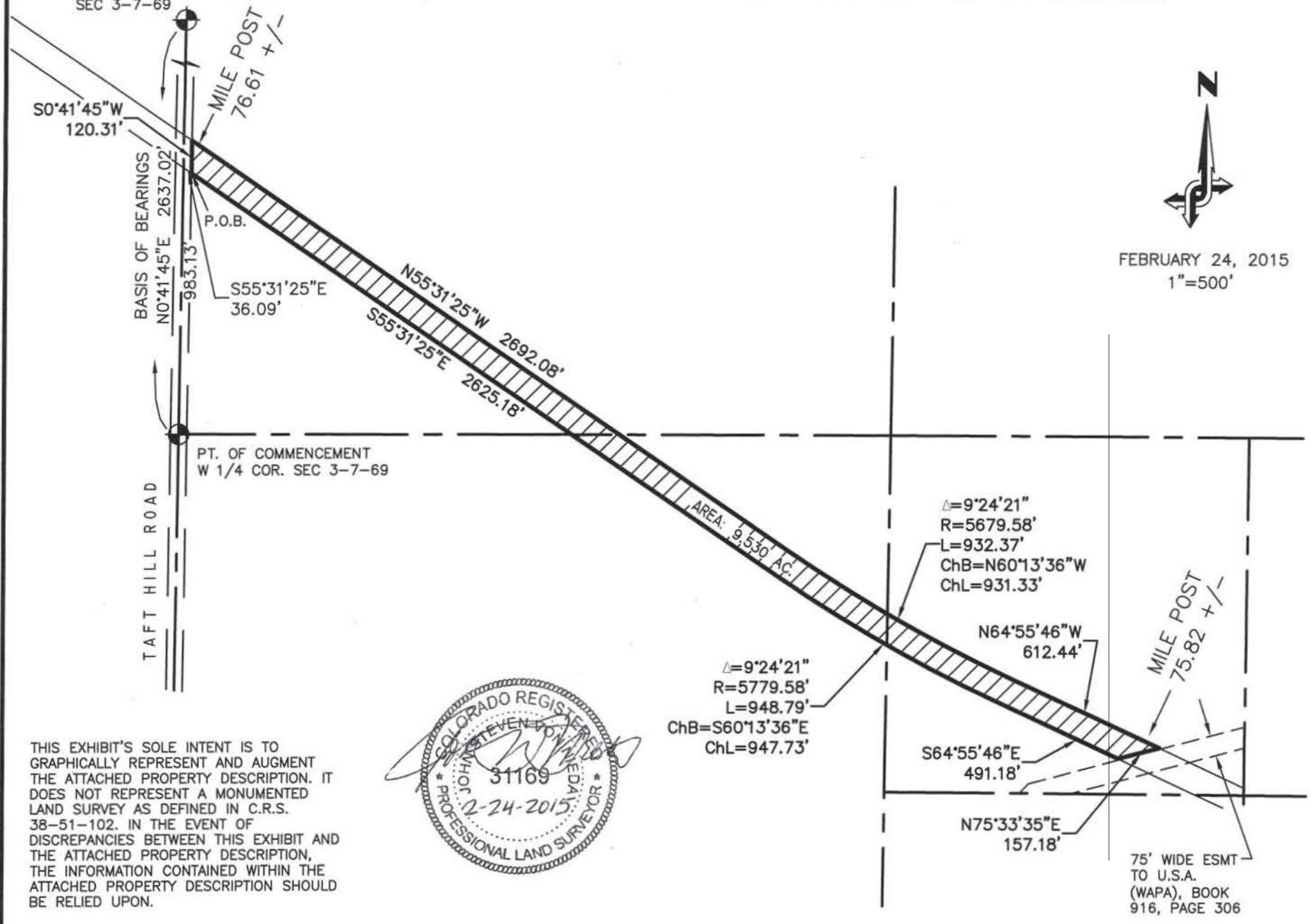
JOHN STEVEN VON NIEDA, COLORADO P.L.S. 31169
FOR AND ON BEHALF OF THE CITY OF FORT COLLINS
P.O. BOX 580, FORT COLLINS, CO 80522

COLORADO REGISTERED
JOHN STEVEN VON NIEDA
31169
2-24-2015
PROFESSIONAL LAND SURVEYOR

S:\Engineering\Departments\Survey\Projects\Park & Recreation\
Lincoln Mid School\legals\ Rails to Trails Vac MP75.82-76.61.doc

EXHIBIT OF

PORTION OF TRAIL USE EASEMENT SET FORTH IN DECREE RECORDED NOVEMBER 30, 1993 AT RECEPTION NO. 93089982 TO BE VACATED



THIS EXHIBIT'S SOLE INTENT IS TO GRAPHICALLY REPRESENT AND AUGMENT THE ATTACHED PROPERTY DESCRIPTION. IT DOES NOT REPRESENT A MONUMENTED LAND SURVEY AS DEFINED IN C.R.S. 38-51-102. IN THE EVENT OF DISCREPANCIES BETWEEN THIS EXHIBIT AND THE ATTACHED PROPERTY DESCRIPTION, THE INFORMATION CONTAINED WITHIN THE ATTACHED PROPERTY DESCRIPTION SHOULD BE RELIED UPON.

S:\Engineering\Departments\Survey\Projects\Park & Recreation\Lincoln Mid School\dwg\Lincoln MS trail c3d.dwg

Exhibit G

Teresa Schmitz

From:	Ingrid Decker
Sent:	Tuesday, July 28, 2015 9:55 AM
To:	'Downing, Walter J.'
Cc:	Lindsay Kuntz; Teresa Schmitz
Subject:	RE: BNSF First Right of Refusal on Fort Collins Rails-to-Trails Property

From: Downing, Walter J. [mailto:downingw@hallevans.com]
Sent: Tuesday, July 28, 2015 9:46 AM
To: Ingrid Decker
Subject: RE: BNSF First Right of Refusal on Fort Collins Rails-to-Trails Property

BNSF does not have any interest in this property. Thanks for checking back with us.
Walt

From: Ingrid Decker [mailto:idecker@fcgov.com]
Sent: Monday, July 27, 2015 1:58 PM
To: Downing, Walter J. <downingw@hallevans.com>
Cc: Lindsay Kuntz <lkuntz@fcgov.com>; Teresa Schmitz <tschmitz@fcgov.com>
Subject: FW: BNSF First Right of Refusal on Fort Collins Rails-to-Trails Property

Hi, Walt –

We haven't heard anything directly from BNSF related to my attached letter and email below, but I wanted to check in with you one more time to see if you could confirm that the Railroad doesn't want to repurchase the rights in the Rails-to-Trails property here in Fort Collins. We are working on our request to the STB to vacate our NITU.

Thanks,
Ingrid

Ingrid Decker
Sr. Asst. City Attorney
City of Fort Collins, Colorado
970-221-6520

From: Ingrid Decker
Sent: Thursday, June 18, 2015 1:52 PM
To: Walter Downing (downingw@hallevans.com)
Cc: Lindsay Kuntz
Subject: BNSF First Right of Refusal on Fort Collins Rails-to-Trails Property

Good afternoon, Walt –

Attached is a PDF of a letter and attachments I am mailing to BNSF today to ask whether they would like to repurchase their interest in a portion of the "Rails-to-Trails" property northwest of Fort Collins. The City is planning to ask the Surface Transportation Board to vacate the NITU for a portion of such property and the City will then formally vacate its interest in that portion. BNSF retained a first right of refusal to repurchase the right-of-way it conveyed to the City if it ever wanted to reinstate rail service in that area. This circumstance of the City wanting to terminate/vacate its use isn't mentioned in the Railbanking Agreement or Quitclaim Deed as triggering the ROFR, but I want to make sure we respect BNSF's retained rights in the property.

I am available if you'd like to discuss or need any additional information. I'm asking that BNSF let us know its position within 30 days, and if we don't hear anything one way or the other we will proceed with our request to the Surface Transportation Board.

Thank you,
Ingrid

Ingrid Decker
Sr. Asst. City Attorney
City of Fort Collins, Colorado
970-221-6520

Confidentiality Notice: This e-mail and any files transmitted with it are confidential and intended solely for the named addressee(s) of this message and may be subject to attorney-client privilege or work-product protection. If you are not the named addressee, unauthorized use, disclosure or distribution is prohibited; please notify the sender by reply email and destroy all copies of the original message. Our spam protection may prevent any reply e-mail from being delivered. If I have not responded to your email within 48 hours, please contact our office at 303/628-3300. This e-mail and any attachments are believed to be free of viruses and defects, but it is the responsibility of the recipient to ensure that it is virus-free. The sender is not responsible for any loss or damage arising from its use.

Exhibit H-1

Decision No. C10-0123

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 09A-911R

IN THE MATTER OF THE APPLICATION OF THE BNSF RAILWAY COMPANY FOR AUTHORITY TO REMOVE PASSIVE WARNING DEVICES AT SHERWOOD STREET NORTH OF SYCAMORE, DOT #244971M, CHERRY STREET AT MASON STREET, DOT #244970F, AND MASON COURT NORTH OF CHERRY STREET, DOT #926625H, IN THE CITY OF FORT COLLINS, COLORADO.

COMMISSION ORDER DEEMING APPLICATION COMPLETE AND GRANTING APPLICATION

Mailed Date: February 16, 2010
Adopted Date: February 10, 2010

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by BNSF Railway Company (BNSF) on December 16, 2009. BNSF requests authority to abolish the crossings of the BNSF with Sherwood Street north of Sycamore, National Inventory No. 244971M, Cherry Street west of Mason Street, National Inventory No. 244970F, and Mason Court, National Inventory No. 926625H, in Fort Collins, Colorado by removing the tracks and paving over the street.

2. The Commission gave notice of this Application to all interested parties, including adjacent property owners in accordance with § 40-6-108(2), C.R.S. The Notice was mailed December 30, 2009.

3. On January 6, 2010, BNSF filed a Notice of Posting of Notices of Proposed Closing of Crossings (Notice). The Notice provides written and visual confirmation that the

posting of notice of closure of the crossing required by 4 *Code of Colorado Regulations* (CCR) 723-7-7208(c)(I-III) occurred at the crossing on December 29, 2009.

4. The proposed crossing abolishment will not involve roadway construction other than that required to remove the track and install pavement where the tracks once were and will not involve the permanent rerouting of traffic due to a road closure. For these reasons, BNSF has omitted specific information from the Application such as existing and future traffic volumes, and plan and profile drawings of the crossings due to the expense to create such drawings when the crossing is being abolished. Rules 7204(c)(VII), (XII), and (XIII) require such information. However, Rule 7204(b) allows an applicant to omit required information the applicant believes is excessive compared to the scope of the proposed project provided the application specifically justifies the omission. Given the scope of the Application and the fact that the crossings in question are proposed to be abolished by removal of the tracks and patching of the roadway, we agree with BNSF that traffic volumes, detailed plan and profile drawings, and signing and striping plans are not necessary for this Application.

5. The Commission has reviewed the record in this matter and deems that the Application is complete within the meaning of § 40-6-109.5, C.R.S.

6. Now being fully advised in the matter, we grant the Application.

B. Findings of Fact

7. The Commission gave notice to all interested parties, including the adjacent property owners. No intervention was received opposing the application.

8. BNSF proposes to abolish the crossings of BNSF with Sherwood Street, Cherry Street west of Mason Street, and Mason Court in Fort Collins, Colorado by removing the rail and patching the roadway. The reason for the proposed abolition is that no trains are using the

former Fort Collins to Greeley branch line or the wye track and there is no reason to keep and maintain crossing warning devices and advanced warning signs. We will require BNSF to work with the City of Fort Collins to coordinate the removal of the advance warning signs with the removal of the track and crossings.

9. BNSF states that all expenses related to the closure and abolishment of the crossing will be borne solely by BNSF. BNSF does request that the City of Fort Collins remove the advance warning signs to these crossings at its own expense.

10. Work related to the removal of the crossing will begin once the weather is warmer this spring or summer, and will take approximately 30 days to complete. We will require BNSF to inform us in writing that the crossing abolishments are complete within 10 days of the completion and provide copies of the updated National Inventory Crossing information sheets as part of this information. We shall initially expect this letter and updated inventory sheets sometime around August 31, 2010. However, we understand this letter and updated inventory sheets may be provided earlier or later than this date depending on changes or delays to the construction schedule.

11. Once the crossings are abolished, BNSF will continue to maintain the remaining tracks and operating facilities and the City of Fort Collins will maintain the street and their expense pursuant to Rules 7211(a) and (c) respectively.

12. We find that accidents will be prevented and the safety of the public will be promoted by the abolishment of these crossings.

C. Conclusions

13. The Commission has jurisdiction in this matter under §§ 40-4-106(2)(a) and (3)(a), C.R.S.

14. There are no intervenors in this matter.

15. Because the Application is unopposed, the Commission will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and Rule 1403 of the Rules of Practice and Procedure, 4 CCR 723-1.

16. We will grant the Application consistent with the above discussion in paragraphs 8 through 11.

II. ORDER

A. The Commission Orders That:

1. This application (Application) filed by the BNSF Railway Company (BNSF) on December 16, 2009 requesting authority to abolish the crossings of the BNSF with Sherwood Street north of Sycamore, National Inventory No. 244971M, Cherry Street west of Mason Street, National Inventory No. 244970F, and Mason Court, National Inventory No. 926625H, in Fort Collins, Colorado by removal of the tracks and paving of the street is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Application is granted, consistent with the discussion above.

3. BNSF is authorized and ordered to proceed with the abolishment of the subject crossings as outlined in the Application.

4. BNSF is required to work with the City of Fort Collins to coordinate the removal of advanced warning signs with the track and crossing removal.

5. BNSF is required to inform the Commission in writing that the crossing has been abolished within ten days after completion and is required to provide copies of the updated National Inventory Crossing information sheets as part of this information. We shall expect this letter and updated inventory sheets sometime around August 31, 2010. However, we understand

this letter and updated inventory sheets may be provided earlier or later than this date depending on changes or delays to the construction schedule.

6. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Order.

7. The Commission retains jurisdiction to enter further required orders.

8. This Order is effective on its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING February 10, 2010.

(S E A L)

ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RONALD J. BINZ

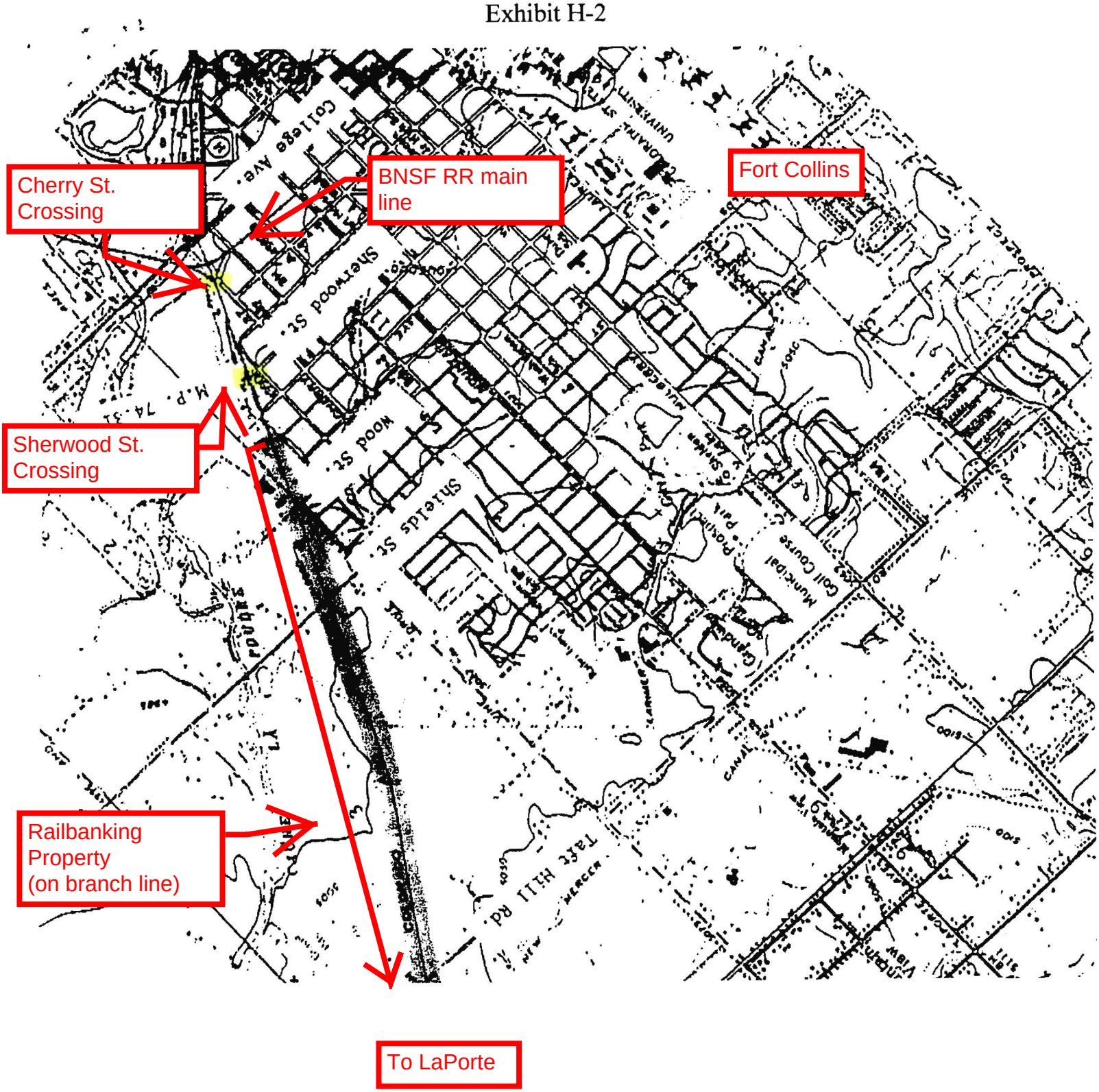
JAMES K. TARPEY

MATT BAKER

Commissioners

G:\ORDER\C10-0123_09A-911R.doc:SRS

Exhibit H-2


Cherry St. Crossing
BNSF RR main line
Fort Collins
Sherwood St. Crossing
Railbanking Property (on branch line)
To LaPorte