



Board of County Commissioners

July 1, 2025

Via Certified Mail, Return Receipt Requested and Hand Delivery

Reginald V. Golden, Manager
Golden Land Company LLC
7899 Saint Vrain Road
Longmont, CO 805013

Manager
Golden Land Company, LLC
21 South Sunset and P.O. Box 328
Longmont, CO 80502

Lyons Gaddis
515 Kimbark Street, Second Floor
Longmont, CO 80501

Grant, Bernard, Lyons & Gaddis, P.C.
Attn: Wallace H. Grant
P.O. Box 978
Longmont, CO 80502-0978

Greetings,

This letter shall serve as notice that Boulder County is exercising its option to acquire real property, together with all water and ditch rights, and mineral rights as defined in that certain Option to Purchase Agreement dated June 22, 1995, recorded with the Boulder County Clerk & Recorder on August 25, 1995, at Reception Number 01542494 (the "Option Agreement"). A copy of the Option Agreement is included with this letter.

Paragraph 3.1.c of the Option Agreement specifies that, "The date for exercise of the option shall be either: (1) on or before 90 days after Seller [Golden land Company, LLC] has given the County written notice that it has completed mining and reclamation of the Property or (2) July 1, 2025, whichever occurs earlier." Because Seller did not mine the Property, the County is exercising its option at this time.

Pursuant to Paragraphs 3.1.b and 3.2 of the Option Agreement, the price for the real property, water, and mineral rights is \$1,347,567.58.

The County is ready to pay the full price, subject to closing adjustments, by within 60 days of this exercise letter or at another mutually agreeable date. Please be aware that the Option Agreement requires Seller to provide the County with a title insurance commitment for the real property at least 30 days prior to closing, in the amount of the purchase price. The commitment must be in a form acceptable to the County and issued by a title insurance company authorize to do business in Colorado. Please review the Option Agreement closely for other terms and conditions.

The County is also ready to acquire Gift Parcel 1 and Gift Parcel 4, together with all appurtenant water and ditch rights, as defined in that certain Agreement to Make Gifts

Claire Levy County Commissioner **Marta Loachamin** County Commissioner **Ashley Stolzmann** County Commissioner

Boulder County Courthouse • 1325 Pearl Street • Boulder, Colorado 80302 • Tel: 303.441.3500 • Fax: 303.441.4525
Mailing Address: P.O. Box 471 • Boulder, CO 80306 • www.BoulderCounty.gov • commissioners@bouldercounty.gov

dated August 22, 1995, recorded with the Boulder County Clerk & Recorder on August 25, 1995, at Reception Number 01542495 ("Gift Agreement"). The Gift Agreement specifies that these parcels must be transferred to the County by Seller on or before the County purchases the Property under the Option Agreement.

Under the Second Amendment to the Agreement to Make Gifts, dated December 20, 2001, Seller retained the water rights appurtenant to Gift Parcels 2 and 3 were retained by Seller when Seller conveyed Gift Parcels 2 and 3 to the County. The Second Amendment provides that Seller will convey the water rights within 90 days of receiving notice that mining and reclamation activity has been completed, or on December 31, 2025, whichever occurs first. Because mining and reclamation has never occurred on the property, the County proposes to close on the water rights at the same time as the conveyance of Gift Parcels 1 and 4. A copy of the Gift Agreement and subsequent amendments is included with this letter.

Please contact Aaron Clark, Land Officer, at Parks and Open Space, (303) 441-4553 or aaclark@bouldercounty.gov, to accomplish the closing. Aaron would like to get started working on closing details as soon as possible.

If it would be helpful, your legal counsel may also reach out to Assistant County Attorney Ryan Malarky at (970) 708-1358 or rmalarky@bouldercounty.gov.

Thank you very much.

COUNTY OF BOULDER, a body corporate and politic

By: _____

Printed Name: _____

Title: _____
of the Board of County Commissioners

Copies to:

Aaron Clark, aaclark@bouldercounty.gov

Ryan Malarky, rmalarky@bouldercounty.gov

Boulder County aims to ensure all digital content and documents are accessible. While efforts have been made to maximize accessibility, some types of content have inherent technical limitations. For alternate formats or accommodations, please submit an ADA Web Accommodation Request Form at https://bouldercounty.formstack.com/forms/boulder_county_ada_web_accommodation_request_form or email ada@bouldercounty.gov, or call 303-441-1386.

OPTION TO PURCHASE

1. **PARTIES.** This Agreement, made and entered into this 22nd day of June, 1995, by and between the **COUNTY OF BOULDER**, a body corporate and politic ("County"), and **GOLDEN LAND COMPANY**, a Limited Liability Company, ("Seller").

2. **RECITALS.**

2.1 The County desires to obtain an option to purchase from Seller and Seller desires to grant an option to the County to purchase that certain real property within the County of Boulder, State of Colorado, more particularly described in Exhibit A, attached hereto and incorporated herein by this reference and hereinafter referred to as the "Property".

2.2 The Property consists of approximately 147 acres of land and includes the following water rights (hereinafter referred to as the "water rights"):

80% of 5/12ths interest in the Zweck and Turner Ditch.

The parties understand that a subdivision exemption may be necessary to divide the Property into three lots, if any of the lots is less than 35 acres in size. The Parties further acknowledge that a Site Plan Review will be required prior to construction of dwellings on those lots.

2.3 Sellers, through Boulder County Dockets SU-94-22, 23, 24 and SD 94-28 and SE-95-20 are requesting recognition of certain use by right residential development units associated with the Sellers' property. If so recognized, Seller intends to include three development units as part of the Property to be conveyed. In the event the County does not exercise its option to purchase, the parties understand that a subdivision exemption may be necessary to divide the Property into three lots, if any of the lots is less than 35 acres in size. The Parties further acknowledge that a Site Plan Review will be required prior to construction of dwellings on those lots.

NOW, THEREFORE, in consideration of the recitals, promises, payments, covenants and undertakings hereinafter set forth, and other good and valuable consideration, which is hereby acknowledged and receipted for, the County and Seller agree as follows:

3. **OPTION PROVISIONS.**

3.1 **Option.**

- a. **Grant of Option.** In accordance with the terms and conditions herein contained, and in consideration of the payment of the sum of ONE HUNDRED DOLLARS (\$100.00), hereinafter referred to as the "Option Payment", Seller hereby grants to County an option to purchase the Property and the Water Rights for the purchase price described in Paragraph 3.2. The option shall extend to and include June 30, 1996.

- b. **Renewal of Option.** The County may extend the Option for one year at a time by paying to Seller the sum of \$25,000 (hereinafter referred to as the "option renewal payment") on or before July 1 of each year, beginning July 1, 1996 ("Option Renewal Date"). All option renewal payments shall apply against the purchase price at closing, if the County exercises its Option to purchase and closing occurs.
 - c. **Option Exercise Date.** The date for exercise of the option shall be either: (1) on or before 90 days after Seller has given the County written notice that it has completed mining and reclamation of the Property or (2) July 1, 2025, whichever occurs earlier. The parties may consummate the sale and purchase of the Property and the water rights earlier by mutual agreement and written amendment to this Agreement.
- 3.2 **Purchase Price.** The purchase price for the Property together with the water rights shall be ONE MILLION DOLLARS (\$1,000,000.00). The purchase price shall be adjusted upward at the rate of 2 1/4 % per annum from the date of this Agreement to the date of closing.
 - 3.3 **Reservations.** The Seller expressly reserves all sand, gravel and associated materials and minerals in, on or under the Property and the right to use the water rights described in Paragraph 2.2 for augmentation of or use in connection with mining, reclamation, ponds, or wetlands. After mining and reclamation are completed, Seller shall convey all mineral rights to County by Quit Claim Deed.
 - 3.4 **Exercise/Renewal and Failure to Exercise/Failure to Renew.** If the County elects to exercise its option to purchase the Property, it shall do so by giving written notice to Seller on or before the Option Exercise Date as said date is determined pursuant to Paragraph 3.1(c). Said notice of election is to be signed by the Chair of the Board of County Commissioners or by the County Attorney. Seller agrees that if the County: (a) fails to give notice of its exercise of the option herein granted to it on or before the Option Exercise Date, or b) fails to pay the option renewal payment on or before July 1 of any year, Seller shall not declare the County in default unless and until the Seller first gives the County written notice of the fact that the Option Exercise or Renewal Date has passed without action by the County and that the County will be in default unless it gives notice of the exercise of the option or payment for renewal of the option within 15 calendar days after receipt of said notice. If the County fails so to give notice of the exercise of the option or payment for renewal of the option within said 15 calendar days, the County shall be in default in the giving of notice of the exercise of the option or the renewal of the option, and the County shall forfeit and lose said option right.

3.5 Survey. Seller shall provide a copy of any engineering and/or survey work of the Property, if available. If none is available, the County at its sole option and sole expense may contract for a survey of the Property, and the legal description for the Property shall be furnished to the Seller on or before the closing.

3.6 Title.

- a. On or Before June 1, 1996, Seller shall furnish to County a copy of Seller's title insurance commitment or policy on the Property showing merchantable title vested in the Seller, and subject to the conditions and requirements of this paragraph, Paragraph 3.6(a-d). The commitment or policy shall be current to within 30 days of delivery to the County.
- b. During the Option period, Seller agrees not to encumber the property without the County's written consent which consent shall not be unreasonably withheld. Written consent by the County to an encumbrance during the option period shall constitute a Permitted Exception to title, as set forth in Paragraph 3.6(d)(3).
- c. Provided the County exercises its option to purchase, the Seller shall furnish to the County at least 30 days prior to closing a title insurance commitment on the Property (except the water rights), on a form acceptable to the County and issued by a title insurance company authorized to do business in Colorado, in the amount of the purchase price, subject to the conditions and requirements of this paragraph. Seller shall be solely responsible for the cost of said title commitment and the policy.
- d. Title to the Property shall be merchantable in Seller, and the title commitments referred to in Paragraphs 3.6(a) and 3.6(c) shall contain no exceptions other than:
 - 1) Taxes and assessments of the year of closing, which shall be adjusted and pro-rated to the date of delivery of the Deed; and
 - 2) Rights-of-way, easements, restrictions, covenants and mineral reservations of record, acceptable to County. Sellers shall execute an affidavit and take all steps necessary to obtain the deletion of standard printed exception number 4.
 - 3) Permitted Exceptions. "Permitted Exceptions" as used herein shall mean and refer to all exceptions set forth on the title commitment delivered on or before June 1, 1996, pursuant to Paragraph 3.6(a) which the County does not object to as provided in Paragraph 3.7 and

all subsequent matters affecting the Property approved by or consented to in writing by the County.

3.7 Merchantability of Title. Should title as indicated by the title commitments/policy furnished to the County pursuant to Paragraphs 3.6(a) and 3.6(c) not be merchantable as aforesaid, or if either title commitment includes additional exceptions which have not been consented to by the County pursuant Paragraph 3.6(b) and which are not acceptable to the County (even though such additional exceptions would not make the title unmerchantable), a written notice of the defects shall be given to the Seller by the County within 30 days after receipt of the title commitment. Seller agrees to attempt to correct such defects at Seller's expense within 120 days from receipt of said notice of defects, and if necessary the closing shall be postponed for said 120 days. If Seller has not corrected such defects within said 120 days, the County, at its option, may complete the transaction notwithstanding the defects or may, upon notice to Seller in recordable form, declare this Agreement terminated, whereupon all payments made by County to Seller together with interest at the rate of 5% per annum (compounded annually), shall be returned to County and both parties shall be released herefrom.

3.8 Conveyance of Water Rights. Title to the Water Rights shall be merchantable in Seller at the time of closing.

- a. Seller at closing shall deliver to the County a properly executed and acknowledged special warranty deed conveying the unincorporated ditch and water rights, TOGETHER WITH all ditch and ditch rights, well and well rights, water and water rights appurtenant to the Property being purchased, free and clear of all liens, encumbrances and assessments except taxes and assessments for the current year, which shall be adjusted and prorated to the dates of delivery of the deeds for each parcel.
- b. At the time of closing Seller shall deliver to the County a properly executed and acknowledged Transfer Request in the form set forth in Exhibit B requesting conveyance of shares in incorporated ditch companies, along with the stock certificate reflecting ownership of the shares.
- c. In the event Seller is unable to surrender to County its stock certificates reflecting ownership of the appropriate amount of the Water Rights at the time these water rights are to be conveyed, Seller shall take all steps necessary and required by the appropriate ditch company to complete the transfer of the Water Rights.
- d. County shall pay for all usual costs and fees imposed by the appropriate ditch company to transfer the Water Rights.

e. Seller hereby represents and warrants to County that as of the date of the signing of this Agreement:

- 1) Seller has received no notice of and has no other knowledge of any litigation, claim or proceeding pending or currently threatened, which in any manner affects the Water Rights; and
- 2) Seller has the full right, power and authority to sell and convey the Water Rights to County as provided in this Agreement and to carry out its obligations under this Agreement; and
- 3) Seller has not and shall not enter into any agreement with any private person or entity or with any governmental or quasi-governmental entity with respect to the Water Rights that may result in liability or expense to the County upon the County's acquisition of the Water Rights without the written consent of the County which consent shall not be unreasonably withheld; and
- 4) The execution and delivery of this Agreement and the performance of all of the obligations of Seller hereunder, will not result in a breach of or constitute a default under any agreement entered into by Seller or under any covenant or restriction affecting the Water Rights.

Seller shall, three weeks prior to each option renewal date and at time of closing, certify to County in writing that the above and foregoing representations and warranties remain true and correct.

3.9 Closing. Closing and delivery of deed shall take place at a mutually convenient time within 60 days after the County's exercise of the option in the office of the title company which provides the title commitment described in Paragraph 3.6(c) of this Agreement, or at a time and place agreed to by the County and the Seller. Settlement sheets for the closing shall be furnished to the County at least 5 business days before the closing.

a. At the closing the Sellers shall deliver to the County the following:

- 1) A fully good and sufficient executed and acknowledged Special Warranty Deed conveying to the County good and marketable title to the Property, free and clear of all liens, tenancies and encumbrances except the Permitted Exceptions set forth in Paragraph 3.6(d)(3).
- 2) Possession of the Property, free and clear of all liens, encumbrances and leases except for liens, encumbrances and leases which constitute Permitted Exceptions pursuant to Paragraph 3.6(d)(3).

- 3) Documents acceptable to County and the title company evidencing the authority of Seller to convey the Property and the Water Rights;
- 4) All instruments, certificates, affidavits, and other documents necessary to satisfy the Requirements listed on Schedule B-1 of the title commitment;
- 5) A certificate that the representations and warranties of Seller pursuant to Paragraph 3.8(e) and 3.11 hereof continue to be true and correct as of the date of closing.
- 6) A current updated title commitment, at Seller's expense, showing title subject only to the Permitted Exceptions determined by Paragraph 3.6(d)(3) and Seller shall cause the title company to issue to County its standard form Owner's Policy of Title Insurance insuring good and marketable title to the Property, with the standard printed exceptions deleted, and subject only to the Permitted Exceptions as determined in Paragraph 3.6(d)(3);
- 7) Seller's closing costs which include Seller's portion of all incidental costs and fees customarily paid by Seller in Boulder County land transactions and one-half of the cost of any closing fee. Seller shall pay all real and personal property taxes and assessments to the date of closing.
- 8) An affidavit as contemplated by the Internal Revenue Code Section 1445 as to the non-foreign person status of Seller;
- 9) All documents necessary for conveyance of the Water Rights including Special Warranty Deeds for unincorporated water and ditch rights pursuant to Paragraph 3.8;
- 10) An affidavit as contemplated by Paragraph 3.13(c), if applicable; and,
- 11) Any other documents required by this Agreement to be delivered by Seller to title company or reasonably required by County or title company in connection herewith.

b. At closing the County shall:

- 1) Deliver to Seller the applicable Purchase Price, by certified funds or County Warrant or other good funds;

2) The County shall pay for all usual costs and fees imposed by the appropriate ditch or reservoir company or other entity to transfer the Water Rights;

3) Pay its closing costs which include all incidental costs and fees customarily paid by purchaser in Boulder County and one-half of the cost of any closing fee;

c. Prior to the closing, Seller agrees to remove from the Property all equipment, vehicles, salvage and other personal property not included in the sale.

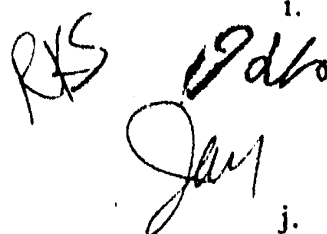
3.10 Time of the Essence. Except as provided in Paragraph 3.4, it is agreed that time is of the essence hereof. If after the execution of this Agreement, the County should fail or default in prompt payment of any payment required according to the terms and conditions of this Agreement, and such failure is not attributable to any failure by Seller to timely and fully perform all of Seller's obligations hereunder, Seller, at Seller's option may in writing declare this Agreement terminated and retain all monies paid to Seller. It is agreed that retention of all payments made by the County are the Seller's sole and only remedy for County's failure to perform the obligations of this Agreement. Seller expressly waives the remedies of specific performance and additional damages. If Seller is in default and fails to cure the default within 120 days after written notice of the default has been delivered to the Seller, (a) County may elect to treat this Agreement as terminated, and shall have the right to have payments returned together with interest at the rate of 5% per annum (compounded annually), or (b) County may elect to treat this Agreement as being in full force and effect, and County shall have the right to an action of specific performance.

3.11 Seller's Representation and Warranties. Seller hereby represents and warrants to the County that as of the date of the signing of this Agreement:

a. Seller has received no notice of, and has no other knowledge of, any litigation, claim or proceeding, pending or currently threatened, which in any manner affects the Property other than Boulder County Dockets SU-94-22, 23, 24 and SD-94-28 and SE-95-20; and

b. Seller has received no notice, and has no other knowledge of, any current, existing violations of any federal, state or local law, code, ordinance, rule, regulation, or requirement affecting the Property; and

c. Seller has the full right, power and authority to transfer and convey the Property to the County as provided in this Agreement and to carry out the Seller's obligations under this Agreement; and

- d. To the best of Seller's knowledge, each and every document, schedule, item and other information delivered or to be delivered by the Seller to the County hereunder, or made available to the County for inspection hereunder, shall be true, accurate and correct; and
- e. Seller has not entered into any agreements with any private persons or entity or with any governmental or quasi-governmental entity with respect to the Property that may result in liability or expenses to County upon the County's acquisition of all or any portion of the Property; and
- f. There are no special assessments which now burden or encumber the Property and there are no special assessments currently proposed as to the Property; and
- g. The execution and delivery of this Agreement and the performance of all of the obligations of the Sellers hereunder will not result in a breach of or constitute a default under any agreement entered into by the Seller or under any covenant or restriction affecting the Property; and
- h. There are no leases, tenancies or rental agreements relating to the Property, or to any part thereof, except for leases and/or agreements that affect the Property on the date of this Agreement as described in Paragraph 3.8 3.6(d)(3).
- i. Seller has not granted or created, and has no knowledge of any third parties who may have the right to claim or assert any easement, right-of-way or claim of possession not shown by record, whether by grant, prescription, adverse possession or otherwise, as to any part of the Property, ~~except as described in Exhibit B; and~~ 
- j. To the best of Seller's knowledge, no part of the Property has ever been used as a sanitary landfill, and no materials have ever been stored or deposited upon the Property which would under any applicable governmental law or regulation require that the Property be treated or materials removed from the Property prior to the use of the Property for any purpose which would be permitted by law but for the existence of said materials on the Property; and
- k. To the best of Seller's knowledge, no underground storage tank, as that term is defined by federal statute or Colorado statute, is located on the Property which under applicable governmental law or regulation require such underground storage tank to be upgraded, modified, replaced, closed or removed; and

1. To the best of Seller's knowledge, Seller has not caused or permitted the release of any hazardous substance on the Property. The terms "hazardous substance" and "release" as used herein shall have the same meaning and definition as set forth in Paragraphs (14), (22) and (23), respectively, of Title 42 U.S.C. Section 9601; provided, however that the term "hazardous substance" as used herein also shall include "hazardous waste", as defined in Paragraph (5) of 42 U.S.C. Section 6903, but shall expressly exclude chemicals and fertilizers approved for use in agricultural operations.

Seller shall, three weeks prior to each option renewal date and at the time of closing, certify to the County in writing that the above and foregoing representations and warranties remain true and correct.

3.12 Breach. In the event Seller: (a) breaches a representation or warranty contained in Paragraph 3.8(e) or 3.11; or is unable to make the representations and warranties described in Paragraph 3.8(e) or 3.11 as of closing; or (b) allows an additional lien, encumbrance or title exception to attach to the Property after execution of this Agreement without the written consent of the County, or (c) is unable to satisfy the requirements of Schedule B-2 of the title commitments and the County terminates this Agreement, in the event Seller is unable to cure or elects not to cure within 120 days of written notice of the Breach from the County to the Seller, the County shall have the right to return of all payments together with interest at the rate of 5% per annum (compounded annually) made pursuant to this Agreement.

3.13 Inspection & Environmental Audit. County, at all times during the term of this Agreement, shall have access to the Property for the purpose of conducting tests, studies and surveys thereon, including, without limitation, soil and subsoil tests.

- a. County may have performed at its option and/or expense the following inspections:
 - 1) Soil and percolation tests;
 - 2) Inspections for asbestos, PCB's, underground tanks, or other hazardous substances;
 - 3) Any other tests and/or studies deemed necessary by County which do not materially damage the Property.
- b. County shall promptly provide to Seller copies of the results of all such tests, inspections, and studies following the receipt of same by County. Any inspections conducted by County shall not mitigate or otherwise affect Seller's representations and warranties, above. County may at its sole expense, obtain a Phase I environmental audit of the Property: (1) prior to July 1, 1996

("First Phase I"), and (2) prior to closing on purchase of the Property ("Second Phase I"). Each Phase I environmental audit shall certify that environmental condition of the Property complies with then existing federal, state and local laws, regulations and standards. If, based upon the First Phase I or the Second Phase I, the environmental condition of the Property does not meet the above described standards County shall, within 15 days of the receipt of the Phase I, give Seller written notice of the environmental defects. Seller agrees to attempt to correct such defects at Seller's expense within 120 days from the receipt of said notice, or within a time agreed to, in writing, by both parties. If necessary, any closing shall be postponed for 120 days. If Seller has not corrected such defects within said 120 days, the County, at its option, may complete the transaction notwithstanding the defects or may, upon notice to Seller in recordable form, declare this Agreement terminated, whereupon all payments made by County to Seller together with interest at the rate of 5% per annum (compounded annually), shall be returned to County and both parties released herefrom.

- c. If the results of the First Phase I or the Second Phase I reveal underground tanks located upon the premises, County shall notify Seller of the presence of the tanks within 15 days of the receipt of the Phase I. Seller shall, at the Seller's sole expense, have the tanks removed within 120 days of said notice. Seller shall also provide, within 120 days of said notice, an affidavit, subscribed and sworn to by a registered professional engineer licensed in the State of Colorado and approved by the County, certifying that the Property meets all applicable federal, state and local laws, regulations, and standards regarding such sites. If the then existing federal, state and local laws, regulations, and standards are not met, the County in addition to any other remedies provided under this contract or the law, may elect to cancel this contract, and all sums paid hereunder by County to Seller together with interest at the rate of 5% per annum (compounded annually), shall be returned to County.

4. MISCELLANEOUS AGREEMENTS.

- 4.1 **Land Use Regulations.** It is the intent of both the Seller and the County that all resolutions, decisions, conditions and restrictions which pertain to, or result from, Boulder County Dockets SU-94-22, 23, 24 and SD-94-28 and SE-95-20, (or additional dockets which reference the dockets described herein) shall be in conformity with the terms of this Option to Purchase. In the event that any term of this Option to Purchase conflicts with any aspect of the above described (or related) Land Use Dockets, any decision by the Board of County Commissioners regarding the above described dockets shall control and the remaining unaffected provisions of this Option to Purchase shall remain in full force and effect.

4.2 **Identification and Information About the Property.** Golden's may, at its discretion, name the Property, subject to the County's reasonable right to accept such name. Once accepted, the County may not change the name designated by Golden's. The County, at Golden's election and expense, shall erect and maintain signs on the Property carrying the name designated by Golden's for such Property. Golden's shall also have the right, at its sole election and expense, to erect and maintain an informational kiosk on the Property describing the Gift, the mining and reclamation operations which were or are conducted on the Property or in the vicinity by Golden's, and any other information related to the Property. The County shall have the right to approve the location, content and design of such kiosk.

4.3 **Golden's Rights.** Golden's hereby reserves and retains all wetlands mitigation banking rights associated with the Property which result from wetlands created with the County's consent.

RAS *Jim* *2d/6*
4.4 **Maintenance of the Property.** In the event the Property is purchased by the County, ^{upon conveyance} ~~a bond conveyance~~, the County shall maintain the Property in its reclaimed condition and, during the ten years immediately following the completion of the reclamation of the Property, shall not make any significant changes in its condition without the prior written approval of Golden's. Thereafter, the County shall maintain the Property and limit uses to those commonly associated with County open space.

4.5 **Real Estate Commission.** Any real estate commission due to any broker upon the sale of the Property to the County shall be paid by Seller. The County represents and warrants to the Seller that the County is not a party to a contract which requires the payment of any real estate commission upon sale of the Property to the County.

4.6 **Condemnation.**

- a. If a portion of the Property is condemned or if proceedings for such condemnation are commenced or notice of such condemnation is received by Seller from a condemning authority prior to the date of closing on any parcel of the Property, County, in addition to all other rights and remedies as set forth and provided in this Agreement, shall have the right to terminate this Agreement and make the same of no further force and effect, or proceed with the purchase of the portion of the Property not so condemned, pursuant to subparagraph (b) below.
- b. The County agrees that if another governmental entity or agency, having powers of eminent domain, acquires title to any of the real Property as to which the County has the right and option to purchase pursuant to the terms and conditions of this document, the County shall, in such event, release its

rights and option to purchase as to the parcel so condemned and shall make no claim as to the monies paid for the Property so taken by the condemning authority. In the event of such a condemnation, the money so paid by the condemning authority for the parcel so taken shall be and become the sole and separate property of the Seller. The provisions of this paragraph shall not be construed, however, as precluding or preventing the County from so condemning the real Property as to which the County has a right and option to purchase hereunder. Such condemnation proceedings shall not affect the rights and options herein granted unto the County as to such of the Property described in Exhibit A not so taken and, in such event County may either: (1) terminate this Agreement pursuant to subparagraph (a) above, or (2) continue with the option to purchase, or purchase, of the Property not condemned, pursuant to the terms of this Agreement, except that, the purchase price of the parcel shall be determined in the proportion that the acreage acquired by the County bears to the total acreage of the parcel prior to the taking under and pursuant to such condemnation proceedings. In such event, all option payments or renewal payments shall be applied to the Purchase price at closing in the proportion that the payments relate to the acreage acquired by the County compared to the total acreage of the Property prior to the taking pursuant to such condemnation proceedings.

- 4.7 **Assignment.** Seller shall not assign its rights and obligations hereunder unless County first consents thereto in writing, which consent shall not be unreasonably withheld. Seller agrees that, so long as County is not in default hereunder, Seller shall not sell or convey any of the Property except to the County pursuant to this Agreement.
- 4.8 **Tax Consequences.** It is acknowledged that the Seller believes the sale price of the Property to the County is less than the fair market value as determined by a certified appraisal and considers the reduction to constitute a bargain sale or partial donation for a public purpose to the extent that fair market value exceeds the sales proceeds. Seller acknowledges that neither County, nor any of its agents or attorneys have made any representations as to the tax treatment to be accorded to this Agreement or to any proceeds thereof by the Internal Revenue Service under the Internal Revenue Code or by the tax officials of the state of Colorado under Colorado tax law.
- 4.9 **Release of Option Rights.** If this Agreement expires for any reason before the County exercises its option to purchase, the County will execute promptly and deliver to Seller a Quit Claim Deed or other instrument which will release the Property from the provisions of this Agreement.
- 4.10 **Agreement to Survive Closing.** The parties hereto agree that this Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns,

and that, except for such of the terms, conditions, covenants and Agreement hereof which are, by their very nature fully and completely performed upon the closing of the purchase-sale transactions herein provided for, all of the terms, conditions, representations, warranties, covenants and Agreements herein set forth and contained shall survive the closing of any purchase-sale transaction herein provided for and shall continue after said closing to be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

- 4.11 Notices.** Whenever notice or consent is required to be given hereunder, it shall be in writing and delivered to the party entitled thereto or mailing to the party entitled thereto, by registered or certified mail, return receipt requested. If delivered, said notice shall be effective and complete upon delivery. If mailed, said notice shall be effective and complete upon mailing. Unless changed by notice in writing, notice shall be given as follows:

To the County: Boulder County Parks and Open Space Director
P.O. Box 471
Boulder, Colorado 80306

With Copies to: Boulder County Attorney
P.O. Box 471
Boulder, Colorado 80306

To the Seller: Manager
Golden Land Company, LLC
21 South Sunset
P.O. Box 328
Longmont, Colorado 80502

With Copies To: Grant, Bernard, Lyons & Gaddis, P.C.
Attn: Wallace H. Grant
P. O. Box 978
Longmont, Colorado 80502-0978

- 4.12 Severability.** If any part of this Agreement is found, decreed or held to be void or unenforceable such finding, decree or holding shall not affect the other remaining provisions of this Agreement which shall remain in full force and unaffected.

- 4.13 Recording.** This Agreement shall be recorded in the Boulder County Real Estate records at the expense of the County.

4.14 Counterparts. This Agreement may be executed in counterparts, each one constituting an original.

5. RECORDING. This Agreement shall be recorded in the office of the Clerk and Recorder of Boulder County, Colorado.

IN WITNESS WHEREOF, Seller and County have executed this Agreement as of this 22nd day of AUGUST, 1995.

COUNTY OF BOULDER, a body corporate and politic

By Homer Page
Homer Page, Chair

By Jana L. Mendez
Jana L. Mendez, Commissioner

By Ronald K. Stewart
Ronald K. Stewart, Vice-Chair

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 22nd day of August, 1995, by Homer Page, Chair; Ronald K. Stewart, Vice-Chair; and Jana L. Mendez, Commissioner, County Commissioners of Boulder County, a body corporate and politic.

Witness my hand and official seal.


My commission expires: 10-17-97.



Susan M. Ashcraft
Notary Public

SELLER:

GOLDEN LAND COMPANY,
a Limited Liability Company

By  Manager
Reginald V. Golden, Manager

By  Manager
James R. Golden, Manager

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 22 day of June 1995,
by Reginald V. Golden and James R. Golden, Managers of Golden Land Company, a Limited
Liability Company.

Witness my hand and official seal.

My commission expires



7-25-98


Notary Public

**GOLDENS RESERVES THE RIGHT TO UTILIZE ALL WATER RIGHTS
IN CONNECTION WITH MINING, RECLAMATION AND AUGMENTATION
IN CONNECTION WITH THE FREDSTROM/GILBERT PROPERTY**



17-17

EXHIBIT B

TRANSFER REQUEST FORM

WATER STOCK TRANSFER REQUEST

Boulder, Colorado, _____, 1995

SALE

TO THE SECRETARY, [name of ditch company]

FOR VALUE RECEIVED, there is hereby assigned, transferred and set over to (and you are directed to transfer on the books of said company to)

County of Boulder, a body corporate and politic
P.O. Box 471, Boulder, CO 80306

ABSOLUTELY, XX SHARES of the capital stock of said company.

[TRANSFEROR/SELLER SIGNATURE]

BY: _____

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____, 1995, by _____.

Witness my hand and official seal.

(S E A L)

Notary Public

My commission expires: _____.