

BoCC

Chuck Broerman

El Paso County, CO

03/05/2020 01:15:13 PM

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220032275

RESOLUTION NO. 20-96

BOARD OF COUNTY COMMISSIONERS  
COUNTY OF EL PASO, STATE OF COLORADO

**RESOLUTION TO APPROVE A MEMORANDUM OF AGREEMENT AND TO  
APPROVE AND ACCEPT A NON-EXCLUSIVE PERMANENT EASEMENT (PE-  
8) AND APPROVE AND ACCEPT A REAL PROPERTY DONATION  
ASSOCIATED WITH THE MCLAUGHLIN ROAD AND OLD MERIDIAN ROAD  
IMPROVEMENT PROJECT**

WHEREAS, pursuant to C.R.S. §§ 30-11-101(1)(c)-(d), 30-11-102, 30-11-103, and 30-11-107(1)(a), the Board of County Commissioners of El Paso County, Colorado (hereinafter "Board") has the legislative authority to purchase and hold real and personal property for the use of the County when deemed by the Board to be in the best interests of the County; and

WHEREAS, the County wishes to construct a Pikes Peak Rural Transportation Authority (hereinafter "PPRTA") approved project known as McLaughlin Road and Old Meridian Road Improvement Project and as part of that project, the Department of Public Works (hereinafter "DPW") has identified a need to enter into a Memorandum of Agreement to memorialize the agreement and to obtain a Non-Exclusive Permanent Easement (PE-8), copies of which are attached hereto respectively as Exhibits 1 and 2, incorporated herein by reference, from property owned by Tamlin Ventures, LLC, a Colorado limited liability company (hereinafter "Grantor") for the McLaughlin Road and Old Meridian Road Improvement Project, to include construction, drainage, slope, maintenance, repair, replacement, operation, ingress, and egress; and

WHEREAS, Grantor agrees to convey, grant, and donate to El Paso County, the Non-Exclusive Permanent Easement (PE-8) by way of a Real Property Donation Form, a copy of which is attached hereto as Exhibit 3; and

WHEREAS, the Board has determined that it would serve the best interests of the public to approve the Memorandum of Agreement and to approve and accept the Non-Exclusive Permanent Easement and the Real Property Donation, to effectuate the hereinabove described transaction for purposes which include, but are not limited to, construction, drainage, slope, maintenance, repair, replacement, operation, ingress, and egress, related to the McLaughlin Road and Old Meridian Road Improvement Project.

NOW THEREFORE, BE IT RESOLVED, that the Board of County Commissioners hereby approves the Memorandum of Agreement and hereby approves the Non-Exclusive Permanent Easement (PE-8) and approves and accepts the Real Property Donation from Grantor subject to the terms and conditions cited therein.

BE IT FURTHER RESOLVED, that Mark Waller, duly elected, qualified member and Chair of the Board of County Commissioners, or Longinos Gonzalez, Jr., duly elected, qualified member and Vice Chair of the Board of County Commissioners, be and is hereby authorized and appointed on behalf of the Board to execute any and all documents necessary to carry out the intent of the Board as described herein.

Page 2

DONE THIS 5th day of March, 2020, at Colorado Springs, Colorado.

ATTEST:

By: \_\_\_\_\_

Chuck Broerman  
El Paso County Clerk and Recorder



BOARD OF COUNTY COMMISSIONERS  
EL PASO COUNTY, COLORADO

By: \_\_\_\_\_

Mark Waller, Chair

A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a series of loops and a long horizontal stroke.

<b>El Paso County Department of Public Works</b> <b>MEMORANDUM OF AGREEMENT</b>	Project: McLaughlin and Old Meridian Roundabout	
	Location: Part of Tract T Falcon Highlands No. 2	
	Parcel #: PE-8	
	County : El Paso	

This Agreement made on \_\_\_\_\_, 20\_\_\_\_ (date) is between El Paso County, by and through the Board of County Commissioners of El Paso County, Colorado (GRANTEE), for the purchase of the parcel(s) listed above from the Owner, Tamlin Ventures LLC, a Colorado limited liability company (GRANTOR).

Just compensation was determined in accordance with Colorado state laws and regulations. The amount of money and/or compensation listed below is full consideration for the following land, easements, improvements, claims, and damages of any kind.

Land	sq ft <input type="checkbox"/> /acres <input type="checkbox"/>	\$0.00
Non-Exclusive Permanent Easements (described in attached exhibits A & B)	3,840 sq ft <input checked="" type="checkbox"/> /acres <input type="checkbox"/>	\$0.00
Temporary Easements	sq ft <input type="checkbox"/> /acres <input type="checkbox"/>	\$0.00
Non-Exclusive Permanent Utility Easement	sq ft <input type="checkbox"/> /acres <input type="checkbox"/>	\$0.00
Improvements		\$0.00
Damages		\$0.00
	Gross Total	\$0.00
	Less Credit	\$0.00
	Net Total	Donation

Other conditions:

Notwithstanding anything to the contrary herein, the Agreement is contingent upon the El Paso County Board of County Commissioner's (hereinafter "Board") consideration and approval, and the GRANTEE will only make payment after receiving an acceptable conveyance instrument from the GRANTOR as indicated below and after formal approval by the Board.

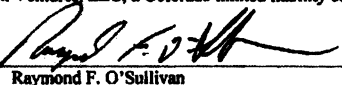
The GRANTOR and GRANTEE agree that:

- there are no promises, terms, conditions, or obligations other than those listed on this Agreement.
- this Agreement is binding on both the GRANTOR and GRANTEE and their heirs, devisees, executors, administrators, legal representatives, successors, assigns, and designees.
- the compensation shown on this Agreement is for the applicable fee simple estate, permanent easement interest(s), or temporary easement interest(s) of the parcels described and any claims and/or damages of any kind, unless otherwise indicated.
- this Agreement is expressly subject to the execution of releases or subordinations pertaining to any interests relating to the property.
- failure of the GRANTOR to secure release or subordination of all outstanding interests in the Property to the GRANTEE'S satisfaction prior to closing may, at GRANTEE'S sole option, render this Contract null and void.
- GRANTEE may elect to waive GRANTOR'S requirement to obtain release, partial release, or subordination of any lien(s) or mortgage interest(s) in the Property, and will notify GRANTOR in writing of said waiver. Waiver of such by GRANTEE shall not absolve GRANTOR of GRANTOR'S obligations to lienholder(s), including, but not limited to, any requirements under a Due on Sale provision.
- agree that the closing date may be extended at the GRANTEE'S sole option to resolve any matter necessary to obtaining merchantable title to the Property.
- this Agreement shall be deemed a contract binding upon the GRANTEE and GRANTOR and the GRANTOR'S successors, assigns, designees, heirs, devisees, executors, administrators, and legal representatives.

The GRANTOR:

- will at the closing pay all taxes (including prorated taxes for the current year) and special assessments for the current year.
- understands, acknowledges and agrees that the beneficiaries of any unpaid mortgage(s), deed(s) of trust, taxes and/or other financial indebtedness secured by the GRANTOR'S Property may claim all or any portion of the compensation paid pursuant to this Agreement.
- has entered into this Agreement only because the GRANTEE has the power of eminent domain and requires the property for public purposes.
- will execute and deliver to GRANTEE those documents indicated below.
- hereby agrees to provide merchantable title to the Property.
- agrees to take all required actions and execute all documents necessary to secure releases or subordinations of any outstanding liens, leases, mortgages, or other encumbrances against, or affecting, the Property by all outstanding lienors, lessees, mortgagees, or any others with legal or equitable interests.
- agrees that the GRANTEE will be entitled to specific performance of this Agreement.
- agrees that the GRANTEE shall be entitled to take immediate possession of the Property upon the signing of this Agreement by the Parties and tender of payment either (a) directly to the GRANTOR, or (b) by depositing the agreed upon compensation into escrow with the GRANTEE'S closing agent unless other specific arrangements are agreed to by the Parties. This grant of possession of the Property to the GRANTEE shall serve as an irrevocable license to occupy and use said Property for the purposes of the Project until the GRANTOR executes and delivers to the County the necessary documents as stated below, and until the beneficiaries of any unpaid mortgage(s), deed(s) of trust or other financial indebtedness secured by the Owner's Property execute any and all required releases or subordinations, including, but not limited to, Requests for Partial Releases.

Initialed \_\_\_\_\_

Project No.: 279134		Parcel No.: PE-8	
<p><b>The GRANTEE:</b></p> <p>-will be entitled to specific performance of this Agreement upon tender of the agreed consideration.</p> <p>-will be held harmless from any claims against the property or to any interest in the property, except for any benefits due under relocation law.</p> <p>-will prepare the following documents:</p>			
<input type="checkbox"/> Special Warranty Deed <input type="checkbox"/> w/Min Resv. <input type="checkbox"/> Access Deed <input type="checkbox"/> Full Release(s)    Book/Page/Reception # <input type="checkbox"/> Partial Release(s)    Book/Page/Reception # <input checked="" type="checkbox"/> Other (specify): Any applicable document(s) required by the closing agent and/or GRANTEE to facilitate closing <input type="checkbox"/> Title Company to prepare documents except		<input type="checkbox"/> Non-Exclusive Permanent Utility Easement <input checked="" type="checkbox"/> Non-Exclusive Permanent Easement <input type="checkbox"/> Slope Easement <input type="checkbox"/> Temporary Easement	
Order Check \$: N/A - Donation		Payable to: N/A	
<p>El Paso County, by and through the Board of County Commissioners of El Paso County, Colorado</p> <p style="text-align: center;">ATTEST:</p> <p>_____ Mark Waller, Chair      County Clerk and Recorder</p> <p>Reference: BoCC resolution # _____</p>		<p>Tamlin Ventures, LLC, a Colorado limited liability company</p> <p>By:  Raymond F. O'Sullivan</p> <p>Title: Manager</p>	

**EXHIBIT A**

EL PASO COUNTY PROJECT NUMBER 279134

**NON-EXCLUSIVE PERMANENT EASEMENT PE-8**

IN THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 13 SOUTH, RANGE 65 WEST  
OF THE 6th P.M. EL PASO COUNTY, COLORADO

**PERMANENT EASEMENT DESCRIPTION**

A STRIP OF LAND LOCATED IN TRACT T OF FALCON HIGHLANDS FILING NO. 2, A SUBDIVISION RECORDED AT RECEPTION NUMBER 206712369 OF THE RECORDS OF EL PASO COUNTY, COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHERLY CORNER OF SAID TRACT T, FROM WHICH THE SOUTHEAST CORNER OF SECTION 12, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6<sup>TH</sup> P.M. BEARS S28°56'12"E, 3,299.27 FEET, THENCE SOUTHERLY, 261.37 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE EAST AND ALONG THE EASTERLY LINE OF SAID TRACT T TO THE POINT OF BEGINNING, SAID ARC HAVING A RADIUS OF 1,505.00 FEET, A CENTRAL ANGLE OF 9°57'02" AND BEING SUBTENDED BY A CHORD THAT BEARS S8°38'06"E, 261.04 FEET;

THENCE CONTINUING SOUTHERLY, 21.44 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE EAST AND ALONG THE EASTERLY LINE OF SAID TRACT T, SAID ARC HAVING A RADIUS OF 1,505.00 FEET, A CENTRAL ANGLE OF 0°48'58" AND BEING SUBTENDED BY A CHORD THAT BEARS S14°01'06"E, 21.44 FEET;

THENCE S54°52'07"W, 188.18 FEET;

THENCE N35°07'53"W, 20.00 FEET;

THENCE N54°52'07"E, 195.90 FEET TO THE POINT OF BEGINNING.

AREA = 3,840 SQ.FT. OR (0.088 ACRES), MORE OR LESS.

BEARINGS ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6<sup>TH</sup> P.M., AS BEARING N89°15'30"W, 2,655.39 FEET. THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER BEING IDENTIFIED BY A 3-1/4 INCH ALUMINUM CAP PROPERLY STAMPED AND MARKED "EL PASO COUNTY DPW, PLS 17496" AND THE SOUTH QUARTER CORNER BEING IDENTIFIED BY A 3-1/4 INCH ALUMINUM CAP PROPERLY STAMPED AND MARKED "SURVCO INC., PLS 30829".



Richard E. Mariotti  
Colorado Professional  
Land Surveyor No. 22573

Revised: 7-16-18

04/12/18, PREPARED BY: RICHARD E. MARIOTTI  
3275 AKERS DR., COLORADO SPRINGS, CO 80922

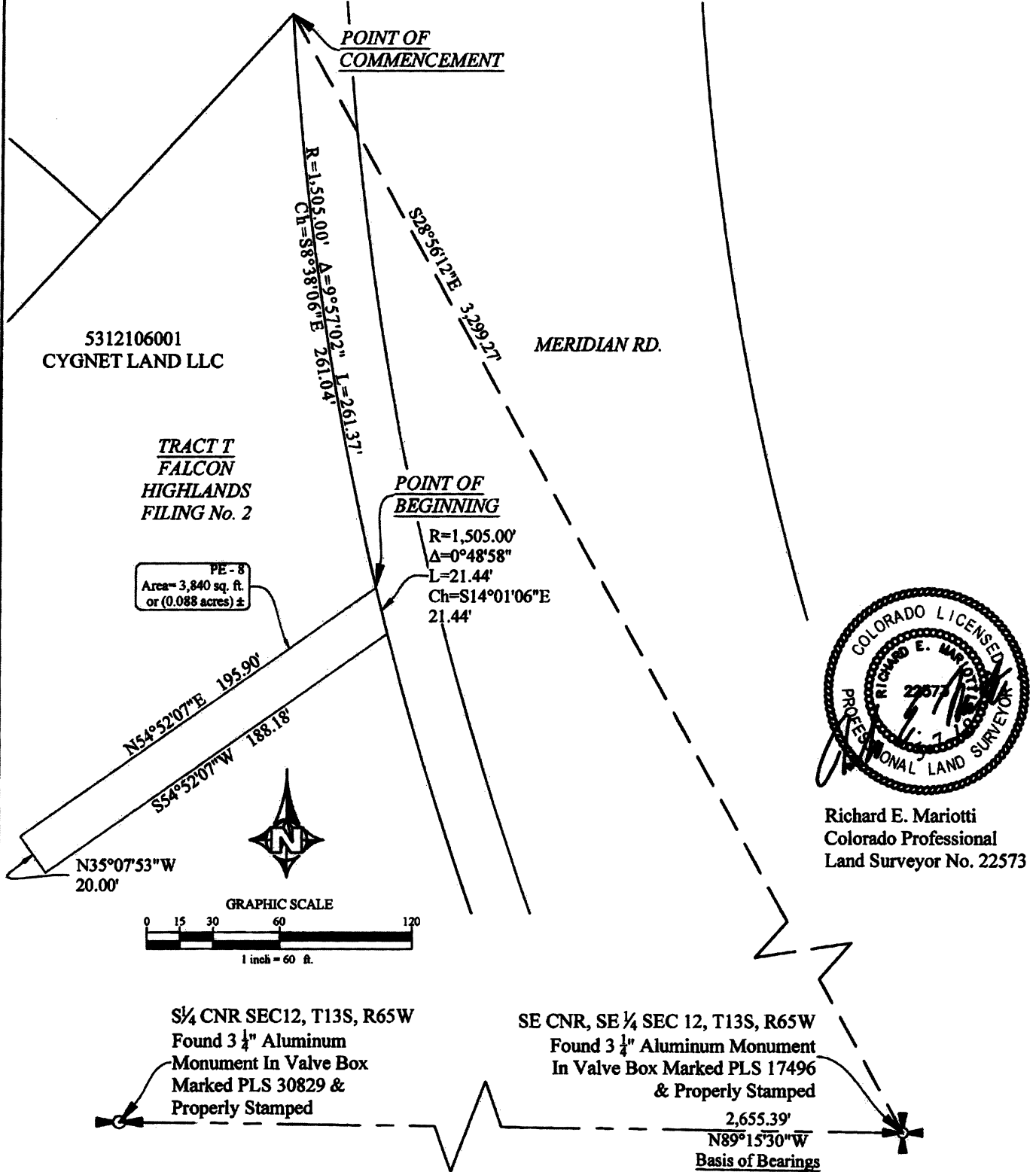
EL PASO COUNTY  
DEPARTMENT OF PUBLIC WORKS

**EXHIBIT B**

EL PASO COUNTY PROJECT NUMBER 279134

**NON-EXCLUSIVE PERMANENT EASEMENT PE-8**

IN THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 13 SOUTH, RANGE 65 WEST  
OF THE 6th P.M. EL PASO COUNTY, COLORADO



Revised: 7-16-18

SCALE: 1"=60' DATE: 04/12/18  
PREPARED BY: REM

EL PASO COUNTY  
DEPARTMENT OF PUBLIC WORKS

**NON-EXCLUSIVE PERMANENT EASEMENT  
PE-8**

THIS NON-EXCLUSIVE PERMANENT EASEMENT AGREEMENT ("AGREEMENT") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2020, between **TAMLIN VENTURES, LLC, A COLORADO LIMITED LIABILITY COMPANY**, whose mailing address is 1619 South Tejon Street, Colorado Springs, Colorado 80905, (hereinafter "Grantor(s)"), for and in consideration of the sum of TEN DOLLARS and No Cents (\$10.00), and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, in hand paid by **EL PASO COUNTY BY AND THROUGH THE BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO**, whose address is 200 S. Cascade Avenue, Colorado Springs, Colorado 80903 (hereinafter "Grantee"), (have/has) given and granted and by these presents (do/does) hereby give and grant unto the said Grantee, its heirs, successors or assigns a NON-EXCLUSIVE PERMANENT EASEMENT only along, over and across the following described premises:

See attached Exhibit A, Land Description  
Exhibit B, Sketch

This non-exclusive permanent easement is for the following purposes, which include, but are not limited to: construction, drainage, slope, maintenance, repair, replacement, operation, ingress and egress.

Grantor(s) shall not construct improvements in the easement area that would unreasonably interfere with the Grantee's use of the easement area. No trees or shrubs that will impair the structural integrity of the drainage facility shall be planted or allowed to grow in this area and may be removed by the Grantee.

That portion of the easement that pertains to slope control is subject to the following conditions: at no time hereafter shall the Grantor(s), or anyone claiming by, through, or under the Grantor, perform any act or thing which is or may be detrimental to, or have any adverse effect upon the stability of said excavated slopes or embankment, or which shall interfere with the flow of drainage.

Grantor(s) hereby covenants with the Grantee that they have good title to the aforescribed premises, that they have good and lawful right to grant this easement, that they will warrant and defend the title and quiet possession thereof against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the Grantor (have/has) executed this Non-Exclusive Permanent Easement.

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Signature Page Follows

**NON-EXCLUSIVE PERMANENT EASEMENT  
PE-8**

GRANTOR:

Tamlin Ventures, LLC, a Colorado limited liability company

By: [Signature]  
Raymond F. O'Sullivan

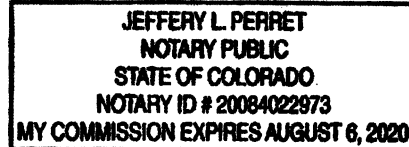
Title: Manager

State of Colorado )  
County of El Paso ) ss

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of January, 2020, by Raymond F. O'Sullivan as Manager for Tamlin Ventures, LLC, a Colorado limited liability company.

Witness my hand and official seal.

[Signature]  
Notary Public



My commission expires: 08-06-2020

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

By: \_\_\_\_\_  
County Clerk and Recorder

By: \_\_\_\_\_

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by Mark Waller as Chair of the Board of County Commissioners of El Paso County, Colorado.

Witness my hand and official seal.

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

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



**EXHIBIT A**  
**EL PASO COUNTY PROJECT NUMBER 279134**  
**NON-EXCLUSIVE PERMANENT EASEMENT PE-8**  
**IN THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 13 SOUTH, RANGE 65 WEST**  
**OF THE 6th P.M. EL PASO COUNTY, COLORADO**

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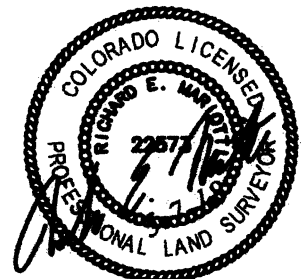
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**THENCE N35°07'53"W, 20.00 FEET;**

**THENCE N54°52'07"E, 195.90 FEET TO THE POINT OF BEGINNING.**

**AREA = 3,840 SQ.FT. OR (0.088 ACRES), MORE OR LESS.**

**BEARINGS ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6<sup>TH</sup> P.M., AS BEARING N89°15'30"W, 2,655.39 FEET. THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER BEING IDENTIFIED BY A 3-1/4 INCH ALUMINUM CAP PROPERLY STAMPED AND MARKED "EL PASO COUNTY DPW, PLS 17496" AND THE SOUTH QUARTER CORNER BEING IDENTIFIED BY A 3-1/4 INCH ALUMINUM CAP PROPERLY STAMPED AND MARKED "SURVCO INC., PLS 30829".**



**Richard E. Mariotti**  
**Colorado Professional**  
**Land Surveyor No. 22573**

**Revised: 7-16-18**

**04/12/18, PREPARED BY: RICHARD E. MARIOTTI**  
**3275 AKERS DR., COLORADO SPRINGS, CO 80922**

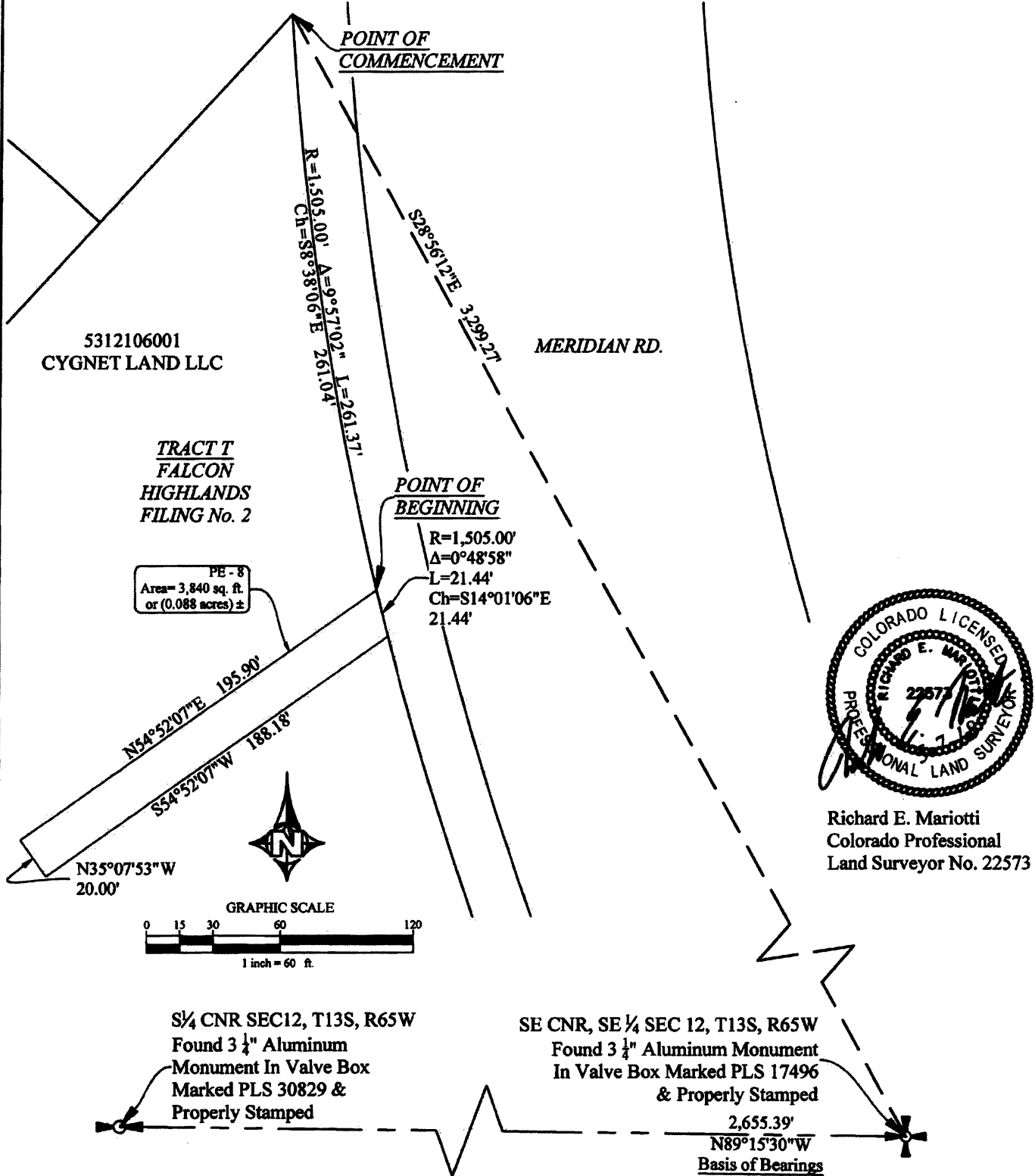
**EL PASO COUNTY**  
**DEPARTMENT OF PUBLIC WORKS**

# EXHIBIT B

EL PASO COUNTY PROJECT NUMBER 279134

## NON-EXCLUSIVE PERMANENT EASEMENT PE-8

IN THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 13 SOUTH, RANGE 65 WEST  
OF THE 6th P.M. EL PASO COUNTY, COLORADO



Revised: 7-16-18

SCALE: 1"=60' DATE: 04/12/18  
PREPARED BY: REM

EL PASO COUNTY  
DEPARTMENT OF PUBLIC WORKS

## REAL PROPERTY DONATION

**Project:** McLaughlin/Old Meridian Roundabout  
**Location:** Part of Tract T, Falcon Highlands Filing No. 2  
**Parcel:** PE-8  
**Owner:** Tamlin Ventures, LLC, a Colorado limited liability company

Property owners whose real property is needed for a public improvements project may donate all or any part of the property to the County of El Paso, of the State of Colorado (the County) or may donate (waive receipt of) all or any portion of just compensation due the owner for the property required for the project.

Where the property owner wishes to use the donation for a tax deduction, the owner should seek advice from the Internal Revenue Service or a tax expert regarding the current rules for valuation. It is the property owner's responsibility to ascertain the fair market value of the property for tax purposes.

If the property is contaminated, the costs to clean up such contamination will not exceed the value of the property.

Donation of parcel PE-8 more particularly described and depicted in Exhibits "A" and "B" attached hereto and incorporated herein, to El Paso, by and through the Board of County Commissioners of El Paso County, Colorado, is made voluntarily and with full knowledge of the right to receive just compensation.

The undersigned hereby releases the County from obtaining an appraisal of the acquired property and waives the right to receive just compensation for the property. The undersigned hereby agrees to execute the necessary conveyance instruments to transfer said property free and clear of all liens and encumbrances.

**OWNER: TAMLIN VENTURES, LLC, a Colorado limited liability company**

By: \_\_\_\_\_

Raymond F. O'Sullivan

Date: \_\_\_\_\_

1-23-2020

Title: Manager

### ACCEPTED:

**El Paso, by and through the Board of County Commissioners of El Paso County, Colorado**

By: \_\_\_\_\_

Mark Waller, Chair

Date: \_\_\_\_\_

### ATTEST:

By: \_\_\_\_\_

County Clerk & Recorder

Attachments: Exhibits A and B

**EXHIBIT A**

EL PASO COUNTY PROJECT NUMBER 279134

**NON-EXCLUSIVE PERMANENT EASEMENT PE-8**

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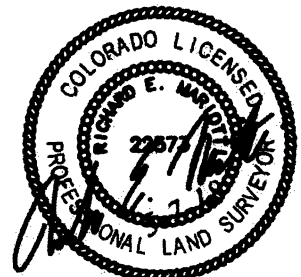
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Richard E. Mariotti  
Colorado Professional  
Land Surveyor No. 22573

*Revised: 7-16-18*

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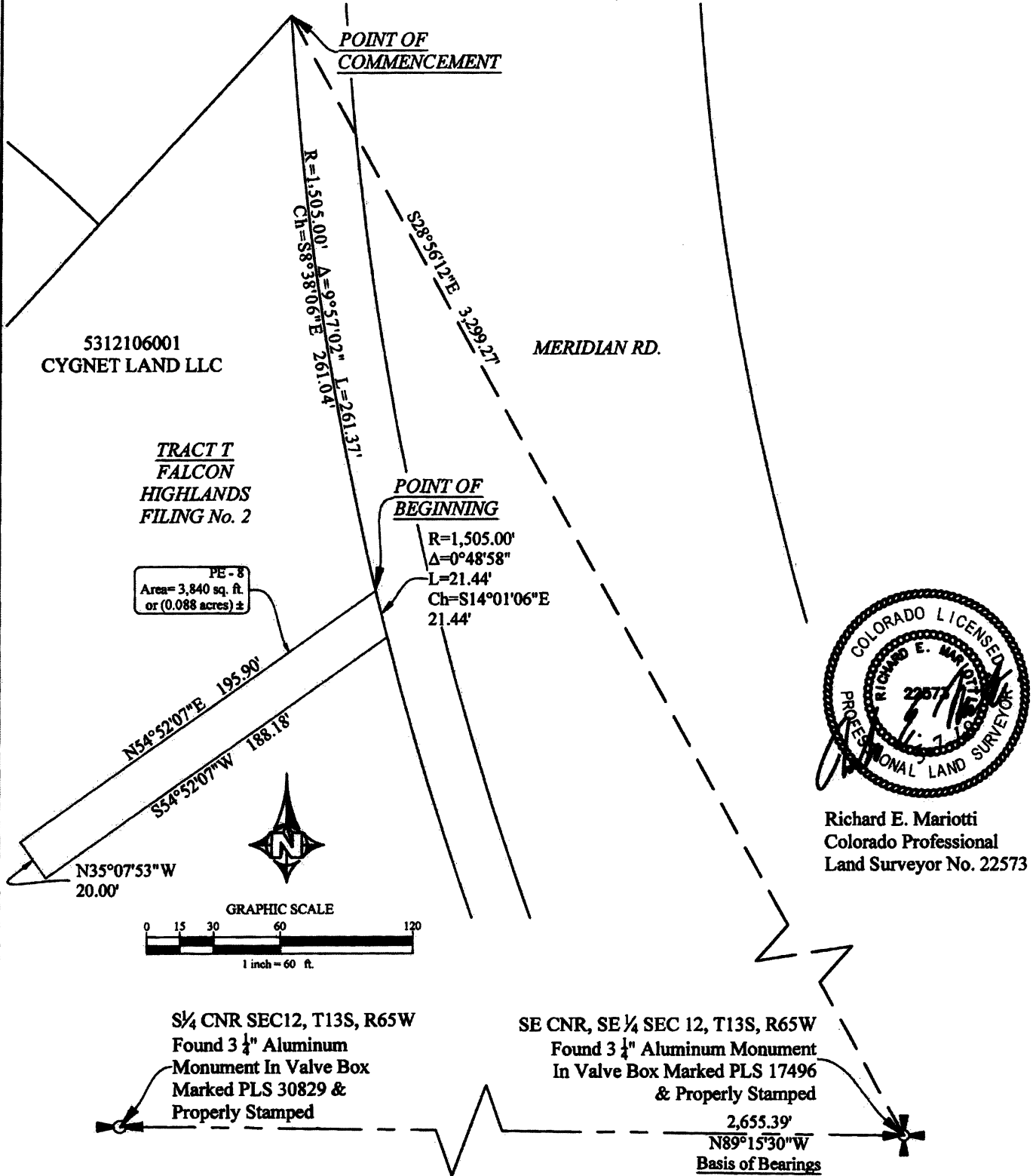
EL PASO COUNTY  
DEPARTMENT OF PUBLIC WORKS

**EXHIBIT B**

EL PASO COUNTY PROJECT NUMBER 279134

**NON-EXCLUSIVE PERMANENT EASEMENT PE-8**

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