



**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF
SAN MIGUEL COUNTY, COLORADO
AMENDING AND RESTATING RESOLUTION #2003-30B
APPROVING A SUBDIVISION EXEMPTION FOR AN EMPLOYEE HOUSING
PARCEL FOR IDARADO MINING COMPANY AND IDARADO LEGACY, LLC**

Resolution # 2004-5

WHEREAS, the Board of Commissioners of San Miguel County, Colorado, ("BOCC"), pursuant to Resolution #2003-23, and the San Miguel County Land Use Code ("LUC"), considered the application of Idarado Mining Company and Idarado Legacy, LLC (collectively "Idarado"), for approval of a subdivision exemption to create an employee housing parcel, along with relevant documentary evidence and testimony from Idarado, its consultants, and the public, at a duly noticed public hearing on August 27, 2003; and

WHEREAS, Idarado, in preparing a final plat for the Subdivision Exemption Plat ("Final Record Plat") and other related documentation for BOCC review, has requested that the BOCC consider certain specific amendments to the terms and conditions of approval set forth in Resolution #2003-30B enlarging the timeframes within which the County may review documents submitted by Idarado to the County pursuant to Resolution #2003-30B and modifying Attachment I and Attachment II; and

WHEREAS, the BOCC does hereby find and determine that the public health, safety, and welfare would significantly benefit from the creation of the Subdivision Exemption For Employee Housing Parcel, subject to Idarado's satisfactory compliance with certain specific conditions set forth herein below; and

WHEREAS, based upon competent evidence and testimony received in the record at the August 27, 2003 public hearing on Idarado's application and on February 9, 2004 public meeting to consider the amendments to Resolution #2003-30B, the BOCC does hereby find and determine as follows:

1. The BOCC authorized Idarado to submit an application for a Subdivision Exemption For Employee Housing Parcel. This process was authorized by Resolution of the BOCC, #2003-23, relying upon the authority of the BOCC established by Section 30-28-101(10)(c)(X)(d), C.R.S. ("Subdivision Exemption Statute");
2. Although Idarado is not obligated to provide employee housing mitigation in connection for its request to develop its 37 Valley Lots (reviewed and approved by the BOCC under separate Resolution) Idarado has offered to donate a one-acre parcel ("Employee Housing Parcel") adjacent to the Gold Run Mill ruins to San Miguel County to own and develop as employee housing;
3. The proposed Employee Housing Parcel may be created out of an existing parcel, that the creation of the Employee Housing Parcel may be considered under the Subdivision Exemption Statute and Land Use Code Section 5-1204, as a subdivision exemption for "Parcels for Essential Community Facilities;" and

4. With the approval of this Subdivision Exemption, the County will be able to advance important county goals, objectives and policies promoting the creation of employee housing opportunities.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

- A. The BOCC hereby unanimously approves Idarado's Application seeking approval of the Subdivision Exemption For Employee Housing Parcel, which was reviewed by the County pursuant to the processes established by the BOCC Resolution #2003-23, the Subdivision Exemption Statute and the LUC Section 5-1204, subject to Idarado's compliance with the following terms and conditions to the reasonable satisfaction of the BOCC:
 1. Idarado prepares, executes and records an appropriate exemption plat for the Employee Housing Parcel.
 2. Idarado agrees to undertake necessary remediation of the soils and structural remnants found on the Employee Housing Parcel being conveyed to the County within 270 days of final approval, weather permitting. Once remediated, Idarado will cause an updated soils report and environmental study to be prepared and delivered to the County. County shall have 90 days to review the report and undertake any additional studies, reviews or testing of the Employee Housing Parcel deemed appropriate by the County. Idarado shall place its executed deed conveying title to the Employee Housing Parcel into escrow, with provisions for the deed to be recorded upon conditions acceptable to Idarado and the County, including resolution of the contingencies established in the Idarado-TPL escrow agreement (see **Attachment I**) and acceptance by the County of the physical conditions present on the Employee Housing Parcel based upon testing required by this condition. At the written request of the County, the escrow agent shall record the deed at any time within 90 days of the date in which the escrow conditions have been met. Should the County fail to timely request recordation of the deed, unless the date for performance is extended by agreement of the County and Idarado, then the deed shall be released to Idarado and shall be destroyed and no longer be given any force or effect.
 3. Prior to recordation of the Subdivision Exemption Plat and Cluster Development Plan, Idarado and the County shall execute a Consent to Vacate document, which shall be substantially consistent with the provisions of the attached Summary of Terms of the Consent to Vacate which Consent shall be deposited into escrow in accordance with an escrow agreement between Idarado and the County consistent with the Consent to Vacate document (see **Attachment II**).
- B. All representations made by the applicant presented at the BOCC's August 27, 2003 public hearing on the Application, or included in the application documentation, as amended, shall be conditions of approval except to the extent that any such representations are inconsistent or in conflict with the terms and conditions of approval set forth in this resolution, in which case the specific terms and conditions set forth in this Resolution shall control.
- C. Resolution #2003-30B has been amended only for the purposes stated and shown in this Amended and Restated Resolution. This Amended and Restated Resolution, as it pertains to the specific amendments stated herein to Resolution #2003-30B, constitutes the final decision of the

BOCC regarding its approval of Idarado's Application for a Final Record Plat for purposes of Rule 106(a)(4), C.R.C.P.

DONE AND APPROVED by the Board of Commissioners, San Miguel County, Colorado, on February 10, 2004.

**SAN MIGUEL COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS**

By: *Vern Ebert*
Vern Ebert, Chair

Vote:	Elaine R.C. Fischer	<input checked="" type="radio"/> Aye	Nay	Abstain	Absent
	Vern Ebert	<input checked="" type="radio"/> Aye	Nay	Abstain	Absent
	Art Goodtimes	<input checked="" type="radio"/> Aye	Nay	Abstain	Absent

ATTEST:

By: *Maie A. Thomas*
Chief Deputy Clerk

[text/Idarado/cluster reso's/bocc.housing.parcel.amend.final]



ATTACHMENT I**SUMMARY OF IDARADO/TRUST FOR PUBLIC LAND (TPL) ESCROW TERMS**

Closing of the Option Agreements between Idarado and TPL shall be accomplished in accordance with an escrow agreement to be executed between TPL, Idarado and Security Title Guaranty Company, as Escrow Agent, which shall provide that those documents shall be released from escrow on the following terms and conditions:

1. Final approval by the BOCC of its Resolution #2004-4, amending and restating its Resolution #2003-30A, in a form acceptable to Idarado and Final approval by the BOCC of its Resolution #2004-5, amending and restating its Resolution #2003-30B, in a form acceptable to Idarado;
2. Recordation in the records of the San Miguel County Clerk and Recorder of Resolution #2004-4 and of Resolution #2004-5, the Final Record Plat and the Final Plat Documents;
3. Expiration of the time period for filing an initiative of referendum or appeal relating to the actions of the BOCC in connection with the approvals granted in Resolution #2004-4, Resolution #2004-5 the Final Record Plat and the Final Plat Documents, with no initiatives or referendums or appeals having been filed or threatened;
4. Issuance by the Colorado State Engineer's Office of permits for water wells that are exempt from priority administration pursuant to the provisions of sections 37-92-602(1)(b) and 37-92-602(3)(b)(II)(A), C.R.S., as the only well on a cluster development lot for each of the 37 Valley Lots and the Association Parcel shown on the Final Record Plat; and
5. Closing has also occurred under both Option Agreements, and Idarado and TPL are simultaneously instructing Escrow Agent to release the documents and funds under both Option Agreements.

In addition, TPL shall have the right to direct the Escrow Agent to return all of the documents deposited by Idarado in the escrow to Idarado, and to return any funds deposited by TPL in the escrow to TPL, if the United States Forest Service notifies TPL that the funds may no longer remain in the escrow. If the Escrow Agent has not received instructions to disburse the escrow by the date which is six (6) months from the date of Closing, then Escrow Agent shall return all of the documents deposited by Idarado in the escrow to Idarado, and any funds deposited by TPL in the escrow to TPL.

ATTACHMENT II**CONSENT TO VACATE**

THIS CONSENT TO VACATE ("Consent") is made as of the 10 day of February 2004, by and between **IDARADO MINING COMPANY**, a Delaware corporation ("IMC"), **IDARADO LEGACY, LLC**, a Colorado limited liability company ("ILLC", and IMC and ILLC are together referred to as "Idarado"), and **SAN MIGUEL COUNTY, COLORADO** (the "County"), acting by and through **THE BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY, COLORADO** ("BOCC").

Recitals

- A. Idarado on July 25, 2003, filed a Development Application (the "Application") with the BOCC, seeking approval of, among other things, a Subdivision Exemption Plat and Cluster Development Plan (the "Cluster Plan") affecting the property described on **Exhibit A** attached hereto and incorporated herein by this reference (the "Property").
- B. On August 27, 2003, the BOCC approved the Cluster Plan as described in the Application, pursuant to BOCC Resolutions #2003-30A and #2003-30B, adopted by the BOCC on September 19, 2004, as amended by BOCC Resolutions #2004-4 and #2004-5. Pursuant to those Resolutions, Idarado is proceeding to: (i) finalize and record the Cluster Plan in the records of the County Clerk and Recorder, (ii) execute a Donation Agreement with the County (the "Donation Agreement"), pursuant to which Idarado shall place a deed to the County in escrow with Security Title Guaranty Company (the "Escrow Agent") for the parcel of land shown on the Cluster Plan and defined in the Application as the "Employee Housing Parcel," (iii) place an easement to the County for a bus turnaround (the "Bus Turnaround Easement") in escrow with the Escrow Agent, and (iv) place a Modification to Public Easement Agreement ("Trail Modification") in escrow with the Escrow Agent.
- C. IMC owns certain other real property in the County, located in the high country above the Property, which is subject to an Option Agreement (San Miguel County) between IMC and The Trust for Public Land ("TPL"), dated as of March 1, 2002, and certain other real property commonly known as the Kentucky Place, which is subject to a second Option Agreement (Kentucky Placer) between IMC and TPL, dated as of August 27, 2003 (collectively, as amended, the "Option Agreements"). In connection with the approval by the BOCC of the Application, Idarado and the BOCC have agreed that, if certain conditions regarding the sales to TPL as contemplated by the Option Agreements do not occur, then (i) the approval set forth in Resolutions #2003-30A and #2003-30B, as amended by Resolutions # 2004-4 and #2004-5, and the Cluster Plan as recorded shall be automatically vacated, and (ii) the Donation Agreement shall be terminated, and the deed to the Employee Housing Parcel, the Bus Turnaround Easement and the Trail Modification shall each be returned by the Escrow Agent to ILLC, on the terms and conditions set forth herein.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Idarado and the County agree as follows:

1. Upon the recording of the Cluster Plan in the County records, Idarado may proceed to market the Property and to enter into sales contracts for the Valley Lots defined in the Application and contained within the Property. However, Idarado shall not close the sale or conveyance to any non-affiliated third party of any of the Valley Lots contained within the Property until the closing of the sales contemplated by the Option Agreements shall have occurred. Closing of such sales shall be evidenced by the recordation in the County records of a deed or deeds of the property covered by the Option Agreements to either The Trust for Public Land or its permitted assignee under the Option Agreements.
 2. In the event that such deeds have not been recorded in the County records on or before April 15, 2004 ("Plat Vacation Date") or such later date as agreed to in writing by the Parties as provided for below, then the Cluster Plan as recorded in the County records, and the approval of the Cluster Plan evidenced in Resolution #2003-30A and Resolution No. 2004-4, shall be automatically deemed to be vacated and of no further force or effect, and either Idarado or the County shall be entitled to instruct the Escrow Agent to record this Consent to evidence such vacation. Notwithstanding the foregoing, if Idarado notifies the County and the Escrow Agent hereunder on or prior to April 15, 2004, that the Option Agreements have been extended, then Idarado shall have the right, by written notice delivered to the County and the Escrow Agent, to extend the Plat Vacation Date to April 15, 2005.
 3. In the event that either of the Option Agreements is terminated prior to closing occurring thereunder, then upon such termination, the Cluster Plan as recorded in the County records, and the approval of the Cluster Plan evidenced in Resolution #2003-30A and Resolution No. 2004-4, shall be automatically deemed to be vacated and of no further force or effect, and either Idarado or the County shall be entitled to instruct the Escrow Agent to record this Consent to evidence such vacation. The party electing to record this Consent shall send a copy of the notice of such election to the other party, and the Escrow Agent shall send a copy of the recorded Consent to both parties after recordation thereof.
 4. In addition, in the event that the Cluster Plan is automatically vacated for any reason hereunder, Resolution #2003-30B and Resolution No. 2004-5 shall also be deemed to be vacated and of no further force or effect, and either Idarado or the County shall be entitled to instruct the Escrow Agent to record this Consent to evidence such vacation. The party electing to record this Consent shall send a copy of the notice of such election to the other party, and the Escrow Agent shall send a copy of the recorded Consent to both parties after recordation thereof. In such event: (i) the Donation Agreement shall be deemed to be terminated, and the Escrow Agent shall not record, and shall immediately return to ILLC, the deed to the Employee Housing Parcel; (ii) the Bus Turnaround Easement shall be
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deemed to be vacated and of no further force and effect, and the Escrow Agent shall not record, and shall immediately return to ILLC, the Bus Turnaround Easement; and (iii) the Trail Modification shall be deemed to be vacated and of no further force and effect, and the Escrow Agent shall not record, and shall immediately return to ILLC, the Trail Modification. The County shall not sell, assign transfer, or pledge any interest in the Donation Agreement, the Employee Housing Parcel, the Bus Turnaround Easement, or the Trail Modification, or enter into any contract, commitment or other agreement affecting the Employee Housing Parcel, the Bus Turnaround Easement, or the Trail Modification, during the period in which this Consent remains in effect.

5. Upon the occurrence of the closings contemplated by the Option Agreements, as evidenced by the recordation of the deeds described in Section 1 above, this Consent shall be deemed null and void and of no further force or effect, and Escrow Agent shall (i) destroy this Consent without recording it, (ii) deliver the Bus Turnaround Easement to the County, and (iii) proceed in accordance with the escrow instructions in the Donation Agreement concerning the deed to the Employee Housing Parcel.
6. Recordation of this Consent and vacation of the Cluster Plan and Resolutions #2003-30A, #2003-30B, #2004-4 and #2004-5 shall not affect any other permit or approval granted by the County to Idarado, or any other plat, survey or plan affecting the Property, except as specifically set forth herein.
7. The terms and conditions of this Consent shall be governed and construed under the laws of the State of Colorado.
8. The rights, duties, obligations, terms, conditions, covenants, restrictions and burdens of this Consent shall run with the Property and all parts thereof and interests therein and also shall be binding upon the parties hereto, their respective successors and assigns in ownership of said parts thereof and interests therein.
9. This Consent may not be modified or amended except in writing signed by all the parties hereto. In the event of litigation arising from a dispute under this Consent, the prevailing party shall be entitled to recover its costs and expenses, including reasonable attorney fees.
10. Time is of the essence in the performance of the obligations and requirements provided for herein.

IN WITNESS WHEREOF, this Consent has been duly executed by the parties as of the 10 day of February 2004.

IDARADO MINING COMPANY

By: _____
David A. Baker, President

IDARADO LEGACY, LLC

By: Idarado Mining Company, as its Manager

By: _____
David A. Baker, President

**SAN MIGUEL COUNTY, COLORADO, ACTING BY AND THROUGH
THE BOARD OF COUNTY COMMISSIONERS
OF SAN MIGUEL COUNTY, COLORADO**

By: _____
Its: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this 10 day of February 2004, by David A. Baker, as President of Idarado Mining Company, a Delaware corporation.

WITNESS my hand and official seal.
My commission expires: _____

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this 10 day of February, 2004, by David A. Baker, as President of Idarado Mining Company, a Delaware corporation, as the Manager of Idarado Legacy, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.
My commission expires: _____

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF SAN MIGUEL)

The foregoing instrument was acknowledged before me this 10 day of February 2004, by _____, as the Chair of the Board of County Commissioners of San Miguel County, Colorado.

WITNESS my hand and official seal.
My commission expires: _____

Notary Public

SECURITY TITLE GUARANTY COMPANY executes this Consent this ___ day of February, 2004, as the Escrow Agent acting pursuant to the terms hereof, and agrees to act as the Escrow Agent in accordance with the provisions hereof regarding the escrow (including without limitation the General Escrow Provisions contained in Exhibit B hereto), and with any supplemental written instructions received from the parties complying with those provisions.

SECURITY TITLE GUARANTY COMPANY

By: _____
Its: _____

Address of Escrow Agent for notice purposes:

Security Title Guaranty Company

EXHIBIT A
CONSENT TO VACATE
(LEGAL DESCRIPTION OF CLUSTER PLAN PROPERTY)

A portion of the Seattle Placer MS 14751, the St. James Placer MS 1034, the Fraction Placer MS 11929, the P&O Placer MS 2346, the Gold Run Placer MS 554, Upper San Miguel Mining District, and the Royer Creek Placer Townsite according to the plat recorded in Plat Book 28 at page 20, and the Fraction Placer Townsite according to the plat recorded in Plat Book 28 at page 14, further described as follows:

Beginning at the northeast corner of the Telluride Cemetery according to the document recorded in Book 11 at Page 583 from which HARN monument "Foley" bears S48°59'03"W, a distance of 594.50 feet;

Thence N75°08'15"W, along the northeasterly line of said Cemetery, a distance of 244.99 feet to the southeasterly corner of that tract of land described in Book 67 at Page 484;

Thence running along the boundary of said tract the next three (3) courses:

1) N02°43'59"W, a distance of 52.50 feet;

2) N75°08'15"W, a distance of 260.00 feet;

3) S68°09'31"W, a distance of 83.73 feet to a point on Line 1-4 of said St. James Placer;

Thence N20°22'52"E, along said Line 1-4, a distance of 169.75 feet to Corner 4 of said St. James Placer, said Corner 4 being the same point as Corner 1 of said Seattle Placer;

Thence N83°12'20"E, a distance of 1,657.04 feet to Corner 6 of said Seattle Placer;

Thence N09°02'00"W, a distance of 167.63 feet to Corner 5 of said Seattle Placer;

Thence S75°27'00"E, a distance of 586.62 feet to Corner 4 of said Seattle Placer;

Thence S18°26'05"W, a distance of 735.95 feet to Corner 3 of said Seattle Placer;

Thence S67°29'51"E, a distance of 236.88 feet to Corner 2 of said Seattle Placer, said Corner 2 being on Line 4-3 of said St. James Placer;

Thence S75°11'16"E, along said Line 4-3, a distance of 1,190.14 feet to a point on the northerly line of that tract of land described in Book 375 at Page 156;

Thence running along the boundary of said tract the next four (4) courses:

1) N89°58'59"W, a distance of 28.76 feet;

2) S00°01'01"W, a distance of 125.00 feet;

3) S89°58'59"E, a distance of 125.00 feet;

4) N00°01'01"E, a distance of 99.58 feet to a point on the southerly line of Lot 1, The Falls at Telluride, according to the plat recorded in Plat Book 1 at Pages 1403-1404;

Thence S75°11'16"E, along said southerly line, a distance of 54.95 feet to an angle point in the westerly line of Lot 2 of said Falls at Telluride;

Thence running southerly, along said westerly line, the next two (2) courses: 1) S02°44'06"W, a distance of 79.62 feet;

2) S17°03'19"W, a distance of 165.50 feet to the southwest corner of said Lot 2, said point being a point of non-tangent curvature;

Thence running easterly, along the southerly line of said Lot 2 the next four (4) courses:

1) along the arc of a 930.00 foot radius curve to the left, through a central angle of 02°06'50", an arc length of 34.31 feet, the chord of which bears S86°55'35"E, a distance of 34.31 feet;

2) S87°58'59"E, a distance of 110.87 feet to a point of curvature;

- 3) along the arc of a 365.00 foot radius curve to the right, through a central angle of $17^{\circ}00'00''$, an arc length of 108.30 feet;
- 4) $S70^{\circ}58'59''E$, a distance of 169.48 feet to a point on the easterly line of said Falls at Telluride also being the westerly line of said Royer Creek Placer Townsite;
- Thence $S20^{\circ}01'01''W$, along said westerly line, a distance of 35.88 feet to the centerline of the alley in Block B of said Royer Creek Placer Townsite;
- Thence $S75^{\circ}08'14''E$, along said centerline, a distance of 82.64 feet to the intersection of the southerly projection of the easterly line of Lot 16, Block B, of said Royer Creek Placer Township;
- Thence $N14^{\circ}51'46''E$, along said easterly line, a distance of 115.00 feet to the intersection of the northerly projection of said easterly line and the centerline of Marshall Avenue in said Royer Creek Placer Townsite;
- Thence $N75^{\circ}08'14''W$, along said centerline, a distance of 72.27 feet to a point on the easterly line of said Falls at Telluride;
- Thence running along the boundary of said Falls at Telluride the next four (4) courses:
- 1) $N20^{\circ}01'01''E$, a distance of 137.35 feet to Corner 3 of said St. James Placer;
 - 2) $S75^{\circ}08'14''E$, a distance of 9.93 feet;
 - 3) $N14^{\circ}51'46''E$, a distance of 148.20 feet;
 - 4) $S75^{\circ}08'14''E$, a distance of 370.48 feet to a point on Line 1-4 of said Fraction Placer;
- Thence $N19^{\circ}58'44''E$, a distance of 290.89 feet to Corner 4 of said Fraction Placer;
- Thence $S75^{\circ}01'10''E$, along Line 4-3 of said Fraction Placer, a distance of 344.79 feet to Corner 3 of said Fraction Placer, said Corner 3 being on Line 6-5 of said P & O Placer;
- Thence $N20^{\circ}00'15''E$, a distance of 428.53 feet to Corner 5 of said P & O Placer;
- Thence $S66^{\circ}35'30''E$, along line 5-4 of said P & O Placer, a distance of 1,203.50 feet;
- Thence $S23^{\circ}24'31''W$, a distance of 1,161.38 feet to the northerly line of that tract of land known as TT 1-4 Easement and described at Reception No. 338369;
- Thence running westerly along said northerly line the next fifteen (15) courses:
- 1) $S73^{\circ}54'03''W$, a distance of 204.99 feet to a #5 rebar with 2" aluminum cap marked LS 24299;
 - 2) $N50^{\circ}38'39''W$, a distance of 250.51 feet to a #5 rebar with 2" aluminum cap marked LS 24299;
 - 3) $S89^{\circ}46'02''W$, a distance of 248.72 feet to a #5 rebar with 2" aluminum cap marked LS 24299;
 - 4) $N33^{\circ}38'25''W$, a distance of 98.04 feet to a #5 rebar with 2" aluminum cap marked LS 24299;
 - 5) $N46^{\circ}33'50''W$, a distance of 142.57 feet to a #5 rebar with 2" aluminum cap marked LS 24299;
 - 6) $N76^{\circ}39'53''W$, a distance of 137.40 feet to a #5 rebar with 2" aluminum cap marked LS 24299;
 - 7) $S82^{\circ}16'08''W$, a distance of 182.36 feet to a #5 rebar with 2" aluminum cap marked LS 24299;
 - 8) $N84^{\circ}25'01''W$, a distance of 128.55 feet to a #5 rebar with 2" aluminum cap marked LS 24299;
 - 9) $S75^{\circ}41'01''W$, a distance of 201.80 feet to a #5 rebar with 2" aluminum cap marked LS 24299;
 - 10) $S62^{\circ}37'48''W$, a distance of 108.76 feet to a #5 rebar with 2" aluminum cap marked LS 24299;
 - 11) $S83^{\circ}30'18''W$, a distance of 207.02 feet to a #5 rebar with 2" aluminum cap marked LS 24299;
 - 12) $N77^{\circ}45'22''W$, a distance of 144.05 feet to a #5 rebar with 2" aluminum cap marked LS 24299;
 - 13) $N87^{\circ}46'42''W$, a distance of 192.23 feet to a #5 rebar with 2" aluminum cap marked LS 24299;

14) S66°42'21"W, a distance of 155.08 feet to a #5 rebar with 2" aluminum cap marked LS 24299;

15) S00°23'10"E, a distance of 262.36 feet to a #5 rebar with 2" aluminum cap marked LS 24299;

Thence N64°55'13"W, a distance of 371.45 feet;

Thence N62°17'17"W, a distance of 168.34 feet;

Thence N44°40'59"W, a distance of 164.88 feet;

Thence N39°41'25"W, a distance of 104.77 feet;

Thence N42°46'28"W, a distance of 319.80 feet;

Thence N26°58'45"W, a distance of 187.89 feet;

Thence N39°24'22"W, a distance of 169.77 feet;

Thence N55°02'06"W, a distance of 335.73 feet;

Thence N83°12'58"W, a distance of 481.46 feet;

Thence N03°03'00"E, a distance of 73.30 feet to a point of non-tangent curvature;

Thence westerly, along the arc of a 2,220.00 foot radius curve to the right, through a central angle of 04°44'16", an arc length of 183.57 feet, the chord of which bears N86°59'37"W, a distance of 183.52 feet;

Thence N84°37'29"W, a distance of 426.31 feet to a point of curvature;

Thence along the arc of a 3,020.00-foot radius curve to the right, through a central angle of 01°54'48", an arc length of 100.85 feet to a point of non-tangent curvature;

Thence westerly, along the arc of a 380.00 foot radius curve to the left, through a central angle of 06°04'45", an arc length of 40.32 feet, the chord of which bears N85°45'03"W, a distance of 40.30 feet;

Thence N88°50'49"W, a distance of 60.76 feet to a point of curvature;

Thence along the arc of a 1,480.00-foot radius curve to the left, through a central angle of 05°05'26", an arc length of 131.49 feet;

Thence S86°03'45"W, a distance of 106.26 feet to a point of curvature;

Thence along the arc of a 1,980.00-foot radius curve to the left, through a central angle of 03°07'13", an arc length of 107.83 feet;

Thence S82°56'32"W, a distance of 199.93 feet to a point of curvature;

Thence along the arc of a 2,220.00 foot radius curve to the right, through a central angle of 03°32'07", an arc length of 136.98 feet;

Thence S86°28'39"W, a distance of 25.12 feet;

Thence S03°31'21"E, a distance of 132.31 feet;

Thence S87°44'00"W, a distance of 284.67 feet to a point on the easterly line of East Telluride Addition to the Town of Telluride according to the plat recorded in the office of the Clerk and Recorder in Plat Book 28 at page 12;

Thence N15°02'54"E, along said easterly line, a distance of 240.17 feet to the southwest corner of that tract of land described in Book 133 at Page 300;

Thence running along the southerly line of said tract the next two (2) courses:

- 1) S75°08'14"E, a distance of 133.20 feet;
- 2) N85°34'12"E, a distance of 283.00 feet to the most southerly corner of that tract of land described in Book 103 at Page 333;

Thence N78°20'05"E, along the southerly line of said tract, a distance of 167.92 feet to a point on the southwesterly line of the Telluride Cemetery according the document recorded in Book 11 at Page 583;

Thence S75°08'09"E, along said southwesterly line, a distance of 38.00 feet to the southeast corner of said Telluride Cemetery;

Thence N20°22'44"E, along the southeasterly line of said Telluride Cemetery, a distance of 371.00 feet to the POINT OF BEGINNING.

AND LESS AND EXCEPT:

That tract of land being a part of the St. James Placer MS 1034 described in Book 81 at page 331, County of San Miguel, State of Colorado.

AND LESS AND EXCEPT:

Lots 21-24, Block B, of said Royer Creek Placer Townsite, together with the southerly one-half of vacated Marshall Avenue adjacent to said Lots and together with the northerly one-half of the vacated alley adjacent to said Lots.

The total area of this legal description is 119.05 acres, more or less.



Exhibit B
CONSENT TO VACATE
(TITLE COMPANY - GENERAL ESCROW PROVISIONS)

1. The Instructions may be supplemented, altered, amended, modified or revoked by writing only, signed by all of the parties hereto, and approved by the Escrow Agent, upon payment of all fees, costs and expenses incident thereto.
 2. No assignment, transfer, conveyance or hypothecation of any right, title or interest in and to the subject matter of this Escrow shall be binding upon the Escrow Agent unless written notice thereof shall be served upon the Escrow Agent and all fees, costs and expenses incident thereto shall have been paid and then only upon the Escrow Agent's assent thereto in writing.
 3. Any notice required or desired to be given by the Escrow Agent to any party to this Escrow may be given by mailing the same addressed to such party at the address given in the Escrow Agreement or the most recent address of such party shown on the records of the Escrow Agent, and notice shall for all purposes hereof be as effectual as though served upon such party in person at the time of depositing such notice in the mail.
 4. The Escrow Agent may receive any payment called for hereunder after the due date thereof unless subsequent to the due date of such payment and prior to the receipt thereof the Escrow Agent shall have been instructed in writing to refuse such payment.
 5. The Escrow Agent shall not be personally liable for any act it may do or omit to do hereunder as such agent, while acting in good faith and in the exercise of its own best judgment, and any act done or omitted by it pursuant to the advice of its own attorneys shall be conclusive evidence of such good faith.
 6. The Escrow Agent is hereby expressly authorized to disregard any and all notices or warnings given by any of the parties hereto, or by any other person, firm or corporation, excepting only orders or process of court, and is hereby expressly authorized to comply with and obey any and all process orders, judgments or decrees of any court, and in case the Escrow Agent obeys or complies with any such process, order, judgment or decree of any court it shall not be liable to any of the parties hereto or to any other person, firm or corporation by reason of such compliance, notwithstanding any such process, order, judgment or decree be subsequently reversed, modified, annulled, set aside or vacated, or found to have been issued or entered without jurisdiction.
 7. In consideration of the acceptance of this escrow by the Escrow Agent, the undersigned agree, jointly and severally, to the extent allowed by applicable law, for themselves, their heirs, legal representatives, successors and assigns, to pay the Escrow Agent its charges hereunder and to indemnify and hold it harmless as to any liability by it incurred to any other person, firm or corporation by reason of its having accepted the same or its carrying out any of the terms thereof, and to reimburse it for all its expenses, including, among other things, counsel fees and court costs incurred in connection herewith; and that the Escrow Agent shall have a first and prior lien upon all deposits made hereunder to secure the performance of said agreement of indemnity and payment of its charges and expenses, hereby expressly authorizing the Escrow Agent in the event payment is not received promptly from the undersigned to deduct such charges and expenses, without previous notice, from any funds deposited hereunder. Escrow fees or charges, as distinguished from other expenses hereunder, shall be as written above the Escrow Agent's signature at the time of the acceptance hereof.
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8. The Escrow Agent shall be under no duty or obligation to ascertain the identity, authority or rights of the parties executing or delivering or purporting to execute or deliver these instructions or any documents or papers or payments deposited or called for hereunder, and assumes no responsibility or liability for the validity or sufficiency of these instructions or any documents or papers or payments deposited or called for hereunder.
 9. The Escrow Agent shall not be liable for the outlawing of any rights under any statute of Limitations or by reason of laches in respect to the Instructions or any documents or papers deposited.
 10. In the event of any dispute between the parties hereto as to the facts of default, the validity or meaning of these instructions or any other fact or matter relating to the transaction between the parties, the Escrow Agent is instructed as follows:
 - (a) That it shall be under no obligation to act except under process or order of court, or until it has been adequately indemnified to its full satisfaction, and shall sustain no liability for its failure to act pending such process or court order or indemnification.
 - (b) That it may in its sole and absolute discretion, deposit the property described herein or so much thereof as remains in its hands with the then Clerk, or acting Clerk, of the District Court, State of Colorado in whose jurisdiction the subject property lies, and interplead the parties hereto, and upon so depositing such property and filing its complaint in interpleader it shall be relieved of all liability under the terms hereof as to the property so deposited, and furthermore, the parties hereto for themselves, their heirs, legal representatives, successors and assigns do hereby submit themselves to the jurisdiction of said court and do hereby appoint the then Clerk, or acting Clerk, of said court as their Agent for the service of all process in connection with such proceedings. The institution of any such interpleader action shall not impair the rights of the Escrow Agent under paragraph number 7 above.
 11. If the Subject matter of this escrow consists in whole or in part of funds, the same shall not be commingled by the Escrow Agent with its own funds; provided, however, that anything contained in the Escrow Agreement of which these General Provisions are made a part to the contrary notwithstanding, the Escrow Agent shall **NOT BE REQUIRED TO DEPOSIT THE SAME IN ANY INTEREST BEARING OR INCOME PRODUCING ACCOUNT, AND SHALL NOT IN ANY WAY BE LIABLE TO ANY OF THE OTHER PARTIES TO THE ESCROW AGREEMENT FOR THE PAYMENT OF INTEREST UPON SAID FUNDS FOR THE PERIOD DURING WHICH THEY ARE HELD BY THE ESCROW AGENT.** It is intended that the provisions hereof shall supersede any other terms, conditions, covenants or provisions contained in the Escrow Agreement, which expressly or by implication, are in conflict herewith.
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