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RESOLUTION NO. 23-21

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

**RESOLUTION TO APPROVE A MEMORANDUM OF AGREEMENT AND TO
APPROVE AND ACCEPT TEMPORARY CONSTRUCTION EASEMENT
AGREEMENT (TE-1) ASSOCIATED WITH THE JANITELL BRIDGE SCOUR
PROTECTION PROJECT**

WHEREAS, pursuant to C.R.S. §§ 30-11-101(1)(c)-(d), 30-11-102, 30-11-103, and 30-11-107(1)(a), the Board of County Commissioners of El Paso County, Colorado (hereinafter "Board") has the authority to purchase and hold real and personal property for the use of the County when deemed by the Board to be in the best interests of the County; and

WHEREAS, the County is constructing an infrastructure project known as the Janitell Bridge Scour Protection Project and as part of that project, the Department of Public Works has identified a need to enter into a Memorandum of Agreement to memorialize the agreement and to obtain a Temporary Construction Easement Agreement (TE-1), copies of which are attached hereto respectively as Exhibits 1 and 2 incorporated herein by reference, from property owned by ME & THEE, LLC, (hereinafter "Grantor"), for the Janitell Bridge Scour Protection Project, to include riprap installation, grading, slope control, repair, replacement, operation, ingress, and egress; and

WHEREAS, Grantor agrees to convey and grant to El Paso County a Temporary Construction Easement Agreement (TE-1) for the sum of \$576.00 payable to Grantor, rounded up to a total of \$600.00; and

WHEREAS, the Board has determined that it would serve the best interests of the public to approve the Memorandum of Agreement and to approve and accept the Temporary Construction Easement Agreement, to effectuate the hereinabove described transaction for purposes which include, but are not limited to, riprap installation, grading, slope control, repair, replacement, operation, ingress, and egress, related to the Janitell Bridge Scour Protection Project.

NOW THEREFORE, BE IT RESOLVED, that the Board of County Commissioners hereby approves the Memorandum of Agreement and hereby approves the Temporary Construction Easement Agreement (TE-1) and authorizes payment to Grantor from applicable funds in the amount of \$600.00, subject to the terms and conditions cited therein.

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BE IT FURTHER RESOLVED, that the duly elected, qualified member and Chair of the Board of County Commissioners, or the duly elected, qualified member and Vice Chair of the Board of County Commissioners, be and is hereby authorized and appointed on behalf of the Board to execute any and all documents necessary to carry out the intent of the Board as described herein.

DONE THIS 17th day of January, 2023, at Colorado Springs, Colorado.

ATTEST:

By:  Steve Schleiker
El Paso County Clerk and Recorder

BOARD OF COUNTY COMMISSIONERS
EL PASO COUNTY, COLORADO

By: 
Chair

**El Paso County Department of Public Works
MEMORANDUM OF AGREEMENT**

Project No : 503940

Location : Fountain Creek at Janitell Road

Parcel # : TE-1

County : El Paso

This Agreement made on _____, 20____ (date) is between **El Paso County**, by and through the Board of County Commissioners of El Paso County, Colorado (GRANTEE), for the purchase of the parcel(s) listed above from the Owner, **Jose Luis Garcia** (GRANTOR).

Just compensation was determined by waiver valuation prepared in accordance with Colorado state laws and regulations. The amount of money and/or compensation listed below is full consideration for the following land, easements, improvements, claims, and damages of any kind.

Land	sq ft <input type="checkbox"/> / acres <input type="checkbox"/>	\$
Non-Exclusive Permanent Easements	sq ft <input type="checkbox"/> / acres <input type="checkbox"/>	\$
Temporary Easement TE-1 (described in attached exhibits A & B)	46,081 sq ft	\$576.00
Non-Exclusive Permanent Utility Easement	sq ft <input type="checkbox"/> / acres <input type="checkbox"/>	\$
Improvements		\$
Damages		\$
Offer Total (rounded)		\$600.00
		\$
Net Total		\$600.00

Other conditions:

1. Vehicular access to the GRANTOR's property is not affected by the conveyance herein.
2. The GRANTOR shall be notified by the GRANTEE or its assigns in writing at least one week in advance of work on the Property. Notification will constitute the date of notice as described in the Temporary Construction Easement Agreement (TE-1).
3. Disturbed property will be returned to like or better condition upon completion of construction.
4. Existing on-site materials within TE-1 may be utilized or re-purposed for Project materials during construction.

Notwithstanding anything to the contrary herein, the Agreement is contingent upon the El Paso County Board of County Commissioner's (hereinafter "Board") consideration and approval, and the GRANTEE will only make payment after receiving an acceptable conveyance instrument from the GRANTOR as indicated below and after formal approval by the Board.

The GRANTOR and GRANTEE agree that:

- there are no promises, terms, conditions, or obligations other than those listed on this Agreement.
- this Agreement is binding on both the GRANTOR and GRANTEE and their heirs, devisees, executors, administrators, legal representatives, successors, assigns, and designees.
- the compensation shown on this Agreement is for the applicable temporary easement interest(s) of the parcels described and any claims and/or damages of any kind, unless otherwise indicated.
- this Agreement is expressly subject to the execution of releases or subordinations pertaining to any interests relating to the property.
- failure of the GRANTOR to secure release or subordination of all outstanding interests in the Property to the GRANTEE'S satisfaction prior to closing may, at GRANTEE'S sole option, render this Contract null and void.
- GRANTEE may elect to waive GRANTOR'S requirement to obtain release, partial release, or subordination of any lien(s) or mortgage interest(s) in the Property, and will notify GRANTOR in writing of said waiver. Waiver of such by GRANTEE shall not absolve GRANTOR of GRANTOR'S obligations to lienholder(s), including, but not limited to, any requirements under a Due on Sale provision.
- agree that the closing date may be extended at the GRANTEE'S sole option to resolve any matter necessary to obtaining merchantable title to the Property.
- this Agreement shall be deemed a contract binding upon the GRANTEE and GRANTOR and the GRANTOR'S successors, assigns, designees, heirs, devisees, executors, administrators, and legal representatives.

The GRANTOR:

- will at the closing pay all taxes (including prorated taxes for the current year) and special assessments for the current year.
- understands, acknowledges and agrees that the beneficiaries of any unpaid mortgage(s), deed(s) of trust, taxes and/or other financial indebtedness secured by the GRANTOR'S Property may claim all or any portion of the compensation paid pursuant to this Agreement.
- has entered into this Agreement only because the GRANTEE has the power of eminent domain and requires the property for public purposes.
- will execute and deliver to GRANTEE those documents indicated below.
- hereby agrees to provide merchantable title to the Property.
- agrees to take all required actions and execute all documents necessary to secure releases or subordinations of any outstanding liens, leases, mortgages, or other encumbrances against, or affecting, the Property by all outstanding lienors, lessees, mortgagees, or any others with legal or equitable interests.
- agrees that the GRANTEE will be entitled to specific performance of this Agreement.
- agrees that the GRANTEE shall be entitled to take immediate possession of the Property upon the signing of this Agreement by the Parties and tender of payment either (a) directly to the GRANTOR, or (b) by depositing the agreed upon compensation into escrow with the GRANTEE'S closing agent unless other specific arrangements are agreed to by the Parties. This grant of possession of the Property to the GRANTEE shall serve as an irrevocable license to occupy and use said Property for the purposes of the Project until the GRANTOR executes and delivers to the County the necessary documents as stated below, and until the beneficiaries of any unpaid mortgage(s), deed(s) of trust or other financial indebtedness secured by the Owner's Property execute any and all required releases or subordinations, including, but not limited to, Requests for Partial Releases.

The GRANTEE:

- will be entitled to specific performance of this Agreement upon tender of the agreed consideration.
- will be held harmless from any claims against the property or to any interest in the property, except for any benefits due under relocation law.
- will prepare the following documents:

- | | | |
|-----------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|-------------------------------------------------------------------|
| <input type="checkbox"/> Special Warranty Deed | <input type="checkbox"/> w/Min Resv. | <input type="checkbox"/> Non-Exclusive Permanent Utility Easement |
| <input type="checkbox"/> Access Deed | | <input type="checkbox"/> Non-Exclusive Permanent Easement |
| <input type="checkbox"/> Full Release(s) Book/Page/Reception # | | <input type="checkbox"/> Slope Easement |
| <input type="checkbox"/> Partial Release(s) Book/Page/Reception # | | <input checked="" type="checkbox"/> Temporary Easement |
| <input type="checkbox"/> Other (specify): Any applicable document(s) required by the closing agent and/or GRANTEE to facilitate closing | | |
| <input type="checkbox"/> Title Company to prepare documents except | | |

Order Check \$600.00

Payable to: Juan Luis Garcia and Aly Garcia

El Paso County, by and through the Board of County Commissioners
of El Paso County, Colorado

ATTEST:

Chair_____
County Clerk and Recorder

GRANTOR signature(s)


Jose Luis Garcia

12-16-22

Reference: BoCC resolution # 23-21

EXHIBIT "A"
TEMPORARY EASEMENT NUMBER: TE-1
EL PASO COUNTY PROJECT NO. 128558

DATE: NOVEMBER 02, 2022

A Temporary Easement, TE-1, located within a parcel of land as described by Special Warranty Deed, Reception Number 220067296, in the El Paso County Clerk and Recorder's office and located in the Southeast 1/4 of Section 29, Township 14 South, Range 66 West of the 6th Principal Meridian, County of El Paso, State of Colorado, described as follows:

COMMENCING at the Southeasterly corner of said parcel of land, monumented with a found 1.25" aluminum cap stamped "LS 23955", said corner also being a point on the Westerly right-of-way line of Janitell Road; Thence North 00°21'10" West, a distance of 214.57 feet along the Easterly line of said parcel to the **POINT OF BEGINNING**;

1. Thence departing said Easterly line of said parcel, North 52°28'37" West, a distance of 446.00 feet to a point on a Northwesterly line of said parcel;
2. Thence departing said Northwesterly line of said parcel, South 89°37'40" East, a distance of 302.07 feet to a point on the Westerly line of an existing El Paso County permanent easement as described in Book 5655, Page 698 in the El Paso County Clerk and Recorders office;
3. Thence South 00°21'10" East along said Westerly line of said easement, a distance of 27.00 feet to the Southwest corner of said easement;
4. Thence North 89°38'51" East along the Southerly line of said easement, a distance of 50.00 feet to a point on said Easterly line of said parcel, also being a point on said Westerly right-of-way line of Janitell Road ;
5. Thence South 00°21'10" East along said Easterly line of said parcel, a distance of 243.00 feet to the Southeasterly corner of said parcel and **THE POINT OF BEGINNING**;

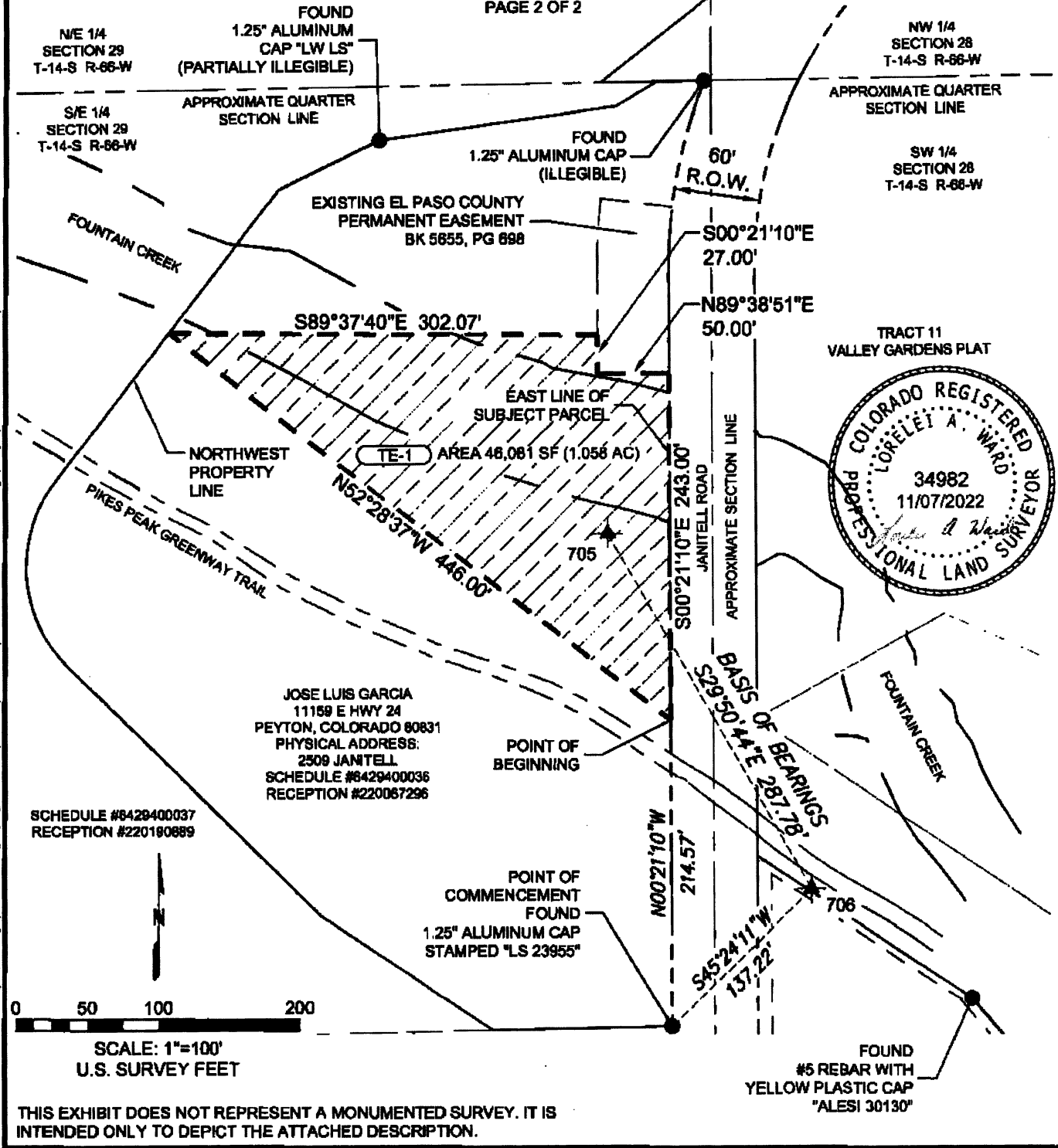
Containing an area of 46,081 square feet or 1.058 acres, more or less.

Basis of Bearings: Bearings used in the calculation of coordinates are based on a project grid bearing of South 29°50'44" East from control point 705 to control point 706, established for and shown in the Janitell Road Bridge Improvement construction project 152064. Both monuments are 1.5" red plastic caps set on #4 rebar.

Prepared for and on behalf of
El Paso County, Colorado.
Lorelei A. Ward, PLS 34982 .
5775 Mark Dabbling Boulevard, Suite 190
Colorado Springs, CO 80919
(719) 590-9194



ILLUSTRATION FOR
EXHIBIT A
PAGE 2 OF 2



THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS
INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION.

Farnsworth
GROUP
5775 MARK DABLING BLVD., SUITE 190
COLORADO SPRINGS, COLORADO 80919
(719) 590-9194 / info@f-w.com

EL PASO COUNTY
JANITELL ROAD BRIDGE IMPROVEMENTS
EL PASO COUNTY PROJECT NO. 152064
TE-1 - TEMPORARY EASEMENT
SE 1/4 SECTION 29, T 14 S, R 66 W OF THE 6TH P.M.
COUNTY OF EL PASO, STATE OF COLORADO

PROJECT NO.: 0210332.00
DRAWN: SWS
REVIEWED: LAW
DATE: 11-02-2022
2 OF 2

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**TEMPORARY CONSTRUCTION EASEMENT AGREEMENT
TE-1**

THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT ("AGREEMENT") is made this _____ day of _____, 20____, between JOSE LUIS GARCIA, whose mailing address is 11159 E Hwy 24 Peyton, CO 80831, hereinafter called the Grantor(s), for and in consideration of the sum of SIX HUNDRED DOLLARS and No Cents (\$600.00), and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, in hand paid by EL PASO COUNTY BY AND THROUGH THE BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO, whose address is 200 S. Cascade Avenue, Colorado Springs, CO 80903 (hereinafter "Grantee"), have given and granted and by these presents do hereby give and grant unto the said Grantee, a TEMPORARY CONSTRUCTION EASEMENT ("Easement"). This Easement shall be in force for six (6) months from the date of notice (as defined in the associated Memorandum of Agreement between the parties) from Grantee or Grantee's contractor(s) to Grantor of pending entry upon the Easement, or until the end of the project, whichever comes first. The following is the described location of the Easement:

See attached Exhibit A, Land Description Temporary Construction Easement
Exhibit B, Sketch

This Easement is for the following purposes, which include but are not limited to: riprap installation, grading, slope control, repair, replacement, operation, ingress and egress.

That portion of the Easement that pertains to slope control is subject to the following conditions: at no time hereafter shall the Grantors, or anyone claiming by, through, or under the Grantors, perform any act or thing which is or may be detrimental to, or has any adverse effect upon the stability of said excavated slopes or embankment, or which shall interfere with the flow of drainage.

Grantee does hereby agree to construct the Project in a neat and workmanlike manner. Existing on-site materials within the Easement may be utilized or re-purposed for Project materials during construction. At the end of the project Grantee shall return disturbed area to like or better condition.

IN WITNESS WHEREOF, the Grantor(s) have executed this Temporary Construction Easement Agreement.

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Signature Page Follows

TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

TE-1

GRANTOR:

By: Jose Luis Garcia
Jose Luis Garcia

State of Colorado)
County of El Paso) ss

The foregoing instrument was acknowledged before me this 21st day of December, 2022, by Jose Luis Garcia

Witness my hand and official seal.

Samuel A. Ferber

Notary Public

My commission expires: 8-28-2023

SAMUEL A FERBER
Notary Public
State of Colorado
Notary ID # 20154034224
My Commission Expires 08-28-2023

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: _____
County Clerk and Recorder

By: _____, Chair

State of _____)
County of _____) ss

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ as Chair of the Board of County Commissioners of El Paso County, Colorado.

Witness my hand and official seal.

Notary Public

My commission expires: _____

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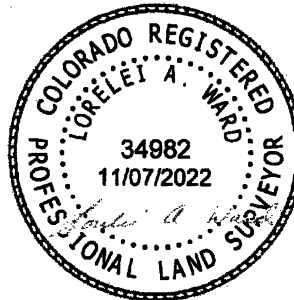
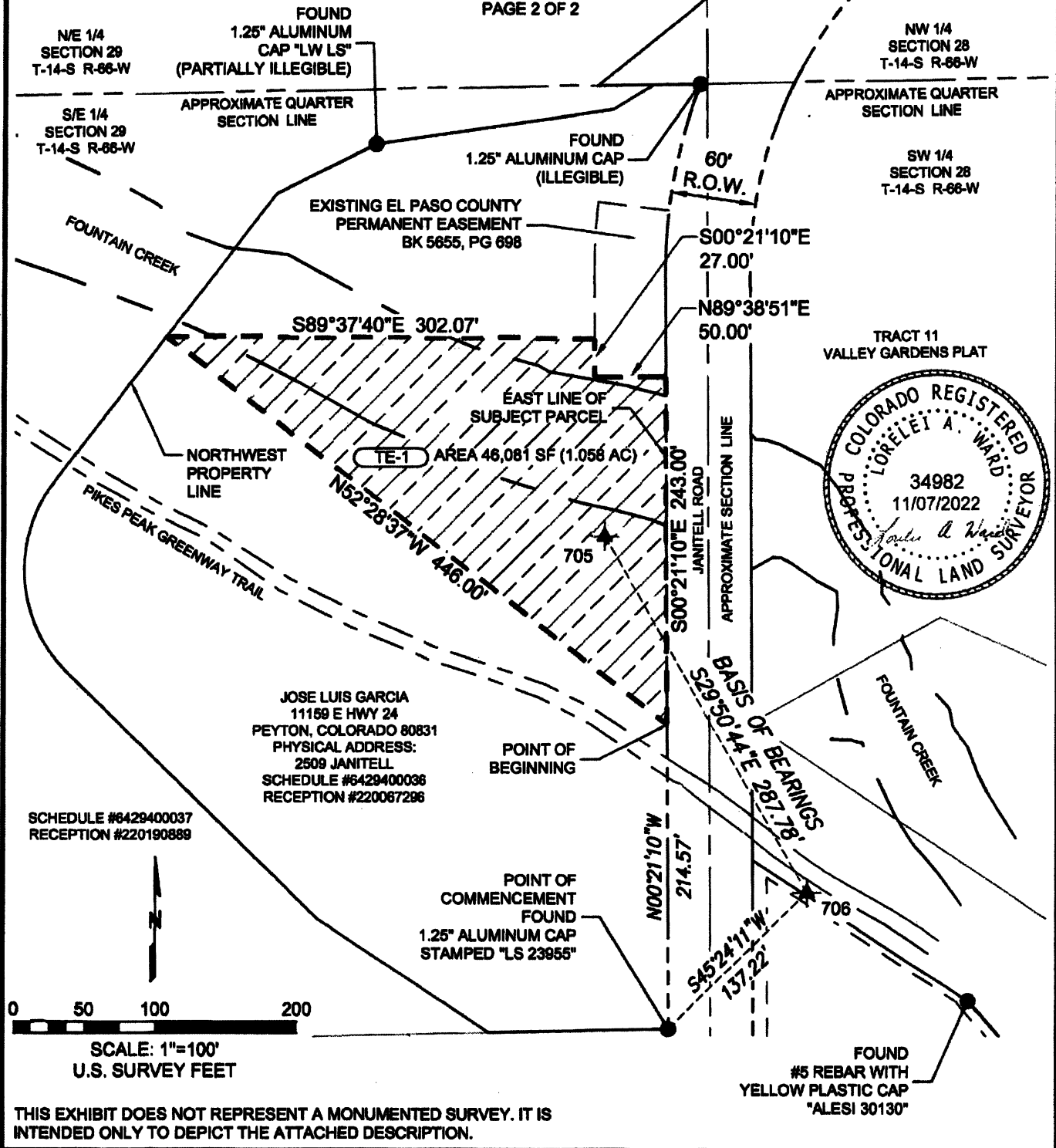


ILLUSTRATION FOR
EXHIBIT A

PAGE 2 OF 2



Farnsworth GROUP

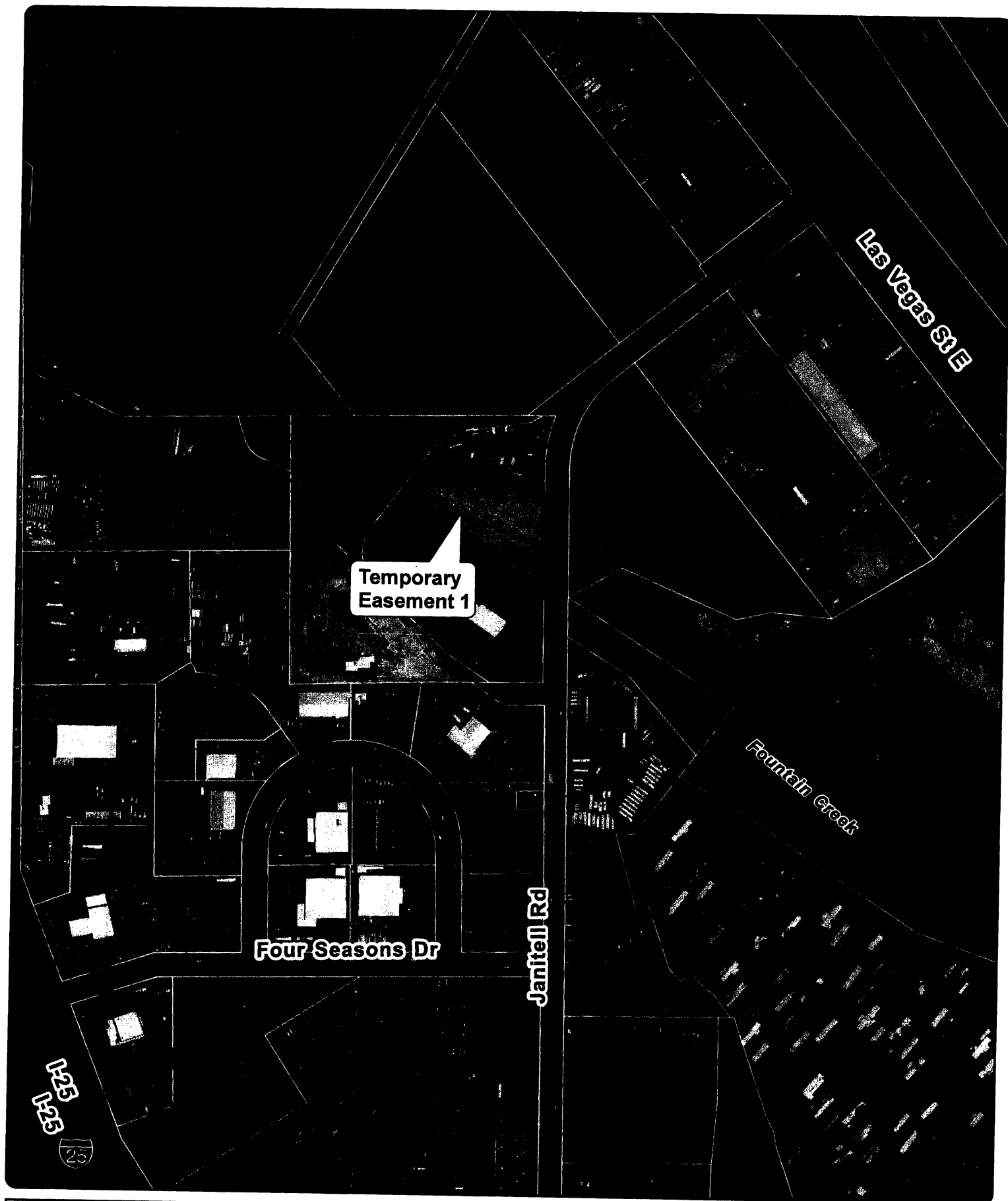
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EL PASO COUNTY
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EL PASO COUNTY PROJECT NO. 152064
TE-1 - TEMPORARY EASEMENT
SE 1/4 SECTION 29, T 14 S, R 86 W OF THE 6TH P.M.
COUNTY OF EL PASO, STATE OF COLORADO

PROJECT NO.: 0210332.00
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2 OF 2

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75 0 75 150 225 300 375
FEET
SCALE 1:3,600

EL PASO COUNTY DEPARTMENT OF PUBLIC WORKS
JANITELL RD BRIDGE SCOUR PROTECTION PROJECT
PARCEL TE-1

INFRASTRUCTURE MANAGEMENT SYSTEM GIS DATA VIEWER



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