



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

April 18, 2024

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

Approval of a Resolution Declaring the Public Necessity and purpose for Acquisition of Right of Way, Easements and Fee Property and Authorizing Good Faith Negotiations and Condemnation Actions for the El Camino Way Stormwater Improvements Project. Total project value is \$1,398,000. Funding is through County-allocated ARPA Funds. No County General Funds are involved.

Previous Board Action/Review	4/16/24: Request for Consent		
Performance Clackamas	The project will build a strong infrastructure.		
Counsel Review	Yes – Hong Huynh	Procurement Review	No
Contact Person	Carol Hager	Contact Phone	503-742-4674

EXECUTIVE SUMMARY: The El Camino Way area (the “Project”) near Thiessen Road experiences frequent flooding, often several times a year. The Project will increase the capacity of the storm drainage system to convey the 10-year storm event, reduce the frequency of flooding, and meet Clackamas County stormwater conveyance standards. The Project will primarily construct storm drainage pipes within the existing roadway right-of-way making maintenance easier than the existing system that is partially located in side yards and back yards. However, a section of the system between El Centro Ct and La Mesa Way will be constructed across existing private property.

In order to construct the improvements as designed, permanent and temporary easements will be required. The Project is expected to impact four (4) properties abutting the Project alignment. The Board has authority to exercise the power of eminent domain under ORS Chapter 203 and ORS Chapter 35 to acquire the needed rights of way, easements, and fee property by purchase or condemnation proceedings. In accordance with the procedure set forth in ORS Chapter 35, a

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Resolution of Necessity is required before offers are made for rights of way, easements, and fee property.

The Project design team has collected and analyzed data sufficient to choose an alternative and advance the design of the Project. The Project has been planned and located in a manner which is most compatible with the greatest public good and which causes the least private injury. The design has progressed through the Department of Transportation and Development (DTD) project development procedures and the final legal descriptions required for acquisition of the needed rights of way and easements from four (4) properties affected by the Project are being developed.

DTD shall negotiate in good faith and accordance with all applicable laws, rules, and regulations in an attempt to reach agreement as to the amount of Just Compensation owed each affected property owner. To fairly determine the amount of Just Compensation, staff will utilize the expertise of authorized real estate appraisers and other such experts.

The resolution directs DTD staff to proceed with good faith negotiations for the acquisition of the needed property rights and to utilize the expertise of authorized real estate appraisers and other such experts to assist in the acquisition process. The resolution further requires the Director of DTD to notify the Board if the exercise of the power of eminent domain becomes necessary. Only after this process is completed does it authorize the Office of County Counsel to file a Condemnation Action.

RECOMMENDATION: Staff respectfully recommends that the Board of County Commissioners approve the Resolution of Necessity and Purpose for the El Camino Way Stormwater Improvements project authorizing the acquisition of necessary easements, by good faith negotiation if possible, or condemnation, if necessary.

Respectfully submitted,

Dan Johnson

Dan Johnson
Director of Transportation & Development

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Declaring the Necessity and Purpose for Acquisition of Rights of Way, Easements, and Fee Property, and Authorizing Good Faith Negotiations and Condemnation Actions for the El Camino Way Stormwater Improvements - ARPA Project



Resolution No. _____

Page 1 of 2

This matter comes before the Board of County Commissioners of Clackamas County, Oregon (the "Board") at its regularly scheduled meeting on April 16, 2024 and,

It appearing to the Board that the El Camino Way Stormwater Improvements - ARPA Project ("the Project") will increase the capacity of the storm drainage system to convey 10-year storm events, reduce the frequency of flooding and meet Clackamas County Stormwater Conveyance Standards; is consistent with the powers and purposes of County government; and is necessary for public use and the continued growth, safety and welfare of the community; and,

It further appearing that the Board has the responsibility of providing safe transportation routes for commerce, convenience and to adequately serve the traveling public.

It further appearing to the Board that the Project has been planned in accordance with appropriate standards for the improvement of transportation infrastructure such that property damage is minimized, transportation promoted, and travel safeguarded; and

It further appearing to the Board that the Project has been planned and located in a manner which is most compatible with the greatest public good and causes the least private injury; and,

It further appearing to the Board that rights of way, and easements within the boundaries described in the attached respective Exhibit A's and B's for Property Nos. 1 through 4 (the "Exhibits") are a necessary part of the Project; and,

It further appearing that the Board has authority under ORS Chapter 203 and ORS Chapter 35 to acquire rights of way, easements, and fee property by good faith negotiation, agreement, and purchase or by exercise of the power of eminent domain with condemnation proceedings; and

NOW, THEREFORE, IT IS HEREBY RESOLVED that this Board declares it necessary and in the public interest that the County Department of Transportation and Development ("the Department"), in connection with this Project, begin the acquisition process, in accordance with all applicable laws, rules, and regulations governing such process, for the necessary rights of way, easements, and fee property, either through good faith negotiation, agreement, and purchase, or, if necessary, by commencement of condemnation proceedings.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Declaring the Necessity and Purpose for Acquisition of Rights of Way, Easements, and Fee Property, and Authorizing Good Faith Negotiations and Condemnation Actions for the El Camino Way Stormwater Improvements - ARPA Project



Resolution No. _____

Page 2 of 2

IT IS FURTHER RESOLVED THAT:

1) The Department be authorized to, in good faith, attempt to negotiate agreements of just compensation with owners of affected property identified in the Exhibits. In so doing, the Department is authorized to retain real estate appraisers, negotiators, and other such experts deemed necessary to assist staff with the acquisition process; and,

2). If the Director of the Department (the "Director") determines that changes to the design of the Project, unanticipated field conditions, or the need to accommodate uneconomic remnants makes it necessary or desirable to modify the rights of way, easements, and fee property required for the Project, the Director shall promptly bring before the Board, and the Board shall promptly consider a resolution amending the Exhibits; and,

3). It is the intention of the Board that the required rights of way, easements, and fee property be obtained through good faith negotiation. The Board acknowledges that the exercise of the power of eminent domain may be necessary. The Director of the Department shall inform the Board when the Director deems eminent domain necessary. Thereafter, the Office of County Counsel is authorized to file complaints of condemnation with the circuit court of the County and take such other steps as it determines necessary for the immediate possession of required rights of way, easements, and fee property and the successful litigation of the condemnation action, including the retention of real estate appraisers, experts, and other consultants deemed necessary to the successful conclusion of that litigation.

Dated this _____ day of _____, 2024.

Tootie Smith, Chair

Recording Secretary

EXHIBIT A

Clackamas County
April 1, 2024

Property No. 1
Map & Tax Lot No. 22E07BD-1400

Page 1 of 2

PARCEL 1 (10.00 foot Storm Sewer Easement)

A strip of land, as shown on attached Exhibit “B”, lying in the Northwest One-Quarter of Section 07, Township 2 South, Range 2 East, of the Willamette Meridian, Clackamas County, Oregon, and being a portion of that tract of land as described by Bargain and Sale Deed to Nazanin Sharifi and Colin G. Chapman, Trustees of the Colin G. Chapman and Nazanin Sharifi Revocable Living Trust, dated January 15, 2013, recorded February 24, 2023 as Document No. 2023-005596, Clackamas County Deed Records, said strip being 10.00 feet in width and more particularly described as lying 5.00 feet on each side of the following described centerline, the sidelines of said strip are to be lengthened or shortened to terminate at the boundary lines of said property;

Beginning at a point which bears S59°06’47”E, 13.16 feet from a found 5/8 inch iron rod at the northeast corner of Lot 8, Block 12, Clark’s Crest No. 5, Clackamas County Plat Records;

Thence N11°37’11”E, 199.02 feet to the terminus of said centerline, which bears N66°13’12”E, 197.24 feet from a found 5/8 inch iron rod at the northwest corner of Lot 9, Block 12, Clark’s Crest No. 4, Clackamas County Plat Records;

This legal description, along with the Basis of Bearings thereof, is based on the Oregon State Plane Coordinate System – North Zone – Reference Frame: NAD83(2011)(EPOCH 2010.00) International Feet.

The parcel of land to which this description applies contains 385 square feet more or less.

PARCEL 2 (Temporary Construction Easement)

A strip of land, as shown on attached Exhibit “B”, lying in the Northwest One-Quarter of Section 07, Township 2 South, Range 2 East, of the Willamette Meridian, Clackamas County, Oregon, and being a portion of that tract of land as described by Bargain and Sale Deed to Nazanin Sharifi and Colin G. Chapman, Trustees of the Colin G. Chapman and Nazanin Sharifi Revocable Living Trust, dated January 15, 2013, recorded February 24, 2023 as Document No. 2023-005596, Clackamas County Deed Records, said strip being 15.00 feet in width and more particularly described as lying 7.50 feet on each side of the following

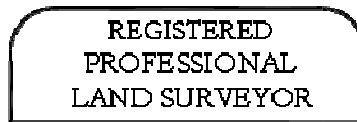
described centerline, the sidelines of said strip are to be lengthened or shortened to terminate at the boundary lines of said property;

Beginning at a point which bears S59°06'47"E, 13.16 feet from a found 5/8 inch iron rod at the northeast corner of Lot 8, Block 12, Clark's Crest No. 5, Clackamas County Plat Records;

Thence N11°37'11"E, 199.02 feet to the terminus of said centerline, which bears N66°13'12"E, 197.24 feet from a found 5/8 inch iron rod at the northwest corner of Lot 9, Block 12, Clark's Crest No. 4, Clackamas County Plat Records;

EXCEPTING therefrom the above described Parcel 1.

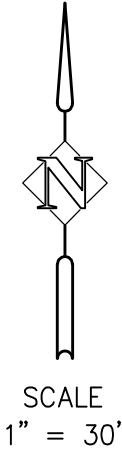
The parcel of land to which this description applies contains 193 square feet more or less.



RENEWS: 12/31/2025

EXHIBIT "B"
PROPERTY 1

DOC. NO. 2016-038046
5112 SE LA MESA WAY
TAX LOT 22E07BA04400



N66°13'12"E 197.24'(TIE)

SE LA MESA WAY

CLARK'S CREST BLOCK 7 LOT 8

POINT OF TERMINUS

5.00'
7.50'
LOT 13

DOC. NO. 2003-091375
5048
SE LA MESA WAY
TAX LOT 22E07BD00100

FOUND 5/8" IRON ROD, BEING THE NW CORNER OF LOT 9 BLOCK 12 CLARK'S CREST NO. 4

CLARK'S CREST NO. 4 BLOCK 12

LOT 9
N11°37'11"E 199.02'

DOC. NO. 2023-005596
5032 SE LA MESA WAY
TAX LOT 22E07BD01400

LOT 5

15.00'
7.50'
5.00'

CLARK'S CREST NO. 5 BLOCK 12
LOT 10

FOUND 5/8" IRON ROD, BEING THE NE CORNER OF LOT 8, BLOCK 12, CLARK'S CREST NO. 5

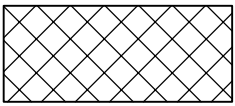
CLARK'S CREST NO. 5 BLOCK 12
LOT 8
S59°06'47"E 13.16'(TIE)

DOC. NO. 2019-028304
5110 SE EL CENTRO CT
TAX LOT 22E07BD01300

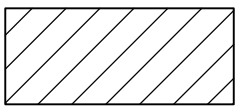
POINT OF BEGINNING

SE EL CENTRO CT

LEGEND



① 10 FOOT STORM SEWER EASEMENT ± 385 SQ.FT.



② TEMPORARY CONSTRUCTION EASEMENT ± 193 SQ.FT.

SEE ATTACHED LEGAL DESCRIPTION



Harper Houf Peterson Righellis Inc.

ENGINEERS • PLANNERS
LANDSCAPE ARCHITECTS • SURVEYORS

205 SE Spokane Street, Suite 200, Portland, OR 97202
phone: 503.221.1131 www.hhpr.com fax: 503.221.1171

EXHIBIT A

Clackamas County
April 1, 2024

Property No. 2
Map & Tax Lot No. 22E07BD-1300

Page 1 of 2

PARCEL 1 (10.00 foot Storm Sewer Easement)

A strip of land, as shown on attached Exhibit "B", lying in the Northwest One-Quarter of Section 07, Township 2 South, Range 2 East, of the Willamette Meridian, Clackamas County, Oregon, and being a portion of that tract of land as described by Statutory Warranty Deed to Erika Eliza Best, recorded May 24, 2019 as Document No. 2019-028304, Clackamas County Deed Records, said strip being 10.00 feet in width and more particularly described as lying 5.00 feet on each side of the following described centerline, the sidelines of said strip are to be lengthened or shortened to terminate at the boundary lines of said property;

Beginning at a point which bears S59°06'47"E, 13.16 feet from a found 5/8 inch iron rod at the northeast corner of Lot 8, Block 12, Clark's Crest No. 5, Clackamas County Plat Records;

Thence N11°37'11"E, 199.02 feet to the terminus of said centerline, which bears N66°13'12"E, 197.24 feet from a found 5/8 inch iron rod at the northwest corner of Lot 9, Block 12, Clark's Crest No. 4, Clackamas County Plat Records;

This legal description, along with the Basis of Bearings thereof, is based on the Oregon State Plane Coordinate System – North Zone – Reference Frame: NAD83(2011)(EPOCH 2010.00) International Feet.

The parcel of land to which this description applies contains 603 square feet more or less.

PARCEL 2 (Temporary Construction Easement)

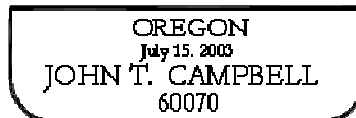
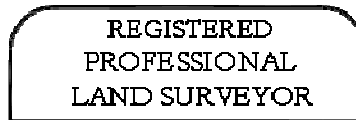
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Beginning at a point which bears S59°06'47"E, 13.16 feet from a found 5/8 inch iron rod at the northeast corner of Lot 8, Block 12, Clark's Crest No. 5, Clackamas County Plat Records;

Thence N11°37'11"E, 199.02 feet to the terminus of said centerline, which bears N66°13'12"E, 197.24 feet from a found 5/8 inch iron rod at the northwest corner of Lot 9, Block 12, Clark's Crest No. 4, Clackamas County Plat Records;

EXCEPTING therefrom the above described Parcel 1.

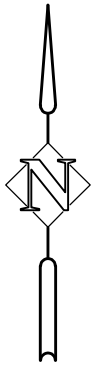
The parcel of land to which this description applies contains 303 square feet more or less.



RENEWS: 12/31/2025

EXHIBIT "B"
PROPERTY 2

DOC. NO. 2016-038046
5112 SE LA MESA WAY
TAX LOT 22E07BA04400



SCALE
1" = 30'

CLARK'S
CREST
BLOCK 7
LOT 8

POINT OF
TERMINUS

N66°13'12"E 197.24'(TIE)

SE LA MESA WAY

5.00'

LOT 13

7.50'

DOC. NO.
2003-091375
5048
SE LA MESA WAY
TAX LOT
22E07BD00100

FOUND 5/8"
IRON ROD, BEING
THE NW CORNER
OF LOT 9
BLOCK 12
CLARK'S CREST
NO. 4

CLARK'S CREST NO. 4
BLOCK 12

LOT 9
N11°37'11"E
199.02'

DOC. NO. 2023-005596
5032 SE LA MESA WAY
TAX LOT 22E07BD01400

LOT 5

15.00'

7.50'

5.00'

CLARK'S CREST NO. 5
BLOCK 12

LOT 10

FOUND 5/8" IRON ROD,
BEING THE NE CORNER OF
LOT 8, BLOCK 12,
CLARK'S CREST NO. 5

DOC. NO. 2019-028304
5110 SE EL CENTRO CT
TAX LOT 22E07BD01300

CLARK'S CREST NO. 5
BLOCK 12
LOT 8
S59°06'47"E
13.16'
(TIE)

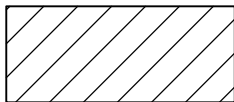
POINT OF
BEGINNING

SE EL CENTRO CT

LEGEND



① 10 FOOT STORM
SEWER EASEMENT
± 603 SQ.FT.



② TEMPORARY CONSTRUCTION
EASEMENT
±303 SQ.FT.

SEE ATTACHED LEGAL
DESCRIPTION



**Harper
Houf Peterson
Righellis Inc.**

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LANDSCAPE ARCHITECTS • SURVEYORS

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EXHIBIT A

Clackamas County
April 1, 2024

Property No. 3
Map & Tax Lot No. 22E07BD-0100

Page 1 of 2

PARCEL 1 (10.00 foot Storm Sewer Easement)

A strip of land, as shown on attached Exhibit “B”, lying in the Northwest One-Quarter of Section 07, Township 2 South, Range 2 East, of the Willamette Meridian, Clackamas County, Oregon, and being a portion of that tract of land as described by Statutory Warranty Deed to David L DeMain and Donita L. DeMain, recorded July 17, 2003 as Document No. 2003-091375, Clackamas County Deed Records, said strip being 10.00 feet in width and more particularly described as lying 5.00 feet on each side of the following described centerline, the sidelines of said strip are to be lengthened or shortened to terminate at the boundary lines of said property;

Beginning at a point which bears S59°06’47”E, 13.16 feet from a found 5/8 inch iron rod at the northeast corner of Lot 8, Block 12, Clark’s Crest No. 5, Clackamas County Plat Records;

Thence N11°37’11”E, 199.02 feet to the terminus of said centerline, which bears N66°13’12”E, 197.24 feet from a found 5/8 inch iron rod at the northwest corner of Lot 9, Block 12, Clark’s Crest No. 4, Clackamas County Plat Records;

This legal description, along with the Basis of Bearings thereof, is based on the Oregon State Plane Coordinate System – North Zone – Reference Frame: NAD83(2011)(EPOCH 2010.00) International Feet.

The parcel of land to which this description applies contains 671 square feet more or less.

PARCEL 2 (Temporary Construction Easement)

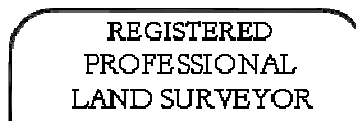
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Beginning at a point which bears S59°06’47”E, 13.16 feet from a found 5/8 inch iron rod at the northeast corner of Lot 8, Block 12, Clark’s Crest No. 5, Clackamas County Plat Records;

Thence N11°37'11"E, 199.02 feet to the terminus of said centerline, which bears N66°13'12"E, 197.24 feet from a found 5/8 inch iron rod at the northwest corner of Lot 9, Block 12, Clark's Crest No. 4, Clackamas County Plat Records;

EXCEPTING therefrom the above described Parcel 1.

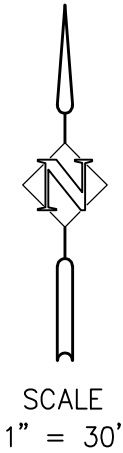
The parcel of land to which this description applies contains 333 square feet more or less.



RENEWS: 12/31/2025

EXHIBIT "B"
PROPERTY 3

DOC. NO. 2016-038046
5112 SE LA MESA WAY
TAX LOT 22E07BA04400

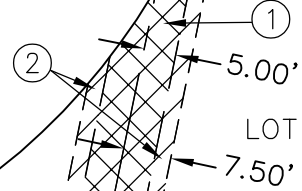


N66°13'12"E 197.24'(TIE)

SE LA MESA WAY

CLARK'S CREST BLOCK 7 LOT 8

POINT OF TERMINUS



LOT 13

DOC. NO. 2003-091375
5048
SE LA MESA WAY
TAX LOT 22E07BD00100

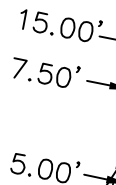
FOUND 5/8" IRON ROD, BEING THE NW CORNER OF LOT 9 BLOCK 12 CLARK'S CREST NO. 4

CLARK'S CREST NO. 4 BLOCK 12
LOT 9

N11°37'11"E 199.02'

DOC. NO. 2023-005596
5032 SE LA MESA WAY
TAX LOT 22E07BD01400

LOT 5



CLARK'S CREST NO. 5 BLOCK 12
LOT 10

FOUND 5/8" IRON ROD, BEING THE NE CORNER OF LOT 8, BLOCK 12, CLARK'S CREST NO. 5

CLARK'S CREST NO. 5 BLOCK 12
LOT 8
S59°06'47"E 13.16'(TIE)

DOC. NO. 2019-028304
5110 SE EL CENTRO CT
TAX LOT 22E07BD01300

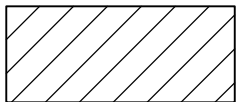
POINT OF BEGINNING

SE EL CENTRO CT

LEGEND



① 10 FOOT STORM SEWER EASEMENT ± 671 SQ.FT.



② TEMPORARY CONSTRUCTION EASEMENT ± 333 SQ.FT.

SEE ATTACHED LEGAL DESCRIPTION



**Harper
Houf Peterson
Righellis Inc.**

ENGINEERS • PLANNERS
LANDSCAPE ARCHITECTS • SURVEYORS

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phone: 503.221.1131 www.hhpr.com fax: 503.221.1171

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EXHIBIT A

Clackamas County
April 1, 2024

Property No. 4
Map & Tax Lot No. 22E07BA-4400

Page 1 of 1

PARCEL 1 (Temporary Construction Easement)

A strip of land, as shown on attached Exhibit "B", lying in the Northwest One-Quarter of Section 07, Township 2 South, Range 2 East, of the Willamette Meridian, Clackamas County, Oregon, and being a portion of that tract of land as described by Statutory Warranty Deed to Ronald E. Phillips and JoAnn E. Phillips, recorded June 10, 2016 as Document No. 2016-038046, Clackamas County Deed Records, said strip being 7.50 feet in width and more particularly described as lying 7.50 feet on the easterly side of the following described centerline, the sidelines of said strip are to be lengthened or shortened to terminate at the boundary lines of said property;

Beginning at a point which bears S59°06'47"E, 13.16 feet from a found 5/8 inch iron rod at the northeast corner of Lot 8, Block 12, Clark's Crest No. 5, Clackamas County Plat Records;

Thence N11°37'11"E, 199.02 feet to the terminus of said centerline, which bears N66°13'12"E, 197.24 feet from a found 5/8 inch iron rod at the northwest corner of Lot 9, Block 12, Clark's Crest No. 4, Clackamas County Plat Records;

This legal description, along with the Basis of Bearings thereof, is based on the Oregon State Plane Coordinate System – North Zone – Reference Frame: NAD83(2011)(EPOCH 2010.00) International Feet.

The parcel of land to which this description applies contains 24 square feet more or less.

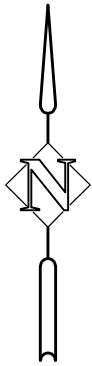
REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
July 15, 2003
JOHN T. CAMPBELL
60070

RENEWS: 12/31/2025

EXHIBIT "B"
PROPERTY 4

DOC. NO. 2016-038046
5112 SE LA MESA WAY
TAX LOT 22E07BA04400



SCALE
1" = 30'

N66°13'12"E 197.24'(TIE)

SE LA MESA WAY

POINT OF TERMINUS

CLARK'S CREST BLOCK 8 LOT 7

LOT 13

DOC. NO. 2003-091375
5048
SE LA MESA WAY
TAX LOT 22E07BD00100

CLARK'S CREST NO. 4 BLOCK 12

LOT 9
N11°37'11"E 199.02'

DOC. NO. 2023-005596
5032 SE LA MESA WAY
TAX LOT 22E07BD01400

LOT 5

FOUND 5/8" IRON ROD, BEING THE NW CORNER OF LOT 9 BLOCK 12 CLARK'S CREST NO. 4

15.00'
7.50'
5.00'

CLARK'S CREST NO. 5 BLOCK 12
LOT 10

DOC. NO. 2019-028304
5110 SE EL CENTRO CT
TAX LOT 22E07BD01300

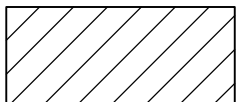
FOUND 5/8" IRON ROD, BEING THE NE CORNER OF LOT 8, BLOCK 12, CLARK'S CREST NO. 5

CLARK'S CREST NO. 5 BLOCK 12
LOT 8
S59°06'47"E 13.16' (TIE)

POINT OF BEGINNING

SE EL CENTRO CT

LEGEND



① TEMPORARY CONSTRUCTION EASEMENT ± 24 SQ.FT.



Harper Houf Peterson Righellis Inc.

ENGINEERS • PLANNERS
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SEE ATTACHED LEGAL DESCRIPTION