

#### SURFACE USE AGREEMENT

This Surface Use Agreement ("Agreement") is entered into and effective this \_\_\_\_ day of February, 2018 by and between Tower Eastside LLC, a Colorado limited liability company ("Owner"), whose address is 4100 E. Mississippi Avenue, Suite 500, Glendale, CO 80246, and Extraction Oil & Gas, Inc. ("Operator"), with offices at 370 17<sup>th</sup> Street, Suite 5300, Denver, Colorado 80202. In this Agreement, Owner and Operator sometimes are referred to individually as a "Party" or collectively as the "Parties."

#### WITNESSETH:

For and in consideration of the covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. OWNERSHIP. Owner represents and warrants that it owns the surface of certain lands located in Adams County, Colorado, identified as follows:

Township 2 South, Range 66 West of the 6<sup>th</sup> P.M.  
Portions of Section 3 legally described on Exhibit "A"  
attached hereto (the "Property"); and

Operator, or its affiliates, owns a working interest, leasehold interest, or other interest under certain oil and gas leases covering all or portions of the Property, or lands pooled or included in a spacing unit therewith, or lands adjacent thereto (the "Lease," or collectively, the "Leases").

#### 2. OIL AND GAS OPERATIONS ON THE LAND.

A. Operator desires to drill, complete, operate, produce and maintain oil or gas wells (collectively, the "Wells") on a portion of the Property, the subsurface locations of which may be under lands other than the Property. The surface location of the Wells shall be limited to those Oil and Gas Operation Areas legally described and depicted on Exhibit "B" attached hereto (collectively, the "Oil and Gas Operation Areas"). In order for Operator, its agents, consultants, successors or assigns to explore, permit, survey, obtain consents and waivers, develop, drill, construct, complete, recomple, produce, maintain, rework, equip, deepen, stimulate, re-stimulate, assess, evaluate, inspect, test, update, upgrade, operate, secure, and transport production from the Wells and all facilities associated therewith including, but not limited to, access roads that may be used in common between the Parties (except for existing access roads located in the Oil and Gas Operation Areas) as legally described and depicted on Exhibit B (collectively, the "Access Roads"), pipelines, infrastructure, equipment, surface appurtenances and production facilities including but not limited to emission control devices, vapor recovery towers, vapor recovery units, flowlines, gathering lines, transmission lines, temporary above ground water lines, temporary above ground completion fluid pipelines, separators, pumping units, tank batteries, MLVTS, LACT units, electrical lines, utility lines and any other facilities or property necessary for Operator to conduct operations on the Wells (each a "Facility," collectively, the "Facilities"). Owner recognizes it is necessary that Operator, its agents, consultants, successors or assigns enter and utilize all or a portion of the Oil and Gas Operation Areas in order to operate and maintain the Wells and Facilities. Owner and Operator desire to mitigate any surface damage to the Property and to set forth their agreements with respect to future operations on the Property, to accommodate operations and development of the surface, and to provide for cooperation between the Parties and the mutual enjoyment of the Parties' respective rights in and to the Property. This Agreement sets forth the Parties' rights and obligations regarding the development and use of the Property by Owner and operations conducted by Operator. Notwithstanding anything to the contrary in this Agreement, Operator's use of the Property shall be limited to the Oil and Gas Operation Areas, which includes the location of the Wells and the Facilities, and the Access Roads to the Oil and Gas Operation Areas, all of which are legally described and depicted on Exhibit "B" (collectively, the "Lands"). Additionally, the Parties shall enter into commercially reasonable license agreements for any pipelines and flowlines located outside of the Lands necessary for Operator's operations, which locations shall be agreed upon by the Parties using commercially reasonable standards.

#### 3. SURFACE EASEMENT AND RIGHT-OF-WAY; SUBSURFACE EASEMENT.

A. Owner acknowledges and understands that Operator holds certain leasehold rights under the Leases, and certain easements and rights-of ways including an exclusive easement for the Oil and Gas Operations Areas as described in this Agreement and as legally described and depicted in Exhibit "B." Owner hereby grants to Operator, its successors and assigns and each of their agents, employees, contractors and subcontractors, an exclusive right to enter upon and utilize the Oil and Gas Operations Areas for the purpose of drilling, completing, operating, securing, producing, evaluating, deepening, reworking, equipping, maintaining, plugging and abandoning of Wells, and locating, constructing, entrenching,

operating, maintaining, repairing, altering, replacing and removing the Facilities and all necessary appurtenant facilities, for the purposes specified in this Agreement, and across the Lands to construct, use and maintain Access Roads including ingress and egress from the Facilities across the Oil and Gas Operations Area. Notwithstanding anything in the foregoing to the contrary, Owner hereby also grants to Operator its successors and assigns and each of their agents, employees, contractors and subcontractors, a non-exclusive right to enter upon the Access Roads for the purpose of access to the Oil and Gas Operations Areas and for the maintenance of the Access Roads. Prior to commencing any operations, initiating the drilling of any Well or initiating the conduct of seismic activities on the Oil and Gas Operations Area, Operator shall notify Owner as to the location of each Well, Access Road, Facilities, including without limitation, pipelines, power lines and tank batteries

B. Owner grants Operator the right to drill, complete, operate and maintain Wells on the Oil and Gas Operation Areas that produce oil, natural gas, produced liquids, and associated hydrocarbons from lands other than the Lands and lands pooled with the Lands to the extent allowed under the Leases.

C. Owner further grants Operator a right to use the subsurface through the Property for the purpose of drilling, completing, operating, re-stimulating, reworking and maintaining oil and gas wells that may produce and drain oil, natural gas, produced liquids and associated hydrocarbons from lands other than the Property and lands pooled with the Property to the extent allowed under the Leases.

D. Owner further grants Operator the right to gather to the Oil and Gas Operation Areas and transport from the Oil and Gas Operation Areas oil, natural gas, produced liquids and associated hydrocarbons produced from the Property and lands other than the Property and lands pooled with the Lands, and to transfer/assign such right to a third party gatherer.

#### **4. LOCATION/OIL AND GAS OPERATIONS AREA.**

Changes to the Oil and Gas Operation Areas, except the boundaries of the Oil and Gas Operation Areas, may be made by Operator without the written consent of Owner, provided that such changes will not unduly interfere with Owner's existing or anticipated use of the Property. Operator agrees not to use any more of the surface of the Lands and the Oil and Gas Operation Areas than is reasonably necessary to conduct its operations. This Agreement does not in any way limit the rights of Operator to drill future additional Wells with associated Facilities and Access Roads on the Oil and Gas Operations Area. Further, Owner acknowledges and agrees that during the Primary Term of this Agreement (as hereinafter defined) Owner shall not construct or commence construction upon any buildings, structures, or other edifices within five-hundred (500) feet of any Oil and Gas Operations Area (the "500' Setback"). Except for the 500' Setback, this Agreement does not in any way limit the Rights of the Owner to develop the surface of the Property located outside of the Lands.

#### **5. CONDUCT OF OPERATIONS.**

Operator's operations on the Lands will be conducted pursuant to the terms of the Leases, this Agreement, the rules and regulations of the Colorado Oil & Gas Conservation Commission ("COGCC"), and all applicable laws, statutes, rules, regulations, ordinances and similar items, including without limitation all applicable Colorado statutes and case law, and any applicable federal statutes and case law. This Agreement does not create in owner a private right to enforce the rules and regulations of the COGCC.

#### **6. COMPENSATION AMOUNT.**

The Parties acknowledge that Operator will provide Owner with certain good and valuable consideration, as described in that certain confidential Letter Agreement between the Parties of even date herewith (the "Letter Agreement"), at such time as provided in the Letter Agreement and prior to the commencement of drilling operations for each Well drilled which consideration is agreed to be and constitute full, complete and final consideration for any damages to and use of the Lands and the Oil and Gas Operation Areas caused or created by the reasonable and customary entry, rights-of-way, and operation and use of the Access Roads and well sites, but do not include damage to livestock, buildings, or improvements, or injuries to persons. Provided Operator elects to extend beyond the Primary Term (as hereinafter defined), then Operator shall provide Owner with additional payment(s) for the Extended Term(s) (as hereinafter defined in Paragraph 19), as described in the Letter Agreement. This Agreement does not relieve Operator from liability due to Operator's negligence or due to spills or discharges of any hydrocarbon or toxic substance or hazardous chemicals or wastes, or from leaks or breaks in Operator's pipelines. Subsequent operations related to the Wells, including but not limited to refracs, recompletions, deepening, or redrilling, except in case of emergency, shall require prior notice to Owner. Operator shall pay Owner for all actual damages caused by said subsequent operations.

**7. ADDITIONAL SURFACE USE PROVISIONS, ACCESS ROADS, AND FACILITIES.**

With respect to its operations on the Lands, Operator and Owner will comply with the following provisions:

**A. Access Roads:**

(i) The Access Roads shall provide Operator with continuous access to the Oil and Gas Operation Areas, Wells, Facilities and all associated oil and gas operations, equipment and areas associated therewith.

(ii) Operator will maintain all Access Roads in good repair and condition, and in accordance with COGCC regulations, state laws, and other applicable regulatory or statutory frameworks and to the reasonable satisfaction of the Owner. The surface of all roadways, including without limitation the Access Roads shall be made of compacted gravel and shall not exceed 24 feet in width for traveled surface. Operator shall control dust from all roadways through the application of an appropriate dust suppressant.

**B. Surface Restoration:**

(i) Unless Owner otherwise agrees in writing or unless a shorter time period is otherwise required in the rules of the COGCC, within six (6) months after termination of all of operations on the Oil and Gas Operation Areas contemplated in this Agreement, Operator shall fully restore and level the surface of the lands affected by such operations as near as possible to the contours which existed prior to such operations. Operator shall use water bars and other measures as appropriate to prevent erosion and non-source pollution.

(ii) Unless otherwise agreed by Owner or unless otherwise provided in the rules of the COGCC, all areas disturbed by Operator's activities will be reseeded with suitable grasses or crops selected by Owner, at a reseeding rate determined by Owner, and during a planting period selected by Owner. In the absence of direction from Owner, no reseeding (except for borrow pits) will be required on any Access Roads existing as of the date of this Agreement. It shall be the duty of Operator to ensure that a growing ground cover is established upon disturbed soils and Operator shall reseed as necessary to accomplish that duty.

(iii) It shall further be the duty of Operator to inspect and control all noxious weeds as may become established within areas used or disturbed by Operator as required by the rules of the COGCC. Operator shall inspect disturbed areas from time to time and as Owner shall reasonably request in order to determine the growth of ground cover and/or noxious weeds. Operator recognizes that this shall be a continuing obligation and Operator shall reseed ground cover and/or control noxious weeds until areas disturbed by Operator are returned to as near the condition as existed immediately prior to construction. If Owner so requests, Operator shall construct and remove fences for the purpose of temporarily excluding livestock from newly seeded areas.

**C. Pipelines:** Any pipelines constructed by Operator on the Lands and in the Oil and Gas Operation Areas shall be constructed and maintained to the following specifications:

(i) The top of each pipeline shall be buried at least 48 inches below the surface of the ground and shall be constructed in such a manner to safely permit Owner to construct roads and utilities over such pipeline in such locations as Operator shall reasonably consent to.

(ii) Operator shall be responsible for backfilling, repacking, reseeding, and recontouring the surface to the condition that existed immediately prior to pipeline installation so as not to interfere with Owner's present or future agricultural operations and its present or planned future development or other use of the Land. If pipeline trenches settle so as to interfere with Owner's irrigation or ranching activities, upon request by Owner, Operator shall fill in, repack, and level such trenches.

(iii) Upon Owner's request, Operator shall provide Owner with a plat showing the "as built" length and location of all pipelines promptly after their installation.

(iv) If Operator fails to use any pipeline for a period in excess of twenty-four (24) consecutive months, the pipeline shall be deemed abandoned and Operator shall promptly take all actions necessary or desirable to clean up and remove the pipeline, or render the pipeline environmentally safe and fit for abandonment in place, and restore the

surface to the condition that existed immediately prior to pipeline installation. All such cleanup and mitigation shall be performed in compliance with all applicable federal, state, and local laws and regulations.

**D. Power Lines:** Any buried or overhead power lines constructed on the Property shall be constructed and maintained to the following specifications:

(i) Operator will consult with Owner and with the independent power company supplying power to Operator with respect to the location of overhead power lines prior to construction and installation upon the Lands, and shall obtain Owner's written consent for such locations which consent shall not be unreasonably withheld. Overhead power lines will be constructed so as to cause the least interference reasonably possible with Owner's visual landscape and Owner's existing and planned future uses of the Property, and, to the maximum extent reasonably possible, overhead power lines will be constructed along fence lines or property lines. Operator agrees that it will not construct overhead power lines that will interfere with irrigation in those portions of the Property which are developed or are being irrigated or cultivated or which may, in the future, be developed or irrigated or cultivated or which are fallow as part of a crop rotation or management program. No overhead power line will be located where it will interfere with Owner's existing or planned future uses of the Property planned by Owner at the time of construction of overhead power lines.

(ii) Buried power lines shall be installed at least 48 inches below the surface of the ground, and shall be constructed in such a manner to safely permit Owner to construct roads and utilities over such power line in such locations as may be designated by Owner.

**E. Other:**

(i) Operator will install culverts on the Lands and on the Oil and Gas Operation Areas that may be necessary to maintain drainage and irrigation in a manner equivalent to conditions upon the Lands and the Oil and Gas Operation Areas immediately prior to operations as nearly as is reasonably practicable.

(ii) If there is damage to personal property of the Owner caused by Operator, including, but not limited to, irrigation wells, fences, culverts, bridges, pipelines, ditches, or irrigation systems, Operator will repair or replace such items after consultation with and to the reasonable satisfaction of the Owner. Owner will notify Operator of any items damaged after the Wells have been drilled and completed and Operator will repair or replace such items within 30 days of notice, unless otherwise agreed to by the Owner and Operator.

(iii) Operator agrees that all trash, refuse pipe, equipment, liquids, chemicals, or other materials brought on the Lands that are not necessary for continued operations of the Wells will be removed and disposed away from the Lands no later than 30 days after the completion of the Wells. No such items will be burned or buried on the Lands.

(iv) During drilling operations the well sites and any other dangerous areas shall be fenced by the Operator, upon request by the Owner. Additionally, the Lands and the Oil and Gas Operation Areas shall at all times be kept free and clear of all noxious weeds, unsightly growth, trash and spilled hydrocarbons during drilling operations and after completion and production.

(v) Operator shall not permit the release or discharge of any toxic or hazardous chemicals or wastes on the Property. Any spill of oil, grease, solvents, chemicals, or hazardous substances on the Oil and Gas Operation Areas, the Lands or the Property which are reportable to regulatory authorities under applicable law or regulations shall be immediately (within 24 hours) reported to Owner by telephone, fax, or e-mail, to be followed by copies of written notices which Operator has filed with regulatory authorities within five (5) business days after such filing.

(vi) All surface facilities not subject to safety requirements shall be painted to blend with the natural color of the landscape.

(vii) No living quarters shall be constructed upon the Lands, except that drilling crews and geologists or service personnel may use temporary "dog houses" during drilling, completion, or reworking activities.

(viii) Operator shall conduct operations and activities on the Lands and the Oil and Gas Operation Areas in accordance with, and shall strictly comply with all existing local, state, and federal laws, rules, and regulations. Operator shall also obtain any permit, consent, license, or other authorization required by law or by any governmental authority having jurisdiction.

(ix) With respect to any water produced from Wells drilled on the Oil and Gas Operation Areas in connection with the production of oil, gas, or other hydrocarbons, Operator agrees to reinject produced water or haul the same away from the Lands and properly dispose of such produced water off the Lands. Operator shall not construct evaporation pits for produced water, but may have a small "emergency pit" during drilling, completion, or reworking operations for produced water purposes.

#### **8. DEFAULT AND RIGHT TO CURE.**

In the event of alleged default by Operator in the payment of any amount, in its obligations to be performed, or any other terms, conditions or covenants of this Agreement, Owner will notify Operator, by certified mail, return receipt requested, of the alleged default. Operator will have 30 days from receipt of the written notification in which to dispute or otherwise respond to the notification before Owner may pursue other remedies of the alleged default. If Operator cures the alleged default within 30 days of Owner's notice, or if the alleged default is of a nature that cannot be cured within 30 days, then if Operator commences curing the alleged default within that 30-day period and diligently pursues such cure, then no default shall be deemed to have occurred.

Except as otherwise agreed in writing, no waiver by Owner of any breach by the Operator of any of its obligations, agreements, or covenants hereunder will be deemed to be a waiver of any subsequent or continuing breach of the same, nor will any forbearance by Owner to seek a remedy for any breach by the Operator be deemed to be a waiver by Owner of its rights or remedies with respect to such breach.

Any damages awarded to either party under this Agreement shall be limited to only the actual damages incurred by such party, and neither party shall be liable for consequential, incidental, punitive, exemplary or indirect damages in tort or in contract, or under any legal theory, and all such damages are hereby excluded and waived by the Parties and the exercise of the rights of any party hereunder.

#### **9. INDEMNITY/RELEASE.**

Except as to claims arising out of pollution or environmental damage (which claims are governed as provided below) or out of other provisions of this Agreement (which claims shall be governed by the terms of this Agreement), each Party shall be and remain responsible for all losses, claims, damages, demands, suits, causes of action, fines, penalties, expenses and liabilities, including without limitation attorneys' fees and other costs associated therewith (all of the aforesaid herein referred to collectively as "Claims"), arising out of or connected with each such Party's ownership or operations or activities on the Property, the Lands and the Oil and Gas Operation Areas, no matter when asserted, subject to applicable statutes of limitations. Each such Party shall release, defend, indemnify and hold the other Parties, their officers, directors, employees, agents and contractors, successors and assigns, harmless against all such Claims. This provision does not, and shall not be construed to, create any rights in persons or entities not a Party to this Agreement, nor does it create any separate rights in Parties to this Agreement other than the right to be indemnified for Claims as provided herein. Notwithstanding anything in this Agreement to the contrary, Operator shall compensate Owner for any and all damage, loss, or claim which Owner sustains because Operator did not act as a reasonable and prudent operator. Upon the assignment or conveyance of a Party's entire interest in the Agreement, that Party shall be released from its indemnification provided above, for all actions or occurrences happening after such assignment or conveyance.

The foregoing shall not apply to any environmental matters, which shall be governed exclusively by the following:

"Environmental Claims" shall mean all Claims asserted by governmental bodies or other third parties for pollution or environmental damage of any kind, arising from operations on or ownership of the Lands or ownership of the Leases, whichever is applicable, and all cleanup and remediation costs, fines and penalties associated therewith, including but not limited to any Claims arising from Environmental Laws or relating to asbestos or to naturally occurring radioactive material. Environmental Claims shall not include the costs of any remediation undertaken voluntarily by any Party, unless such remediation is performed under the imminent threat of a Claim by a governmental body or other third party;

"Environmental Laws" shall mean any laws, regulations, rules, ordinances, or order of any governmental authority(ies), which relate to or otherwise impose liability, obligation, or standards with respect to pollution or the protection of the environment, including but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601 et seq.),

the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§ 6901 et seq.), the Clean Water Act (33 U.S.C. §§ 466 et seq.), the Safe Drinking Water Act (14 U.S.C. §§ 1401-1450), the Hazardous Material Transportation Act (49 U.S.C. §§ 1801 et seq.), the Clean Air Act, and the Toxic Substances Control Act (15 U.S.C. §§ 2601-2629); and

Operator shall protect, indemnify, and hold harmless Owner from any Environmental Claims relating to the Property, including the Lands, Oil and Gas Operation Areas or the Leases that arise out of Operator's ownership and operation on the Lands and the Oil and Gas Operation Areas and its operation of any pipeline or Access Road on the Lands. Owner shall fully protect, defend, indemnify and hold harmless Operator from any and all Environmental Claims relating to the Property that arise out of Owner's operations on the Property. This indemnity specifically covers the completion or fracturing or refracturing of any well drilled by Operator on the Oil and Gas Operation Areas.

The indemnities of the Parties herein shall not cover or include any amounts which the indemnified Party is actually reimbursed by any third party. The indemnities in this Agreement shall not relieve any Party from any obligations to third parties.

To the maximum extent permitted by law, Operator releases and waives and discharges Owner and, if applicable, Owner's officers, directors, employees, agents, successors, and assigns from any and all liability for personal injury, death, property damage, or otherwise arising out of Operator's or its agents' operations under this Agreement or Operator's use of the Property, unless such injury, death, or property damage is the result of Owner's grossly negligent or intentional acts or omissions or those of its members, officers, directors, employees, agents, successors, and assigns.

**10. WAIVER OF COGCC NOTICES AND OTHER REGULATORY MATTERS.**

A. Provided Operator is in compliance with this Agreement, Owner hereby waives the following notices and consultations:

- (i) Rule 305.a.: Notice of Intent to Conduct Oil and Gas Operations;
- (ii) Rule 305.c.(1): Oil and Gas Location Assessment Notice;
- (iii) Rule 305.c.(2): Buffer Zone Notice;
- (iv) Rule 305.f.: Statutory Notice to Surface Owners;
- (v) Rule 305.h.: Move-In, Rig-Up Notice;
- (vi) Rule 306.a.: Surface Owner Consultation and Meeting Procedures;
- (vii) Rule 305.f.(4): Notice of Subsequent Operations; and
- (viii) Any other notice or consultation requirements of the COGCC, Adams County, Colorado, or City of Commerce City, Colorado.

B. Provided Operator is in compliance with this Agreement, Owner shall not object or protest any Application for Permit to Drill (Form 2) and Oil and Gas Location Assessment (Form 2A) filed by Operator with the COGCC.

C. Provided Operator is in compliance with this Agreement, Owner hereby waives any right granted by COGCC rule to comment on the Form 2A, to request an extension of the comment period, to request an onsite inspection pursuant to COGCC policy, and to appeal the approval and issuance of the Form 2A, and any related Form 2.

D. Provided Operator is in compliance with this Agreement, Owner shall not oppose Operator, its agents, consultants, attorneys, successors and assigns in any COGCC or other administrative or governmental proceedings related to Operator's operations, including but not limited to permitting, formation of drilling units, well spacing, well density, pooling, drilling, completion, stimulation, re-stimulation, workovers, deepening and recompleting, provided that Operator's position and contemplated undertakings in such proceedings are consistent with this Agreement. Owner will provide Operator, its agents, consultants, attorneys, successors and assigns with any and all written support they may reasonably require to obtain permits from the COGCC or other applicable governmental body.

E. Owner understands and acknowledges that the COGCC has rules and regulations that apply to the distance between a wellhead and public roads, production facilities, building units, occupied

buildings, and surface property lines, among other things. Provided Operator is in compliance with this Agreement, Owner hereby waives its right to object to the location of any Well, Access Roads and Facilities on the basis of setback requirements in the rules and regulations of the COGCC, including, but not limited to, the 150 foot setback from surface property lines and other requirements of rules 603.a.(2), and 604.a, except that the Parties intend to rely upon one or more exceptions of rule 604.b of the rules and regulations of the COGCC relating to property lines and urban mitigation areas or designated outside activity areas, as those terms may change or be defined and amended from time to time. For the operations contemplated by this Agreement, to the extent permitted by law, Owner hereby waives the Exception Zone, Buffer Zone, Urban Mitigation Area, and High Occupancy Building setback distances, as required by COGCC rules and regulations.

F. Provided Operator is in compliance with this Agreement, Owner grants consent to locate the Wells greater than 50 feet from an existing well pursuant to COGCC Rule 318A.c. Provided Operator is in compliance with this Agreement, to the extent permitted by law, Owner grants consent to locate Wells outside of the GWA windows as defined in COGCC Rule 318A.a.

G. Owner understands that Operator may provide a copy of this Agreement to the COGCC in order to obtain a waiver, exception location, or variance from the COGCC rules or from a local jurisdiction.

H. Subject to Paragraph 11 of this Agreement, provided Owner is in compliance with this Agreement, Operator agrees that it will not object, oppose or seek to prevent Owner from (i) obtaining any required permits to develop the Property for residential, commercial, industrial and other uses of any kind as Owner determines from time to time, or (ii) so developing the Property, subject to Operator's rights under this Agreement. Operator agrees to execute and deliver letters of support of and non-objection to such development by Owner as reasonably may be requested by Owner from time to time.

#### **11. NO INCLUSION IN DISTRICTS.**

Unless Owner obtains the prior written consent of Operator, which consent Operator may withhold, condition, or delay in Operator's sole and absolute discretion, Owner shall not, shall not consent to, and shall use best efforts to oppose all attempts to: (a) create any new District that would include the Oil and Gas Operations Area within such District's boundaries or jurisdiction; (b) include the Oil and Gas Operations Area within the boundaries or jurisdiction of any existing District of which it is not currently a part (Operator acknowledges and agrees that the Oil and Gas Operation Areas are currently included in one or more existing Districts); or (c) to the extent the Owner controls the applicable District, impose or increase any mill levy or other tax, fee, or other charge of any District upon the Oil and Gas Operation Areas. Notwithstanding the forgoing Owner shall use commercially reasonable efforts to remove the Oil and Gas Operation Areas from the TR Ranch Metropolitan District.

For the purposes of this Paragraph, "District" means any special district formed pursuant to Article 1 of Title 32 of the Colorado Revised Statutes; any urban renewal authority, downtown development authority, business improvement district, special improvement district, or other body or entity formed pursuant to Article 25 of Title 31 of the Colorado Revised Statutes; any common interest community, condominium community, cooperative, or planned community formed pursuant to Article 33.3 of Title 38 of the Colorado Revised Statutes, commonly referred to as the Colorado Common Interest Ownership Act; or any other body or entity with the power to impose taxes, assessment, charges, or fees upon the Property.

#### **12. NOTICES.**

Subject to the terms, conditions, and covenants of this Agreement written Notice by either Party will be promptly served to the other Party by United States mail, postage prepaid and addressed to either Party, or to such other place as either Party may from time to time designate by notice to the other, at the following addresses:

**Owner**  
Tower Eastside LLC  
4100 E. Mississippi Ave., Suite 500  
Glendale, CO 80246  
Phone:  
Attn: Andrew R. Klein

**Operator**  
Extraction Oil & Gas, Inc.  
370 17<sup>th</sup> Street, Suite 5300  
Denver, CO 80202  
Phone: 720-557-8300  
Attn: Land Department

Owner agrees to notify any surface tenant or other third party that may be affected by Operator's operations on the Lands and Owner may allocate the payments made hereunder with such surface tenant as

mutually agreed upon between themselves. Neither this Agreement nor any operations arising hereunder shall create any rights, obligations or liability between Operator and such third parties.

**13. BINDING EFFECT.**

The terms, conditions, covenants, and provisions of this Agreement will inure to the benefit of and will be binding upon the Parties hereto, their respective heirs, agents, representatives, successors or assigns.

**14. RECORDING.**

The Parties agree Operator may record this Agreement in the real estate records of the county in which the Lands are located.

**15. ENTIRE AGREEMENT**

Except for the Letter Agreement, this Agreement contains the entire agreement between the Parties concerning the subject matter referred to herein and supersedes and replaces any prior agreements between the Parties concerning such subject matter, including any prior surface use agreements between the Parties applying to the Property or other lands owned by Owner. This Agreement may not be modified orally or in any other manner other than by written agreement signed by each of the Parties or their successors or assigns

**16. LETTER AGREEMENT.**

The Owner and Operator shall execute the Letter Agreement containing the terms and conditions of the Compensation Amount arising under this Agreement and execution of the Letter Agreement is a precondition to this Agreement and this Agreement shall be of no force or effect if the Letter Agreement is not executed concurrently with this Agreement or if any payments from Operator to Owner provided for in the Letter Agreement are not timely paid.

**17. REASONABLE ACCOMMODATION.**

Provided that Operator is in compliance with this Agreement, Owner acknowledges uses and operations upon the Lands by Operator under this Agreement are in full satisfaction of the requirement that Operator conduct its oil and gas operations in a manner that accommodates Owner.

**18. ADVICE TO TENANTS.**

Owner agrees to contact any and all tenants of the Property or any other third parties utilizing the surface of the Property that may be affected by Operator's activities on the Lands. It will be Owner's sole responsibility to advise such third parties of the existence of this Agreement.

**19. TERMINATION.**

A. This Agreement will remain in force for a primary term of five (5) years from the date of execution (the "Primary Term"). The Operator may drill at least ten (10) Wells on each Oil and Gas Operations Area during the Primary Term. In the event the Operator has not drilled at least ten (10) Wells on each of the Oil and Gas Operations Areas during the Primary Term, the Primary Term may be extended at Operator's sole election for additional three (3) year period(s) (each, an "Extended Term") until the Operator has drilled at least ten (10) Wells on each Oil and Gas Operations Area. Operator shall notify Owner in writing of Operator's election to exercise an Extended Term and along with such notice pay the Owner the Extension Fee (as defined in the Letter Agreement) for each Extended Term elected.

B. In the event that Operator does not elect to exercise an Extended Term and at least ten (10) Wells have not been drilled on an Oil and Gas Operations Area, Operator shall forfeit all rights to drill additional Wells upon the Oil and Gas Operations Area at issue and the Oil and Gas Operations Area at issue shall revert to the smallest size determined by Operator that, in its judgment as a reasonably prudent operator, is required in order to service and conduct operations upon those Wells existing at the expiration of the Primary Term, as may have been extended by an Extended Term(s); provided however that if Operator has not drilled any Wells at such time, the applicable Oil and Gas Operations Area and all rights to conduct operations thereupon shall terminate.

C. Notwithstanding anything to the contrary, this Agreement will automatically terminate at the earlier of: (i) the expiration of the Primary Term, if not extended, and no Wells have been drilled upon any of the Oil and Gas Operations Areas; or (ii) at the expiration of the Extended Term(s), if exercised, and no Wells have been drilled in any Oil and Gas Operations Areas; or (iii) concurrently with the Leases as they relate to Operator's or its affiliates' rights to explore, drill, and produce oil, natural gas, and associated



hydrocarbons from the Lands even if such termination is during the Primary Term or an Extended Term of this Agreement.

D. To the extent a moratorium or a restrictive governmental law, rule or regulation prevents a Party from performing the operations herein described, this Agreement shall be extended for such period of time that the moratorium or restrictive governmental law or regulation is in place. Notwithstanding the termination of this Agreement, Operator may access the Lands to plug and abandon the Wells and to reclaim the Lands as provided in this Agreement and the Leases and for such other purposes as necessary to comply with any law, rule, or regulation governing Operator's operations. All of Operator's obligations and liabilities under this Agreement shall survive the termination of this Agreement.

**20. COUNTERPARTS.**

This Agreement may be executed by facsimile or electronic mail, in counterparts, each of which will be considered an original and enforceable against either Party.

**21. GOVERNING LAW AND VENUE.**

This Agreement will be governed by, construed and enforced in accordance with the laws of Colorado. Venue shall be deemed to be in the county where the Lands are located.

**22. AUTHORITY OF SIGNATORIES.**

The signatories below declare, warrant and represent that they have the authority to enter into this Agreement on behalf of their respective principals, if any.

**23. SUCCESSORS.**

This Agreement shall run with the Property and will be binding upon and inure to the benefit of, and be enforceable by, the Parties and their respective agents, consultants, affiliates, administrators, trustees, heirs, executors, successors or assigns.

**24. ATTORNEYS' FEES.**

If any action or proceeding is instituted by either party for enforcement or interpretation of any term or provision of this Agreement, the prevailing party pursuant to a final judgment of a court of competent jurisdiction shall recover from the other party, and the other party shall pay, the prevailing party's reasonably incurred attorneys' fees and costs as determined by the court.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective as of the day and year first written above.

*(The remainder of this page is intentionally left blank).*

ACKNOWLEDGMENTS

Operator:  
Extraction Oil & Gas, Inc.

By: [Signature]

Name: Matthew R. Owens  
Title: President

Owner:  
Tower Eastside, LLC

By: [Signature]

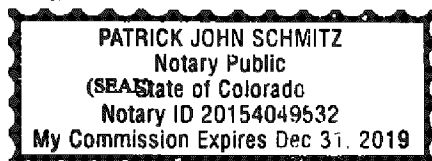
Name: Andrew R. Klein  
Title: Manager

STATE OF CO )  
COUNTY OF Arapahoe ) ss.

The foregoing instrument was acknowledged before me on this 27 day of February, 2018,  
by Andrew R. Klein, as Manager of Tower Eastside, LLC

Witness my hand and official seal.

My commission expires: 12/31/19



[Signature]  
Notary Public

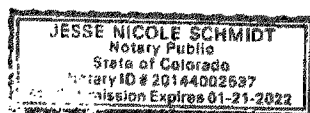
STATE OF COLORADO )  
COUNTY OF Denver ) ss.

The foregoing instrument was acknowledged before me on this 8<sup>th</sup> day of February,  
2018, by Matthew R. Owens, acting as President of Extraction Oil & Gas, Inc.

Witness my hand and official seal.

My commission expires: 1/21/2022

(SEAL)



[Signature]  
Notary Public

**EXHIBIT A**

**(LEGAL DESCRIPTION OF THE PROPERTY)**

**PARCEL A**

A PARCEL OF LAND SITUATED IN THE SOUTH ONE HALF OF SECTION 3, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE EAST QUARTER CORNER OF SAID SECTION 3; THENCE S00°11'47"W, ALONG THE EAST LINE OF THE SOUTH HALF OF SAID SECTION 3, A DISTANCE OF 2599.69 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE 112TH AVENUE;

THENCE S89°47'15"W, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 1360.54 FEET TO A POINT ON THE NORTHERLY LINE OF E-470 PUBLIC HIGHWAY AUTHORITY PARCEL TK-138 AS RECORDED IN ADAMS COUNTY, COLORADO AT RECEPTION NO. C09933260;

THENCE RUNNING ALONG SAID NORTHERLY LINE, THE FOLLOWING EIGHT (8) COURSES:

1. N69°52'09"W, A DISTANCE OF 329.23 FEET TO A POINT;
2. N81°26'49"W, A DISTANCE OF 674.63 FEET TO A POINT;
3. N54° 52'53"W, A DISTANCE OF 31.72 FEET TO A POINT OF NON-TANGENT CURVATURE;
4. 359.04 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING AN INTERIOR ANGLE OF 29°59'34", A RADIUS OF 685.87 FEET AND A CHORD BEARING N29°31'56"W, A DISTANCE OF 354.95 FEET TO A POINT;
5. N44°31'43"W, A DISTANCE OF 1097.97 FEET TO A POINT CURVATURE;
6. 225.57 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING AN INTERIOR ANGLE OF 04°23'57" AND A RADIUS OF 2937.89 FEET TO A POINT OF COMPOUND CURVATURE;
7. 1321.05 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING AN INTERIOR ANGLE OF 21°38'44" AND A RADIUS OF 3496.82 FEET TO A POINT;
8. N69°43'57"W, A DISTANCE OF 290.03 FEET TO A POINT;

THENCE N00°00'00"W, A DISTANCE OF 336.48 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH HALF OF SAID SECTION 3;

THENCE N89°51'34"E, ALONG SAID NORTH LINE, A DISTANCE OF 2265.88 FEET TO A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3;

THENCE CONTINUING ALONG SAID NORTH LINE OF THE SOUTH HALF OF SECTION 3, N89°48'35"E, A DISTANCE OF 2644.67 FEET TO THE POINT OF BEGINNING.

**PARCEL B**

A PARCEL OF LAND SITUATED IN THE SOUTH ONE HALF OF SECTION 3, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER OF SAID SECTION 3; THENCE N89°51'34"E, ALONG THE NORTH LINE OF THE SOUTH HALF OF SAID SECTION 3, A DISTANCE OF 229.87 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING N89°51'34"E ALONG SAID NORTH LINE, A DISTANCE OF 158.83 FEET TO A POINT;

THENCE S00°00'00"E, A DISTANCE OF 336.48 FEET TO A POINT ON THE NORTHERLY LINE OF E-470 PUBLIC HIGHWAY AUTHORITY PARCEL TK-138, AS RECORDED IN ADAMS COUNTY, COLORADO AT RECEPTION NO. C09933260;

THENCE RUNNING ALONG SAID NORTHERLY LINE, THE FOLLOWING THREE (3) COURSES:

- N69°43'57"W, A DISTANCE OF 99.54 FEET TO A POINT;
- N31°56'46"W, DISTANCE OF 79.66 FEET TO A POINT;
- N05°41'10"W, A DISTANCE OF 235.17 FEET TO THE POINT OF BEGINNING.

**PARCEL C**

THE SOUTH 1/2 OF SECTION 3, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO.

EXCEPTING THEREFROM THOSE PORTIONS TAKEN BY E-470 PUBLIC HIGHWAY AUTHORITY  
IN RULE AND ORDER RECORDED JULY 8, 2002 UNDER RECEPTION NO. C0993260 AND

EXCEPTING THEREFROM THOSE PORTIONS IN PARCELS A AND B.

**Exhibit B**

A LEASE PARCEL LOCATED IN THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE 6TH P.M., COMMERCE CITY, ADAMS COUNTY, COLORADO, SAID LEASE PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 3; THENCE NORTH 05°54'21" EAST FOR 1202.10 FEET TO THE EAST RIGHT OF WAY FOR E-470 RECORDED UNDER RECEPTION NO.S C0993260 AND C1031628, SAID POINT BEING THE POINT OF BEGINNING;

THENCE ON SAID EAST RIGHT OF WAY THE FOLLOWING EIGHT (8) COURSES ALONG SAID RIGHT OF WAY:

1. NORTH 23°44'07" EAST FOR 137.10 FEET;
2. NORTH 06°56'09" EAST FOR 508.26 FEET;
3. NORTH 57°05'20" EAST FOR 24.93 FEET;
4. SOUTH 68°38'51" EAST FOR 344.44 FEET;
5. SOUTH 86°01'42" EAST FOR 94.87 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT;
6. 51.42 FEET ON THE ARC OF SAID NON-TANGENT CURVE HAVING A RADIUS OF 3049.04 FEET, A CENTRAL ANGLE OF 0°57'59" AND BEING SUB-TENDED BY A CHORD WHICH BEARS SOUTH 85°33'31" EAST FOR 51.42 FEET;
7. SOUTH 56°38'30" EAST FOR 162.58 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT;
8. 452.64 FEET ON THE ARC OF SAID NON-TANGENT CURVE HAVING A RADIUS OF 3058.83 FEET, A CENTRAL ANGLE OF 8°28'43" AND BEING SUB-TENDED BY A CHORD WHICH BEARS SOUTH 53°15'14" EAST FOR 452.23 FEET;

THENCE SOUTH 00°00'00" WEST FOR 320.00 FEET; THENCE NORTH 80°00'00" WEST FOR 882.12 FEET; THENCE NORTH 43°09'48" WEST FOR 303.81 FEET TO THE EAST RIGHT OF WAY OF SAID E-470.

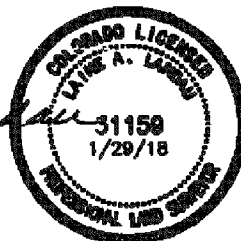
SAID LEASE PARCEL CONTAINS APPROXIMATELY 653,407 SQUARE FEET. 15.000 ACRES, MORE OR LESS.

**BASIS OF BEARINGS**

THIS DESCRIPTION IS BASED ON COLORADO STATE PLANE COORDINATES IN WHICH THE WEST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE 6TH P.M., BEARS NORTH 00°06'27" EAST FOR 1315.77 FEET BETWEEN THE SOUTHWEST CORNER OF SAID SECTION 3, MONUMENTED WITH A FOUND 3 1/4" ALUMINUM CAP, L.S. 23519, 1989, IN A MONUMENT BOX, AND AT THE SOUTH 1/16 CORNER OF SAID SECTION 3, MONUMENTED WITH A FOUND 3 1/4" ALUMINUM CAP, ILLEGIBLE, IN A MONUMENT BOX.

PREPARED BY:

*Laine A. Landau*  
LAINE A. LANDAU  
COLORADO PLS 31159



**LAMP RYNEARSON  
& ASSOC ATE S**

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**EXHIBIT B**  
**PARCEL 0172303300003**  
**OGOA-1**

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LAL  
PATH/FILENAME

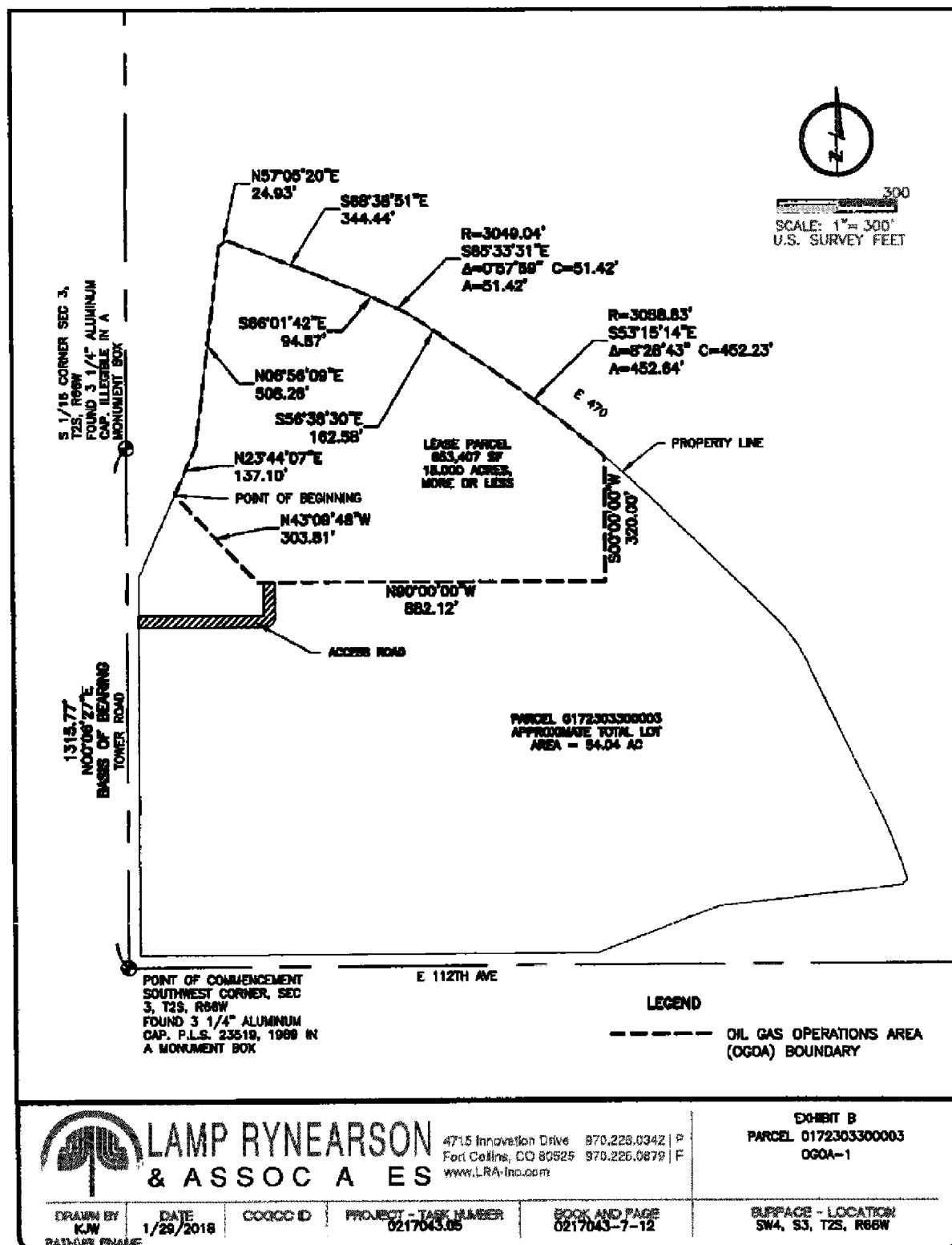
DATE  
1/29/2018

COGCC ID

PROJECT - TASK NUMBER  
0217043.05

BOOK AND PAGE  
0217043-7-12

SURFACE - LOCATION  
SW4, S3, T2S, R66W



**Exhibit B**

A LEASE PARCEL LOCATED IN THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE 6TH P.M., COMMERCE CITY, ADAMS COUNTY, COLORADO, SAID LEASE PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 3; THENCE NORTH 22°20'06" WEST FOR 608.21 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 00°11'17" WEST TO THE NORTH LINE OF A 25' WIDE PIPELINE EASEMENT RECORDED IN BOOK 4499 PAGE 21;

THENCE SOUTH 89°46'34" WEST FOR 1000.00 FEET ON SAID EASEMENT LINE;

THENCE NORTH 00°11'17" EAST FOR 726.00 FEET; THENCE SOUTH 89°48'43" EAST FOR 477.50 FEET; THENCE SOUTH 44°48'43" EAST FOR 209.00 FEET; THENCE SOUTH 89°48'43" EAST FOR 318.50 FEET; THENCE SOUTH 30°24'23" EAST FOR 110.39 FEET TO THE POINT OF BEGINNING.

SAID LEASE PARCEL CONTAINS APPROXIMATELY 15.000 ACRES, MORE OR LESS.

**BASIS OF BEARINGS**

THIS DESCRIPTION IS BASED ON COLORADO STATE PLANE COORDINATES IN WHICH THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE 6TH P.M., BEARS NORTH 00°11'17" EAST FOR 2829.59 FEET BETWEEN THE SOUTHEAST CORNER OF SAID SECTION 3, MONUMENTED WITH A FOUND 2" ALUMINUM CAP, L.S. 24960, 1994, IN A MONUMENT BOX, AND AT THE EAST 1/4 CORNER OF SAID SECTION 3, MONUMENTED WITH A FOUND 3 1/4" ALUMINUM CAP, L.S. 13155, 1991.

PREPARED BY:

*Laine A. Landau*  
LAINE A. LANDAU  
COLORADO PLS 31159



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& ASSOCIATES**

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**EXHIBIT B**  
**PARCEL 0172303400001**  
**OGDA-2**

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LAL  
PATA/PLER/AME

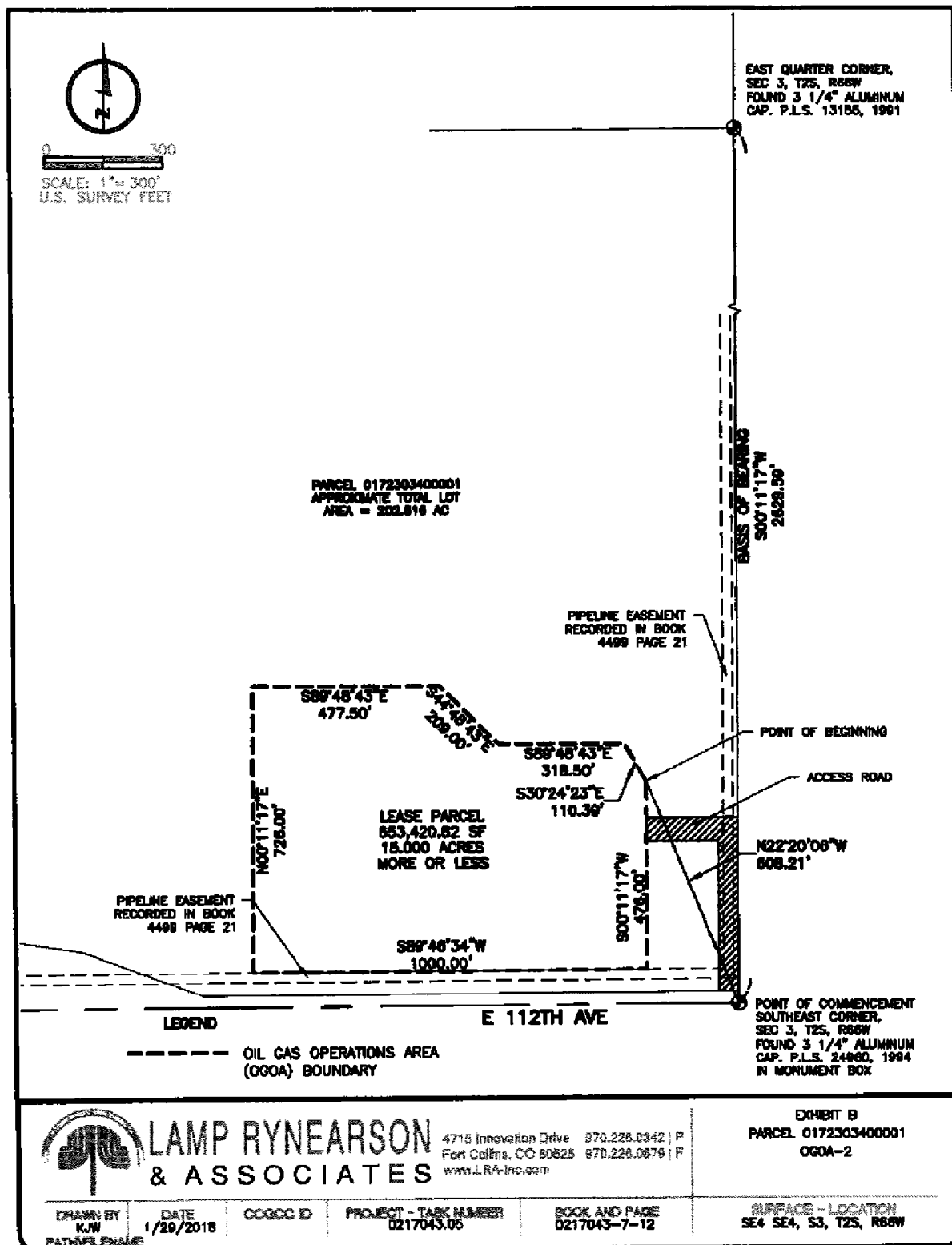
DATE  
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0217043.05

BOOK AND PAGE  
0217043-7-12

SURFACE - LOCATION  
SE4 SE4, S3, T2S, R66W





**Exhibit B**

A LEASE PARCEL LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE 6TH P.M., COMMERCE CITY, ADAMS COUNTY, COLORADO, SAID LEASE PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 3; THENCE SOUTH 30°15'24" WEST FOR 124.61 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 00°11'17" WEST FOR 524.00 FEET; THENCE SOUTH 54°11'07" WEST FOR 234.21 FEET; THENCE SOUTH 89°48'00" WEST FOR 447.00 FEET; THENCE NORTH 54°04'09" WEST FOR 645.00 FEET; THENCE NORTH 00°11'17" EAST FOR 280.00 FEET; THENCE NORTH 89°47'48" EAST FOR 1160.00 FEET TO THE POINT OF BEGINNING.

SAID LEASE PARCEL CONTAINS APPROXIMATELY 15.002 ACRES, MORE OR LESS.

**BASIS OF BEARINGS**

THIS DESCRIPTION IS BASED ON COLORADO STATE PLANE COORDINATES IN WHICH THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE 6TH P.M., BEARS SOUTH 00°11'17" WEST FOR 2629.59 FEET BETWEEN THE EAST 1/4 CORNER OF SAID SECTION 3, MONUMENTED WITH A FOUND 3 1/4" ALUMINUM CAP, L.S. 13155, 1991, AND THE SOUTHEAST CORNER OF SAID SECTION 3, MONUMENTED WITH A FOUND 2" ALUMINUM CAP, L.S. 24980, 1994, IN A MONUMENT BOX.

PREPARED BY:

*Laine A. Landau*  
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**EXHIBIT B**  
**PARCEL 0172303400001**  
**080A-3**

DRAWN BY  
LAL  
PATRICK LEANE

DATE  
1/29/2018

COGIC ID

PROJECT - TASK NUMBER  
0217043.05

BOOK AND PAGE  
0217043-7-12

SURFACE - LOCATION  
NE4 SE4, S3, T2S, R66W

