

Temporary Construction Easement

This Temporary Construction Easement (the "Easement") is made and executed this ____ day of _____, 2023 (the "Effective Date"), by and between Aaron Harber, an individual with an address of 2500 North 119th Street, Lafayette, CO 80026-9216 ("Grantor"), and the Town of Erie, a Colorado municipal corporation with an address of 645 Holbrook Street, P.O. Box 750, Erie, CO 80516 (the "Town") (each a "Party" and collectively the "Parties").

In and for the consideration of the sum of \$16,751 and other good and valuable consideration paid by the Town to Grantor, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Grant of Easement. Grantor hereby grants to the Town a temporary easement to enter, re-enter and use the real property described on **Exhibit A**, attached hereto and incorporated herein by this reference (the "Easement Property"), for the sole purpose of undertaking the construction of the South Boulder Canyon Ditch Project (the "Project"). The Easement Property shall be used solely for the installation of fencing, temporary erosion control, finish grading, and ground surface revegetation, in accordance with **Exhibit B**, attached hereto and incorporated herein by this reference.

2. Term. The Town shall have and exercise the right to ingress and egress in, on, over and across the Easement Property for any lawful purpose necessary for the full enjoyment of the rights granted by Grantor to the Town hereunder for the 2-year period commencing on the Effective Date and terminating at 12:01 a.m. two years from that date (the "Term"). Should construction not be completed within said period, the Parties may extend the Term of this Easement by mutual agreement.

3. Town's Additional Obligations.

a. Within 7 days of the first time the Town accesses the Easement Property, the Town shall construct and install a 4-foot temporary fence on the Easement Property, separating the Easement Property from the remainder of Grantor's property, and the Town shall maintain that fencing in good condition at all times (the "Temporary Fence"). The Temporary Fence will be an orange rubber construction fence using 6-foot steel T-posts spaced 10 feet apart. The Town shall remove the Temporary Fence after acceptance completion of the Town's work on the Easement Property (but no later than the end of the Term unless mutually extended by the Parties).

b. The Town agrees that it shall cause the Easement Property and any improvements thereon, including without limitation, landscaping and fencing, which are disturbed or damaged during construction of the Project, to be returned to their original condition, or as near thereto as may be reasonably accomplished, all at the expense of the Town, excluding the two trees labeled in **Exhibit B** as "trees to be removed," which shall be removed and shall not be replaced. If the Town fails to comply with its obligations



under this subsection 3.b., Grantor shall have the right, but not the obligation, to do so, and the Town shall reimburse Grantor for all reasonable expenditures incurred by Grantor in doing so, within 30 days following receipt of a detailed invoice from Grantor for such work, subject to Section 15 hereof. The Town further agrees that the Easement Property shall not be used as a staging area for construction activities, and specifically, that no construction equipment shall be stored on the Easement Property during the period of construction.

4. Access to Easement Property. The Town shall access the Easement Property only from 119th Street and not from anywhere on Grantor's property.

5. Hold Harmless. Once the Term expires and the Town has met all its obligations herein: (a) Grantor shall hold the Town harmless for any work done on the Easement Property by the Town during the Term of this agreement, including the restoration of landscaping or fences; (b) Grantor shall be solely responsible for any maintenance or repair on the Easement Property; and (c) Grantor shall assume all liability for the Easement Property.

6. Grantor's Rights. Grantor retains the right to the undisturbed use and occupancy of the Easement Property insofar as such use and occupancy is consistent with and does not impair any grant herein contained.

7. Warranty. Grantor warrants that it has the full right and legal authority to make the grant of this Easement, subject to statutory exceptions and any matters of record.

8. Binding Effect. Each and every one of the benefits and burdens of this Easement shall inure to and be binding upon the respective legal representatives, heirs, successors and assigns of the Parties.

9. Governing Law and Venue. This Easement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Boulder County, Colorado.

10. Modification. This Easement may only be modified upon written agreement of the Parties.

11. Integration. The foregoing constitutes the entire agreement between the Parties regarding the use of the Easement Property and no additional or different oral representations, promises or agreements shall be binding on the Parties with respect to the Easement Property or this Easement.

12. Severability. If any provision of this Easement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.



13. No Third-Party Beneficiaries. Except as expressly provided herein, there are no intended third-party beneficiaries to this Easement.

14. Governmental Immunity. The Town and its officers, employees and attorneys, are relying on, and do not waive or intend to waive by any provision of this Easement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town or its officers, employees and attorneys.

15. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

In Witness Whereof, the Parties have executed this Easement as of the Effective Date.

Town of Erie, Colorado

Justin Brooks, Mayor

Attest:

Debbie Stamp, Town Clerk

Grantor

State of Colorado)
County of Boulder) ss.

Subscribed, sworn to and acknowledged before me this 29th day of September 2023, by Aaron Harber.

My Commission expires: 4/20/25

(Seal)

Elthia Larkin
Notary Public

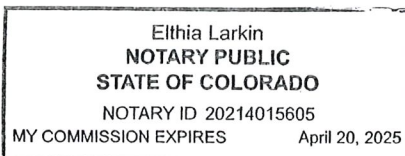


EXHIBIT "A"

A parcel of land located in the northwest quarter of Section 25, Township 1 North, Range 69 West of the Sixth Principal Meridian, Boulder County, Colorado and more particularly described as follows:

The Basis of Bearings is the west line of the northwest quarter of the northwest quarter of Section 25, Township 1 North, Range 69 West of the Sixth Principal Meridian as monumented with a 2.5" aluminum cap PLS 23501 at the north end and a 3.25" aluminum cap PLS 28286 as a 70 foot witness corner which bears South 88°46'08" East a distance of 70.00 feet from the true corner location at the south end with a ground bearing of South 00°19'45" East.

Commencing at the northwest corner of said Section 25;

Thence South 89°42'39" East, along the north line of said northwest quarter, a distance of 30.00 feet, more or less, to a point on the easterly right-of-way line of N. 119th Street, said point being the northwest corner of that parcel of land as described at Reception Number 3467015, dated July 23, 2015 in the records of the Boulder County Clerk and Recorder, said point also being the Point of Beginning;

Thence South 89°42'39" East, continuing along said north line, a distance of 10.00 feet;

Thence South 0°19'45" East, along a line that is 10 feet distant from and parallel with said easterly right-of-way line, a distance of 130.00 feet;

Thence North 89°42'39" West, a distance of 10.00 feet, more or less, to a point on said easterly right-of-way line;

Thence North 0°19'45" West, along said line, a distance of 130.00 feet, more or less, to the Point of Beginning.

Containing 1300 Sq. Ft. or 0.03 Acres, more or less.

KYLE R. WALKER, P.L.S. NO. 38664

FOR AND ON BEHALF OF TOPOGRAPHIC LAND SURVEYORS

A PARCEL OF LAND LOCATED IN
SECTION 25, TOWNSHIP 1 NORTH,
RANGE 69 WEST OF THE 6TH P.M.
BOULDER COUNTY, COLORADO

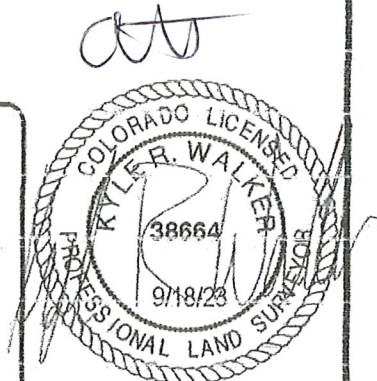
NOTES:

1. ORIGINAL DOCUMENT SIZE: 8.5" X 11"
2. ALL DISTANCES ARE U.S. SURVEY FEET.
3. THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT".
4. SEE ATTACHED EXHIBIT "A" SHEET 2 OF 2 FOR PARCEL INFORMATION.



TOPOGRAPHIC
LOYALTY INNOVATION LEGACY

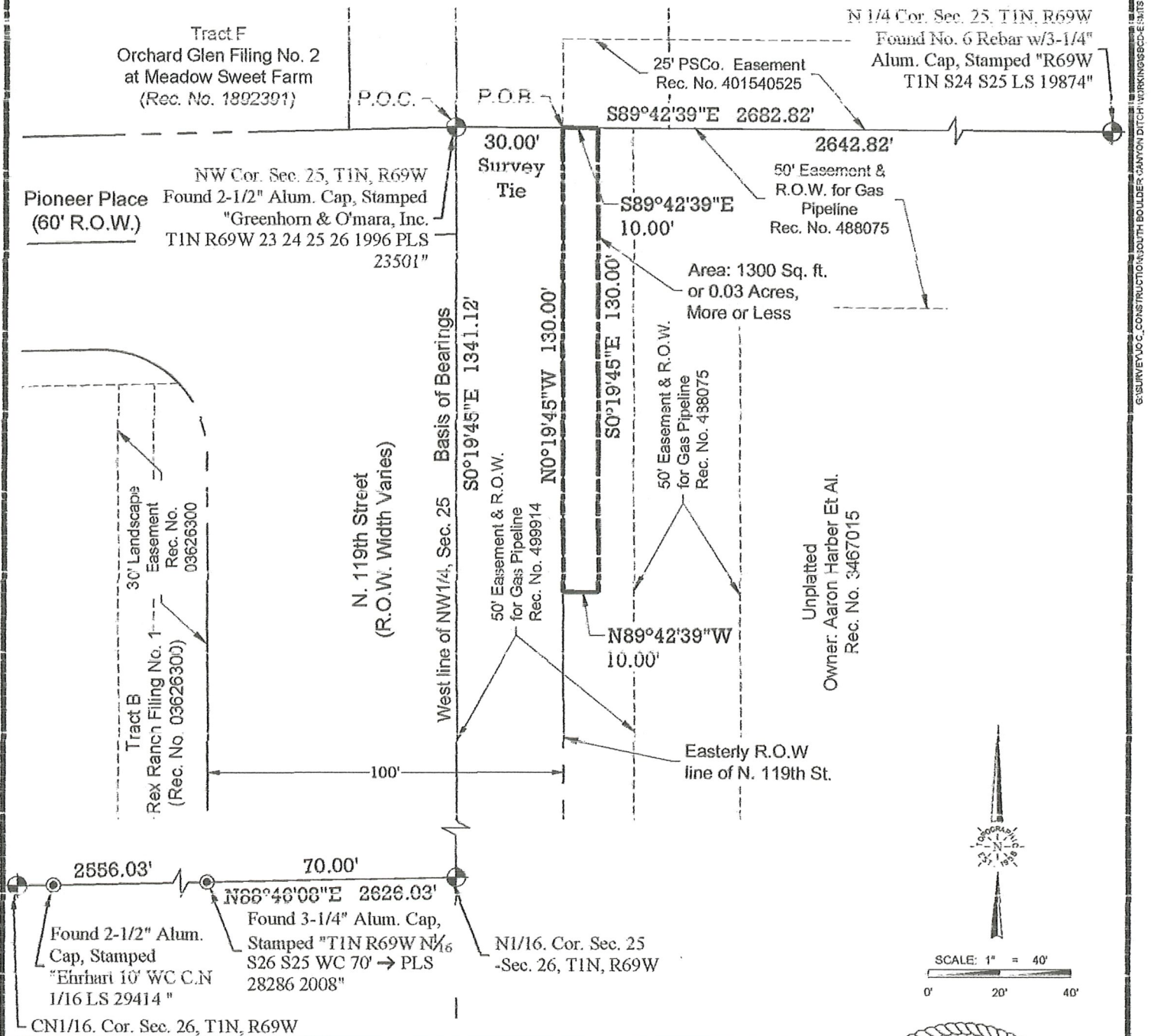
520 STACY COURT, UNIT 8 • LAFAYETTE, CO 80026
TELEPHONE: (303) 699-0379 • FAX (303) 699-0320
WWW.TOPOGRAPHIC.COM



DATE: 09/18/2023	DRAWN BY: EMD
FILE: SB CD-ESMTS	SHEET: 1 OF 2

EXHIBIT "A"

TOPOGRAPHIC
LOYALTY INNOVATION LEGACY
520 STACY COURT, UNIT B • LAFAYETTE, CO 80026
TELEPHONE: (303) 666-0379 • FAX (303) 666-0320
WWW.TOPOGRAPHIC.COM



A PARCEL OF LAND LOCATED IN
SECTION 25, TOWNSHIP 1 NORTH,
RANGE 69 WEST OF THE 6TH P.M.
BOULDER COUNTY, COLORADO

NOTES

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5. ADJOINER INFORMATION SHOWN FOR INFORMATIONAL PURPOSES ONLY.
6. P.O.B. = POINT OF BEGINNING, P.O.C. = POINT OF COMMENCEMENT
7. SEE ATTACHED SHEET 1 OF 2 FOR PARCEL DESCRIPTION.



DATE: 09/18/2023 DRAWN BY: EMD
FILE: SBCE-ESMTS SHEET: 2 OF 2

EXHIBIT "A"

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Commencing at the north one-sixteenth corner common to Sections 25 and 26, T1N, R69W;
Thence South 80°23'45" East, a distance of 30.46 feet, more or less, to a point on the easterly right-of-way line of N. 119th Street, said point being a point on the west line of that parcel described at Reception Number 3467015, dated July 23, 2015 in the records of the Boulder County Clerk and Recorder, said point also being the Point of Beginning;
Thence North 00°19'45" West, along said easterly right-of-way line, a distance of 535.00 feet;
Thence North 89°40'15" East, a distance of 14.00 feet;
Thence South 0°19'45" East, along a line that is 14 feet distant from and parallel with said easterly right-of-way line, a distance of 535.00 feet;
Thence South 89°40'15" West, a distance of 14.00 feet, more or less, to the Point of Beginning.

Containing 7490 Sq. Ft. or 0.17 Acres, more or less.

KYLE R. WALKER, P.L.S. NO. 38664
FOR AND ON BEHALF OF TOPOGRAPHIC LAND SURVEYORS

A PARCEL OF LAND LOCATED IN
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RANGE 69 WEST OF THE 6TH P.M.
BOULDER COUNTY, COLORADO

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 **TOPOGRAPHIC**
LOYALTY INNOVATION LEGACY
520 STACY COURT, UNIT B • LAFAYETTE, CO 80026
TELEPHONE: (303) 666-0379 • FAX (303) 665-6320
WWW.TOPOGRAPHIC.COM

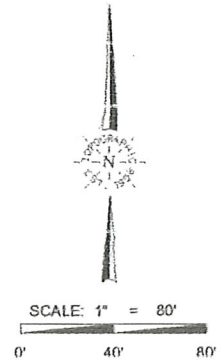
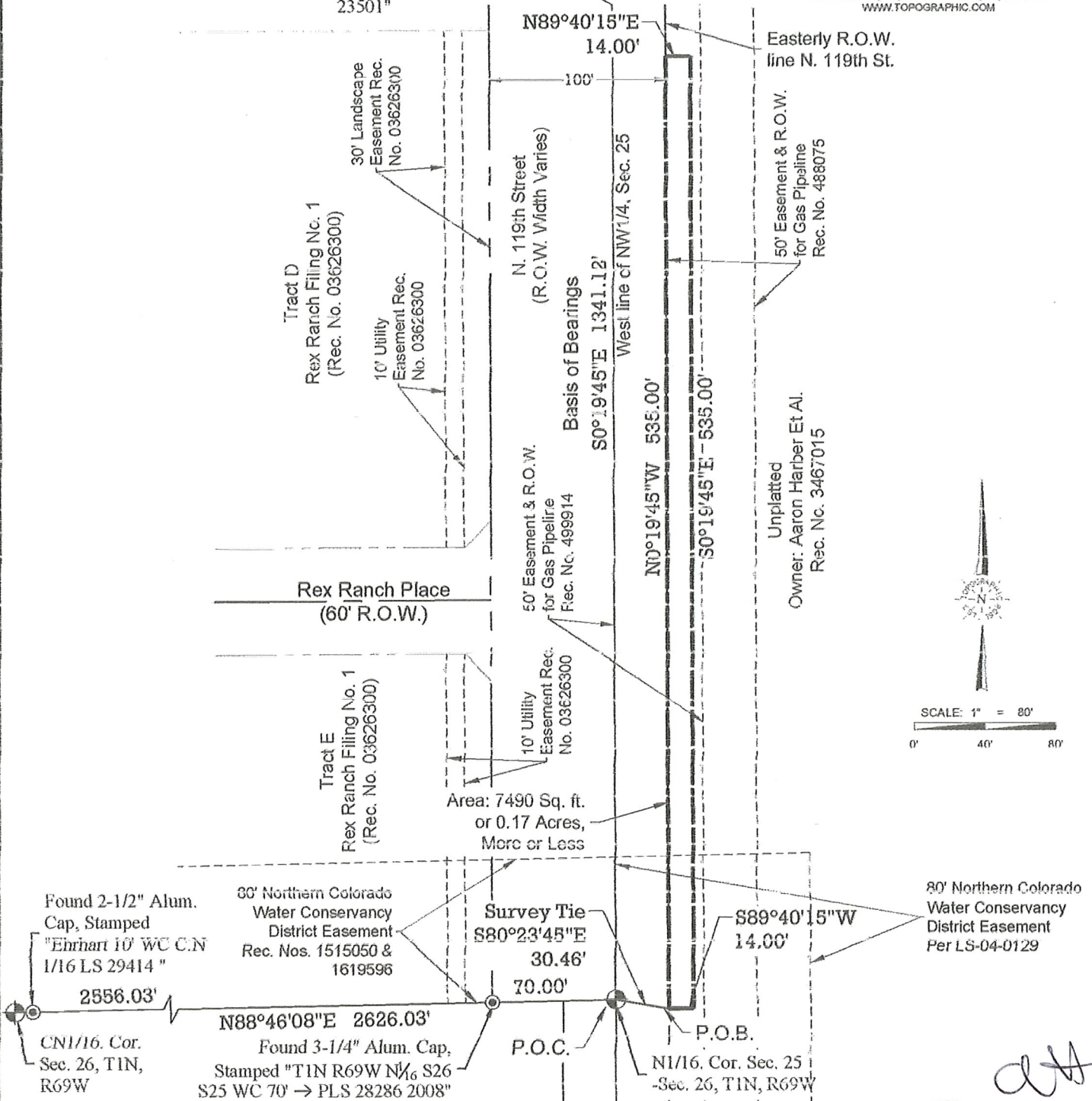


DATE: 09/18/2023	DRAWN BY: EMD
FILE: SBCE-ESMTS	SHEET: 1 OF 2

NW Cor. Sec. 25, T1N, R69W
Found 2-1/2" Alum. Cap, Stamped
"Greenhorn & O'mara, Inc.
T1N R69W 23 24 25 26 1996 PLS
23501"

EXHIBIT "A"

TOPOGRAPHIC
LOYALTY INNOVATION LEGACY
520 STACY COURT, UNIT B • LAFAYETTE, CO 80026
TELEPHONE: (303) 685-0379 • FAX (303) 685-0320
WWW.TOPOGRAPHIC.COM



NOTES

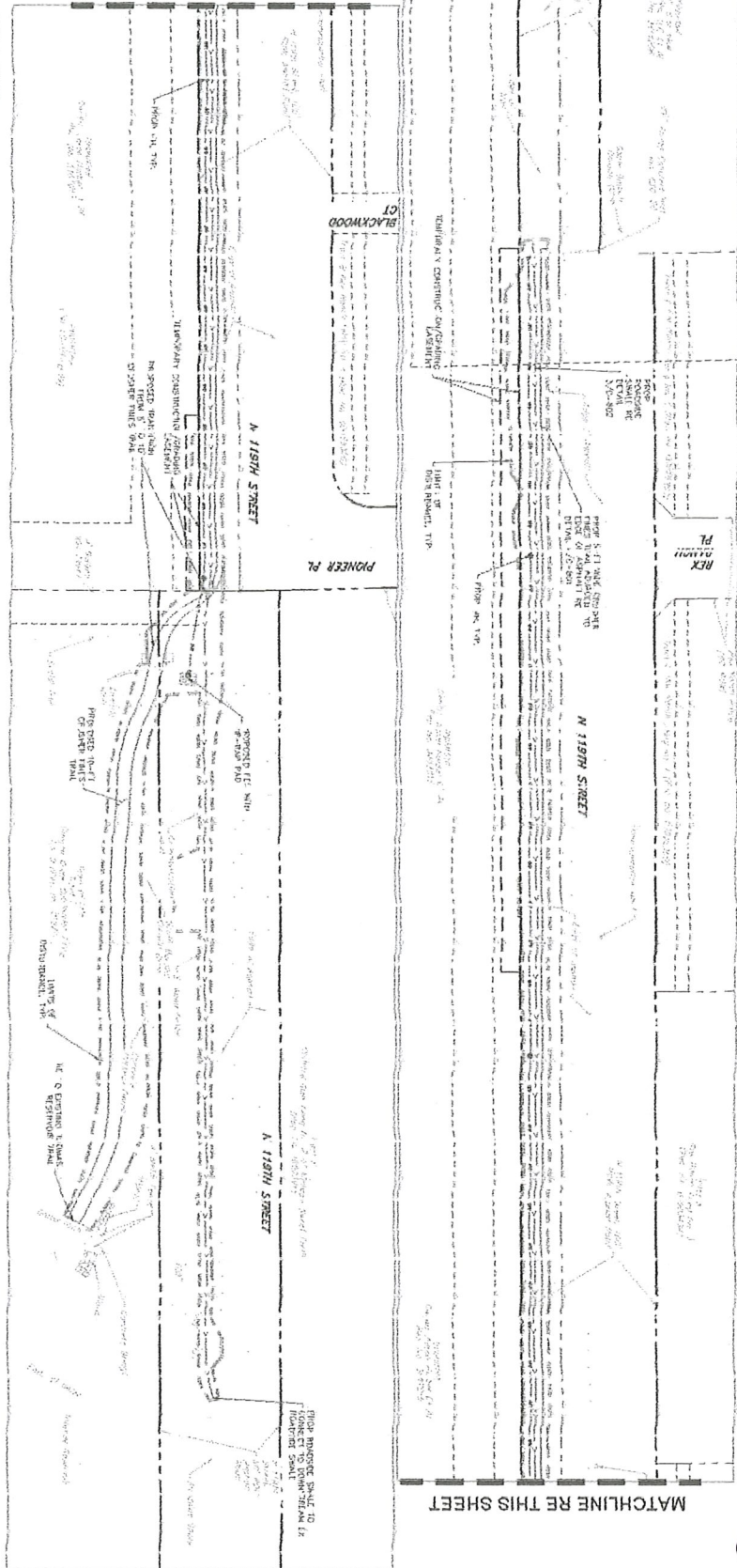
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7. SEE ATTACHED SHEET 1 OF 3 FOR PARCEL DESCRIPTION.

A PARCEL OF LAND LOCATED IN
SECTION 25, TOWNSHIP 1 NORTH,
RANGE 69 WEST OF THE 6TH P.M.
BOULDER COUNTY, COLORADO



DATE: 09/18/2023 DRAWN BY: EMD
FILE: SBCE-ESMTS SHEET: 2 OF 2

MATCHLINE RE THIS SHEET



MATCHLINE RE THIS SHEET

- LAND NOTES:**
1. ALL NOTES ARE TO BE READ IN CONJUNCTION WITH THE SITE PLAN.
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PAVEMENT LEGEND

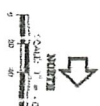
- CHURCH DRIVE
- PIONEER PL
- BLACKWOOD CT
- N 119TH STREET

SITE BASIS OF SURVING
ALL SURVING WAS DONE BY THE SURVING ENGINEER. THE SURVING ENGINEER IS NOT RESPONSIBLE FOR THE ACCURACY OF THE SURVING DATA. THE SURVING ENGINEER IS NOT RESPONSIBLE FOR THE ACCURACY OF THE SURVING DATA. THE SURVING ENGINEER IS NOT RESPONSIBLE FOR THE ACCURACY OF THE SURVING DATA.

EXHIBIT B
AARON HARBER
TCE
C-101

SOUTH BOULDER CANYON DITCH
119TH STREET & PIONEER PLACE, ERIE, CO 80516
CONSTRUCTION DOCUMENTS
OVERALL LAYOUT PLAN

14921-1
TOWN OF ERIE PROJECT NO
P22-219
10/19/2013
12:03 PM



PROJ. NO. 1493-1
TOWN OF BRILL PROJECT
P22-219

TOPCO INC.
1000 N. 10TH ST.
SUITE 100
DENVER, CO 80202
TEL: 303.733.1111
WWW.TOPCOINC.COM

DATE: 10/14/10
BY: [Signature]
CHECKED BY: [Signature]
APPROVED BY: [Signature]

SOUTH BOULDER CANYON DITCH 119TH STREET & PIONEER PLACE, ERIE, CO 80516 CONSTRUCTION DOCUMENTS OVERALL GRADING PLAN



City of Boulder
In a corner
dig, grade or erect any
structure

Know what you're doing.
Call before you dig.

EXHIBIT B

AARON HARRER
TCE

5/25/10
C-201

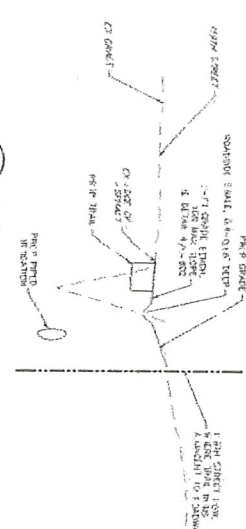
SITE BASIS OF BLANKS

ALL PROPERTY NOT RELEVANT TO THIS PROJECT IS SHOWN IN GRAY.
PROPERTY OWNED BY THE CITY OF BOULDER IS SHOWN IN WHITE.
PROPERTY OWNED BY OTHERS IS SHOWN IN LIGHT GRAY.

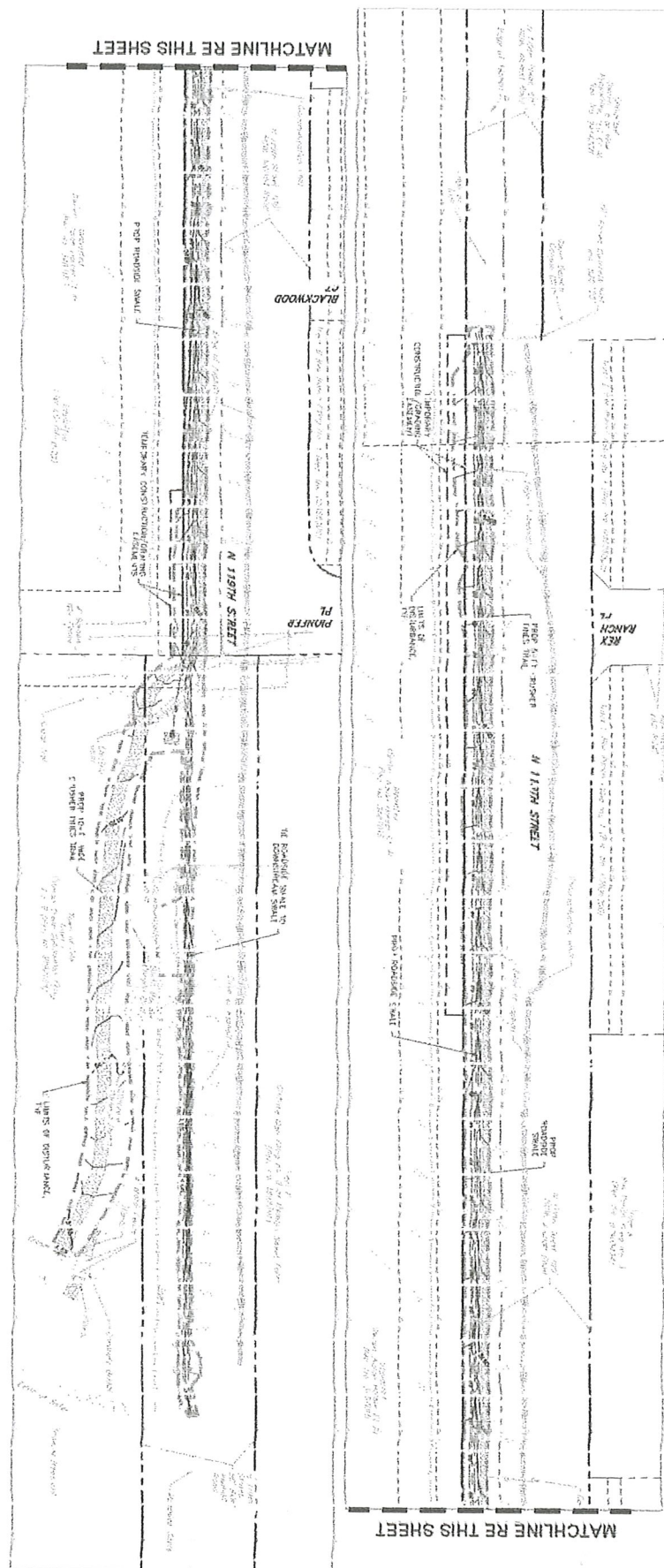
SITE DESCRIPTION:
THE SITE IS A 1.5-ACRE PARCEL LOCATED AT THE INTERSECTION OF 119TH STREET AND PIONEER PLACE, ERIE, CO. THE SITE IS CURRENTLY UNDEVELOPED AND IS SURROUNDED BY RESIDENTIAL DEVELOPMENT.

ADJACENT PROPERTIES:
TO THE NORTH: 119TH STREET, ERIE, CO.
TO THE SOUTH: PIONEER PLACE, ERIE, CO.

TYPICAL TRAIL & SWALE SECTION



- ### **GRADING & DRAINAGE NOTES:**
1. THE GRADING SHALL BE TO THE TOP OF THE FINISHED GRADE.
 2. THE FINISHED GRADE SHALL BE TO THE TOP OF THE FINISHED GRADE.
 3. ALL GRADING SHALL BE TO THE TOP OF THE FINISHED GRADE.
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First Interstate (no checks or deposit slips)

~~Post Office~~

Dollar Tree

Cricket Store

~~UPS Store~~

Taco Bell