

STATE OF COLORADO

John W. Hickenlooper, Governor
Christopher E. Urbina, MD, MPH
Executive Director and Chief Medical Officer

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S. Laboratory Services Division
Denver, Colorado 80246-1530 8100 Lowry Blvd.
Phone (303) 692-2000 Denver, Colorado 80230-6928
Located in Glendale, Colorado (303) 692-3090

<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

Covenant Information:

Covenant ID **HMCOV00082**

Covenant Date 1/30/2012

Self Reporting

Media of Concern:

Surface Water:

Ground Water:

Air:

Soil:

Other:

Site Contact Information:

Owner Corp:

Contact Name: Mike Harriman

Contact Address: Pueblo County Department of Public Works

Contact City: Pueblo

Contact State: CO

Contact Zip: 81003

Contact Phone: 719-583-4674

Contaminants of Concern:

Asbestos

Property Restrictions:

- 1: No use of property other than to maintain parking lot.
- 2: No digging, excavation or other movement of soil, rock, or other material.
- 3: No actions which breach Primary Orange Construction Barrier.
- 4: No Construction, digging or other activities at or next to property perimeter without stabilization.
- 5:

Site Information:

ID: SW/PUE/ICE

Name: Ice House

Address: 602 West 6th Street

City: Pueblo

State: CO

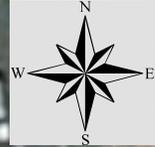
Zip: 81003

Legal Description:

ICE HOUSE



Featured Institutional Control



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HMCOV00082

0 30 60 Meters



This property is subject to an Environmental Covenant held by the Colorado Department of Public Health and Environment pursuant to section 25-15-321, C.R.S.

ENVIRONMENTAL COVENANT

Pueblo County grants an Environmental Covenant ("Covenant") this 30th day of JANUARY, 2012 to the Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and the Environment ("the Department") pursuant to § 25-15-321 of the Colorado Hazardous Waste Act, § 25-15-101, et seq. The Department's address is 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530.

WHEREAS, Pueblo County is the owner of certain property, commonly referred to as Former Ice House Property Asbestos-Contaminated Site, located at West 6th Street and Elizabeth Street, Pueblo, Colorado, more particularly depicted as Parcel A and whose legal description is set forth in Attachment A, attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as "the Property"); and

WHEREAS, the Property comprises a rectangular area two hundred and thirty feet (230') by one hundred thirty feet (130'), and

WHEREAS, the Property is the subject of enforcement and remedial action pursuant to the Solid Waste Disposal Sites and Facilities Act, § 30-20-101, *et seq.*, etc. that required Pueblo County to obtain a Certificate of Designation for the Property; and

WHEREAS, pursuant to the Certificate of Designation and remedial action, asbestos containing materials have been encapsulated at the property as set forth in the Pueblo County Solid Waste Encapsulation Clay Cap Certification, attached hereto as Attachment B and incorporated herein by reference; and

WHEREAS, the Clay Cap Certification documents that the asbestos containing material is encapsulated under an eighteen inch (18") engineered clay cap, over which an "Secondary Orange Construction Fence" has been placed, and that the engineered clay cap and encapsulated asbestos containing materials are located within a subset of the Property, as depicted on Figure 3 Attachment B; and

WHEREAS, the Secondary Orange Construction Fence has then been covered by six inches (6") of Class 6 material, which in turn is covered by a "Primary Orange Construction Fence Barrier" that covers the entire area of the Property, as depicted on Figure 3, Attachment B; and

WHEREAS, the Primary Orange Construction Fence Barrier is located across the Property at an general elevation ranging from 4663.46 feet in the northwest corner of the Property to 4661.40 feet in the southeast corner of the Property, and from 4661.86 feet in the northeast corner of the Property to 4662.57 feet in the southwest corner of the Property, with specific elevation points as denoted on Figure 3, Attachment B; and

WHEREAS, the Primary Orange Construction Fence Barrier denotes the areal extent and elevation under which there shall be no excavation of any soil, rock, or other material; and

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by preventing exposure of asbestos containing materials buried at the Property.

WHEREAS, Pueblo County desires to subject the Property to certain covenants and restrictions as provided in Article 15 of Title 25, Colorado Revised Statutes, which covenants and restrictions shall burden the Property and bind Pueblo County and all parties now or subsequently having any right, title or interest in the Property, or any part thereof, and any persons using the land, as described herein, for the benefit of the Department and OWNER.

NOW, THEREFORE, Pueblo County hereby grants this Environmental Covenant to the Department, and declares that the Property as described in Attachment A shall hereinafter be bound by, held, sold, and conveyed subject to the following requirements set forth in paragraphs 1 through 10, below, which shall run with the Property in perpetuity and be binding on Pueblo County and all parties now or subsequently having any right, title or interest in the Property, or any part thereof, and any persons using the land, as described herein. As used in this Environmental Covenant, the term OWNER means the then current record owner of the Property and, if any, any other person or entity otherwise legally authorized to make decisions regarding the transfer of the Property or placement of encumbrances on the Property, other than by the exercise of eminent domain.

1) Use restrictions

- a.) The Property shall not be used for any purpose other than to maintain a surface parking lot and associated appurtenances such as lighting and landscaping associated with the parking lot.
- b.) There shall be no digging, excavation, or other movement of soil, rock, or other material at the Property below the Primary Orange Construction Barrier.
- c.) There shall be no actions that allow the breaching of the Primary Orange Construction Barrier, and no site lighting, landscaping or associated irrigation may utilize systems that intrude, grow into or below, or otherwise breach the Primary Orange Construction Barrier.
- d.) There shall be no construction, digging, or other activities at, adjacent to, or along the perimeter of the Property that could expose soil, rock, or material under the Primary Orange Construction Barrier without first taking all necessary steps to stabilize the soil, rock, or material in a manner that prevents its movement and the subsequent exposure of asbestos containing materials at the Property.

2) Modifications This Covenant runs with the land and is perpetual, unless modified or terminated pursuant to this paragraph. OWNER may request that the Department approve a modification or termination of the Covenant. The request shall contain information showing that the proposed modification or termination shall, if implemented, ensure protection of human health and the environment. The Department shall review any submitted information, and may request additional information. If the Department determines that the proposal to modify or terminate the Covenant will ensure protection of human health and the environment, it shall approve the proposal. No modification or termination of this Covenant shall be effective unless the Department has approved such modification or termination in writing. Information to support a request for modification or termination may include one or more of the following:

- a) a proposal to perform additional remedial work;

- b) new information regarding the risks posed by the residual contamination;
 - c) information demonstrating that residual contamination has diminished;
 - d) information demonstrating that an engineered feature or structure is no longer necessary;
 - e) information demonstrating that the proposed modification would not adversely impact the remedy and is protective of human health and the environment; and
 - f) other appropriate supporting information.
- 3) Conveyances OWNER shall notify the Department at least fifteen (15) days in advance of the closing on any proposed sale or other conveyance of any interest in any or all of the Property.
 - 4) Notice to Lessees OWNER agrees to incorporate either in full or by reference the restrictions of this Covenant in any leases, licenses, or other instruments granting a right to use the Property.
 - 5) Notification for proposed construction and land use OWNER shall notify the Department simultaneously when submitting any application to a local government for a building permit or change in land use.
 - 6) Inspections The Department shall have the right of entry to the Property at reasonable times with prior notice for the purpose of determining compliance with the terms of this Covenant.
 - 7) Third Party Beneficiary The OWNER of the Property is a third party beneficiary with the right to enforce the provisions of this Covenant as provided in § 25-15-322, C.R.S.
 - 8) No Liability The Department does not acquire any liability under State law by virtue of accepting this Covenant.
 - 9) Enforcement The Department may enforce the terms of this Covenant pursuant to §25-15-322. C.R.S. Pueblo County may file suit in district court to enjoin actual or threatened violations of this Covenant.
 - 10) Owner's Compliance Certification OWNER shall execute and return a certification form provided by the Department, on an annual basis, detailing OWNER's compliance, and any lack of compliance, with the terms of this Covenant.
 - 11) Notices Any document or communication required under this Covenant shall be sent or directed to:

Eric Jacobs
Solid Waste Permitting Unit
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and Environment
4300 South Cherry Creek Drive South
Denver, Colorado 80246-1530

Pueblo County, has caused this instrument to be executed this 30th day of January, 2012.

Pueblo County

By: Anthony Nunez 

Title: Chairman, Board of County Commissioners

STATE OF COLORADO)

COUNTY OF PUEBLO) ss:

The foregoing instrument was acknowledged before me this 30 day of January, 2012 by Anthony Nunez on behalf of Pueblo County



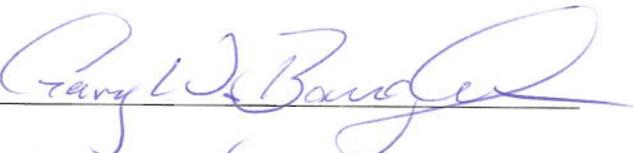
Bernadette Mattson
Notary Public

215 W. 10th St
Address

Pueblo, CO 81003

My commission expires: My Commission Expires 04/27/2013

Accepted by the Colorado Department of Public Health and Environment this 7th day of February, 2012.

By: Carol J. Barger 

Title: Director, HMAWMB

STATE OF COLORADO)

COUNTY OF DEWEEN) ss:

The foregoing instrument was acknowledged before me this 7 day of FEBRUARY, 2012 by GARY W. BAUSHMAN on behalf of the Colorado Department of Public Health and Environment.

Claudette M Ferris
Notary Public

4300 Cherry Creek Dr W
Address

Denver, CO 80246

My commission expires: October 21, 2015



PARCEL A

A parcel of land lying in the northeast one-quarter (NE 1/4) of Section 36, Township 20 South, Range 65 West, of the 6th Principal Meridian, County of Pueblo, State of Colorado, described as follows:

The north 130 feet of the east 230 feet of Block 19, STATE ADDITION TO PUEBLO, Pueblo County Records.

Parcel A contains 29,900 square feet (0.686 acres), more or less.

An illustration for this description is attached hereto and made a part hereof.

The author of this description is Norman L. Simonson, PLS 28288, prepared on behalf of SEH Inc., 390 Union Boulevard, Suite 630, Lakewood, CO 80228, on February 12, 2009 under Job No. DLRGP103157, DLR Group, and is not to be construed as representing a monumented land survey.

Norman L. Simonson, PLS 28288

The seal is circular with a double-line border. The outer ring contains the text 'COLORADO REGISTERED' at the top and 'PROFESSIONAL LAND SURVEYOR' at the bottom. The inner ring contains the name 'NORMAN L. SIMONSON' and the number '28288'. A handwritten date '2/13/09' is written across the center of the seal. Below the seal is a handwritten signature in blue ink.

PARCEL A ILLUSTRATION

SHEET 2 OF 2

NE 1/4,
SEC 36,
T20S, R65W

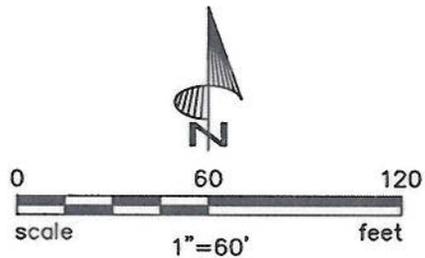
PARCEL A
29,900 S.F.
(0.686 AC) M/L



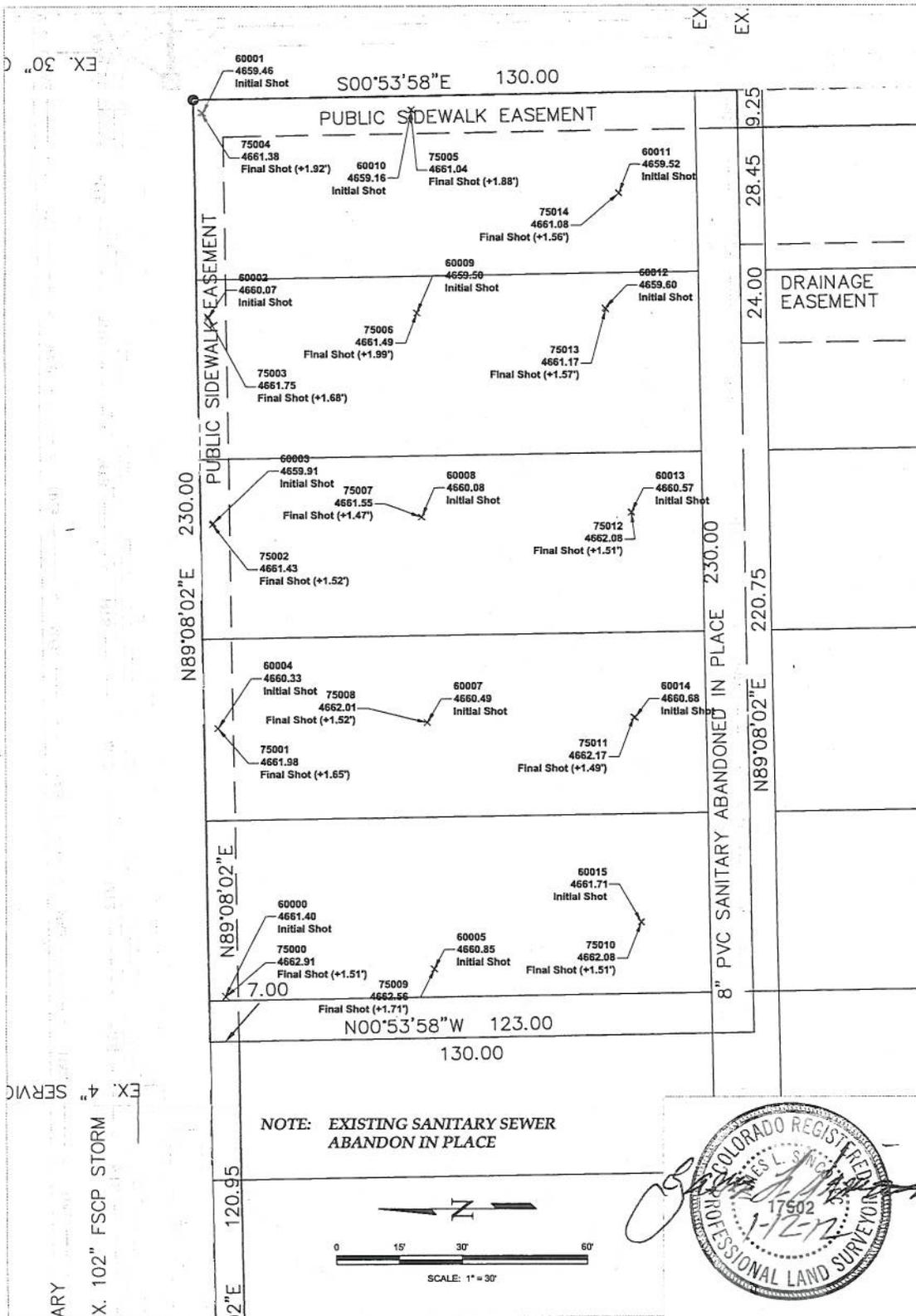
P:\survey land projects r2_ (DLRGP103157-7.0) Pueblo Judicial Site 060005.dwg Contamination Easement.dwg 2/13/2009 8:01:04 AM MST



390 Union Boulevard
Suite 630
Lakewood, Colorado 80228
Phone: 303-986-1144
FAX: 303-986-0994
www.sehinc.com



PUEBLO COUNTY SOLID WASTE ENCAPSULATION CLAY CAP CERTIFICATION



INITIAL SURVEY DATE - 4/7/2010
FINAL SURVEY DATE - 4/8/2010

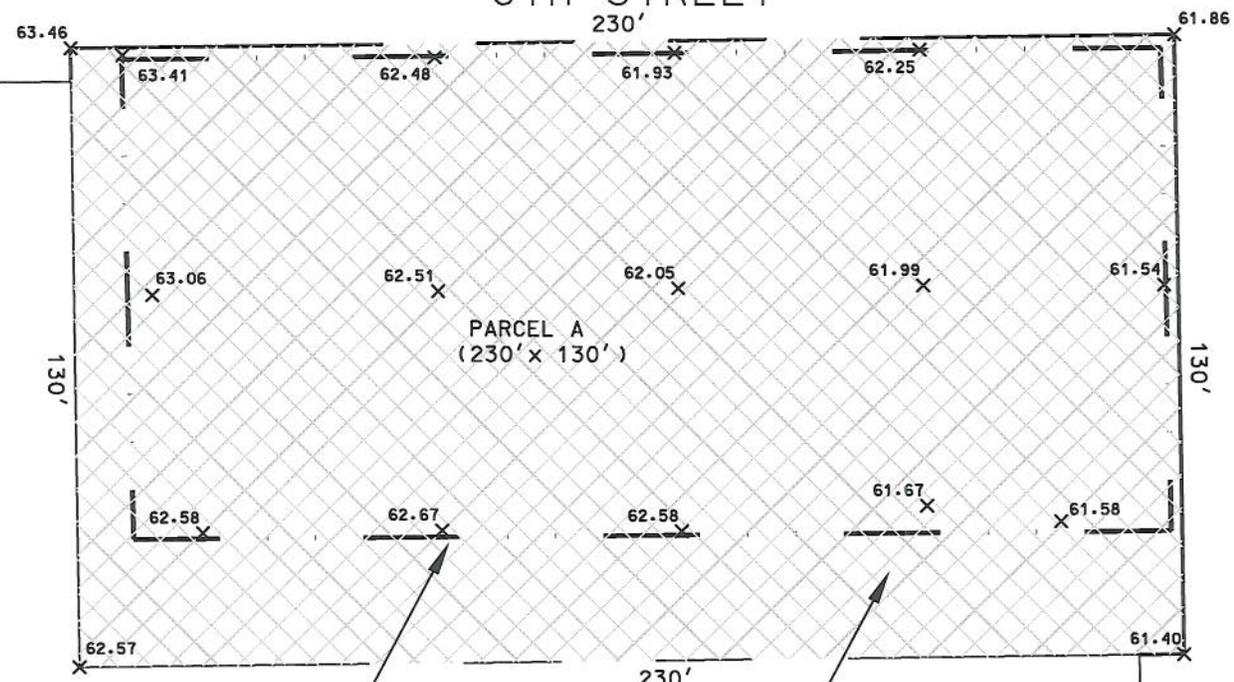


EDWARD-JAMES SURVEYING, INC.
 2764 Janitell Rd.
 Colorado Springs, CO 80906
 (719) 576-1216
 4/13/2010

4732 Eagleridge Circle
 Pueblo, CO 81008
 (719) 545-6240
 JOB NO. 877
 SHEET 1 OF 1

6TH STREET

ELIZABETH STREET



SECONDARY ORANGE CONSTRUCTION FENCING DELINEATING CLAY CAP

PRIMARY ORANGE CONSTRUCTION FENCING DELINEATING 'NO EXCAVATION'

PLAN VIEW



LEGEND



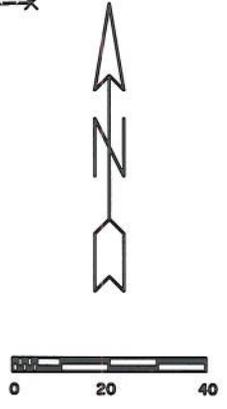
PRIMARY ORANGE CONSTRUCTION FENCING DELINEATING 'NO EXCAVATION'



PRIMARY ORANGE CONSTRUCTION FENCING DELINEATING 'NO EXCAVATION' ELEVATION



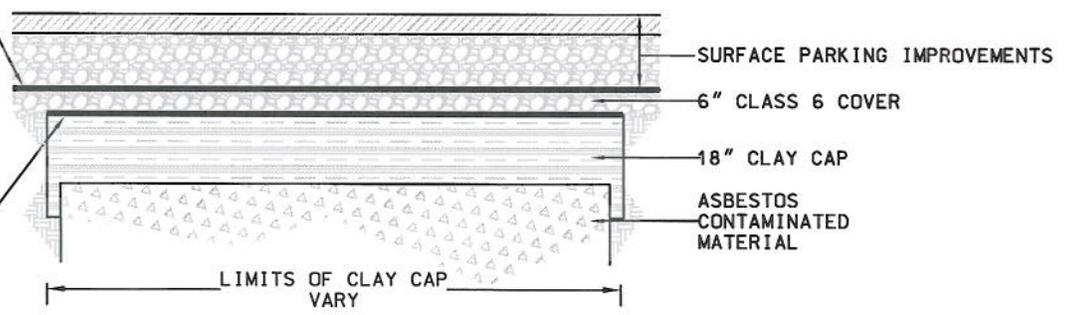
SECONDARY ORANGE CONSTRUCTION FENCING DELINEATING CLAY CAP



PRIMARY ORANGE CONSTRUCTION FENCE BARRIER DELINEATES LIMITS OF 'NO EXCAVATION'



SECONDARY ORANGE CONSTRUCTION FENCE BARRIER DELINEATES CLAY CAP



TYPICAL CONSTRUCTION LIMITS SECTION



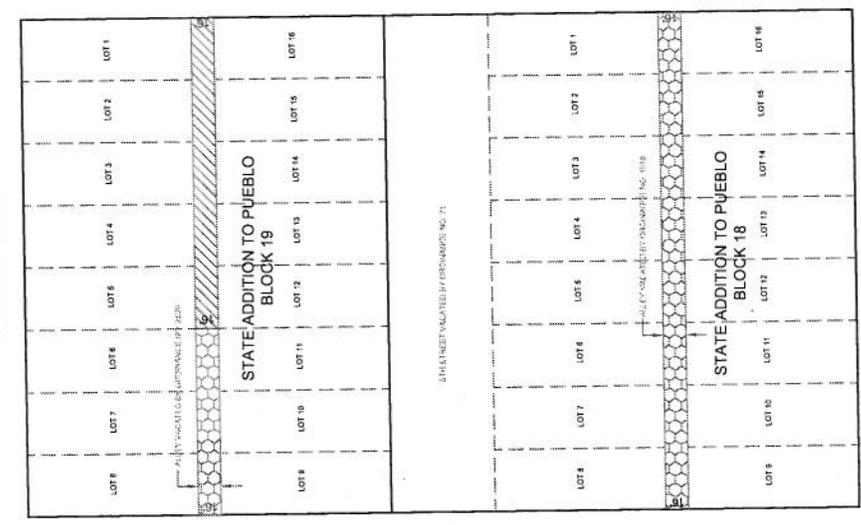
Figure 3

ALLEY AND EASEMENT VACATION PLAT

A PORTION OF THE NE 1/4 OF SECTION 36, TOWNSHIP 20 SOUTH, RANGE 65 WEST, OF THE 6TH P.M.
CITY OF PUEBLO, COUNTY OF PUEBLO, STATE OF COLORADO

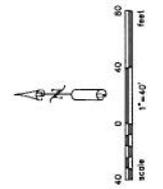
DESCRIPTION OF ALLEY AND UTILITY EASEMENT TO BE VACATED.
THE 16' ALLEY ADJACENT TO LOTS 1, 2, 3, 4, 5, AND 12, 13, 14, 15, 16, BLOCK 19, SITUATED IN BLOCK 19, BOUNDED BY LOTS 6 TO 11, INCLUSIVE, OF STATE ADDITION TO PUEBLO BLOCK 19, STATE ADDITION TO PUEBLO, CONTAINING 3.2023 AC. MORE OR LESS.

DESCRIPTION OF UTILITY EASEMENTS TO BE VACATED.
1. UTILITY EASEMENTS RESERVED UNDER ORDINANCE NO. 2529 FOR THE PORTION OF THE VACATED ALLEY LOCATED IN BLOCK 19, STATE ADDITION TO PUEBLO, CONTAINING 2.1123 AC. MORE OR LESS.
2. UTILITY EASEMENTS RESERVED UNDER ORDINANCE NO. 1878 FOR THE VACATED ALLEY LOCATED IN BLOCK 19, STATE ADDITION TO PUEBLO, CONTAINING 5.0223 AC. MORE OR LESS.



NOTES:

- ORDINANCE 2529 VACATED THAT PORTION OF THE ALLEY SITUATED IN BLOCK 19, BOUNDED BY LOTS 6 TO 11, INCLUSIVE, OF STATE ADDITION TO PUEBLO BLOCK 19, STATE ADDITION TO PUEBLO, AND FOR UTILITY OWNERS ACROSS THIS PORTION OF THE VACATED ALLEY.
- ORDINANCE 1878 VACATED THE ALLEY IN BLOCK 19, THE CITY RESERVED A UTILITY EASEMENT UNTO ITSELF AND FOR PUBLIC UTILITIES ACROSS THIS VACATED ALLEY.
- NOTICE: ACCORDING TO COLORADO LAW, YOU MUST COMMENCE LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN ONE YEAR FROM THE DATE OF RECORDING OF THIS SURVEY. ANY EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREIN.



I, George A. Robinson, a Professional Land Surveyor registered in the State of Colorado, hereby certify that this plat and description were prepared by me or under my direct responsible charge in July 2011.

George A. Robinson
PLS 35593

DNR

CITY OF PUEBLO
PLANNING COMMISSION DEVELOPMENT
211 EAST D STREET
PUEBLO, COLORADO 81003

DATE: 07/13/11
JOB NO. 103157
SHEET 1 OF 1

360 Town Boulevard
Suite 633
Lafayette, CO 80929
Phone: 303-536-5500
Fax: 303-536-5501
www.seh.com

SEH