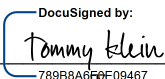
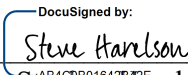

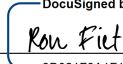


MEMORANDUM OF UNDERSTANDING REGARDING A LAND EXCHANGE AND JOINT DEVELOPMENT OF PARK & RIDE

Cover Page

State Agency Department of Transportation (CDOT)	MOU Number 22-HAA-XE-00019 SAP Encumbrance Number 351001877
City City of Rifle	MOU Performance Beginning Date The Effective Date
Developer Rifle Depot, LLC	Initial MOU Expiration Date Eighteen Months (18) from the Effective Date MOU Authority §§43-1-105, 43-10-106, 43-1-210
MOU Purpose Each Party owns certain real property at the intersection of Railroad Avenue and Centennial Parkway in Rifle, CO (“Intersection”). Through this MOU the Parties desire to work cooperatively to develop the Intersection so that: 1) CDOT transfers certain real estate to the City and in exchange receives a new Park & Ride lot located in the same general location as the Intersection at no additional cost to CDOT; 2) City acquires certain real property for public purposes, transfers certain real property and continues to encourage continued commercial/mixed use growth and vitality of the area; and 3) Developer acquires an improved location of real property with higher visibility at the Intersection and transfers the land adjacent to the railroad property to CDOT and/or the City.	
Exhibits and Order of Precedence The following Exhibits and attachments are included with this MOU: <ol style="list-style-type: none"> 1. Exhibit A – Ownership Concept Map 2. Exhibit B – Preliminary Site Plan <p>In the event of a conflict or inconsistency between this MOU and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:</p> <ol style="list-style-type: none"> 1. Colorado Special Provisions in SIX of the main body of this MOU. 2. The provisions of the other sections of the main body of this MOU. 3. Exhibit A, Ownership Concept Map 4. Exhibit B, Preliminary Site Plan 	
Principal Representatives <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> For the State: Patrice Campbell CDOT – Property, Appraisal & Local Agency Manager, ROW 222 S. 6th St., Room 317 Grand Junction, CO 81501 patrice.campbell@state.co.us </div> <div style="width: 45%;"> For City: Ed Green, Mayor City of Rifle P.O. Box 1908 Rifle, CO 81650 egreen@rifleco.org </div> </div>	
For the Developer: Glen Lerner, Manager Rifle Depot LLC 3737 Ella Lee Lane Houston, TX 77027 glenlerner1@me.com	

THE PARTIES HERETO HAVE EXECUTED THIS MOU

* Persons signing for City and Developer hereby swear and affirm that they are authorized to act on such Party's behalf and acknowledge that the State is relying on their representations to that effect.	
<p align="center">CITY City of Rifle</p> <p>By:  789B8A6F9E09467 Tommy Klein, City Manager</p> <p>Date: 5/31/2022</p>	<p align="center">STATE OF COLORADO Jared S. Polis, GOVERNOR Department of Transportation Shoshana M. Lew, Executive Director</p> <p>By:  AB4CDB01642B42E Stephen Harelson, P.E., Chief Engineer</p> <p>Date: 6/2/2022</p>
<p align="center">DEVELOPER Rifle Depot, LLC</p> <p>By:  4CE830E6D270495 Glen Larner, Manager</p> <p>Date: 5/31/2022</p>	<p>In accordance with §24-30-202, C.R.S., this MOU is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p align="center">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>Signed:  3D021F8A1F16453...</p> <p>Effective Date: 6/2/2022</p>

I. PARTIES

This MOU is entered into by and between City named on the Cover Page for this MOU (the “City”), Developer named on the Cover Page for this MOU (the “Developer”) and the STATE OF COLORADO acting by and through the State agency named on the Cover Page for this MOU (the “State”). City, Developer and the State agree to the terms and conditions in this MOU.

II. TERM AND EFFECTIVE DATE

A. Effective Date

This MOU shall not be valid or enforceable until the date the last Party signs the Signature Page of this MOU (“Effective Date”).

B. Initial Term

The Parties’ respective performances under this MOU shall commence on the MOU Performance Beginning Date shown on the Cover Page for this MOU and shall terminate on the Initial MOU Expiration Date shown on the Cover Page for this MOU (the “Initial Term”) unless sooner terminated or further extended in accordance with the terms of this MOU.

C. Early Termination in the Public Interest

The State is entering into this MOU to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this MOU ceases to further the public interest of the State, the State, in its discretion, may terminate this MOU in whole or in part. The State shall notify City and Developer of such termination in accordance with §VII. The notice shall specify the effective date of the termination and whether it affects all or a portion of this MOU, and shall include, to the extent practicable, the public interest justification for the termination.

D. Termination for Convenience:

Any Party may terminate this MOU for any reason. The Party choosing to terminate shall effectuate such termination by giving written notice of termination to the other Parties in accordance with §VII and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination.

III. PROPOSED TRANSACTION DESCRIPTION

- A.** CDOT owns two parcels (Parcels 2 & 3 on the Ownership Concept Map on **Exhibit A**) of land in the city of Rifle at the Intersection, which are currently used for a Park & Ride. The configuration, physical condition and traffic flow of the Park & Ride is not ideal and the lot is often over capacity.
- B.** City owns a parcel of land (Parcel 1 on the Ownership Concept Map on **Exhibit A**) currently deed restricted by CDOT for the sole purpose of the Park & Ride entrance.
- C.** Developer owns some adjacent and less desirably located property (Parcels 4, 5 and 6 on the Ownership Concept Map on **Exhibit A**) along Centennial Parkway stretching south to the Union Pacific Railroad (“Railroad”) right of way and adjoining tracks.
- D.** In order to achieve the MOU purposes stated on the Cover Page, the following actions must occur (collectively, the “Project”):

- i. CDOT removes the deed restriction on Parcel 1 without compensation. (Estimate of \$133,059 for value of deed restriction)
- ii. CDOT conveys Parcel 2 to the City. (FMV value of \$586,282)
- iii. CDOT conveys Parcel 3 to the City with a future deed restriction that the property is used for public purposes including the entrance/road to the proposed Park & Ride. (FMV Value \$190,067)
- iv. City then conveys Parcel 2 to Developer.
- v. City conveys a portion of Parcel 1 to Developer. (Area yet to be determined. Possibly an even exchange for Parcel 4.)
- vi. Developer conveys Parcel 4 to City in exchange for part of Parcel 1 (Step D.v above). A portion of Parcel 4 will be used for the entrance/road to the proposed Park & Ride. CDOT will require an easement for this purpose.
- vii. CDOT acquires Parcel 5 (1.36 acres). (FMV low end of value range \$386,066)
- viii. In addition to the property exchange, in which CDOT will receive fee simple ownership of the proposed Park & Ride site (Parcel 5 and the easement over Parcel 4), CDOT will receive a fully constructed entrance road and new Park & Ride facility with capacity of 120 to 153 vehicle sites, completed to CDOT specifications. (City's estimate of cost in 2019 was \$1,444,238) This cost estimate does not include additional environmental studies, which may be required.
- ix. The exchange between the Parties shall not require additional funds from CDOT. Based on the above numbers, CDOT would deed away an estimated value of \$909,408 in property rights, (Parcels 1, 2 and 3). In exchange, CDOT would acquire Parcel 5 in fee, (estimated at \$386,066), an easement over Parcel 4, plus a new Park & Ride with an estimated cost to the City/Developer of \$1,444,238.

IV. COMMITMENTS

- A. Collaboration.** The Parties desire to work collaboratively to assess the viability of the Project and to develop and implement the Project in accordance with the commitments made herein. Each Party agrees to provide all necessary information and resources for successful development of the Project, which may be subject to a confidentially agreement.
- B. Environmental Requirements.** Each Party shall review the environmental requirements associated the Parcel(s) it intends to transfer to another Party and notify the receiving Party of any issues and/or requirements associated with such Parcel(s). The disclosing and receiving Parties agree to work collaboratively to address any identified environmental issues.
- C. Railroad Encumbrances.** Developer shall review all Railroad encumbrances associated its Parcel(s) it intends to transfer to another Party and notify the receiving Party of any issues and/or requirements associated with such Parcel(s). The disclosing and receiving Parties agree to work collaboratively to address any identified Railroad issues.

- D. Physical Divider.** The Parties shall work together to address the need for a physical divider (fence or landscape buffer) between the new Park & Ride facility and the Railroad tracks.
- E. Agreement.** CDOT shall draft an agreement between the Parties to enact the Project (“Agreement”). All Parties shall provide CDOT will requested information necessary for the Agreement.
- F. Cost Estimates.** Each Party shall prepare and/or update the cost estimates for any construction to be performed by such Party (each a “Performing Party”). The Performing Party shall disseminate such cost estimates to the non-Performing Parties.
- G. Appraisals.** In accordance with CRS §24-30-202(5)(b), CDOT shall evaluate and work toward obtaining all appraisals required for the Agreement.
- H. Clear Title/Title Commitment.** Each Party shall review the title to the Parcel(s) it intends to transfer pursuant to the Project so that it can provide clear title to such Parcel(s) to the receiving Party. If necessary, a Party may obtain, at its own cost, a title commitment covering the Parcel(s) and insuring title to it in the amount of the appraised value of the Parcel(s).
- I. Expenses.** Each Party shall be solely responsible for the expenses it incurs in connection with this MOU.
- V. DISPUTES.** Should disputes or disagreements occur of any matter relating to this MOU, the Parties shall collaborate to resolve the dispute or disagreement. If principal representatives cannot achieve a resolution within a thirty (30) day period, the matter shall be submitted jointly to the Parties’ respective Executive Directors and/or senior management for final resolution of the dispute or disagreement. If the Parties’ respective Executive Directors and/or senior management are unable to resolve the dispute within a thirty (30) day period, this MOU may be terminated by any Party. The Parties agree that participation in this administrative procedure shall be a condition precedent to initiation of litigation, except in the case of emergency or other conditions that entitle either Party to seek injunctive or emergency relief from a court of competent jurisdiction, in which no participation in the foregoing alternative dispute resolution process shall be required.
- VI. LEGAL DISCLAIMERS.** By entering into this MOU, no Party makes a legally binding commitment. This MOU does not confer any rights or remedies to any Party in the event of a failure to perform as specified in this MOU. This MOU does not create a financial obligation for any Party. Any financial obligation of a Party shall be subject to the execution of an appropriate encumbrance document, where required, subject to receipt of all required approvals. All financial obligations of the Parties hereunder shall be subject to prior written approval of its governing body or director. All financial obligations of the State and City shall be contingent upon sufficient funds being appropriated, budgeted, and otherwise made available.
- VII. NOTICES AND REPRESENTATIVES.** Each individual identified as a Principal Representative on the Cover Page for this MOU shall be the principal representative of the designating Party. All notices required or permitted to be given under this MOU shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party's principal representative at the address set

forth on the Cover Page for this MOU or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Cover Page for this MOU. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page for this MOU. Any Party may change its principal representative or principal representative contact information, or may designate specific other individuals to receive certain types of notices in addition to or in lieu of a principal representative by notice submitted in accordance with this section without a formal amendment to this MOU. Unless otherwise provided in this MOU, notices shall be effective upon delivery of the written notice.

VIII. GENERAL PROVISIONS

A. Binding Effect

All provisions of this MOU, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

B. Authority

Each Party represents and warrants to the other that the execution and delivery of this MOU and the performance of such Party's obligations have been duly authorized.

C. Captions and References

The captions and headings in this MOU are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this MOU to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

D. Counterparts

This MOU may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

E. Entire Understanding

This MOU represents the complete integration of all understandings between the Parties related to the subject matter, and all prior representations and understandings related to the subject matter, oral or written, are merged into this MOU. Prior or contemporaneous additions, deletions, or other changes to this MOU shall not have any force or effect whatsoever, unless embodied herein.

F. Digital Signatures

If any signatory signs this MOU using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement

or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this MOU by reference.

G. Modification

Except as otherwise provided in this MOU, any modification to this MOU shall only be effective if agreed to in a formal amendment to this MOU, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this MOU, other than contract amendments, shall conform to the policies issued by the Colorado State Controller.

H. Statutes, Regulations, Fiscal Rules, and Other Authority

Any reference in this MOU to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this MOU.

I. External Terms and Conditions

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on City's and/or Developer's website or any provision incorporated into any click-through or online agreements related to the subject matter unless that provision is specifically referenced in this MOU.

J. Severability

The invalidity or unenforceability of any provision of this MOU shall not affect the validity or enforceability of any other provision of this MOU, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this MOU in accordance with the intent of this MOU.

K. Third Party Beneficiaries

Except for the Parties' respective successors and assigns, this MOU does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this MOU and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this MOU are incidental to this MOU, and do not create any rights for such third parties.

L. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this MOU, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

M. CORA Disclosure

To the extent not prohibited by federal law, this MOU is subject to public release through the Colorado Open Records Act, §§24-72-200.1, *et seq.*, C.R.S.

N. Licenses, Permits, and Other Authorizations

City and Developer shall secure, prior to the Effective Date, and maintain at all times during the term of this MOU, at its sole expense, all licenses, certifications,

permits, and other authorizations required to perform their respective obligations under this MOU, and shall ensure that all of their respective employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all license, certifications, permits and other authorizations required to perform their respective obligations in relation to this MOU.

Developer, if a foreign corporation or other foreign entity transacting business in the State of Colorado, shall obtain prior to the Effective Date and maintain at all times during the term of this MOU, at its sole expense, a certificate of authority to transact business in the State of Colorado and designate a registered agent in Colorado to accept service of process.

O. Relationship Between the Parties

Nothing in this MOU shall be deemed to create a partnership, joint venture or agency between the Parties.

P. Further Cooperation

The Parties agree that they will cooperate with one another in accomplishing the commitments of this MOU and will execute such additional documents as necessary to effectuate the same.

IX. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts except where noted in italics.

A. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq., C.R.S. No term or condition of this MOU shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

B. INDEPENDENT CONTRACTOR.

Parties shall perform their respective duties hereunder as independent contractors and not as employees of each other. Each Party and their respective agents or employees shall not be deemed to be an agent or employee of another Party. No Party shall not have authorization, express or implied, to bind another Party to any agreement, liability or understanding, except as expressly set forth herein. No Party and/or their respective employees and agents are entitled to unemployment insurance or workers compensation benefits through another Party. No Party shall pay for or otherwise provide such coverage for another Party or any of their agents or employees. Each Party shall pay when due all of their respective applicable employment taxes and income taxes and local head taxes incurred pursuant to this MOU, if any. Each Party shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii)

provide proof thereof when requested by another Party, and (iii) be solely responsible for their respective acts and those of their respective employees and agents.

C. COMPLIANCE WITH LAW.

All Parties shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

D. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this MOU. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this MOU shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in Garfield County District Court, City of Rifle. Each Party shall pay for its own court costs and attorney's fees incurred in such litigation.

E. PROHIBITED TERMS.

Any term included in this MOU that requires the State to indemnify or hold City and/or Developer harmless; requires the State to agree to binding arbitration; limits City and/or Developer's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this MOU shall be construed as a waiver of any provision of §24-106-109, C.R.S.

F. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in any service or property described in this MOU.

Exhibit A - Ownership Concept Map

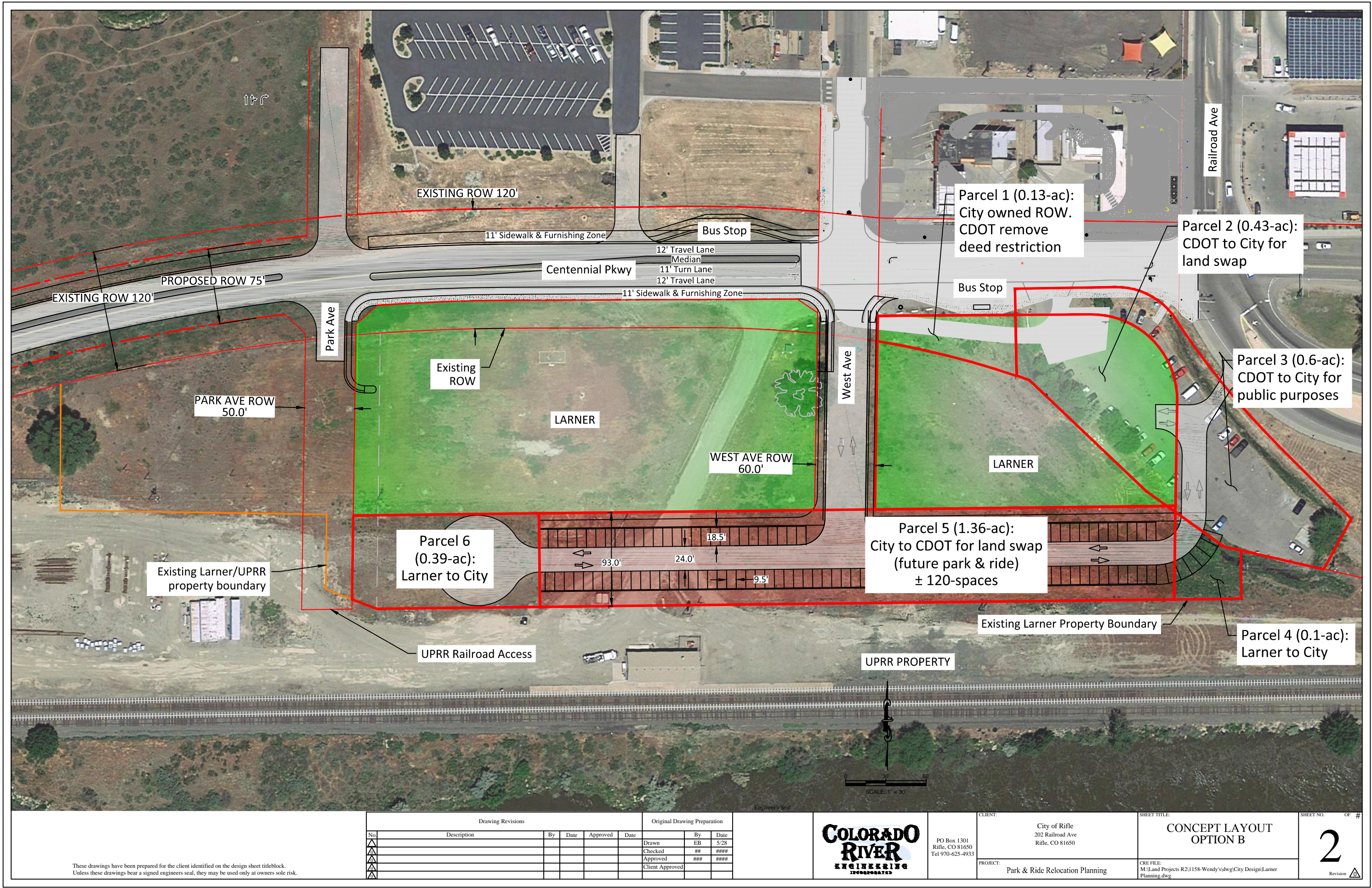
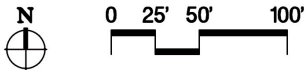
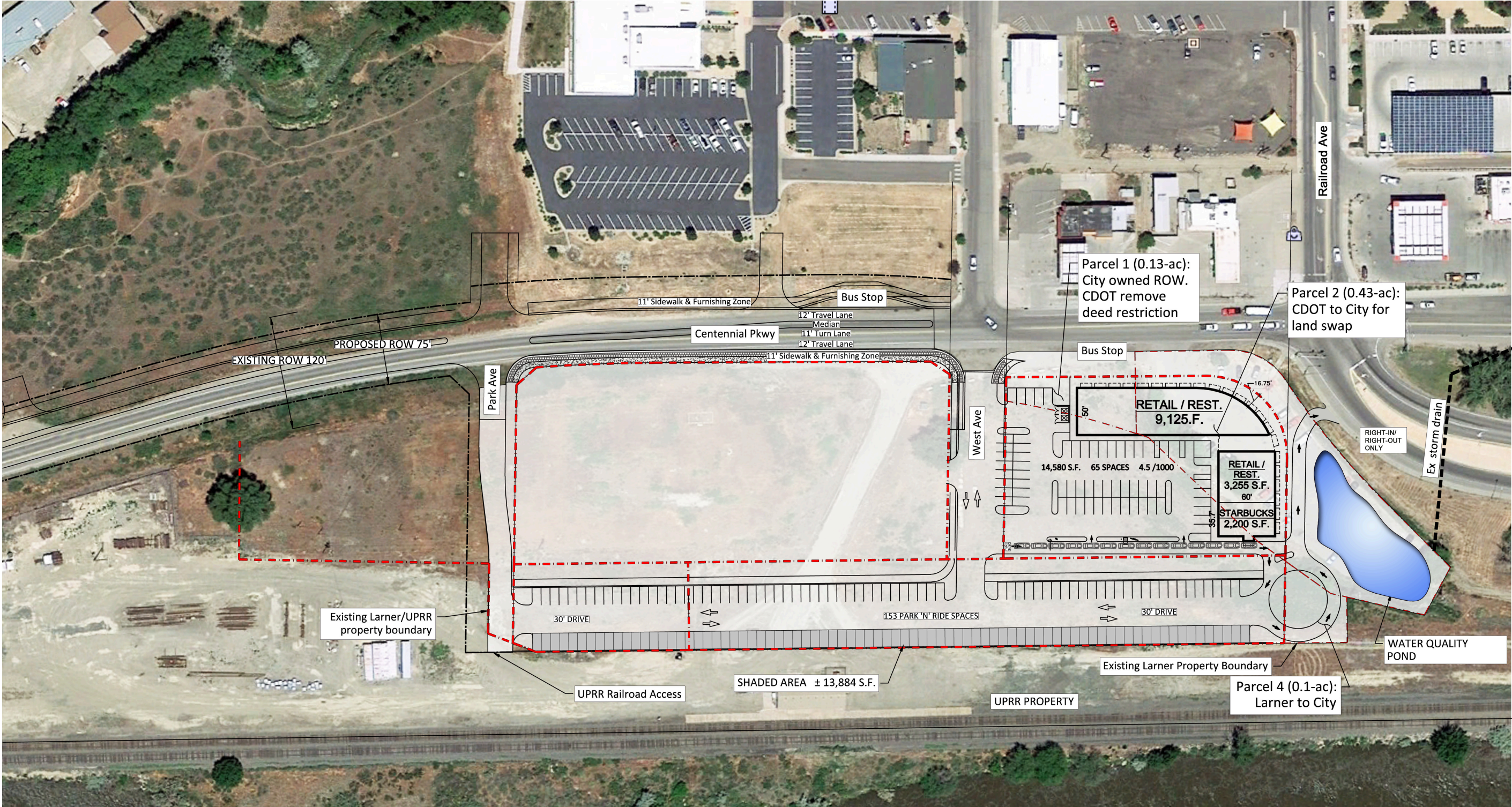
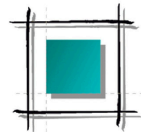


Exhibit B - Preliminary Site Plan



PRELIMINARY SITE PLAN
CENTENNIAL PARKWAY & WEST AVENUE
RIFLE, COLORADO
2019-124.001 SP07 NOVEMBER 5, 2019



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