

RESOLUTION NO. 2013 - 13

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF RIO BLANCO COUNTY, COLORADO, AUTHORIZING THE ACQUISITION OF ADDITIONAL RIGHT-OF-WAY FOR THE COUNTY ROAD 10 BRIDGE REPLACEMENT AND EXEMPTING THE SUBDIVISION OF SAID PROPERTY FROM SUBDIVISION REGULATIONS

WHEREAS, the Board of County Commissioners of Rio Blanco County, Colorado (County) has negotiated the purchase of additional right-of-way for the purpose of replacing the County Road 10 bridge over the White River through property owned by the YZ RANCH, LLC, a Colorado Limited Liability Company (the YZ) and the YZ has agreed to sell such additional right-of-way to the County; and

WHEREAS, the additional road right-of-way the YZ has agreed to sell to the County totals 0.57 acres; and

WHEREAS, JSC, Inc. has surveyed and prepared a legal description describing the property to be acquired, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference; and

WHEREAS, the County and the YZ have executed a Memorandum of Agreement (MOA), a copy of which is attached hereto as Exhibit B and incorporated herein by this reference, confirming the willingness of the County to purchase and the willingness of the YZ to sell said property for the purchase price of \$1,710; and

WHEREAS, as further described in the MOA, the County has agreed to pay and the YZ has agreed to accept \$90.00 as payment in full for two temporary construction easements described on Exhibit B attached to the MOA; and

WHEREAS, the subdivision of the property to be acquired by the County is in the best interest of the County, and is not within the purposes of either the Colorado subdivision statutes or the Rio Blanco County Land Use Resolution;

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Rio Blanco County, Colorado as follows:

1. The transaction described above and the MOA attached hereto is hereby authorized.
2. The Chairman of the Board, Shawn J. Bolton, is authorized to sign the closing documents on behalf of the County.
3. The subdivision of the property described in the attached Exhibit A and its conveyance to the County pursuant to this transaction shall be and hereby is exempt from the Rio Blanco County Land Use Resolution Subdivision Regulations pursuant to Section 30-28-101(10)(d), C.R.S..
4. The adoption of this Resolution is necessary and proper to provide for the safety, preserve

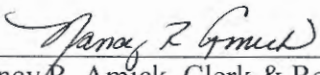
the health, promote the prosperity, and improve the order, comfort, welfare and convenience of the County and the inhabitants thereof.

5. If any section, subsection, sentence, clause, phrase or portion of this Resolution is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution. The Board of County Commissioners of Rio Blanco County, Colorado, declares that it would have adopted this Resolution and each section, subsection, sentence, clause, phrase, or portion herein, despite the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions would be declared invalid or unconstitutional.


DULY MOVED, SECONDED, AND PASSED ON A VOTE OF 3 FOR AND 0 AGAINST, THIS 25th DAY OF March, 2013.

**BOARD OF COUNTY COMMISSIONERS
OF RIO BLANCO COUNTY, COLORADO**

ATTEST:



Nancy R. Amick, Clerk & Recorder



Shawn J. Bolton, Chairman



Jon D. Hill, Commissioner



Jeffrey D. Eskelson, Commissioner



JSC, INC.
P.O. BOX 1153
MEEKER, CO 81641

PH- 970-878-5292

FAX- 970-878-5392

EXHIBIT A

PROJECT NUMBER: BRO C490-003

PARCEL NUMBER: 1

Project Code: 17715

Date: 3/20/2012

DESCRIPTION

A PARCEL OF GROUND LYING IN THE SE1/4 SECTION 36, T1S, R91W OF THE 6TH P.M., RIO BLANCO COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST ONE-QUARTER CORNER (1979 BLM BRASS CAP) OF SAID SECTION 36, WHENCE THE SOUTHEAST SECTION CORNER (1978 BLM BRASS CAP) OF SAID SECTION 36 BEARS S62°05'04"E, 5851.48 FEET;
THENCE S70°35'49"E, 3116.62 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF RIO BLANCO COUNTY ROAD NO. 10, SAID POINT BEING THE TRUE POINT OF BEGINNING OF SAID PARCEL;
THENCE S74°40'58"E, 336.01 FEET;
THENCE S38°04'34"E, 190.81 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF RIO BLANCO COUNTY ROAD NO. 10;
THENCE S27°43'32"W, 60.00 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF RIO BLANCO COUNTY ROAD NO. 10;
THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, N62°16'28"W, 138.21 FEET;
THENCE N74°54'05"W, 67.53 FEET;
THENCE N61°50'10"W, 257.20 FEET;
THENCE N25°42'47"W, 31.12 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF RIO BLANCO COUNTY ROAD NO. 10;
THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, N61°20'34"W, 16.89 FEET;
THENCE N28°39'26"E, 60.00 FEET TO THE TRUE POINT OF BEGINNING.
CONTAINING 1.26 ACRES MORE OR LESS OF WHICH 0.69 ACRES IS LOCATED WITHIN THE EXISTING PRESCRIPTIVE RIGHT-OF-WAY FOR RIO BLANCO COUNTY ROAD 10.

MEMORANDUM OF AGREEMENT AND OFFER TO PURCHASE CERTAIN REAL PROPERTY INTERESTS FOR THE RIO BLANCO COUNTY ROAD 10 BRIDGE REPLACEMENT PROJECT

This Memorandum of Agreement is made and entered into this _____ of _____ 2013, by and between YZ RANCH, LLC, a Colorado Limited Liability Company, hereinafter referred to as "the Owner", the YAMPA VALLEY LAND TRUST, INC., A Colorado Nonprofit Corporation, hereinafter referred to as "Easement holder" and the Board of County Commissioners of Rio Blanco County, Colorado, hereinafter referred to as "the County".

RECITALS:

A. The County will be installing public roadway improvements to County Road 10 ("the Project") during the 2013 construction season. The Project includes the removal of the existing bridge and installation of a new bridge and related facilities ("the Project Improvements"). The County has determined that the Project is necessary for the health, safety and welfare of the inhabitants of Rio Blanco County, Colorado. All costs associated with the installation of the Project Improvements will be borne by the County.

B. The Owner owns a tract of land encumbered by a conservation easement held by the Easement holder adjacent to the Project in the County of Rio Blanco, State of Colorado, hereinafter referred to as "the Owner's Property".

C. To accommodate the installation, operation, maintenance, repair and replacement of the Project Improvements, the County needs to acquire from the Owner by proper Deed and a release of interest of the conservation easement from the Easement Holder parcel(s) of land for Public Roadway, Utilities & Right-of-Way purposes as defined and depicted on the attached **Exhibit "A"**.

D. To accommodate temporary access for workers and equipment to facilitate prudent and proper installation of the Project Improvements, the County needs to acquire from the Owner and Easement Holder, Two (2) Temporary Construction Easements as defined and depicted on **Exhibit "B"** attached hereto and incorporated herein by reference.

E. The parties desire to reach a settlement for the sale and purchase of the parcels described in **Exhibit "A"** and the use of the parcels described in **Exhibit "B"** through good faith negotiations and thereby avoid condemnation proceedings. In consideration of the foregoing, the County is offering to pay to the Owner the following sum of money as just compensation for the parcels described in **Exhibit "A"** and for the use of the Owner's Property described on **Exhibit "B"**:

New Right-of-Way:	0.57 acres @ \$3,000/acre	=	\$ 1,710.00
Existing Right-of-Way:	0.69 acres @ \$0/acre	=	\$ 0.00
Temporary Easement, TE-1:	0.15 acres @ \$3,000/acre/10%/1 year	=	\$ 45.00
Temporary Easement, TE-1A:	0.15 acres @ \$3,000/acre/10%/1 year	=	\$ 45.00
Total Offer of Just Compensation			= \$ 1,800.00

NOW, THEREFORE, based on the recitals above and in consideration of their mutual promises and other valuable consideration, the receipt and adequacy of which are acknowledged, the parties hereto agree as follows:

1. The Owner and Easement holder hereby accept the County's offer for just compensation, and the County hereby agrees to pay to the Owner said amounts for just compensation, subject to the promises, terms, covenants and conditions of this Agreement.

2. The just compensation hereinabove agreed upon shall be paid by the County to the Owner upon the execution and delivery by the Owner to the County of: (a) one (1) fully executed original of this Memorandum of Agreement, and (b) Conveyance by proper Deed and (c) Release of interest of the conservation easement by the Easement holder of the parcel(s) defined and depicted on **Exhibit "A"**.

3. The compensation shown on this agreement includes the underlying mineral estate, if any; Unless the following box is checked:

Owner excepts and reserves from the parcel(s) defined and depicted on **Exhibit "A"**, the mineral estate including all oil, coal, gas and other hydrocarbons, and all clay and other valuable minerals in and under said parcel(s). The Owner hereby covenants and agrees that the County shall forever have the right to take and use any and all rock, gravel, sand, earth and other road building materials found in or upon said parcel(s) without further compensation to Owner; and that no exploration for or development of any of the mentioned minerals will ever be conducted on or from the surface of the parcel(s) defined and depicted on **Exhibit "A"**, and that in the event any such operation may hereafter be carried on beneath the surface of the said parcel(s), the Owner shall perform no act which may impair the subsurface or lateral support of the said parcel(s) defined and depicted on **Exhibit "A"**.

4. To facilitate prudent and proper installation of the Project improvements, the County needs the Owner's and Easement holder's permission to temporarily access the Owner's Property with workers and equipment in accordance with the following terms and conditions and within the limits of the Temporary Construction Easements as depicted on **Exhibit "B"** attached hereto and incorporated herein by reference:

- a) The term of the use of the Temporary Construction Easements shall commence on the day and year first above written and shall expire and terminate when the Project is complete as evidenced by the official public notice of completion by the Rio Blanco County Road and Bridge Supervisor, but in no event later than January 1, 2014. If work on the Project improvements continues after January 1, 2014 (except in the case of acts of God or other force *majeure*, which shall extend such deadline for the period required to accommodate the act of God or force *majeure*), the County shall pay the Owner additional consideration of Five Dollars (\$5.00) per day for each day work continues within the limits of the Temporary Construction Easements as depicted on **Exhibit "B"** beyond such deadline.
- b) The County shall provide written notice to the Owner at least two (2) weeks prior to commencing work with heavy equipment within the limits of the Temporary Construction Easements as depicted on **Exhibit "B"**.
- c) The County shall construct a temporary fence along the entire Temporary Construction Easement(s), which shall remain in place and be maintained by the County until the County replaces it with the permanent fence depicted in the construction drawings. The County shall immediately repair any other fence on or enclosing the Owner's Property that is damaged or temporarily taken down during construction to as good as or better than its previous condition. Any fence to be cut shall be H-braced and dead-manned prior to being cut.
- d) The County shall be responsible for controlling all noxious weeds (as defined on the Colorado State Noxious Weed Lists A & B) within the limits of the Temporary Construction Easements as depicted on **Exhibit "B"** during the construction period.
- e) The County shall be responsible for controlling erosion of soils within the limits of the Temporary Construction Easements as depicted on **Exhibit "B"** that is caused by the activities of the County or its agents, employees, contractors, subcontractors or invitees. Such erosion control shall include,

without limitation, re-contouring, re-seeding and re-vegetating such lands and restoring any reservoirs, ponds or waterways to their previous quality and capacity. All of the County's obligations under this Section shall survive termination of this Agreement for the later of one growing season after the completion of the Project or until vegetation is well-established.

- f) In addition to the County's specific obligations described elsewhere in this Agreement, as a condition of accepting the grants described in this Agreement, the County agrees to, at the County's sole cost and expense reasonably repair and restore the surface and condition of those portions within the limits of the Temporary Construction Easements as depicted on **Exhibit "B"** affected or damaged by the County's construction activities and to return said affected areas to the Owner in a condition reasonably approximate to or better than that which existed prior to entry by the County.
 - g) The County shall be liable for any injury to persons, property or livestock caused by or incident to the operations of the County, its agents, employees, contractors, subcontractors or invitees within the limits of the Temporary Construction Easements as depicted on **Exhibit "B"**, unless caused solely by the negligence of the Owner, to the extent provided by law.
 - h) All rights granted in this Agreement are limited to the specific grants described in this Agreement. The Owner reserves to itself and its successors and assigns all rights not specifically granted to the County in this Agreement, including the right to the use and enjoyment of the property within the limits of the Temporary Construction Easements as depicted on **Exhibit "B"**, so long as such use or enjoyment does not hinder, conflict with or interfere with the County's rights under this Agreement.
 - i) The land use is temporary in nature and is not intended to affect the title to the Owner's Property. The County agrees that this Agreement shall not be recorded nor otherwise entered into the permanent record of any land office.
5. The just compensation as agreed upon between the Owner, Easement holder and the County. The County shall fully compensate the Owner for its interests in the parcels described in **Exhibit "A"** and the County's use of the Owner's, Property described in **Exhibit "B"**, either present or future, and the interests of all lienors and lessees of the Owner and any and all interests, legal or equitable, which are or may be outstanding. Owner agrees that all *ad valorem* property taxes related to the Owner's Property have been paid through 2012.
6. The County agrees that all closing costs related and/or incidental to the conveyance of the parcels described in **Exhibit "A"** by the Owner to the County shall be paid by the County.
7. The signing of this Agreement by the parties hereto hereby grants possession of the parcels described in **Exhibit "A"** to the County and use of the Owner's Property by the County described in **Exhibit "B"**.
8. This Memorandum of Agreement embodies all agreements between the parties hereto and no other promises, terms, conditions or obligations, oral or written, have been made which might serve to modify, add to or change the terms and conditions of this Agreement.
9. This Memorandum of Agreement shall be deemed a contract extending to and binding upon the parties hereto and upon their respective heirs, successors and assigns.
10. This is a legal instrument. The County recommends the Owner seek the advice of its own legal and tax counsel before signing this Memorandum of Agreement.

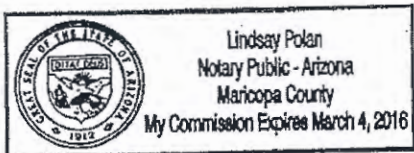
Owner: YZ Ranch, LLC, a Colorado Limited Liability Company

By: [Signature]
Ross Wheeler, Managing Member

STATE OF Arizona
County of Maricopa

The foregoing instrument was acknowledged before me this 1 day of March, 2013, by YZ Ranch, LLC, a Colorado Limited Liability Company by Ross Wheeler, Managing Member.

Witness my hand and official seal.
My commission expires:



[Signature]
Notary Public

Easement Holder: Yampa Valley Land Trust, Inc., a Colorado Nonprofit Corporation

Attest:

Secretary

By _____
President

STATE OF COLORADO

County of _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2013, by _____ as _____ President and _____ as _____ Secretary of Yampa Valley Land Trust, Inc., a Colorado nonprofit corporation.

County:
BOARD OF COUNTY COMMISSIONERS
OF RIO BLANCO COUNTY, COLORADO

ATTEST:

Shawn J. Bolton, Chairman

Nancy R. Arnick, Clerk to the Board

Jeff Eskelson, Commissioner

(Seal)

Jon Hill, Commissioner

JSC, INC.
P.O. BOX 1153
MEEKER, CO 81641

PH- 970-878-5292

FAX- 970-878-5392

EXHIBIT A

PROJECT NUMBER: BRO C490-003

PARCEL NUMBER: 1

Project Code: 17715

Date: 3/20/2012

DESCRIPTION

A PARCEL OF GROUND LYING IN THE SE1/4 SECTION 36, T1S, R91W OF THE 6TH P.M., RIO BLANCO COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST ONE-QUARTER CORNER (1979 BLM BRASS CAP) OF SAID SECTION 36, WHENCE THE SOUTHEAST SECTION CORNER (1978 BLM BRASS CAP) OF SAID SECTION 36 BEARS S62°05'04"E, 5851.48 FEET;

THENCE S70°35'49"E, 3116.62 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF RIO BLANCO COUNTY ROAD NO. 10, SAID POINT BEING THE TRUE POINT OF BEGINNING OF SAID PARCEL;

THENCE S74°40'58"E, 336.01 FEET;

THENCE S38°04'34"E, 190.81 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF RIO BLANCO COUNTY ROAD NO. 10;

THENCE S27°43'32"W, 60.00 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF RIO BLANCO COUNTY ROAD NO. 10;

THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, N62°16'28"W, 138.21 FEET;

THENCE N74°54'05"W, 67.53 FEET;

THENCE N61°50'10"W, 257.20 FEET;

THENCE N25°42'47"W, 31.12 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF RIO BLANCO COUNTY ROAD NO. 10;

THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, N61°20'34"W, 16.89 FEET;

THENCE N28°39'26"E, 60.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 1.26 ACRES MORE OR LESS OF WHICH 0.69 ACRES IS LOCATED WITHIN THE EXISTING PRESCRIPTIVE RIGHT-OF-WAY FOR RIO BLANCO COUNTY ROAD 10.

JSC, INC.
P.O. BOX 1153
MEEKER, CO 81641

PH- 970-878-5292

FAX- 970-878-5392

EXHIBIT B, PARCEL TE-1

TEMPORARY EASEMENT DESCRIPTION
NORTH OF ROAD

A TEMPORARY EASEMENT LYING IN SECTION 36, T1S, R91W OF THE 6TH P.M., RIO BLANCO COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST ONE-QUARTER CORNER (1979 BLM BRASS CAP) OF SAID SECTION 36, WHENCE THE SOUTHEAST SECTION CORNER (1978 BLM BRASS CAP) OF SAID SECTION 36 BEARS S62°05'04"E, 5851.48 FEET;

THENCE S70°47'23"E, 3053.57 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF RIO BLANCO COUNTY ROAD NO. 10, SAID POINT BEING THE TRUE POINT OF BEGINNING OF SAID EASEMENT;

THENCE N28°39'26"E, 10.00 FEET;

THENCE S61°20'34"E, 62.73 FEET;

THENCE S74°40'58"E, 338.15 FEET;

THENCE S38°04'34"E, 191.97 FEET;

THENCE S62°16'28"E, 73.43 FEET;

THENCE S27°43'32"W, 10.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF SAID COUNTY ROAD NO. 10;

THENCE N62°16'28"W, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 75.57 FEET;

THENCE N38°04'34"W, 190.81 FEET;

THENCE N74°40'58"W, 336.01 FEET TO A POINT ON SAID NORTHERLY RIGHT-OF-WAY LINE;

THENCE N61°20'34"W, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 63.90 FEET TO THE TRUE POINT OF BEGINNING. CONTAINING 0.15 ACRES MORE OR LESS.

JSC, INC.
P.O. BOX 1153
MEEKER, CO 81641

PH- 970-878-5292

FAX- 970-878-5392

EXHIBIT B, PARCEL TE-1A
TEMPORARY EASEMENT DESCRIPTION
SOUTH OF ROAD

A TEMPORARY EASEMENT LYING IN SECTION 36, T1S, R91W OF THE 6TH P.M., RIO BLANCO COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST ONE-QUARTER CORNER (1979 BLM BRASS CAP) OF SAID SECTION 36, WHENCE THE SOUTHEAST SECTION CORNER (1978 BLM BRASS CAP) OF SAID SECTION 36 BEARS S62°05'04"E, 5851.48 FEET;

THENCE S69°04'33"E, 3044.30 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF RIO BLANCO COUNTY ROAD NO. 10, SAID POINT BEING THE TRUE POINT OF BEGINNING OF SAID EASEMENT;

THENCE S61°20'34"E, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, 80.79 FEET;

THENCE S25°42'47"E, 31.12 FEET;

THENCE S61°50'10"E, 257.20 FEET;

THENCE S74°54'05"E, 67.53 FEET TO SAID SOUTHERLY RIGHT-OF-WAY LINE;

THENCE S62°16'28"E, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, 213.78 FEET;

THENCE S27°43'32"W, 10.00 FEET;

THENCE N62°16'28"W, 212.68 FEET;

THENCE N74°54'05"W, 67.57 FEET;

THENCE N61°50'10"W, 261.60 FEET;

THENCE N25°42'47"W, 31.17 FEET;

THENCE N61°20'34"W, 77.58 FEET;

THENCE N28°39'26"E, 10.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 0.15 ACRES MORE OR LESS.