

## **OPTION AGREEMENT FOR EXCHANGE OF REAL PROPERTY**

### **Extension December 18, 2013 –December 18, 2014**

This Extended Option Agreement for Exchange of Real Property ("Agreement") dated December 17, 2013, is made by and between the County of El Dorado, a political subdivision of the State of California ("County" or "Optionee"), and John V. Briggs AKA Junior Vern Briggs and Carmen Briggs, Trustees of the Briggs Family Trust, Dated March 30, 1992 ("Optionor"). County and Optionor together may be referred to collectively hereinafter as the "Parties".

### **RECITALS**

A. Optionor owns approximately 5.20 acres of real property located in the City of Placerville, California, a legal description of which is attached hereto as Exhibit "A" (the "Option Property"), also referred to as a portion of Assessor's Parcel Number 325-300-02-10.

B. County owns approximately 5.20 acres of real property located in the City of Placerville, California, a legal description of which is attached hereto as Exhibit "B" (the "County Property"), also referred to as a portion of Assessor's Parcel Number 325-300-32-100.

C. Optionor desires to sell and County desires to acquire an option to the Option Property in fee, on the terms and conditions herein set forth. Both parties also desire to acquire easements from each other, which will be discussed herein.

D. The County intends to combine the Option Property with other adjacent County owned property to provide the site for the new El Dorado County Court Facility, which is currently under development by the California Administrative Office of the Courts ("AOC").

E. County and Optionor understand that for County to Close escrow on Option Property it will be necessary for AOC to complete the environmental document for said El Dorado County Court Facility.

F. County and Optionor agree that upon the exercise of the option by County, Optionor will incur costs towards revising Optionor's existing tentative map, and rezoning County Property.

G. County and Optionor agree that due to circumstances beyond either Party's control, County was not able to exercise the Option during the original Option Period.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties hereto agree as follows:

### **AGREEMENT**

1. Grant of Extension of Option. Optionor, in consideration of the non-refundable sum of Five Thousand Dollars (\$5,000.00) received from County, hereby grants County the

exclusive option ("Option") to acquire the Option Property, for the time period, and upon the terms and conditions, contained herein. This \$5000.00 is in addition to the \$5000.00 previously paid for the option period of December 18, 2012 to December 18, 2013. Said \$5,000 shall represent the valuable consideration for the granting of the Option to County for this new period, and shall also represent County's total contribution towards the costs associated with any revisions to the Optionor's existing "Ray Lawyer Commercial Subdivision" Tentative Map, and any future rezoning of County Property, including the costs of consultants, map revisions, environmental documents, processing of applications through the City of Placerville, and any related public hearings. No additional compensation by the County will be associated with those activities. The County shall pay the \$5,000.00 to Optionor no later than January 18, 2014.

2. Option Period. Unless further extended in writing by the parties, the Option shall be valid until the earlier of: (1) December 18, 2014, or (2) 45 days after the State has filed a Notice of Determination on the Courthouse acquisition. Optionor agrees that should there be a legal challenge to the AOC's environmental document for the courthouse project planned to be constructed on the option property, the option period will extend an additional 12 months, or to the conclusion of the CEQA challenge, whichever is longer, at no additional cost to County.

3. Exercise of Option. The Option may be exercised at any time prior to the expiration of the Option period by written notice to Optionor delivered or mailed by certified mail, return receipt requested, to the address set forth in Paragraph 22. Should County exercise the Option, this Agreement shall serve as the purchase and sale agreement and escrow instructions.

4. Exchange of Real Property. In lieu of monetary payment for acquisition of the Option Property and County Property, the Parties agree that consideration for the acquisition shall take the form of an exchange of real property interests. Accordingly, should County exercise the Option, the Parties shall exchange real property interests as follows:

- a. Optionor shall grant the Option Property to County in fee simple, and
- b. County shall grant the County Property to Optionor in fee simple.

The Parties acknowledge that this transaction is an arms-length transaction, not under threat of condemnation, and that the consideration provided herein reflects a fair market value for the Option Property. Moreover, the Parties acknowledge that the real properties exchanged herein are of equal value.

5. Failure to Exercise Option. If County does not exercise the Option prior to the expiration of the option period, the consideration paid for the Option shall be retained by Optionor and neither party shall have any further rights or claims against each other under this agreement.



6. Right of Entry.

a. For and during the period of the Option, County and Optionor shall have the right, from time to time, at their own sole cost, expense, risk, and hazard, and in all such manner as they may reasonably determine, without material damage being imposed upon the County or Option Property, to enter upon the other's Property, to make, or cause to be made, engineering findings in respect thereto, including without limitation, surveying, conducting test borings in order to determine subsoil conditions of ledge, peat, or other soft materials, and, in general, conducting other soil tests, analyses, and studies of the Properties. Without Optionor's or County's prior written consent, neither Optionor nor County shall make nor cause to be made any invasive or destructive testing. The parties both agree to share any information and or studies which are generated as a result of such entry and or investigations.

b. In the event that either party exercises this right of entry, both parties agree to give reasonable notice to any occupant of the Property and to await written acquiescence to so enter. Both parties further agree, upon written request to repair within ten (10) days any damage to the Property that may result from exercise of this right of entry.

7. Escrow. If County exercises the Option, the exchange of real property shall be consummated through an escrow, which will be opened by County at Placer Title Company ("Escrow Holder"), 175 Placerville Drive, Placerville, California 95667 Attn: Becky Keith. This Agreement shall, to the extent possible, act as escrow instructions. The Parties shall execute all further escrow instructions required by Escrow Holder. All such further escrow instructions, however, shall be consistent with this Agreement, which shall control. The "Close of Escrow" is defined to be the recordation of the Grant Deed from Optionor to County for the Option Property and the Grant Deed from County to Optionor for the County Property. Optionor and County agree to deposit in escrow all instruments, documents, writings and moneys identified or reasonable required to close escrow. Escrow shall close when Escrow Holder is in a position to: (a) record the executed Grant Deed to the Option Property in favor of County; (b) record the executed Grant Deed to the County Property in favor of Optionor; (c) deliver a CLTA policy of title insurance to each Party.

8. Closing Date. The transaction forming the subject of this Agreement shall be closed by the Parties within sixty (60) calendar days after the exercise of the Option. Optionor agrees to give County fifteen (15) days prior written notice of the proposed Closing Date. Notice shall be deemed to be given upon receipt by County of Optionor's notice.

9. Title. Optionor shall convey the Option Property to County by Grant Deed, in fee simple, free and clear of title defects, liens, encumbrances, taxes and deeds of trust. Title to the Option Property shall vest in the County subject only to: (a) exceptions 1, 2 and 3 of Placer Title Company Preliminary Report Order No. 205-14435, dated April 12, 2011, a copy of which is attached hereto as Exhibit "D," paid current; and (b) exceptions 4, 5, 6, 7, and 8 of said preliminary report.

County shall convey the County Property to Optionor by Grant Deed, in fee simple, free and clear of title defects, liens, encumbrances, taxes and deeds of trust. Title to the County



Property shall vest in Optionor subject only to: (a) exceptions 1,2,&3 of Chicago Title Company Preliminary Report Order No. NBU81001770, dated August 2, 2010, a copy of which is attached hereto as Exhibit "E," paid current; and (b) exceptions 4-11 of said preliminary report.

10. Title Insurance. Each Party shall obtain, at its own cost, a CLTA standard owner's policy of title insurance insuring that title to their respective properties is vested subject only to the exceptions listed in Paragraph 9 of this Agreement and to the standard exclusions contained in said policy.

11. Expenses and Fees. All escrow, recording and closing fees shall be divided and paid equally by the County and Optionor at closing. Any documentary tax or real property transfer tax arising out of the conveyance of the Option Property shall be paid by Optionor. Any documentary tax or real property transfer tax arising out of the conveyance of the County Property shall be paid by County.

12. Proration of Taxes; Homeowners Assessments. Real property taxes and any homeowner's association dues or road maintenance fees shall be prorated as of the close of escrow. Pursuant to California Revenue and Taxation Code Section 4986(a)(6), as of close of escrow, property taxes on the Option Property shall be cancelled prospectively. Optionor shall pay to Escrow Holder any amount necessary to satisfy any delinquent taxes dues, together with penalties and interest thereon, which shall be cleared from the title to the Option Property prior to Close of Escrow.

13. Assessments. It is agreed that each party shall be responsible for the payment of any assessments, bonds, charges or liens imposed upon their respective properties by any federal, state or local government agency or any public utility company. Each party agrees to indemnify and hold the other harmless from any claim arising therefrom. Each party shall pay to Escrow holder any amount necessary to satisfy any delinquent assessments, bonds, charges or liens, together with penalties and interest thereon, which shall be cleared from the title to the respective properties prior to Close of Escrow.

14. Items to be Delivered at Close of Escrow.

a. Optionor shall execute and deliver to Escrow Holder: 1) a Grant Deed for the Option Property prior to the Close of Escrow, including oil, mineral and water rights if currently owned by Optionor, for recordation and delivery to the County at Close of Escrow, 2) Easement Deeds and Irrevocable Offers of Dedication as outlined in section 18. below, 3) Optionor's share of costs, fees and expenses to be borne by Optionor pursuant to this Agreement.

b. County shall execute and deliver to Escrow Holder: 1) a Grant Deed for the County Property prior to the Close of Escrow, including oil, mineral and water rights if currently owned by County, for recordation and delivery to Optionor at Close of Escrow, 2) Easement Deeds as outlined in Section 18 below, 3) the County's share of costs, fees and expenses to be borne by the County pursuant to this Agreement, together with the County's Certificate of Acceptance to be attached to and recorded with the Grant Deed for the Option Property.



c. Escrow Holder shall:

- i. Record the Grant Deed for the Option Property described in Exhibit "A" together with County's Certificate of Acceptance.
- ii. Record the Grant Deed for the County Property described in Exhibit "B".
- iii. Cause the policies of title insurance to be issued.

15. Possession and Occupancy. Possession and occupancy of each property shall be delivered to the receiving party at 5:00 p.m. on the date of Close of Escrow. The properties shall be unoccupied.

16. Warranties. Each party warrants to the other with respect to its property that:

a. It owns its property, free and clear of all liens, licenses, claims, encumbrances, easements, and encroachments from adjacent properties, encroachments by improvements on the property onto adjacent properties, and rights of way of any nature, not disclosed by the public record, and, at Close of Escrow, will have the power to sell, transfer and convey all right, title and interest in its property.

b. It has no knowledge of any pending litigation involving its Property.

c. It has no knowledge of any violations of, or notices concerning defects or noncompliance with, any applicable code, statute, regulation, or judicial order pertaining to its Property.

d. As of the date it has executed this Agreement, and throughout the escrow period and at closing, it has no intention of filing for protection under the bankruptcy laws of the United States, and it shall not have made an assignment for the benefit of creditors or admitted in writing its inability to pay its debts as they mature or have been adjudicated bankrupt or have filed a petition in voluntary bankruptcy or a petition or answer seeking reorganization or an arrangement with creditors under federal bankruptcy law or any other similar law or statute of the United States or any state and no such petition shall have been filed against it.

e. To the best of its knowledge, its property is not in violation of any federal, state or local law, ordinance or regulation relating to the environmental conditions on, under, or about its Property, including, but not limited to, soil and groundwater contamination. Further, it knows of no fact or circumstance that may give rise to any future civil, criminal, or administrative proceedings against its property or it relating to environmental matters.

f. To the best of its knowledge, there are no Hazardous Materials on its property and there has been no release, use, generation, discharge, storage or disposal of any Hazardous Materials on, in, under, or otherwise affecting all or any portion of its property.



As used herein, the term "Hazardous Materials" shall mean any hazardous or toxic substance, material, sewage, or waste which is regulated, controlled or prohibited by statute, rule, regulation, decree or order of any governmental authority, the State of California, or the United States government currently in effect. The term "Hazardous Material" includes, without limitation, any material or substance which is (1) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5, sections 25100, et seq., (hazardous waste Control Law), (2) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 ("CPTHSAA Act"), (3) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Material Release Response Plans and Inventory Act), (4) defined as a "hazardous substance" under Section 25821 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (5) petroleum, (6) asbestos, (7) listed under Article 9 or defined as hazardous or extremely hazardous pursuant to Article 11, of Title 22 of the California Administrative Code, Division 4, Chapter 20, (8) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Act, 33 U.S.C. Section 1251 et seq. (33 U.S.C. Section 1321), (9) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. (42 U.S.C. Section 6903), (10) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. Section 9601 et seq. (42 U.S.C. Section 9601)("CERCLA"), or (11) defined as a "waste" under the California Porter-Cologne Water Quality Control Act, section 13050 of the California Water Code.

g. There are no oral or written leases, rental agreements, service contracts or other related agreements, licenses, and permits affecting all or any portion of its property.

h. In the event either party, prior to Close of Escrow, becomes aware of adverse conditions materially affecting its property, or any material inaccuracy in disclosures, information or representations previously provided to the other party hereto of which the other party is otherwise unaware, the party shall promptly provide a subsequent or amended disclosure or notice, in writing, covering those items.

i. All warranties, covenants, and other obligations described in this Paragraph of the Agreement and elsewhere in this Agreement shall survive delivery of the deed.

j. County warrants that it will hold the Optionor harmless in the event that there is a legal challenge to the environmental document(s) for the courthouse project planned to be constructed on the option property and/ or any judgment decreed from such challenge.

17. Property Exchange. If a boundary line adjustment or other action is necessary to effectuate the exchange of real property as described herein, the parties agree to cooperate with each other to effect that boundary line adjustment or other action, including, but not limited to, executing all grant deeds, easement deeds, and irrevocable offers of dedication necessary for the



property exchange or for development of a new courthouse. The costs of the aforementioned property exchange, including, but not limited to, costs of surveying, mapping, preparation of legal descriptions for deeds and offers of dedication, preparation of a Record of Survey Map, and map recordation, shall be borne by the County. County will, prior to processing with the City of Placerville, provide to Optionor copies of draft grant deeds, easement deeds, and irrevocable offers of dedication for review and approval, which shall not be unreasonably withheld. Notwithstanding the foregoing or anything to the contrary herein, each party shall be responsible for any costs it incurs in reviewing and approving the documents necessary to complete the property exchange, including, but not limited, the costs of consulting attorneys, engineers, or surveyors. This obligation shall survive delivery of the deeds to the Properties.

18. Easements.

a. Concurrent with the Close of Escrow, County shall grant to Optionor the following easements, the precise locations of which shall be determined and agreed to by both parties prior to the Close of Escrow:

1. A driveway and public utilities easement over, upon, and across a portion of the existing driveway to the County's jail and over that additional portion of the County's remaining property necessary to provide access to the County Property being acquired by Optionor, generally depicted as "Easement No.1" in the attached exhibit "C", . County, however, shall bear no responsibility for constructing an extension to its existing driveway to provide access to the County Property being acquired by Optionor. Moreover, as a condition of the County granting such an easement, Optionor shall execute a driveway maintenance agreement with County to equitably share the costs of future driveway maintenance based on use.
2. A twenty-foot wide public sewer easement from the existing manhole at the southwest corner of the County's property to the Optionor's adjacent property generally depicted as "Easement No.2" in attached exhibit "C". County, however, shall bear no responsibility for constructing a sewer line extension within the aforementioned easement.
3. A twenty-foot wide non-exclusive sewer easement along the southeast boundary of the County's Jail property to the existing 6" County Jail sanitary sewer line for the purpose of connecting a sanitary sewer service to the County Property, generally depicted as "Easement No. 3" in the attached exhibit "C", provided that if Optionor connects to existing Jail sewer line, then Optionor is responsible for: 1) all costs of construction of the sewer line extension; 2) All costs to upsize the existing sewer line to provide capacity for the existing County Jail and County Property, if upsizing is determined to be necessary by the City of Placerville Department of Public Works; 3) enter into a proportionate maintenance agreement with County for the ongoing maintenance of the existing sewer line serving the County Jail based on use, with the exception that Optionor shall not be responsible for the equipment cost, or installation, modification, or replacement, nor the cost of operation and maintenance of any mechanical interceptors or



similar devices installed by County to prevent jail inmates from flushing inappropriate materials into the public sewer system; 4) Either pay a proportionate share, based on use, of the cost of upsizing the existing County Jail sanitary sewer line to accommodate a future expansion to the County Jail at such time as the Jail expansion is constructed, or terminate Optionor's connection to the existing County Jail sewer line at that time in favor of connecting to a sewer system constructed for Optionor's "Ray Lawyer Drive Commercial Subdivision".

b. Concurrent with the Close of Escrow, Optionor shall grant the following easements, and irrevocable offers of dedication:

1. An irrevocable offer of dedication to the City of Placerville for the right of way and any ancillary slope easements for Ray Lawyer Drive where it fronts along the Option Property, generally depicted as "Ray Lawyer Drive Right of Way " in attached exhibit "C".
2. A 50 ft wide non-exclusive access and public utilities easement to the Administrative Office of the Courts for the court access driveway to extend along the southeasterly portion of the Option Property, generally depicted as "Easement No. 4" in the attached exhibit "C", with the condition that the Court shall construct within that easement a minimum 24ft wide driveway meeting the standards of the City of Placerville, that shall be suitable for use to provide access to Optionor's remaining property.

c. Notwithstanding the failure to exercise the option or close escrow on the Exchange on property pursuant to the terms of the opinion, the Parties here to agree to convey the easements referenced herein in paragraphs 18(a)(2) and 18(b)(1) to one another upon written demand by either party. The legal description for the 10D for Ray Lawyer Drive would be along the SW property boundary of the Optioner's land subject to this Opinion as described in Exhibit A.

19. Future Development. The only obligations created by this Agreement with respect to the future development of the subject parcels or either party's remaining parcels are those that are specifically set forth herein. This Agreement does not change obligations that either party would otherwise have with respect to their remaining properties.

20. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

21. Real Estate Broker. Each party shall be responsible for payment of any fees or other compensation to any real estate brokers or consultants it has retained. Furthermore, each party agrees to indemnify and hold the other party harmless from any and all costs, expenses, or damages resulting from any claims for brokerage fees or other similar forms of compensation made by any real estate broker or any other person or entity because of the exchange of real property hereunder.



22. Time is of the Essence. Time is of the essence of this Agreement. This Agreement may not be extended, modified, altered or changed except in writing signed by County and Optionor.

23. Notices. All communications and notices required or permitted by this Agreement shall be in writing and shall be deemed to have been given on the earlier of the date when actually delivered to Optionor or County by the other or three (3) days after being deposited in the United States mail, postage prepaid and addressed as follows, unless and until either or such parties notifies the other in accordance with this paragraph of a change of address:

OPTIONOR: John V. Briggs  
1020 Wallace Road  
Placerville, CA 95667

COPY TO: Robert A. Laurie  
263 Main Street  
Placerville, CA 95667

COUNTY: County of El Dorado, Board of Supervisors  
Attn: Clerk of the Board  
330 Fair Lane  
Placerville, CA 95667

COPY TO: Edward L. Knapp or Successor  
El Dorado County Counsel's Office  
330 Fair Lane  
Placerville, CA 95667

24. Binding Effect. This Agreement shall be binding on and inure to the benefit of the Parties to this Agreement, their heirs, personal representatives, successors, and assigns, except as otherwise provided in this Agreement.

25. Governing Law; Venue. This Agreement and the legal relations between the Parties shall be governed by and construed in accordance with the laws of the State of California. Any action brought to enforce the provisions of this Agreement shall be brought in the Superior Court of the County of El Dorado.

26. Headings. The headings of the articles and sections of this Agreement are inserted for convenience only. They do not constitute part of this Agreement and shall not be used in its construction.

27. Waiver. The waiver by any party to this Agreement of a breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of this Agreement.

28. Attorney's Fees. In any action or proceeding at law or in equity brought to enforce any provision of this Agreement, the prevailing party shall be entitled to all reasonable attorney's fees, costs and expenses incurred in said action or proceeding.

29. Entire Agreement. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof. No amendment, supplement, modification, or waiver of this Agreement shall be binding unless executed in writing by the party to be bound thereby.

30. Warranty of Authority. The Parties to this Agreement warrant and represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said Parties the obligations set forth herein.

31. County Administrator . The County officer or employee with responsibility for administering this Agreement is County Counsel, Louis B. Green, or successor.

32. Third Party Beneficiaries. No condition, covenant, waiver or release contained herein made or given by Optionor or County is intended to run to the benefit of any person not a party to this Agreement unless otherwise expressly set forth herein.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the date first above written.

-- COUNTY --

Dated: \_\_\_\_\_

**COUNTY OF EL DORADO**

\_\_\_\_\_  
Norma Santiago, Vice Chair  
Board of Supervisors

ATTEST:  
James Mitrisin  
Clerk of the Board

By: \_\_\_\_\_  
Deputy Clerk

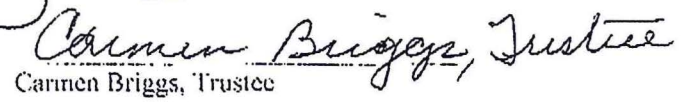
-- OPTIONOR --



Dated: Dec. 11, 2013

BRIGGS FAMILY TRUST, DATED MARCH  
30, 1992

  
John V. Briggs, Trustee

  
Carmen Briggs, Trustee

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# **EXHIBIT “A”**



**Exhibit A**  
**Sheet 1 of 2**

**All that real property situated in the City of Placerville, County of El Dorado, State of California described as follows:**

**All that portion of Section 13 Township 10 North, Range 10 East, Mount Diablo Meridian more particularly described as follows:**

**COMMENCING AT the Southwest corner shown on that certain Record of Survey filed in Book 24 page 35 of the Official Records of said County and State, as being marked by a 3/4" capped iron pipe stamped "LS 4663" thence North 43°12'23" East a distance of 139.55 feet to the POINT OF BEGINNING.**

**Thence leaving said POINT OF BEGINNING North 43°12'23" East a distance of 728.01 feet; thence South 20°27'37" East a distance of 113.22 feet; thence South 46°40'06" East a distance of 180.09 feet; thence South 16°48'29" West a distance of 185.70 feet; thence South 43°19'54" West a distance of 320.82 feet; thence South 22°32'17" West a distance of 54.36 feet; thence along the arc of a non-tangent curve concave Southwesterly with a radius of 832.00 feet through a central angle of 02°21'39", being subtended by a chord of North 75°25'01" West and a chord length of 34.28 feet; thence North 76°35'51" West a distance of 104.26 feet; thence along the arc of a tangent curve concave Northeasterly with a radius of 538.00 feet through a central angle of 29°13'57", being subtended by a chord of North 61°58'52" West and a chord length of 271.52 feet to the POINT OF BEGINNING**

**Containing 5.20 acres more or less.**

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**The above described land is shown on Exhibit A; Sheet 2 of 2 attached hereto and made a part of this description by reference thereto.**

**END OF DESCRIPTION**



# **EXHIBIT “B”**



**Exhibit B**  
**Sheet 1 of 2**

**All that real property situated in the City of Placerville, County of El Dorado, State of California described as follows:**

**All that portion of Section 13 Township 10 North, Range 10 East, Mount Diablo Meridian more particularly described as follows:**

**COMMENCING AT the Southwest corner shown on that certain Record of Survey filed in Book 24 page 35 of the Official Records of said County and State, as being marked by a 3/4" capped iron pipe stamped "LS 4663" thence North 43°12'23" East a distance of 1248.09 feet to the POINT OF BEGINNING.**

**Thence leaving said POINT OF BEGINNING North 44°54'09" West a distance of 643.58 feet; thence North 45°05'51" East a distance of 152.08 feet; thence North 89°36'28" East a distance of 513.92 feet; thence South 00°15'08" West a distance of 390.41 feet; thence South 43°12'23" West a distance of 241.89 feet to the POINT OF BEGINNING.**

**Containing 5.20 acres more or less.**

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**The above described land is shown on Exhibit B; Sheet 2 of 2 attached hereto and made a part of this description by reference thereto.**

**END OF DESCRIPTION**



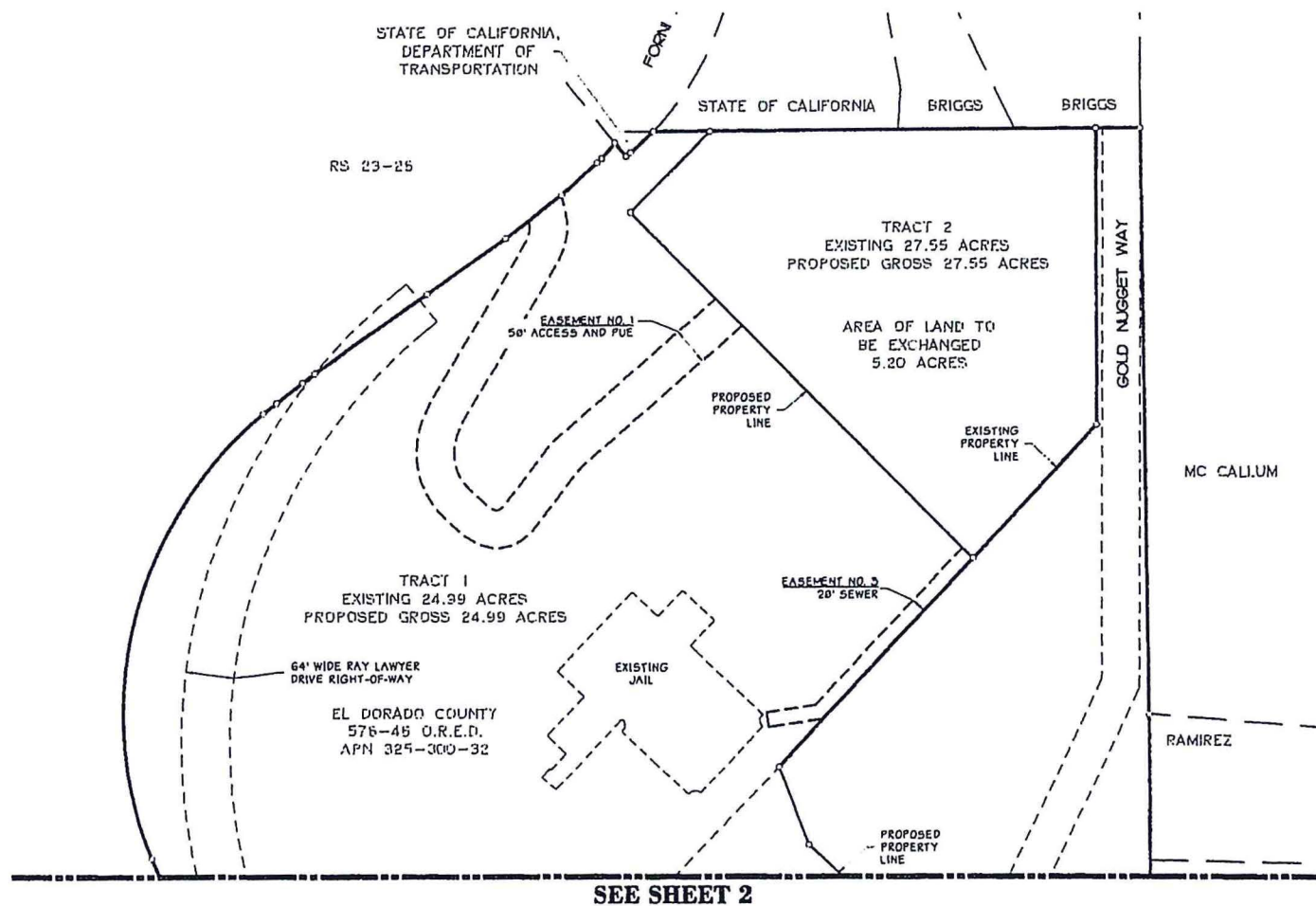
# **EXHIBIT “C”**





# Exhibit C

SHEET 1 OF 2



# **EXHIBIT “D”**



# PLACER TITLE COMPANY

## Preliminary Report

Issued By:

Order No. 205-14435

PLACER TITLE COMPANY  
3860 EL DORADO HILLS BLVD #502  
EL DORADO HILLS, CA 95762  
Escrow Officer: Becky Slak  
Phone: 916-933-4550  
Fax: 916-933-4952  
Escrow Officer Email: [bslak@placertitle.com](mailto:bslak@placertitle.com)  
Email Loan Docs To: [205edocs@placertitle.com](mailto:205edocs@placertitle.com)

Customer Reference:

Property Address: APN: 325-300-02-100, PLACERVILLE, CA 95667

In response to the above referenced application for a policy of title insurance, PLACER TITLE COMPANY hereby reports that it is prepared to issue, or cause to be issued, through one of its authorized underwriters, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said Policy or Policies are set forth in the attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in the attached. Copies of the Policy forms should be read. They are available from the office which issued this report.

PLEASE READ THE EXCEPTIONS SHOWN OR REFERRED TO BELOW AND THE EXCEPTIONS AND EXCLUSIONS SET FORTH IN THE ATTACHED CAREFULLY. THE EXCEPTIONS AND EXCLUSIONS ARE MEANT TO PROVIDE YOU WITH NOTICE OF MATTERS WHICH ARE NOT COVERED UNDER THE TERMS OF TITLE INSURANCE POLICY AND SHOULD BE CAREFULLY CONSIDERED.

IT IS IMPORTANT TO NOTE THAT THIS PRELIMINARY REPORT IS NOT A WRITTEN REPRESENTATION AS TO THE CONDITION OF TITLE AND MAY NOT LIST ALL LIENS, DEFECTS AND ENCUMBRANCES AFFECTING TITLE TO THE LAND.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of April 12, 2011 at 7:30 a.m.

Title Officer: Kelly Riddle

PRELIM (Revised 2006)

CLTA Preliminary Report

Order No. 205-14435

The form of policy of title insurance contemplated by this report is:

2006 ALTA Owners Standard Coverage Policy (6/17/06)

The estate or interest in the land hereinafter described or referred to covered by this Report is:

A FEE SIMPLE

Title to said estate or interest at the date hereof is vested in:

JOHN V. BRIGGS AKA JUNIOR VERN BRIGGS AND CARMEN BRIGGS , TRUSTEES OF THE BRIGGS FAMILY TRUST, DATED MARCH 30, 1992, AS TO AN UNDIVIDED 1/2 INTEREST; AND .  
CAPITOL CONSULTANTS, INC. A CALIFORNIA CORPORATION, AS TO AN UNDIVIDED 1/2 INTEREST

The land referred to herein is described as follows:

SEE EXHIBIT "A" ATTACHED

PRELIM A

CLTA Preliminary Report



EXCEPTIONS

At the date hereof exceptions to coverage in addition to the printed Exceptions and Exclusions in said policy form would be as follows:

1. TAXES, SPECIAL AND GENERAL, ASSESSMENT DISTRICTS AND SERVICE AREAS FOR THE FISCAL YEAR 2011-2012, A LIEN, NOT YET DUE OR PAYABLE.
2. THE LIEN OF SUPPLEMENTAL TAXES, IF ANY, ASSESSED PURSUANT TO THE PROVISIONS OF CHAPTER 3.5, (COMMENCING WITH SECTION 75) OF THE REVENUE AND TAXATION CODE, OF THE STATE OF CALIFORNIA.

3. ANY TAXES OR ASSESSMENTS LEVIED BY:

A EL DORADO IRRIGATION DISTRICT

4. AN EASEMENT OVER SAID LAND FOR INSTALLATION, OPERATION AND MAINTENANCE OF COMMUNICATION TRANSMISSION FACILITIES AND INCIDENTAL PURPOSES, AS GRANTED TO PACIFIC TELEPHONE AND TELEGRAPH COMPANY, IN DEED RECORDED JANUARY 12, 1931, AS INSTRUMENT NO. IN BOOK 120, PAGE 313, OFFICIAL RECORDS

AFFECTS THE EXACT LOCATION AND EXTENT OF SAID EASEMENT IS NOT DISCLOSED OF RECORD.

NO REPRESENTATION IS MADE AS TO THE CURRENT OWNERSHIP OF SAID EASEMENT.

5. AN EASEMENT OVER SAID LAND FOR ROADWAY AND INCIDENTAL PURPOSES, AS GRANTED TO COUNTY OF EL DORADO, IN DEED RECORDED DECEMBER 29, 1961, AS INSTRUMENT NO. IN BOOK 576, PAGE 46, OFFICIAL RECORDS.

AFFECTS STATES EXISTING ROADWAY (1961)

NO REPRESENTATION IS MADE AS TO THE CURRENT OWNERSHIP OF SAID EASEMENT.

SUBJECT TO THE TERMS AND CONDITIONS AS SET FORTH IN THE ABOVE CITED DOCUMENT

6. AN EASEMENT OVER SAID LAND FOR ROADWAY AND INCIDENTAL PURPOSES, AS GRANTED TO COUNTY OF EL DORADO, IN DEED RECORDED FEBRUARY 27, 1962, AS INSTRUMENT NO. IN BOOK 582, PAGE 253, OFFICIAL RECORDS

AFFECTS STATES OVER EXISTING ROADWAY (1962)

NO REPRESENTATION IS MADE AS TO THE CURRENT OWNERSHIP OF SAID EASEMENT.

EXCEPTIONS  
(Continued)

ITEM 9, BY INSTRUMENT RECORDED AUGUST 23, 2007, AS INSTRUMENT NO.  
2007-0055037, OFFICIAL RECORDS

- 11 THE TERMS, PROVISIONS AND CONDITIONS OF THAT CERTAIN TRUST AGREEMENT  
REFERRED TO IN THE VESTING HEREIN. WE WILL REQUIRE THAT A COPY OF SAID  
TRUST AND ANY AMENDMENTS THERETO AND/OR A TRUST CERTIFICATION PURSUANT  
TO SECTION 18100.5 OF THE PROBATE CODE BE SUBMITTED FOR EXAMINATION.

\*\*\* NOTE: (FOR PRO-RATION PURPOSES ONLY)

TAXES, SPECIAL AND GENERAL, ASSESSMENT DISTRICTS AND SERVICE AREAS, FOR  
THE FISCAL YEAR 2010-2011:

1ST INSTALLMENT: \$4,000.39 PAID

2ND INSTALLMENT: \$4,000.39 PAID

ASSESSED VALUATIONS:

LAND: \$753,371.00

IMPROVEMENTS: \$0.00

EXEMPTION: \$0.00

PARCEL NO.: 325-300-02-100 CODE AREA: 001-043

\*\*\* CHAIN OF TITLE REPORT:

ACCORDING TO THE PUBLIC RECORDS, NO DEEDS CONVEYING THE PROPERTY  
DESCRIBED IN THIS REPORT HAVE BEEN RECORDED WITHIN A PERIOD OF 2 YEARS  
PRIOR TO THE DATE OF THIS REPORT, EXCEPT AS SHOWN HEREIN:

NONE

\*\*\* NOTICE REGARDING FUNDS DEPOSITED IN ESCROW:

CALIFORNIA INSURANCE CODE SECTION 12413.1 REGULATES THE DISBURSEMENT OF  
ESCROW AND SUB-ESCROW FUNDS BY TITLE COMPANIES. THE LAW REQUIRES THAT  
FUNDS BE DEPOSITED IN THE TITLE COMPANY ESCROW ACCOUNT AND AVAILABLE  
FOR WITHDRAWAL PRIOR TO DISBURSEMENT. FUNDS DEPOSITED WITH THE COMPANY  
BY WIRE TRANSFER MAY BE DISBURSED UPON RECEIPT. FUNDS DEPOSITED WITH  
THE COMPANY VIA CASHIER'S OR TELLER'S CHECKS DRAWN ON A CALIFORNIA  
BASED BANK MAY BE DISBURSED THE NEXT BUSINESS DAY AFTER THE DAY OF  
DEPOSIT. IF FUNDS ARE DEPOSITED WITH THE COMPANY BY OTHER METHODS,  
RECORDING AND/OR DISBURSEMENT MAY BE DELAYED.

\*\*\* CANCELLATION NOTE:

THIS REPORT IS SUBJECT TO A MINIMUM CANCELLATION CHARGE OF \$400.00 AS  
REQUIRED BY SECTION 12404 OF INSURANCE CODE AND RULE 2 OF BULLETIN NO.  
NS-35E.

CLTA Preliminary Report



CLTA PRELIMINARY REPORT FORM  
LIST OF PRINTED EXCEPTIONS AND EXCLUSIONS  
(Revised 06/17/06)

CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY - 1990  
EXCLUSIONS FROM COVERAGE

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

- 1 (a) Any law, ordinance or governmental regulation (including but not limited to building or zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien, or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- 2 Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
- 3 Defects, liens, encumbrances, adverse claims or other matters:  
(a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;  
(b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;  
(c) resulting in no loss or damage to the insured claimant;  
(d) attaching or created subsequent to Date of Policy; or  
(e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
- 4 Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated
- 5 Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
- 6 Any claim, which arises out of the transaction vesting in the insured the estate of interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

EXCEPTIONS FROM COVERAGE  
SCHEDULE B, PART I

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

- 1 Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.  
Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records
- 2 Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof
- 3 Easements, liens or encumbrances, or claims thereof, not shown by the public records.
- 4 Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records



AMERICAN LAND TITLE ASSOCIATION  
RESIDENTIAL TITLE INSURANCE POLICY (6-1-87)  
EXCLUSIONS

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:
  - \* Land use
  - \* Improvements on the land
  - \* Land division
  - \* Environmental protectionThis exclusion does not apply to violations or the enforcement of these matters which appear in the public records at Policy Date.  
This exclusion does not limit the zoning coverage described in Items 12 and 13 of Covered Title Risks.
2. The right to take the land by condemning it, unless:
  - \* a notice of exercising the right appears in the public records
  - \* on the Policy Date
  - \* the taking happened prior to the Policy Date and is binding on you if you bought the land without knowing of the taking
3. Title Risks:
  - \* that are created, allowed, or agreed to by you
  - \* that are known to you, but not to us, on the Policy Date -- unless they appeared in the public records
  - \* that result in no loss to you
  - \* that first affect your title after the Policy Date -- this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks
4. Failure to pay value for your title.
5. Lack of a right:
  - \* to any land outside the area specifically described and referred to in Item 3 of Schedule AOR
  - \* in streets, alleys, or waterways that touch your land

This exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (10-17-92)  
WITH ALTA ENDORSEMENT - FORM 1 COVERAGE  
EXCLUSIONS FROM COVERAGE

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

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;



- (iii) the subdivision of land; or
- (iv) environmental protection;

or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.

(b) Any governmental police power This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6

2. Rights of eminent domain This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
  - (a) a fraudulent conveyance or fraudulent transfer, or
  - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

#### EXCEPTIONS FROM COVERAGE

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

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

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

#### AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY (10/17/92)

#### EXCLUSIONS FROM COVERAGE

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting



- 2 Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
- 3 Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
- 4 Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
  - (a) a fraudulent conveyance or fraudulent transfer; or
  - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage; the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

#### EXCEPTIONS FROM COVERAGE

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

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown in the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and that are not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

#### ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (10/13/01) EXCLUSIONS FROM COVERAGE

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

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the Land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the Land; (iii) a separation in ownership or a change in the dimensions or areas of the Land or any parcel of which the Land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14, and 16 of this policy
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14, and 16 of this policy



**NOTICE  
FEDERAL FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT OF 1980 (FIRPTA)**

Upon the sale of United States real property, by a non-resident alien, foreign corporation, partnership or trust, the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA), and as revised by the Tax Reform Act of 1984 (26 USCA 897 (C)(1)(A)(1) and 26 USCA 1445) requires the transferee (Buyer) of real property to withhold Internal Revenue Service income taxes in an amount equal to ten (10%) percent of the sale price from seller's proceeds, if ANY of the following conditions are met:

- (1) The selling price is greater than \$300,000.00
- (2) The selling price is less than \$300,000 AND the purchaser does not intend to occupy the property as his residence for at least 50% of the time of the first two 12 month periods following the date of transfer.

Withholding is not required if both of the following conditions are met:

- (1) The selling price is less than \$300,000  
and
- (2) The Buyer is acquiring the property as his residence, and the buyer or other qualifying family member will occupy the property for at least 50% of the time during each of the first 12-month periods following transfer of title to the buyer

If the purchaser who is required to withhold income tax from the seller fails to do so, the purchaser is subject to fines and penalties as provided under Internal Revenue Code Section 1445. The seller may request a waiver or a reduced withholding amount by submitting a written request for a "qualifying statement" or "withholding certificate" (Form 8288-B) to:

Director, Internal Revenue Service  
Philadelphia Service Center  
P.O. Box 21086  
Philadelphia, PA 19114-0586

Escrow Holder will, upon written instructions from the purchaser, withhold Federal Income Tax from the seller and will deposit said tax with the Internal Revenue Service, together with IRS Forms 8288 and 8288-A. The fee charged for this service is \$25.00 payable to the escrow holder.

**CALIFORNIA WITHHOLDING**

In accordance with Sections 18662 and 18668 of the Revenue and Taxation Code, a transferee (Buyer) may be required to withhold an amount equal to 3 1/3 percent of the sales price or an alternative withholding amount certified to by the seller in the case of a disposition of California real property interest by either:

- 1 A seller who is an individual or when the disbursement instructions authorize the proceeds to be sent to a financial intermediary or the seller, OR
- 2 A corporate seller that has no permanent place of business in California.

The buyer may become subject to penalty for failure to withhold an amount equal to the greater of 10 percent of the amount required to be withheld or five hundred dollars (\$500).

However, notwithstanding any other provision included in the California statutes referenced above, no buyer will be required to withhold any amount or be subject to penalty for failure to withhold if:

- 1 The sales price of the California real property conveyed does not exceed one hundred thousand dollars (\$100,000.00), OR
- 2 The seller executes a written certificate, under the penalty of perjury, of any of the following:
  - A The property qualifies as the seller's (or decedent's, if being sold by the decedent's estate) principal residence within the meaning of Internal Revenue Code (IRC) Section 121; or
  - B The seller is (or decedent, if being sold by the decedent's estate) last used the property as the seller's (decedent's) principal residence within the meaning of IRC Section 121 without regard to the two-year time period; or
  - C The seller has a loss or zero gain for California income tax purposes on this sale; or
  - D The property is being compulsorily or involuntarily converted and the seller intends to acquire property that is similar or related in service or use to qualify for non-recognition of gain for California income tax purposes under IRC Section 1033; or
  - E If the transfer qualifies for non-recognition treatment under IRC Section 351 (transfer to a corporation controlled by the transferor) or IRC Section 721 (contribution to a partnership in exchange for a partnership interest); or
  - F The seller is a corporation (or an LLC classified as a corporation for federal and California income tax purposes that is either qualified through the California Secretary of State or has a permanent place of business in California; or
  - G The seller is a partnership (or an LLC that is not a disregarded single member LLC and is classified as a partnership for federal and California income tax purposes) with recorded title to the property in the name of the partnership or LLC; or
  - H The seller is a tax-exempt entity under either California or federal law; or
  - I The seller is an insurance company, individual retirement account, qualified pension/profit sharing plan, or charitable remainder trust; or
  - J The transfer qualifies as a simultaneous like-kind exchange within the meaning of IRC Section 1031; or
  - K The transfer qualifies as a deferred like-kind exchange within the meaning of IRC Section 1031; or
  - L The transfer of this property will be an installment sale that you will report as such for California tax purposes and the buyer has agreed to withhold on each principal payment instead of withholding the full amount at the time of transfer.

The Seller is subject to penalty for knowingly filing a fraudulent certificate for the purpose of avoiding the withholding requirement.

## PRIVACY POLICY NOTICE

### Purpose Of This Notice

Title V of the Gramm-Leach-Bliley Act (GLBA) generally prohibits any financial institution, directly or through its affiliates, from sharing nonpublic personal information about you with a nonaffiliated third party unless the institution provides you with a notice of its privacy policies and practices, such as the type of information that it collects about you and the categories of a persons or entities to whom it may be disclosed. In compliance with the GLBA, we are providing you with this document, which notifies you of the privacy policies and practices of:

Commonwealth Land Title Insurance Company  
Fidelity National Title Insurance Company  
First American Title Insurance Company  
First American Title Insurance Company of New York  
Lawyers Title Insurance Corporation  
Montana Title and Escrow Company  
National Closing Solutions  
National Closing Solutions of Alabama, LLC  
NCS Exchange Professionals  
North Idaho Title Insurance Company  
Old Republic National Title Insurance Company

Placer Title Company  
Placer Title Insurance Agency of Utah  
Stewart Title Guaranty Company  
Stewart Title Insurance Company  
Targhee National Title  
The Sterling Title Company  
Ticor Title Insurance Company  
Transnation Title Insurance Company  
United General Title Insurance Company  
Westcor Land Title Insurance Company  
Wyoming Title and Escrow Company

We may collect nonpublic personal information about you from the following sources:

- \* Information we receive from you, such as on applications or other forms.
- \* Information about your transactions we secure from our files, our affiliates or others.
- \* Information we receive from a consumer reporting agency.
- \* Information we receive from others involved in your transaction; such as the real estate agent or lender.

Unless it is specifically stated otherwise in an amended Privacy Policy Notice, no additional nonpublic personal information will be collected about you

We may disclose any of the above information that we collect about our customers or former customers to our affiliates or to nonaffiliated third parties as permitted by law

We also may disclose this information about our customers or former customers to the following types of nonaffiliated companies that perform marketing services on our behalf or with whom we have joint marketing agreements:

- \* Financial service providers such as companies engaged in banking, consumer finances, securities and insurance.
- \* Nonfinancial companies such as envelope stuffers and other fulfillment service providers.

**WE DO NOT DISCLOSE ANY NONPUBLIC PERSONAL INFORMATION ABOUT YOU WITH ANYONE FOR ANY PURPOSE THAT IS NOT SPECIFICALLY PERMITTED BY LAW**

We restrict access to nonpublic personal information about you to those employees who need to know that information in order to provide products or services to you. We maintain physical, electronic and procedural safeguards that comply with federal regulations to guard your nonpublic personal information



# **EXHIBIT “E”**





CHICAGO TITLE COMPANY

## PRELIMINARY REPORT

*In response to the application for a policy of title insurance referenced herein, **Chicago Title Company** hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.*

*The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.*

*This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.*

*The policy(s) of title insurance to be issued hereunder will be policy(s) of Chicago Title Insurance Company, a Nebraska corporation.*

***Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.***

***It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.***

*Will Sayne*  
Countersigned



Chicago Title Company

BY

*[Signature]*  
President

ATTEST

*[Signature]*  
Secretary



**LEGAL DESCRIPTION**

**EXHIBIT "A"**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF PLACERVILLE, COUNTY OF EL DORADO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

**PARCEL ONE:**

BEING A PORTION OF THE NORTHEAST QUARTER AND NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 10 NORTH, RANGE 10 EAST, M.D.B.&M, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST EASTERLY CORNER OF THE TRACT HEREIN DESCRIBED, A 3/4 INCH DIAMETER CAPPED IRON PIPE FROM WHICH THE NORTHEAST CORNER OF SECTION 13, TOWNSHIP 10 NORTH, RANGE 10 EAST, M.D.B.&M, BEARS NORTH 49° 52' 45" EAST 2544.83 FEET; THENCE FROM THE POINT OF BEGINNING SOUTH 43° 35' 55" WEST 664.44 FEET TO A SIMILAR PIPE AT THE MOST SOUTHERLY CORNER THEREOF IN THE EASTERLY LINE OF THE SOUTHERN PACIFIC RAILROAD RIGHT OF WAY FROM WHICH A POINT IN THE CENTERLINE OF SAID RIGHT OF WAY AT OR NEAR STATION 3083+89.0 BEARS SOUTH 43° 35' 55" WEST 53.56 FEET; THENCE ALONG THE EASTERLY LINE OF SAID RIGHT OF WAY 50 FEET FROM THE CENTERLINE THEREOF AND PARALLEL THEREWITH NORTH 25° 15' 45" WEST 475.30 FEET TO A SIMILAR PIPE; NORTH 23° 26' 05" WEST 86.08 FEET TO A SIMILAR PIPE; NORTH 20° 24' 35" WEST 16.61 FEET TO A SIMILAR PIPE; NORTH 14° 35' 25" WEST 91.28 FEET; NORTH 4° 20' 05" WEST 91.28 FEET; NORTH 5° 25' 25" EAST 91.28 FEET TO A SIMILAR PIPE; NORTH 15° 27' 25" EAST 91.28 FEET TO A SIMILAR PIPE; NORTH 25° 48' 25" EAST 91.28 FEET; NORTH 35° 36' 55" EAST 91.28 FEET TO A SIMILAR PIPE; NORTH 45° 55' 25" EAST 91.28 FEET TO A SIMILAR PIPE AND NORTH 53° 10' 25" EAST 22.29 FEET TO A SIMILAR PIPE AT THE MOST NORTHERLY CORNER THEREOF SOUTHEASTERLY FROM THE CENTERLINE STATION 3097+15.0; THENCE LEAVING SAID RIGHT OF WAY LINE SOUTH 39° 26' 20" EAST 812.52 FEET TO THE POINT OF BEGINNING.

ACCORDING TO THE SURVEY BY ELMER J. KENT, COUNTY SURVEYOR, NO. 1820, COUNTY OF EL DORADO, STATE OF CALIFORNIA.

PORTION OF APN: 325-300-32-100

**PARCEL TWO:**

ALL THAT PORTION OF THE NORTH HALF OF SECTION 13, TOWNSHIP 10 NORTH, RANGE 10 EAST, M.D.B.&M, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 3/4 INCH CAPPED IRON PIPE, THE NORTHEAST CORNER OF THE PARCEL OF LAND HEREIN DESCRIBED, FROM WHICH POINT THE NORTHEAST CORNER OF SAID SECTION 13 BEARS NORTH 64° 36' 05" EAST 1519.14 FEET, AND FROM WHICH POINT OF BEGINNING A 1 1/4 INCH CAPPED IRON PIPE BEARS NORTH 7° 28' EAST 445.17 FEET; THENCE LEAVING SAID POINT OF BEGINNING, WEST 629.38 FEET TO A 3/4 INCH CAPPED IRON PIPE AT THE INTERSECTION OF THE SOUTHERLY BOUNDARY OF FORNI ROAD AND THE EASTERLY BOUNDARY OF THE SOUTHERN PACIFIC RAILROAD RIGHT OF WAY, SAID PIPE BEING EAST 66.62 FEET FROM ENGINEER'S STATION 3102+48.6 OF THE CENTERLINE OF SAID RAILROAD RIGHT OF WAY; THENCE LEAVING SAID FORNI ROAD AND ALONG THE EASTERLY BOUNDARY OF SAID RAILROAD RIGHT OF WAY, SOUTH 40° 56' 30" WEST 46.16 FEET, A SIMILAR PIPE; THENCE SOUTH 48° 18' 25" WEST 72.51 FEET, A SIMILAR PIPE; THENCE SOUTH 53° 10' 25" WEST 94.09 FEET, A SIMILAR PIPE; THENCE SOUTH 55° 25' 25" WEST 310.20 FEET, A SIMILAR PIPE; THENCE SOUTH 53° 10' 25" WEST 63.79 FEET, A SIMILAR PIPE; THE MOST WESTERLY CORNER OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE LEAVING SAID RAILROAD RIGHT OF WAY LINE, SOUTH 39° 26' 20" EAST 821.52 FEET TO A SIMILAR PIPE, FROM WHICH THE NORTHEAST CORNER OF SAID SECTION 13 BEARS NORTH 49° 52' 45" EAST 2544.83 FEET; THENCE NORTH 43° 35' 55" EAST 825.54 FEET, A SIMILAR PIPE, FROM WHICH A 1 1/4" CAPPED IRON PIPE BEARS SOUTH 59° 26' 50" EAST 390.29 FEET; THENCE NORTH 0° 38' 40" EAST 390.41 FEET TO THE POINT OF BEGINNING, ACCORDING TO A SURVEY MADE IN December, 1961, UNDER THE DIRECTION OF ELMER J. KENT, L.S., 1820.

EXCEPTING THEREFROM ALL THAT PORTION DESCRIBED IN THE DEED TO THE STATE OF CALIFORNIA RECORDED January 28, 1997, IN BOOK 4846, OFFICIAL RECORDS, PAGE 142, INSTRUMENT NO. 3991.

**AT THE DATE HEREOF, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:**

1. **Property taxes**, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2010-2011.
2. **The lien of supplemental taxes**, if any, assessed pursuant to the provisions of Chapter 3.5 (Commencing with Section 75) of the Revenue and Taxation code of the State of California.
3. Any taxes or assessments levied by the El Dorado Irrigation District. Said taxes and assessments are collected with county property taxes.

4. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to:	PACIFIC TELEPHONE AND TELEGRAPH COMPANY
Purpose:	POLES AND APPURTENANCES
Recorded:	January 12, 1931, Book 120, Page 313, of Official Records
Affects:	THE EXACT LOCATION IS NOT DISCLOSED OF RECORD

5. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as reserved in a document;

Reserved by:	ANITA EASTIN, A WIDOW
Purpose:	ROADWAY
Recorded:	December 29, 1961, Instrument No. 18038, Book 576, Page 46, of Official Records
Affects:	A PORTION OF SAID LAND

Affects: PARCEL ONE

6. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as reserved in a document;

Reserved by:	ANITA EASTIN, A WIDOW
Purpose:	ROADWAY
Recorded:	February 27, 1962, Instrument No. 2686, Book 582, Page 253, of Official Records
Affects:	A PORTION OF SAID LAND

Affects: PARCEL TWO



**12. A financing statement** filed in the Office of the County Recorder, showing

Debtor: EL DORADO COUNTY SHERIFF'S OFFICE  
Secured Party: REPUBLIC BANK, INC.  
Date: None Shown  
Recorded: June 30, 2004, Instrument No. 2004-0052694, of Official Records

A change to the above financing statement was filed

Date: March 30, 2004  
No.: 2004-0052694-00  
Nature of Change: Assignment to Marquette Equipment Finance LLC  
Recorded: September 10, 2008, Instrument No. 2008-0044216-00, of Official Records

A change to the above financing statement was filed

Date: June 30, 2004  
No.: 2004-052694-00  
Nature of Change: Amended as provided therein  
Recorded: September 22, 2008, Instrument No. 2008-0046444-00, of Official Records

A change to the above financing statement was filed

Date: June 30, 2004  
No.: 2004-0052694  
Nature of Change: Assignment to Texas Capital Bank  
Recorded: October 13, 2008, Instrument No. 2008-0049630-00, of Official Records

**13. A financing statement** filed in the Office of the County Recorder, showing

Debtor: EL DORADO COUNTY SHERIFF'S OFFICE  
Secured Party: REPUBLIC BANK, INC.  
Date: None Shown  
Recorded: June 30, 2004, Instrument No. 2004-0052695, of Official Records

A change to the above financing statement was filed

Date: June 30, 2004  
No.: 2005-0052695-00  
Nature of Change: Assignment to Marquette Equipment Finance LLC  
Recorded: September 10, 2008, Instrument No. 2008-0044217-00, of Official Records

A change to the above financing statement was filed

Date: June 30, 2004  
No.: 2004-0052695-00  
Nature of Change: Amended as provided therein  
Recorded: September 22, 2008, Instrument No. 2008-0046445-00, of Official Records

A change to the above financing statement was filed

Date: June 30, 2004

No.: 2004-0052697-00

Nature of Change: Amended as provided therein

Recorded: September 22, 2008, Instrument No. 2008-0046446-00, of Official Records

A change to the above financing statement was filed

Date: June 30, 2004

No.: 2004-0052697-00

Nature of Change: Assignment to Texas Capital Bank

Recorded: October 13, 2008, Instrument No. 2008-0049628-00, of Official Records

17. **Any right, title or interest** of the debtor named in the financing statement shown above. On the date of said financing statement the debtor had no record interest in said land nor has the debtor since acquired an estate or interest of record.
18. **Any right, title or interest** of the debtor named in the financing statement shown above. On the date of said financing statement the debtor had no record interest in said land nor has the debtor since acquired an estate or interest of record.
19. **Any rights of the parties in possession** of a portion of, or all of, said land, which rights are not disclosed by the public record.

This Company will require, for review, a full and complete copy of any unrecorded agreement, contract, license and/or lease, together with all supplements, assignments and amendments thereto, before issuing any policy of title insurance without excepting this item from coverage. The Company reserves the right to except additional items and/or make additional requirements after reviewing said documents.

20. **Before issuing its policy of title insurance**, this Company will require the following:

That satisfactory evidence be furnished to this company of compliance with applicable statutes, ordinances and charters governing the ownership and disposition of the herein described land.

The Company reserves the right to add additional items or make further requirements after review of the requested documentation.

21. **The application** for title insurance was placed by reference to only a street address or tax identification number.

Based on our records, we believe that the description in this report covers the parcel requested, however, if the legal description is incorrect a new report must be prepared.

If the legal description is incorrect, in order to prevent delays, the seller/buyer/borrower must provide the Company and/or the settlement agent with the correct legal description intended to be the subject of this transaction.

**END OF ITEMS**



**ATTACHMENT ONE**  
**AMERICAN LAND TITLE ASSOCIATION**  
**RESIDENTIAL TITLE INSURANCE POLICY (6-1-87) EXCLUSIONS**

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:
  - land use
  - improvements on the land
  - land division
  - environmental protection

This exclusion does not apply to violations or the enforcement of these matters which appear in the public records at policy date.

This exclusion does not limit the zoning coverage described in Items 12 and 13 of Covered Title Risks.

2. The right to take the land by condemning it, unless:
  - a notice of exercising the right appears in the public records on the Policy Date
  - the taking happened prior to the Policy Date and is binding on you if you bought the land without knowledge of the taking

In addition to the Exclusions, you are not insured against loss, costs, attorneys' fees, and the expenses resulting from:

1. Any rights, interests, or claims of parties in possession of the land not shown by the public records.
2. Any easements or liens not shown by the public records. This does not limit the lien coverage in Item 8 of Covered Title Risks.

3. Title Risks:

- that are created, allowed, or agreed to by you
- that are known to you, but not to us, on the Policy Date - unless they appeared in the public records
- that result in no loss to you
- that first affect your title after the Policy Date - this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks

4. Failure to pay value for your title.

5. Lack of a right:

- to any land outside the area specifically described and referred to in Item 3 of Schedule A
- or
- in streets, alleys, or waterways that touch your land

This exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

3. Any facts about the land which a correct survey would disclose and which are not shown by the public records. This does not limit the forced removal coverage in Item 12 of Covered Title Risks.

4. Any water rights or claims or title to water in or under the land, whether or not shown by the public records.



**ATTACHMENT ONE  
(CONTINUED)**

**FORMERLY AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (10-17-92)  
WITH A.L.T.A. ENDORSEMENT-FORM 1 COVERAGE  
EXCLUSIONS FROM COVERAGE**

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

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:  
(a) created, suffered, assumed or agreed to by the insured claimant;  
(b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;  
(c) resulting in no loss or damage to the insured claimant;  
(d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy); or  
(e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:  
(i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or  
(ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or  
(iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:  
(a) to timely record the instrument of transfer; or  
(b) of such recordation to impart notice to a purchaser for value or a judgement or lien creditor.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage.

In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

**EXCEPTIONS FROM COVERAGE**

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

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.