

PARCEL NO.: 006-311-067

PROJECT: City of Arroyo Grande - Traffic Way Bridge

OWNER: Lan-Vest Limited and Saruwatari Trust

TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT ("**Agreement**") is made and entered into by and between:

Lan-Vest Limited; and Adam Hideo Saruwatari, Trustee of the Adam Hideo Saruwatari Revocable Trust dated October 18, 2021, as tenants in common (hereinafter collectively referred to as the "**Grantor**"), and the

City of Arroyo Grande, a California municipal corporation (hereinafter referred to as the "**City**").

An instrument in the form of a Temporary Construction Easement Deed ("**Easement Deed**") covering the property rights particularly described therein in the form attached hereto as Exhibit "1", and incorporated herein by this reference, which includes a legal description of the easement area described therein (hereafter the "**Easement Area**"), shall be executed and submitted to City representatives for City acceptance in original signed and notarized form as soon as reasonably practicable from the date this Agreement is signed by Grantor.

In consideration of which, and other considerations hereinafter set forth, it is mutually agreed as follows:

The parties have herein set forth the whole of their agreement. The performance of this Agreement constitutes the entire consideration for said document and shall relieve the City of all further obligation or claims on this account, or on account of the location, grade, or construction of the proposed public improvement, consisting of the Traffic Way Bridge Replacement Project (collectively referred to herein as the "**Project**"), except as stated in Sections 1.5. and 2. herein below.

1. OBLIGATIONS OF THE CITY:

1.1. PAYMENT. City shall pay to the order of the Grantor the sum of **FORTY-FIVE THOUSAND SEVEN HUNDRED DOLLARS (\$45,700)** as consideration in full for the herein property interests described in the Easement Deed, for the loss, replacement and moving of any improvements, and for entering into this Agreement. Grantors have requested, and the parties hereby agree, that the net proceeds of the amount payable under this Section 1.1. as indicated hereinabove shall be divided and paid as follows:

1.1.1. One-half, or **TWENTY-TWO THOUSAND EIGHT HUNDRED FIFTY DOLLARS (\$22,850)** to Adam Hideo Saruwatari, Trustee of the Adam Hideo Saruwatari Revocable Trust dated October 18, 2021; and

1.1.2. One-half, or TWENTY-TWO THOUSAND EIGHT HUNDRED FIFTY DOLLARS (\$22,850) to Lan-Vest Limited, which hereby directs its share to be made payable to: Ayako Saruwatari Trust dated November 11, 1985.

1.1.3. Said sums shall be paid within thirty (30) days of the date of City's acceptance and execution of this Agreement. Payment of the amount of funds as specified in this Section 1.1 are either paid directly to the Grantor or, if the fully executed Easement Deed has not yet been provided to City for acceptance, said funds shall be deposited into an escrow account and held until such time as the fully executed Easement Deed is submitted for City acceptance. The amount shown in this Section 1.1 includes, but is not limited to, full payment for such possession and use commencing the date provided in Section 3.2 herein below and as provided in the Easement Deed.

1.2. RECORDATION OF INSTRUMENT. City shall accept the Easement Deed and may, at City's sole discretion, cause the same to be recorded in the office of the San Luis Obispo County Recorder.

1.3. MISCELLANEOUS COSTS. City shall pay any and all transactional closing costs and recording fees, including, but not limited to escrow and title insurance incurred in this transaction, if any.

1.4. CLEARANCE OF BONDS, ASSESSMENTS, OR DELINQUENT TAXES. City shall have the authority to deduct and pay from the amount shown in Section 1.1 herein above any amount necessary to satisfy any bond demands and delinquent taxes due in any year except the year in which the deeds record, together with penalties and interest thereon, and/or delinquent and unpaid nondelinquent assessments which have become a lien as of the date of this Agreement.

1.5. INDEMNIFICATION. City hereby agrees to and shall defend, indemnify and hold harmless Grantor, its officers, agents, employees, tenants, and their guests and invitees from any and all liabilities, obligations, damages, costs, judgments, injuries or claims thereof, including, but not limited to: claims for damages or personal injury, including death, claims for damage to real property and any and all personal property, fixtures, crops, and improvements, arising in any manner caused by City or its officers, employees, or agents, or any contractor related to the City's construction and restoration work on Grantor's real property during the temporary easement period specified in the Easement Deed, and for the negligent performance of or failure to perform the provisions of this Agreement, by City and/or its officers, agents and employees. The City may defend any such action required under this Section 1.5 with attorneys of its choice, chosen in City's sole discretion.

2. CONSTRUCTION COORDINATION AND EASEMENT RESTORATION REQUIREMENTS.

2.1. NOTICE OF CONSTRUCTION COMMENCEMENT. City agrees to provide Grantor with thirty (30) days' advance written notice of the anticipated date of construction commencement of the Project. Thereafter during construction of the Project, City shall keep an open line of communication with Grantor and its tenants regarding construction scheduling so as to minimize disruption of Grantor's and its tenants' use and enjoyment of the Grantor's real property.

2.2. DUST CONTROL. City shall use “Class II Road Base” (hereinafter referred to as “Road Base”) for dust control/mitigation on the Easement Area, and City’s contractors shall take all reasonable measures to control dust migration into the Grantor’s real property. City shall provide Grantor thirty (30) days’ advance written notice of completion of the Project or removal of the Road Base, whichever is earlier. If Grantor, in its sole discretion, decides that it would like to keep the Road Base, then the Road Base shall be stockpiled at a location determined by mutual agreement between Grantor and City. This stockpile location of the Road Base shall be determined within forty-five (45) days after the date this Agreement is executed by all parties. If Grantor, in its sole discretion, decides that it does not want to keep the Road Base or any portion thereof, then the City shall remove the Road Base at no cost to Grantor.

2.3. RESTORATION. City shall, upon completion of construction, generally restore the Easement Area to a comparable or better condition as that which existed prior to City’s project construction, to the extent reasonably practical, in accordance with the provisions of the Easement Deed. City shall provide any mitigation revegetation as required under its permits, environmental requirements, and City codified standards.

2.4. NOISE MITIGATION. City and its contractors shall take all reasonable measures required under City’s permits, environmental requirements and City codified standards to control noise levels during construction so as to not unreasonably disturb the day to day operations of the Grantor and the Grantor’s tenants.

2.5. MANAGEMENT OF EASEMENT. City shall be solely responsible for the day-to-day management of the Easement Area.

3. OBLIGATIONS OF THE GRANTOR.

3.1. LEASE INDEMNIFICATION. Grantor warrants there are no oral or written leases on all or any portion of the Easement Area or if there are such leases, Grantor agrees to hold the City harmless and reimburse City for any and all of its losses and expenses occasioned by reason of any lease encumbering the Easement Area. Grantor shall provide City use of the Easement Area free of any leases that may conflict with City’s rights under the Easement Deed provisions.

3.2. PERMISSION TO ENTER. Upon payment of the amount payable in Section 1.1, and subject to all applicable terms and conditions contained in this Agreement and the associated Easement Deed, Grantor hereby grants to City, its officers, agents, and contractors, permission to enter upon the subject lands described in the Easement Deed commencing on August 1, 2024. It is hereby agreed and confirmed by the parties hereto that the right of possession and use of the Easement Area by the City shall commence on August 1, 2024.

3.3. TITLE INDEMNITY AND WARRANTY. In consideration of the City waiving requirements to clear any defects and imperfections in all matters of record title, Grantor indemnifies and holds the City harmless from any and all claims that other parties may make or assert on the title to the Easement Area. Grantor’s obligation to indemnify the City shall not exceed the amount paid to the Grantor under this Agreement. Grantor hereby represents and warrants that he/they are the sole vested owners of the Easement Area, holding all ownership and possessory rights, and are the authorized signatories to grant the easement rights referenced in this Agreement and the Easement Deed without conflict or claims from other parties.

3.4. SUPPLEMENTAL FORMS. Grantor agrees to provide all required supplemental forms necessary to complete this transaction, including a W-9 Form required for payment processing.

3.5. GRANTOR'S KNOWLEDGE OF THE ENVIRONMENTAL CONDITIONS OF THE PROPERTY. Grantor hereby represents and warrants that to the best of Grantor's knowledge and belief, throughout the period of ownership by Grantor, there has been no spill, discharge, release, cleanup, or contamination of or by any hazardous or toxic waste or substance used, generated, treated, stored, disposed of or handled by the Grantor, its employees, and/or agents on or around the Easement Area. Further, Grantor agrees to disclose to the City of Arroyo Grande, prior to the close of escrow, all studies, reports, and investigations, known to Grantor, concerning any pollution, toxic building materials or toxic hazardous substances or wastes located at, on, or under the Easement Area.

4. THE PARTIES AGREE:

4.1. ARTICLE HEADINGS. Article headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants, and conditions of this Agreement.

4.2. COMPLETE UNDERSTANDING. This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions, and preliminary agreements or understandings, written or oral. This Agreement may not be amended except in writing by the parties hereto or their successors or assigns.

4.3. CITY COUNCIL APPROVAL. This Agreement is subject to and conditioned upon approval by the Arroyo Grande City Council. This Agreement is not binding upon the City until executed by the appropriate City official(s) acting in their authorized capacity.

4.4. TITLE VI CIVIL RIGHTS ACT COMPLIANCE. The parties to this contract shall, pursuant to Section 21.7(a) of Title 49, Code of Federal Regulations, comply with all elements of Title VI of the Civil Rights Act of 1964. This requirement under Title VI and the Code of Federal Regulations is to complete the USDOT-Non-Discrimination Assurance requiring compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21 and 28 C.F.R. Section 50.3. No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity that is the subject of this contract.

4.5. COUNTERPARTS. This Agreement may be executed in counterparts, each of which so executed shall irrespective of the date of its execution and delivery be deemed an original, and all such counterparts together shall constitute one and the same document.

4.6. SUCCESSORS AND ASSIGNS. This Agreement shall apply to and bind the heirs, executors, administrators, assigns and successors of the parties hereto.

4.7. ELECTRONIC AND FACSIMILE SIGNATURES. In the event that the parties hereto utilize electronic or facsimile documents which include signatures, such documents shall be accepted and deemed binding to the same extent as if they bore original signatures. Documents for recordation by the County Clerk Recorder must contain original signatures.

4.8. ATTORNEYS FEES. Should any litigation be commenced between the parties hereto concerning this Agreement, or the rights and duties of any party in relation thereto, or should any attorney be retained to enforce any provision herein, whether or not any litigation commences, the party determined by a court of law to be the prevailing party in such litigation or other action, shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for his/her/their attorney's fees.

4.9. TIME OF ESSENCE. Time is expressly declared to be of the essence of this Agreement.

4.10. SETTLEMENT PROPOSAL. This Agreement represents Grantor's settlement proposal and is expressly subject to and contingent upon City approval. City shall not be bound to the terms and conditions herein unless and until this Agreement has been approved and executed by the appropriate City official(s) acting in their authorized capacity.

No Obligation Other Than Those Set Forth Herein Will Be Recognized.

GRANTOR:
Lan-Vest Limited

By: [Redacted] Date: 6/20/24
Gayle Nakano
Executive Trustee

By: [Redacted] Date: 6/20/24
Gene Saruwatari
Executive Trustee

By: [Redacted] Date: 6/20/24
Ray Saruwatari
Executive Trustee

Adam Hideo Saruwatari, Trustee of the Adam Hideo Saruwatari Revocable Trust
dated October 18, 2021

By: [Redacted] Date: 6/20/24
Adam Hideo Saruwatari
Trustee

GRANTOR'S MAILING ADDRESS:
Lan-Vest Limited
Adam Hideo Saruwatari, Trustee
[Redacted]
Arroyo Grande, CA 93420

CITY:

City of Arroyo Grande, a California municipal corporation

By: _____

Matthew Downing
City Manager

Date: _____

MAILING ADDRESS OF CITY:

City of Arroyo Grande
1375 Ash Street
Arroyo Grande, CA 93420

Recording requested by:
Hamner, Jewell & Associates

When recorded, return to:
City of Arroyo Grande
Attn: City Clerk
300 E. Branch Street
Arroyo Grande, CA 93420

Exempt from the \$75 Building and Jobs Act Fee per Gov't Code § 27388.1(2)(D) Public Agency
No fee pursuant to Government Code § 6103
No Documentary Transfer Tax per R&T Code § 11922
No Recording Fee per Government Code § 27383

APN: 006-311-067

TEMPORARY CONSTRUCTION EASEMENT DEED
(Traffic Way Bridge Project)

For a valuable consideration, receipt of which is hereby acknowledged,

Lan-Vest Limited; and Adam Hideo Saruwatari, Trustee of the Adam Hideo Saruwatari
Revocable Trust dated October 18, 2021, as tenants in common
(hereinafter referred to collectively as “Grantor”),

hereby grants to the

City of Arroyo Grande, a California municipal corporation
(hereinafter referred to as “City”),

A temporary ingress and egress easement for construction purposes, including the right to access, traverse with construction vehicles and equipment, modify fencing and access gates, and including the right, but not the obligation, to improve the surface of the easement as deemed necessary by City to facilitate use of the easement for construction access and all other related activities and purposes in conjunction with the City of Arroyo Grande Traffic Way Bridge Replacement Project (“Project”), in, on, over, under, along, and across that certain property described in Exhibit “A” and depicted in Exhibit “B” attached hereto and incorporated herein (the “**Temporary Construction Easement Area**”).

This Temporary Construction Easement includes the right to enter upon and to pass and repass over and along said Temporary Construction Easement Area and to trim, cut and clear away or otherwise control any tree or brush, and to deposit road base or other materials thereon by said City, its officers, agents, and employees and by any contractor, their agents and employees engaged by said City, whenever and wherever necessary for the purposes set forth above.

This Temporary Construction Easement shall commence on August 1, 2024 (the “**Commencement Date**”), and shall automatically terminate upon completion of the Project, or thirty-six (36) months following the Commencement Date, whichever occurs first.

Upon completion of Project construction, the Temporary Construction Easement Area shall be restored by City to the condition that existed prior to construction, to the extent reasonably practical. Grantor acknowledges that vegetation removed for Project construction work will be restored with native vegetation in conformance with regulatory permitting requirements.

By executing this Temporary Construction Easement Deed, to which exhibits are attached, I/We, as owner(s) of the land shown hereon, do hereby state that I/We am/are the only person(s) whose consent is necessary to pass clear title to said land.

The provisions hereof shall inure to the benefit of the City, its successors, and assigns, and shall bind the heirs, executors, administrators, assigns and successors in interest of the respective parties hereto, and all covenants shall apply to and run with the above-described property.


The terms and conditions of this Temporary Construction Easement Deed are subject to that certain Temporary Construction Easement Agreement dated JUNE 20, 2024 (“**Agreement**”). In the event of any inconsistency between the terms of this Temporary Construction Easement Deed and the Agreement, the terms and conditions of the Agreement shall take precedence.

This Temporary Construction Easement Deed may be executed in counterparts, each of which so executed shall irrespective of the date of its execution and delivery be deemed an original, and all such counterparts together shall constitute one and the same document.


Any modifications to this temporary construction easement must be in writing and signed by the parties.

GRANTOR:

Lan-Vest Limited

By: 
Gayle Nakano
Executive Trustee

By: 
Gene Saruwatari
Executive Trustee

By: 
Ray Saruwatari
Executive Trustee

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of SAN LUIS OBISPO

On June 20, 2024 before me, Julie Hawkins, Notary Public, personally appeared Gayle Nakano, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Julie Hawkins (Seal)

ACKNOWLEDGMENT

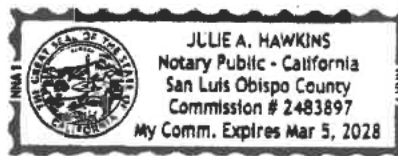
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of SAN LUIS OBISPO

On June 20, 2024 before me, Julie Hawkins, Notary Public, personally appeared Gene Saruwatari, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Julie Hawkins (Seal)

ACKNOWLEDGMENT

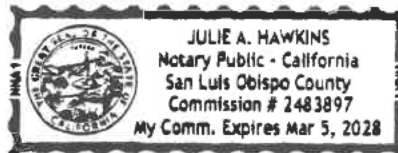
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of SAN LUIS OBISPO

On June 20, 2024 before me, Julie Hawkins, Notary Public, personally appeared Ray Saruwatari, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Julie Hawkins (Seal)

Adam Hideo Saruwatari, Trustee of the Adam Hideo Saruwatari Revocable Trust dated October 18, 2021, as tenants in common

By: [REDACTED]
Adam Hideo Saruwatari
Trustee

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

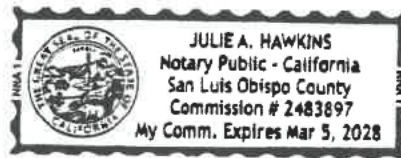
State of California
County of San Luis Obispo

On June 20, 2024 before me, Julie Hawkins, Notary Public, Notary Public, personally appeared Adam Hideo Saruwatari, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Julie A. Hawkins (Seal)



CERTIFICATE OF ACCEPTANCE

This Certificate of Acceptance pertains to the interests in real property conveyed by the Temporary Construction Easement Deed dated _____ to which this Certificate of Acceptance is attached, from Lan-Vest Limited; and Adam Hideo Saruwatari, Trustee of the Adam Hideo Saruwatari Revocable Trust dated October 18, 2021, as tenants in common (collectively “Grantor”), to the City of Arroyo Grande, a California municipal corporation (“Grantee”).

Said Temporary Construction Easement Deed is hereby accepted by the undersigned officer on behalf of Grantee pursuant to authority conferred by the Grantee's governing body, and Grantee hereby consents to recordation of such grant.

City of Arroyo Grande,
a California municipal corporation

Dated: _____

By: _____
Matthew Downing
City Manager

ATTEST:

City Clerk

AUTHORITY TO SIGN RE LAN-VEST LIMITED – APN 006-311-067

We, Gayle Nakano, Gene Saruwatari, and Ray Saruwatari, represent and warrant that we are authorized to execute and perform this Agreement on behalf of Lan-Vest Limited, as owners of record of the Easement Area and the remainder property, and all its beneficiaries, members, shareholders, owners and representatives, and that there are no other persons, entities, or parties that have or may claim any right to any portion of the compensation to be paid to Lan-Vest Limited as set forth in this Agreement.



Gayle Nakano

6/21/24

Date:



Gene Saruwatari

6/21/24

Date:



Ray Saruwatari

6/21/24

Date:

EXHIBIT "A"

LEGAL DESCRIPTION

A STRIP OF LAND 32 FEET WIDE, BEING 16 FEET ON EITHER SIDE OF THE CENTERLINE, SAID CENTERLINE BEING A PORTION OF LOT 104 OF PARTS OF THE RANCHO CORRAL DE PIEDRA, PISMO AND BOLSA DE CHEMISAL, IN THE CITY OF ARROYO GRANDE, COUNTY OF SAN LUIS OBISPO, DESCRIBED IN THAT CERTAIN GRANT DEED RECORDED MAY 19, 1954 AS DOCUMENT VOL 757, PAGE 241 OFFICIAL RECORDS IN THE CITY OF ARROYO GRANDE, COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT OF THE EASTERLY BOUNDARY AND SAID GRANT DEED, A POINT ON THE WESTERLY BOUNDARY OF STATE HIGHWAY 101 PER CALTRANS RIGHT-OF-WAY MAP, 05-SLO-101, P.M. 00-13.696, DISTRICT 5, DIVISIONS OF HIGHWAYS THENCE SOUTH 58°24'53" WEST A DISTANCE OF 15.68 FEET ALSO BEING A POINT ON THE NORTH EAST CORNER OF DOHI PROPERTY IN THAT CERTAIN GRANT DEED RECORDED AUGUST 24, 1954 AS DOCUMENT VOL 769, PAGE 405 OFFICIAL RECORDS IN THE CITY OF ARROYO GRANDE, COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, A FOUND 5/8 INCH REBAR AND CAP LS9210 BEING THE POINT OF BEGINNING;

THENCE, NORTH 52°41'56" WEST, A DISTANCE OF 214.69 FEET, ALSO PARALLEL OF THE SAID WESTERLY OF STATE HIGHWAY 101;

THENCE, SOUTH 60°29'57" WEST, A DISTANCE OF 385.47 FEET;

THENCE, NORTH 65°06'20" WEST, A DISTANCE OF 355.53 FEET;

THENCE, NORTH 49°21'02" EAST, A DISTANCE OF 390.35 FEET, TO A POINT OF SAID WESTERLY RIGHT-OF-WAY OF STATE HIGHWAY 101 AND THE POINT OF TERMINUS SAID POINT BEING SOUTH 66°19'18" EAST A DISTANCE OF 154.41 FEET, TO AN ANGLE POINT ON SAID WESTERLY RIGHT-OF-WAY OF STATE HIGHWAY 101, STATION 690+00, LEFT 96 FEET, A FOUND 6X6" CHC MONUMENT;

THE SIDE LINES OF SAID STRIP TO BE SHORTENED OR LENGTHENED TO TERMINATE AT A POINT SAID WESTERLY OF RIGHT-OF-WAY OF STATE HIGHWAY 101;

CONTAINING 0.99 ACRES OR 43,073.4 SQUARE FEET MORE OR LESS AND AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND REFERENCE MADE A PART HEREOF.

END OF DESCRIPTION


Jeffrey Zambo

Date:



Page 1 of 1

EXHIBIT "B"

"TEMPORARY CONSTRUCTION EASEMENT"

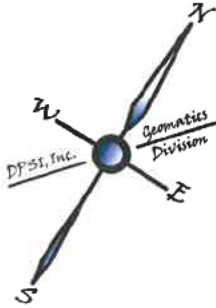
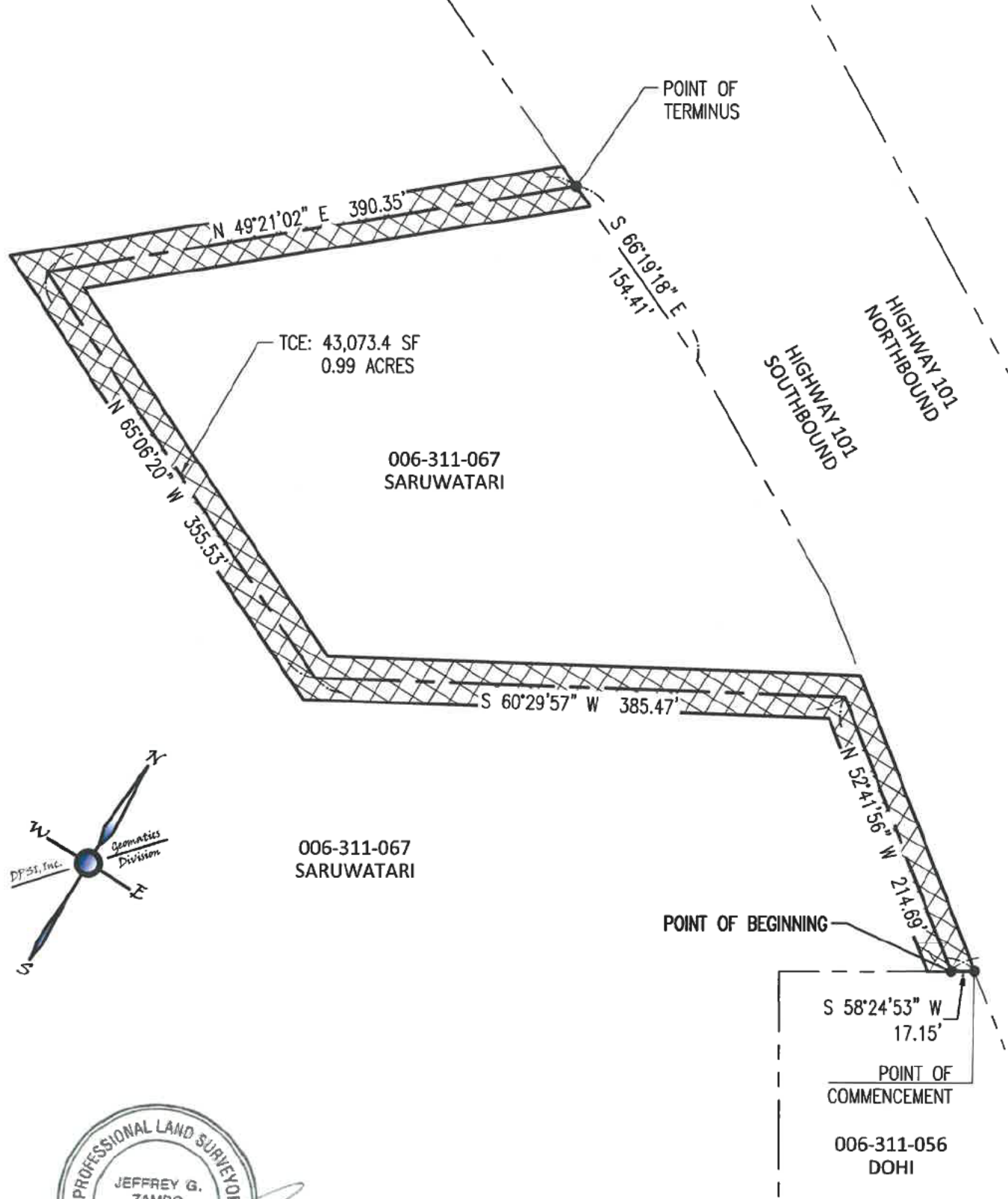


EXHIBIT "B" TEMPORARY CONSTRUCTION EASEMENT APN 006-311-067 SARUWATARI			
PROJ. MGR:	JZ	NO.	1
DRAFTED BY:	DW	REV.	0
DATE:	02/08/24	SCALE:	1"=100'