

**MEMORANDUM OF AGREEMENT AND OFFER TO PURCHASE
CERTAIN REAL PROPERTY INTERESTS FOR THE
MONUMENT ROAD TRAIL PROJECT**

This Memorandum of Agreement is made and entered into this 6th day of MAY, 2016, by and between **Daven Kyle**, hereinafter referred to as "Owner", and the **City of Grand Junction, a Colorado home rule municipality**, hereinafter referred to as "City".

RECITALS:

A. The City will be constructing public improvements on Monument Road to provide a trail for bicycles and pedestrians ("Project"). The Project will widen the existing 2-lane road on Monument Road by approximately 15 feet. The new trail will provide users a safer alternative for traversing Monument Road. The City Council has determined that the Project is necessary for the health, safety and welfare of the inhabitants of the City. All costs associated with the installation of the Project improvements and associated drainage infrastructure will be borne by the City.

B. The Owner owns a tract of land adjacent to the Project located in the City of Grand Junction, County of Mesa, State of Colorado, as identified by Mesa County Tax Schedule Number 2945-222-11-004 and the address 373 South Redlands Road, hereinafter referred to as "Owner's Property".

C. To accommodate the installation of the Project improvements, the City needs to acquire from the Owner the following:

- for Right-of-Way purposes a parcel containing a total of 703 square feet as defined and depicted on **Exhibit "A"** attached hereto and incorporated herein by reference, and also;
- for Drainage Easement purposes a parcel containing a total of 6,005 square feet as defined and depicted on **Exhibit "B"** attached hereto and incorporated herein by reference and also;
- for Temporary Construction Easement purposes a parcel containing a total of 1,352 square feet as defined and depicted on **Exhibit "C"** attached hereto and incorporated herein by reference.

D. The City needs to acquire the above-stated interests in lands for the Project. Owner wants the City to complete drainage improvements that will benefit Owner's Property. These are improvements that the City would not otherwise be completing. Owner has agreed to provide the necessary parcels needed for the Project and an additional easement area to accommodate the additional drainage improvements requested be completed by Owner in exchange for the right-of-way and the easements needed for the Project. In consideration of the foregoing, the City is offering to perform the following work for the above stated parcels:

- All required permitting through US Army Corp of Engineers
- Construct and install approximately 116 linear feet of 18 inch diameter pipe
- Approximately 450 cubic yards of backfill material and grading
- Native seeding of surface (season dependent)

E. Owner acknowledges that with these improvements access to the lower level of Owner's Property from Monument Road is allowed for maintenance purposes only and Owner agrees not to park vehicles or equipment there for periods exceeding 24 hours.

NOW, THEREFORE, based on the recitals above and in consideration of their mutual promises and other valuable consideration, the receipt and adequacy of which are acknowledged, the parties hereto agree as follows:

1. The Owner hereby accepts the City's offer for completing the requested drainage improvements in exchange for the parcels described above, subject to the promises, terms, covenants and conditions of this Agreement.

2. Upon execution of this Agreement, Owner shall deliver to the to the City the following: **(a)** one (1) good and sufficient Warranty Deed for the right-of-way; **(b)** one (1) good and sufficient Grant of Drainage Easement, and; **(c)** one (1) good and sufficient Temporary Construction Easement ("Executed Documents"). The Executed Documents, except for the Temporary Construction Easement shall be held by the City Clerk in escrow.

3. The City agrees to, at the City's sole cost and expense, reasonably repair and restore those portions of Owner's Property affected or damaged by the City's construction activities and to return said affected areas to Owner in a condition reasonably approximate to that which existed prior to entry by the City.

4. The signing of this Agreement by the parties hereto hereby grants possession of the above-stated parcels to the City and shall serve as an irrevocable license to use said parcels for the purposes aforescribed until completion and approval by City of the Project improvements and the additional agreed drainage improvements as stated in paragraph 2 above.

5. Upon acceptance by the City of the completed drainage improvements upon Owner's Property including the additional drainage improvements requested by Owner, the City Clerk shall release the Executed Documents from escrow for recording with the Mesa County Clerk & Recorder. Owner shall inform any new owner(s), successors, and/or assigns of this Agreement and the Executed Documents.

5. This Memorandum of Agreement, the Warranty Deed, the Grant of Drainage Easement, and the Temporary Construction Easement embody the complete agreements between the parties hereto and cannot be changed or modified except by a written instrument subsequently executed by both parties. This Agreement and the terms and conditions hereof apply to and are binding upon the successors and authorized assigns of both parties.

6. This Memorandum of Agreement shall be deemed a contract extending to and binding upon the parties hereto and upon their respective successors and assigns.

7. This is a legal instrument. The City recommends Owner seek the advice of Owner's own legal and tax counsel before signing the Memorandum of Agreement.

Dated the day and year first above written.

City of Grand Junction,
a Colorado home rule municipality

By: 
Daven Kyle


Tim Moore, Interim City Manager

Exhibit "A"

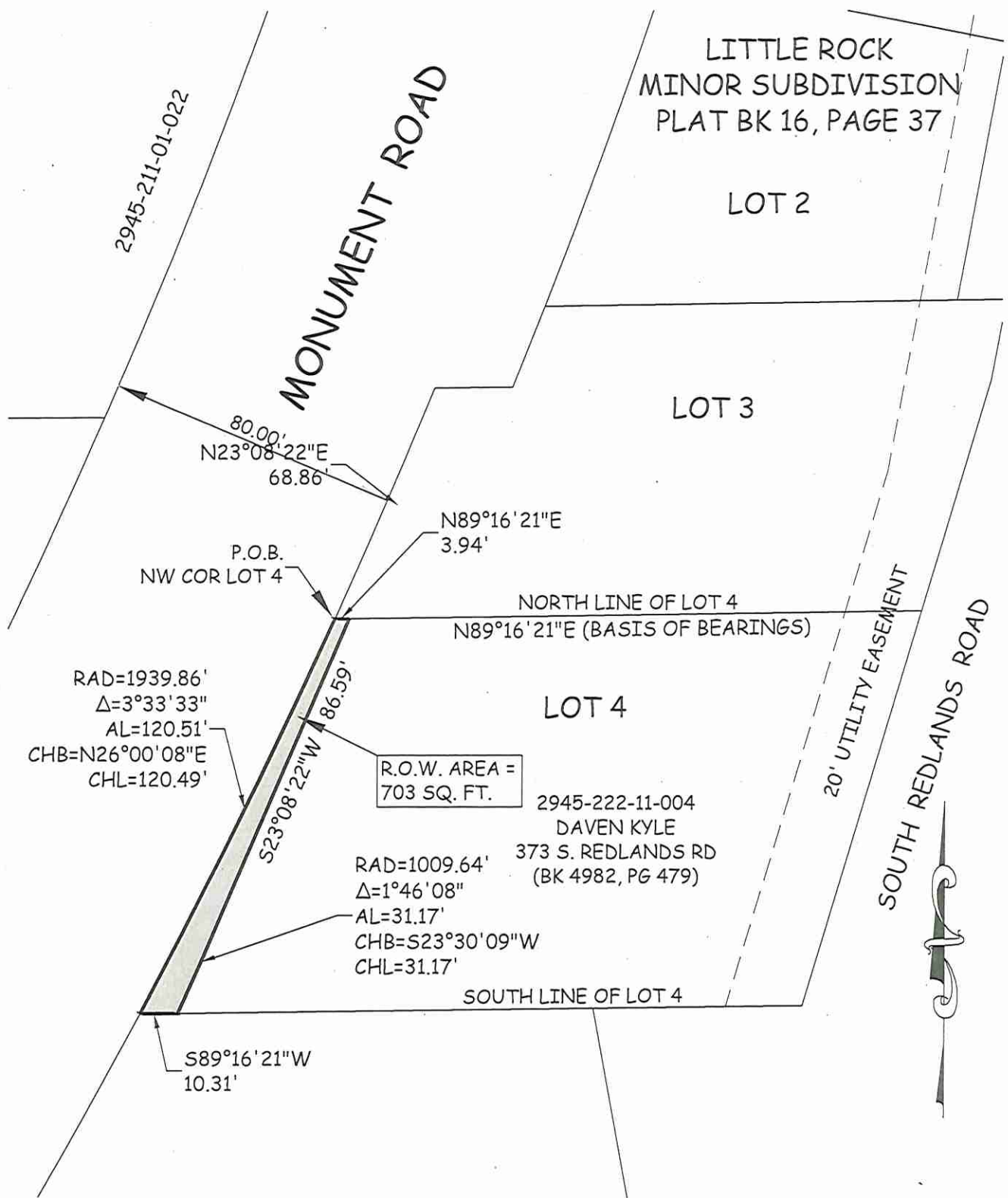
**DAVEN KYLE
RIGHT-OF-WAY**

A certain parcel of land lying in the Northwest Quarter (NW 1/4) of Section 22, Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

BEGINNING at the Northwest corner of Lot 4, Little Rock Minor Subdivision, as same is recorded in Plat Book 16, Page 37, Public Records of Mesa County, Colorado and assuming the North line of said Lot 4 bears N 89°16'21" E with all other bearings contained herein being relative thereto; thence from said Point of Beginning, N 89°16'21" E, along the North line of said Lot 4, a distance of 3.94 feet; thence S 23°08'22" W, a distance of 86.59 feet to a point being the beginning of a 1,009.64 foot radius curve, concave Northwest, whose long chord bears S 23°30'09" W with a long chord length of 31.17 feet; thence Southwesterly along the arc of said curve, through a central angle of 01°46'08", an arc distance of 31.17 feet to a point on the South line of said Lot 4; thence S 89°16'21" W, along the South line of said Lot 4, a distance of 10.31 feet, more or less, to the Southwest corner of said Lot 4 and the beginning of a 1,939.86 foot radius curve, concave Northwest, whose long chord bears N 26°00'08" E with a long chord length of 120.49 feet; thence Northeasterly along the arc of said curve, through a central angle of 03°33'33" with an arc length of 120.51 feet, more or less, to the Point of Beginning.

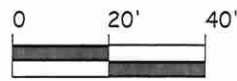
Containing 703 square feet or 0.016 Acres, more or less, as described herein and depicted as follows:

EXHIBIT "A"



ABBREVIATIONS

- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- R.O.W. RIGHT OF WAY
- SEC. SECTION
- TWP. TOWNSHIP
- RGE. RANGE
- U.M. UTE MERIDIAN



1 inch = 40 ft.

Lineal Units = U.S. Survey Foot



The sketch and description shown hereon has been derived from subdivision plats and deed descriptions as they appear in the office of the Mesa County Clerk and Recorder. This sketch does not constitute a legal survey, and is not intended to be used as a means for establishing or verifying property boundary lines.

SHEET 4 OF 8

DRAWN BY: P.T.K.
 DATE: 01-29-2016
 SCALE: 1" = 40'
 APPR. BY: J.B.

ADDITIONAL RIGHT OF WAY
 373 S. REDLANDS ROAD
 2945-222-11-004



NICADD/PETERK/BRAY ROW

Exhibit "B"

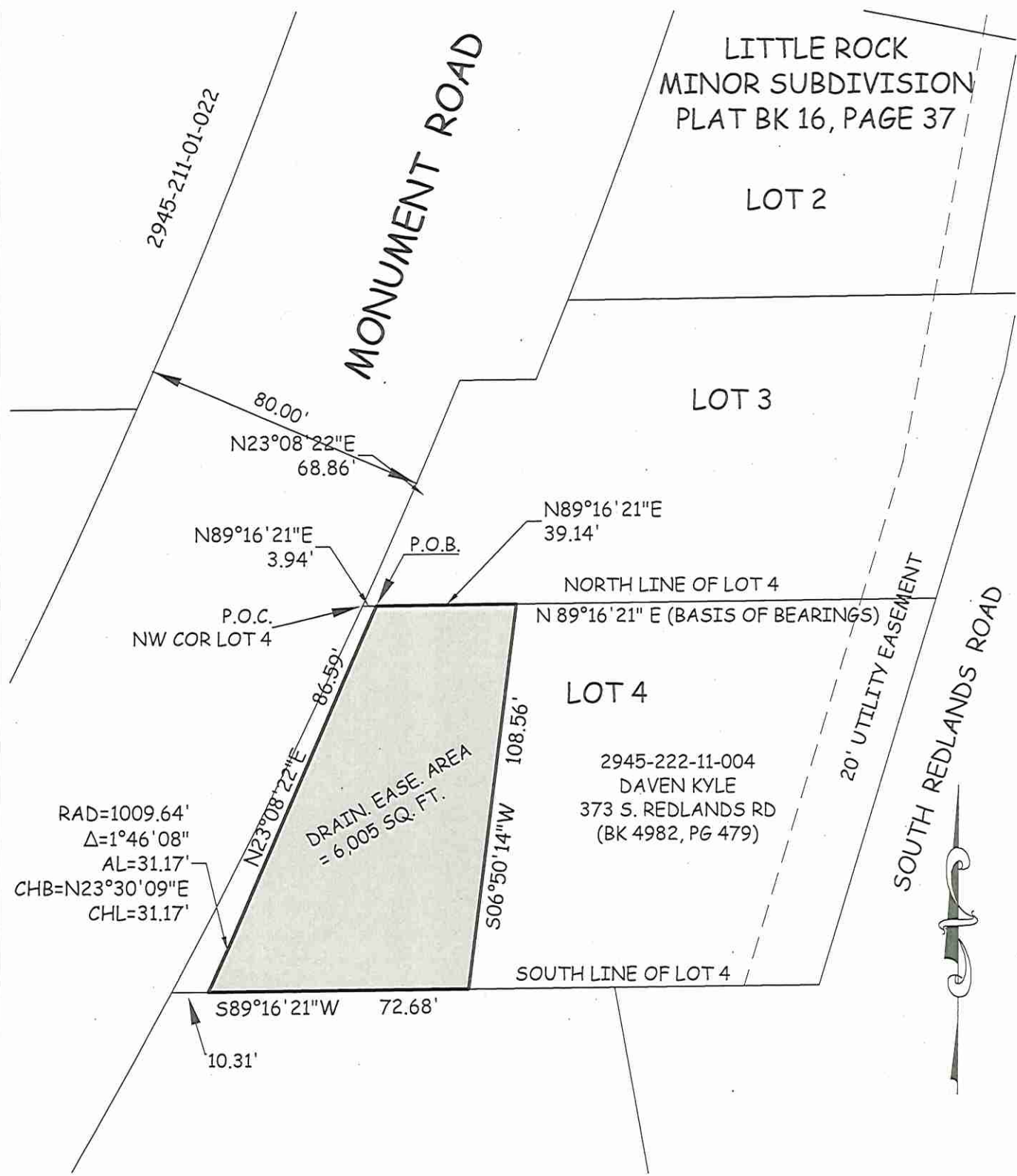
**DAVEN KYLE
DRAINAGE EASEMENT**

A certain parcel of land lying in the Northwest Quarter (NW 1/4) of Section 22, Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

COMMENCING at the Northwest corner of Lot 4, Little Rock Minor Subdivision, as same is recorded in Plat Book 16, Page 37, Public Records of Mesa County, Colorado and assuming the North line of said Lot 4 bears N 89°16'21" E with all other bearings contained herein being relative thereto; thence from said Point of Commencement, N 89°16'21" E, along the North line of said Lot 4, a distance of 3.94 feet to a point being the POINT OF BEGINNING; thence from said Point of Beginning, continue N 89°16'21" E, along said North line, a distance of 39.14 feet; thence S 06°50'14" W, a distance of 108.56 feet, more or less, to a point on the South line of said Lot 4; thence S 89°16'21" W, along said South line, a distance of 72.68 feet to a point being the beginning of a 1,009.64 foot radius curve, concave Northwest, whose long chord bears N 23°30'09" E with a long chord length of 31.17 feet; thence Northeasterly along the arc of said curve, through a central angle of 01°46'08", an arc distance of 31.17 feet; thence N 23°08'22" E, a distance of 86.59 feet, more or less, to the Point of Beginning.

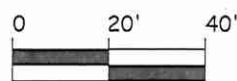
Containing 6,005 square feet or 0.138 Acres, more or less, as described herein and depicted as follows:

EXHIBIT "B"



ABBREVIATIONS

- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- R.O.W. RIGHT OF WAY
- SEC. SECTION
- TWP. TOWNSHIP
- RGE. RANGE
- U.M. UTE MERIDIAN



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SHEET 6 OF 8

DRAWN BY: P.T.K.
DATE: 01-29-2016
SCALE: 1" = 40'
APPR. BY: J.B.

DRAINAGE EASEMENT
373 S. REDLANDS ROAD
2945-222-11-004



N:\CADD\PETERK\BRAY ROW

EXHIBIT "C"

Temporary Construction Easement

A certain parcel of land lying in the Northwest Quarter (NW 1/4) of Section 22, Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

COMMENCING at the Northwest corner of Lot 4, Little Rock Minor Subdivision, as same is recorded in Plat Book 16, Page 37, Public Records of Mesa County, Colorado and assuming the North line of said Lot 4 bears N 89°16'21" E with all other bearings contained herein being relative thereto; thence from said Point of Commencement, N 89°16'21" E, along the North line of said Lot 4, a distance of 43.08 feet to the POINT OF BEGINNING; thence from said Point of Beginning, continue N 89°16'21" E, a distance of 0.71 feet; thence S 05°43'41" E, a distance of 108.02 feet, more or less, to the South line of said Lot 4; thence S 89°16'21" W, along the South line of said Lot 4, a distance of 24.42 feet; thence N 06°50'14" E, a distance of 108.56 feet, more or less, to the Point of Beginning.

Containing 1,352 square feet or 0.031 Acres, more or less, as described herein and depicted as follows:

EXHIBIT "C"

LITTLE ROCK
MINOR SUBDIVISION
PLAT BK 16, PAGE 37

LOT 2

LOT 3

LOT 4

2945-222-11-004
DAVEN KYLE
373 S. REDLANDS RD
(BK 4982, PG 479)

MONUMENT ROAD

2945-211-01-022

20' UTILITY EASEMENT

SOUTH REDLANDS ROAD

N23°08'22"E
68.86'

N89°16'21"E
3.94'

N89°16'21"E
0.71'

N89°16'21"E (BASIS OF BEARINGS)
NORTH LINE OF LOT 4

P.O.C.
NW COR LOT 4

P.O.B.

80.00'

T.C.E. AREA =
1,352 SQ. FT.

108.56'

108.02'

N06°50'14"E

S05°43'41"E

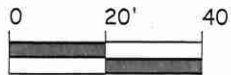
82.99'

SW COR
LOT 4

S89°16'21"W
24.42'

ABBREVIATIONS

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SHEET 8 OF 8

DRAWN BY: P.T.K.
DATE: 01-29-2016
SCALE: 1" = 40'
APPR. BY: J.B.

TEMPORARY CONSTRUCTION EASEMENT
373 S. REDLANDS ROAD
2945-222-11-004

CITY OF
Grand Junction
COLORADO



N:CADD/PETERK/BRAY ROW