

After Recording return to  
Denver City Attorney's Office  
1437 Bannock Rm. - No. 353  
Denver, CO 80202  
Attn: Karen Aviles

**PERMANENT EASEMENT**  
(Northwest-Gold Line Corridor/Fox St. Ponds/Aerial Easement)

**THIS PERMANENT EASEMENT** ("Easement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, by and between the **CITY AND COUNTY OF DENVER**, a Colorado municipal corporation ("Grantor" or "City") and the **REGIONAL TRANSPORTATION DISTRICT**, a political subdivision of the State of Colorado ("Grantee" or "RTD").

A. Grantor is the owner of certain real property located in the City and County of Denver, Colorado, at generally Fox Street and Park Avenue.

B. Grantee, as part of RTD's FasTracks transit expansion plan approved by voters in November 2004, through its concessionaire Denver Transit Partners, is constructing Commuter Rail Transit services, lines, related stations, and maintenance facilities known as the Gold Line Corridor, the electrified segment of the Northwest Rail Corridor ("NWES") and a Commuter Rail Maintenance Facility ("CRMF") partially located within the City ("Project").

C. A portion of the Project involves the construction and operation of a bridge structure, tracks and other appurtenances thereto ("RTD Facilities"), as shown on the construction plans titled Northwest Rail Electrified Segment 1A (NWES-1A) 60% Design Submittal Rev. B, dated November 3, 2011, ("Project Plans"), over and on a portion of the City property.

D. RTD desires and the City is willing to grant certain rights relating to the City property for the RTD Facilities for the proposes of and subject to the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Grant of Easement. Grantor does hereby grant to Grantee, for the benefit of Project, (i) a non-exclusive permanent aerial easement over the land starting at an elevation of 5186.00 North American Datum of 1983, and with the dimensions, set forth in Exhibit A, attached hereto and incorporated herein by this reference ("Aerial Easement Property") for the operation, use, maintenance, repair, replacement and public use of the RTD Facilities; (ii) a permanent easement over, on, across and under the property described in Exhibit B, attached hereto and incorporated herein, ("Easement Property") for the purposes of operation, use, maintenance, repair, and replacement of piers to support the RTD Facilities; and (iii) a permanent easement over, on, across and under the Easement Property to access the RTD Facilities in order to perform repair, maintenance, and replacement of the RTD Facilities. The

legal descriptions attached hereto may be modified with the written approval of the Manager of Public Works prior to recording this Easement.

2. Retained Rights. Grantee acknowledges that the Easement Property and the Aerial Easement Property is subject to License dated August 26, 2002 from the City to Prospect Pipeline LLC for a water quality pond ("Pond B License"). Therefore, Grantor retains all rights necessary to comply with the terms of the Pond B License and retains all rights to use, convey and enjoy the Easement Property and the Aerial Easement Property.

3. Light Rail System Master Agreement and Supplements. This Easement is subject to, and RTD shall comply with all terms of the Light Rail System Master Agreement dated March 25, 1993 and the Intergovernmental Agreement (Denver-RTD FasTracks Gold/NWES Corridor) dated June 20, 2011 between the City and RTD.

4. Covenants of Grantee.

A. The Grantee's use of the Easement Property and the Aerial Easement Property shall be as set forth herein and shall not interfere with the Grantor's ability to use the Easement Property and the Aerial Easement Property as set forth in paragraph 2 above.

B. The Grantee shall use reasonable efforts not to disturb or alter the Easement Property and the Aerial Easement Property, except as otherwise provided for in the Project Plans. Grantee shall, at its sole cost and expense, restore the Easement Property, the Aerial Easement Property, and any adjacent property and facilities of the City and any improvements thereon after any disturbance, to the satisfaction of the Manager of Public Works, except for improvements constructed and disturbances shown in the Project Plans.

C. RTD shall give the Manager of Public Works a minimum of three days written notice prior to performing any work on the Easement Property and the Aerial Easement Property. All work done by the Grantee within the Easement Property and the Aerial Easement Property shall be done at the Grantee's sole cost and expense, in a good and workmanlike manner, in compliance with all laws and regulations and free of mechanics' or materialmen's liens.

D. The Grantee shall not cause or knowingly permit any Hazardous Substance to be used, stored, generated, or disposed of on or in the Easement Parcels by Grantee, Grantee's agents, employees, contractors, or invitees. If Hazardous Substances are used, stored, generated or disposed of on or in the Easement Parcels, or if the Easement Parcels become contaminated in any manner due to the actions or inactions of the Grantee, Grantee shall cause its contractors and subcontractors to indemnify and hold harmless the City from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses (including, without limitation, a decrease in value of the Easement Parcels and any and all sums paid for settlement of claims, attorneys' fees, consultant, and expert fees) arising as a result of those actions or inactions by Grantee. This indemnification includes, without limitation, any and all costs incurred because of any investigation of the site or any cleanup, removal, or restoration mandated by a federal, state or local agency or political subdivision. Without limitation of the foregoing, if Grantee causes or permits the presence of any Hazardous Substance on the Easement Parcels and that results in contamination, Grantee shall promptly, at its sole expense,

take any and all necessary actions to return the Easement Parcels to the condition existing prior to the presence of any such Hazardous Substance. Grantee shall first obtain the City's approval for any such remedial action. As used herein, "Hazardous Substance" means any substance that is defined as "toxic", "hazardous waste" or a "hazardous substance" or that is toxic, ignitable, reactive, or corrosive, and is regulated by any local government, the State of Colorado or the United States, including asbestos, asbestos containing material, polychlorobiphenyls ("PCB"), and petroleum, however vehicles using petroleum products may be used for construction and maintenance, repair, and replacement of the RTD Facilities to be constructed in accordance with the Project Plans.

5. Release. Grantee shall neither hold nor attempt to hold Grantor liable for any injury or damage, either proximate or remote, occurring through or caused by injury, accident or other cause to the Project or personal property of Grantee kept or stored on the Easement Property and the Aerial Easement Property, whether by reason of the negligence or fault of the owners or occupants thereof, or by any other person or otherwise, except resulting from the negligent acts or omissions of Grantor or its employees, agents or contractors. Grantee hereby waives any and all rights of recovery, claim, action or cause of action against Grantor, its agents, officers or employees, for any loss or damage to the Project and/or its personal property, or loss of use, occurring out of the use of the Easement Property and the Aerial Easement Property, except resulting from the negligent or willful acts or omissions of Grantor or its employees, agents or contractors. Grantee covenants that no insurer shall hold any right of subrogation against Grantor or its agents, officers, employees or licensees.

6. No Representations. The City makes no representation or warranty of any kind with respect to the condition of the Easement Property and the Aerial Easement Property. The Grantee accepts the Easement Property and the Aerial Easement Property in its "AS-IS" condition, WITH ALL FAULTS AND AT THE GRANTEE'S OWN RISK, without any warranty, express or implied, including without limitation, any warranty of merchantability, liability, fitness or fitness for a particular purpose, all such warranties being hereby expressly disclaimed by the City.

7. Notices. All notices, consents, or other instruments or communications provided for under this Easement shall be in writing, signed by the party giving the same, and shall be deemed properly given and received when actually delivered and received or three (3) business days after mailed, if sent by registered or certified mail, postage prepaid, to the following:

Grantor: Mayor  
City and County of Denver  
1437 Bannock Street, Room 350  
Denver, CO 80202

With a copy to: Manager of Public Works  
201 W. Colfax, Dept. 608  
Denver, CO 80202

With a copy to: Denver City Attorney  
1437 Bannock Street, Room 353  
Denver, CO 80202

Grantee:                   Manager of Real Property  
                              Regional Transportation District  
                              1560 Broadway, Suite 700  
                              Denver, Colorado 80202

With a copy to:  
                              General Counsel  
                              Regional Transportation District  
                              1600 Blake Street  
                              Denver, Colorado 80202

8.     Successors and Assigns. Except as otherwise provided herein, Grantor and Grantee agree that the terms and provisions of this Easement shall run with the land and shall inure to the benefit of and be binding upon the Easement Property and the Aerial Easement Property, the Grantor and Grantee, and their respective successors and assigns.

9.     Severability. In the event any clause, sentence or any portion of the terms, conditions, covenants and provisions of this Easement are deemed illegal, null or void for any reason, or are held by any court of competent jurisdiction to be so, the remaining portions of this Easement shall remain in full force and effect if the intent of the parties can be fulfilled.

10.    Subject to Local Laws; Venue. Each and every term, provision, and condition herein is subject to the provisions of the laws of the United States, the State of Colorado, the Charter and Ordinances of the City and County of Denver, and regulations enacted pursuant thereto. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Easement as if fully set out herein by this reference. Venue for any legal action relating to this Easement shall lie in the District Court in and for the City and County of Denver, Colorado.

11.    Appropriation by City Council. All obligations of the City under and pursuant to this Easement are subject to prior appropriations of monies expressly made by the City Council for the purposes of this Easement and paid into the Treasury of the City.

12.    Assignment. This Easement shall not be assigned to anyone other than Denver Transit Partners without the prior written consent of the Manager of Public Works.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date and year first above written.

GRANTOR:

CITY AND COUNTY OF DENVER, a Colorado municipal corporation:

ATTEST:

By: \_\_\_\_\_  
Debra Johnson  
Clerk and Recorder, Ex-Officio Clerk  
of the City and County of Denver

By: \_\_\_\_\_  
MAYOR

APPROVED AS TO FORM:

Douglas J. Friednash,  
Attorney for the City and County of  
Denver

By: \_\_\_\_\_  
Assistant City Attorney

STATE OF COLORADO )  
CITY AND COUNTY OF DENVER ) ss.  
)

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2012,  
by \_\_\_\_\_ as Mayor of the City and County of  
Denver.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

Approved as to Legal Form:

**GRANTEE:  
REGIONAL TRANSPORTATION  
DISTRICT**

By: L. L. Graham  
(signature)

Lori L. Graham  
Associate General Counsel

By: Phillip A. Washington  
(signature)

Phillip A. Washington  
General Manager

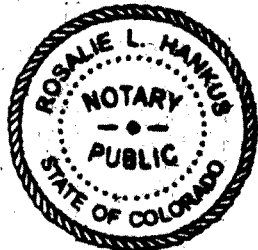
STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this 14 day of February, 2012,  
by Phillip A. Washington as General Manager of the Regional Transportation District.

Witness my hand and official seal.

My commission expires: 7-13-2013.

Rosalie L. Hankus  
Notary Public



My Commission Expires 7-31-2013

**Exhibit A**  
(Legal Description Aerial Easement Property)

**EXHIBIT "A"**  
**AERIAL EASEMENT NO. AE-3 REV1**  
**Date: October 7, 2011**  
**DESCRIPTION**

Parcel No. AE-3 REV1 of the RTD CRMF Site Corridor Commuter Rail Project being a tract of land being a portion of Lots 12 through 16, Block 3 of Gerspachs First Addition as filed for record on January 29, 1874 lying in the Southwest Quarter of Section 27, Township 3 South, Range 68 West of the 6<sup>th</sup> Principal Meridian, City and County of Denver, Colorado, being more particularly described as follows:

**COMMENCING** at the range point at West 31st Avenue and Fox Street (a plastic cap, L.S. 36062), **WHENCE** the range point at West 30th Avenue and Fox Street (a 3-1/4" aluminum cap in a range box, L.S. 36062) bears S00°00'42"E 439.94 feet (basis of bearing assumed); **THENCE** S58°03'45"E a distance of 58.57 feet to a point on the easterly line of the Fox Street right of way as described in Ordinance 799-2005 and the **POINT OF BEGINNING**;

**THENCE**, coincident with said easterly line, along the arc of a curve to the left, having a central angle of 12°38'11", a radius of 50.00 feet, a chord bearing of N06°16'45"E a distance of 11.00 feet, and an arc distance of 11.03 feet;

**THENCE** S89°57'10"E, coincident with the northerly line of said Lot 16, non-tangent with the last described curve a distance of 41.71 feet;

**THENCE** S09°53'34"E, coincident with the westerly right of way line of Park Avenue West and non-tangent with the following described curve a distance of 10.44 feet;

**THENCE** along the arc of a curve to the right, having a central angle of 2°41'36", a radius of 2222.51 feet, a chord bearing of S17°53'09"E a distance of 104.46 feet, and an arc distance of 104.47 feet;

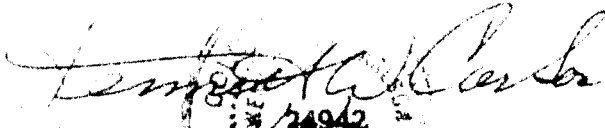
**THENCE** S16°32'21"E tangent with the last described curve a distance of 16.00 feet;

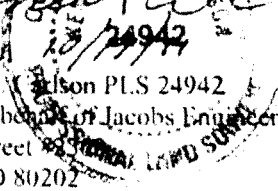
**THENCE** N89°57'10"W coincident with the southerly line of said Lot 12 a distance of 44.21 feet;

**THENCE** N16°32'21"W tangent with the following described curve a distance of 3.38 feet;

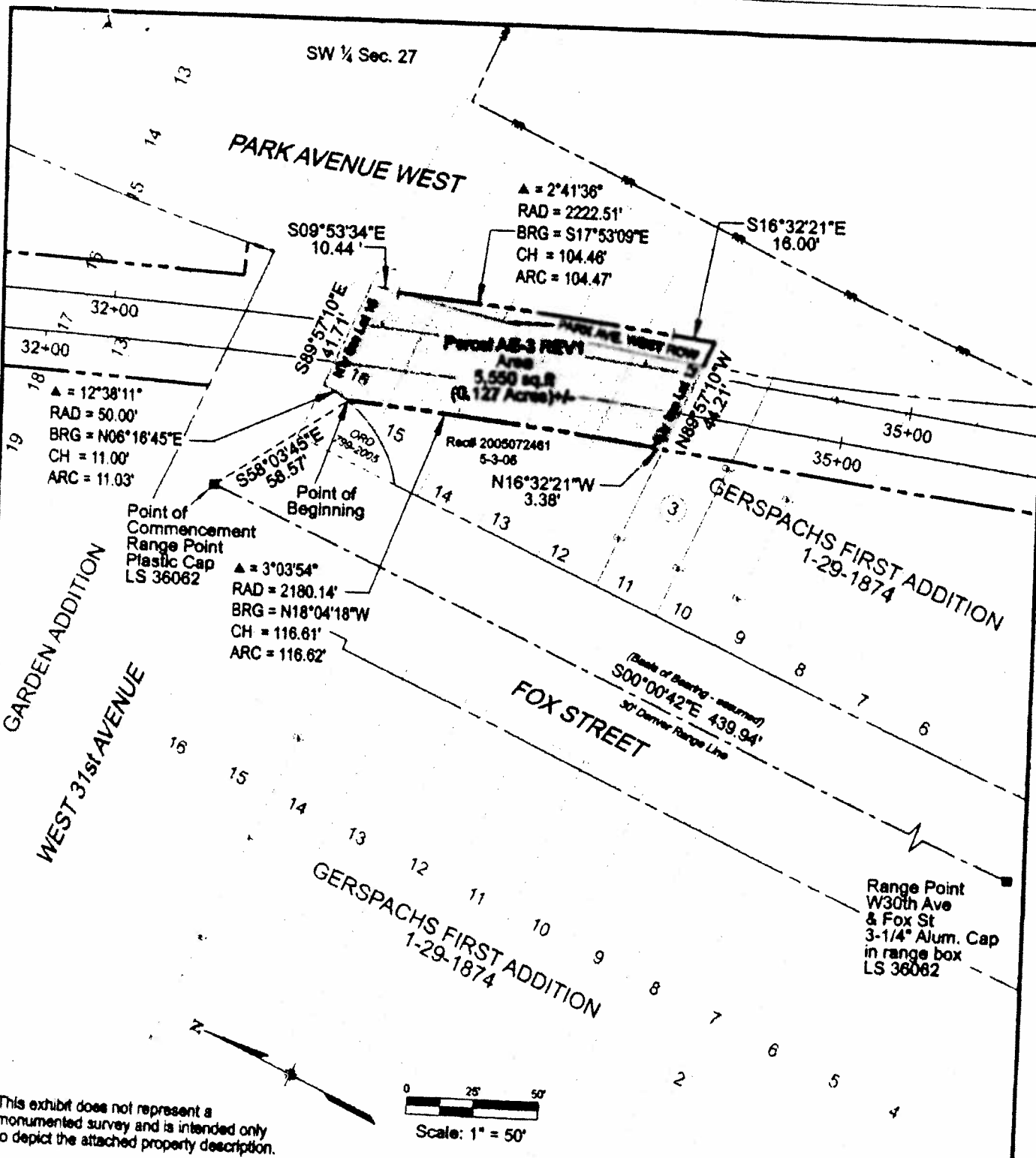
**THENCE** along the arc of a curve to the left, having a central angle of 3°03'54", a radius of 2180.14 feet, a chord bearing of N18°04'18"W a distance of 116.61 feet, and an arc distance of 116.62 feet **POINT OF BEGINNING**;

Containing 5,550 square feet, (0.127 Acres), more or less.

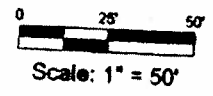
  
Prepared by  
Kenneth W. Nelson P.L.S. 24942  
For and on behalf of Jacobs Engineering Group, Inc.  
707 17<sup>th</sup> Street  
Denver, CO 80202  
303.820.5240







This exhibit does not represent a monumented survey and is intended only to depict the attached property description.



JACOBS PROJECT NO.		WVXW7411	
CLIENT PROJECT NO.			
REVISION DESCRIPTION		10-07-11 - Revised Description	
DRAWN	DATE	SCALE	1"=50'
	9-13-11		
<b>JACOBS</b>			
707 17th Street, Suite 2300, Denver CO 80202			
(303) 838-2900 Fax (303) 838-5200			
THIS MATERIAL AND ANY ASSOCIATED ELECTRONIC DATA WAS PREPARED BY JACOBS ENGINEERING GROUP INC. FOR THE PROJECT INDICATED. ANY REUSE OR MODIFICATION WITHOUT THE WRITTEN CONSENT OF JACOBS ENGINEERING GROUP INC. SHALL BE AT THE SOLE RISK OF THE USER.			

<b>PARCEL AE-3 REV1</b> City & County of Denver SW ¼ Section 27, T3S, R68W, 6th P.M.		
TITLE:		
<b>FasTracks</b> <b>CRMF</b>		
REVISION:	DRAWING NO.	SHEET NO.
	AE-3.dgn	1 of 1

Exhibit A

10/7/2011 1:10:50 PM K:\D71210 F:\MARCUS\CRMF CORRIDOR\GERSPACHS STAE 3.dgn

**Exhibit B**  
(Legal Description Easement Property)

**EXHIBIT "B-1"**  
**EASEMENT NO. PE-3A**  
**Date: February 14, 2012**  
**DESCRIPTION**

Parcel No. PE-3A of the RTD CRMF Site Corridor Commuter Rail Project being a tract of land being a portion of Lots 12 through 16, Block 3 of Gerspachs First Addition as filed for record on January 29, 1874 lying in the Southwest Quarter of Section 27, Township 3 South, Range 68 West of the 6<sup>th</sup> Principal Meridian, City and County of Denver, Colorado, being more particularly described as follows:

**COMMENCING** at the range point at West 31st Avenue and Fox Street (a plastic cap, LS 36062), **WHENCE** the range point at West 30th Avenue and Fox Street (a 3-¼" aluminum cap in a range box, LS 36062) bears S00°00'42"E 439.94 feet (basis of bearing – assumed); **THENCE** S58°03'45"E a distance of 58.57 feet to a point on the easterly line of the Fox Street right of way as described in Ordinance 799-2005 and the **POINT OF BEGINNING**;

**THENCE**, coincident with said easterly line, along the arc of a curve to the left, having a central angle of 12°38'11", a radius of 50.00 feet, a chord bearing of N06°16'45"E a distance of 11.00 feet, and an arc distance of 11.03 feet;

**THENCE** S89°57'10"E, coincident with the northerly line of said Lot 16, non-tangent with the last described curve a distance of 41.71 feet;

**THENCE** S09°53'34"E, coincident with the westerly right of way line of Park Avenue West and non-tangent with the following described curve a distance of 10.44 feet;

**THENCE** along the arc of a curve to the right, having a central angle of 2°41'36", a radius of 2222.51 feet, a chord bearing of S17°53'09"E a distance of 104.46 feet, and an arc distance of 104.47 feet;

**THENCE** S16°32'21"E tangent with the last described curve a distance of 16.00 feet;

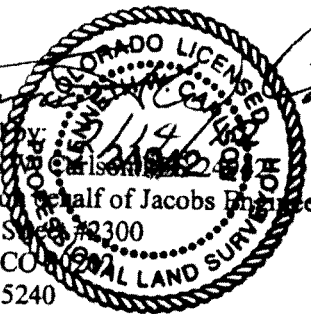
**THENCE** N89°57'10"W coincident with the southerly line of said Lot 12 a distance of 44.21 feet;

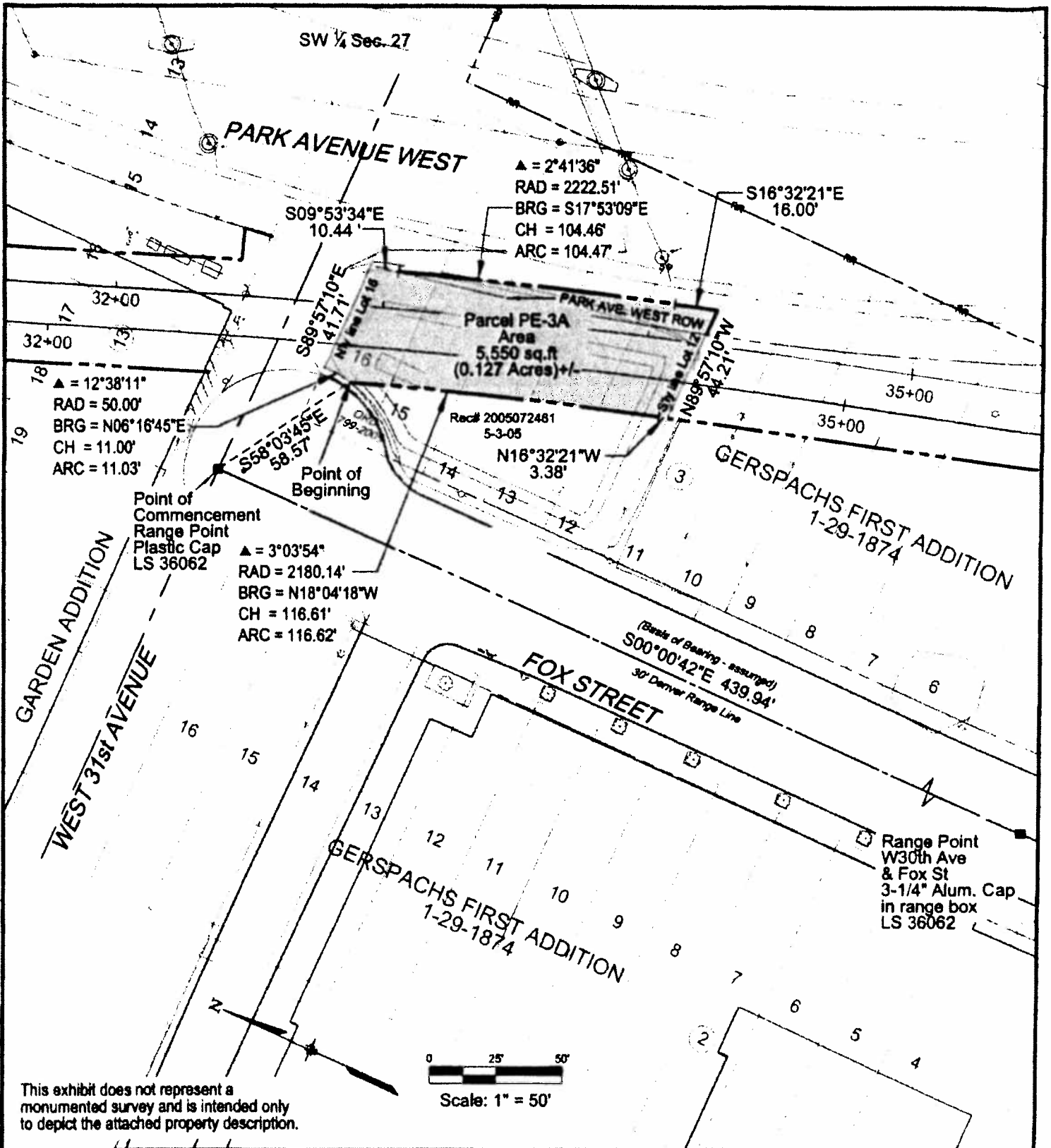
**THENCE** N16°32'21"W tangent with the following described curve a distance of 3.38 feet;

**THENCE** along the arc of a curve to the left, having a central angle of 3°03'54", a radius of 2180.14 feet, a chord bearing of N18°04'18"W a distance of 116.61 feet, and an arc distance of 116.62 feet **POINT OF BEGINNING**;

Containing 5,550 square feet, (0.127 Acres), more or less.

Prepared by:  
Kenneth A. Carlson  
For and on behalf of Jacobs Engineering Group, Inc.  
707 17<sup>th</sup> Street, Suite 300  
Denver, CO 80202  
303.820.5240





This exhibit does not represent a monumented survey and is intended only to depict the attached property description.

JACOBS PROJECT NO.	WXW7411
CLIENT PROJECT NO.	
REVISION DESCRIPTION	
DRAWN	jsk
DATE	2-14-12
SCALE	1"=50'

**JACOBS**

707 17th Street, Suite 2300, Denver CO 80202  
(303) 839-6249 Fax (303) 839-6288

THIS MATERIAL AND ANY ASSOCIATED ELECTRONIC DATA WAS PREPARED BY JACOBS ENGINEERING GROUP INC. FOR THE PROJECT INDICATED. ANY REUSE OR MODIFICATION WITHOUT THE WRITTEN CONSENT OF JACOBS ENGINEERING GROUP INC. SHALL BE AT THE SOLE RISK OF THE USER.

EASEMENT PROPERTY EXHIBIT B-1		
City & County of Denver		
SW ¼ Section 27, T3S, R68W, 6th P.M.		
TITLE:	FasTracks CRMF	
REVISION:	DRAWING NO.	SHEET NO.
	PE-3A.dgn	1 of 1


**EXHIBIT "B-2"**  
**PERMANENT EASEMENT NO. PE-3**  
**Date: February 14, 2012**  
**DESCRIPTION**

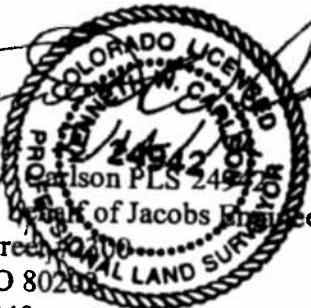
Parcel No. PE-3 of the RTD CRMF Site Corridor Commuter Rail Project being a circle with a 4.50 foot radius, lying in Lots 14 and 15, Block 3 of Gerspachs First Addition as filed for record on January 29, 1874, lying in the Southwest Quarter of Section 27, Township 3 South, Range 68 West of the 6<sup>th</sup> Principal Meridian, City and County of Denver, Colorado, being more particularly described as follows:

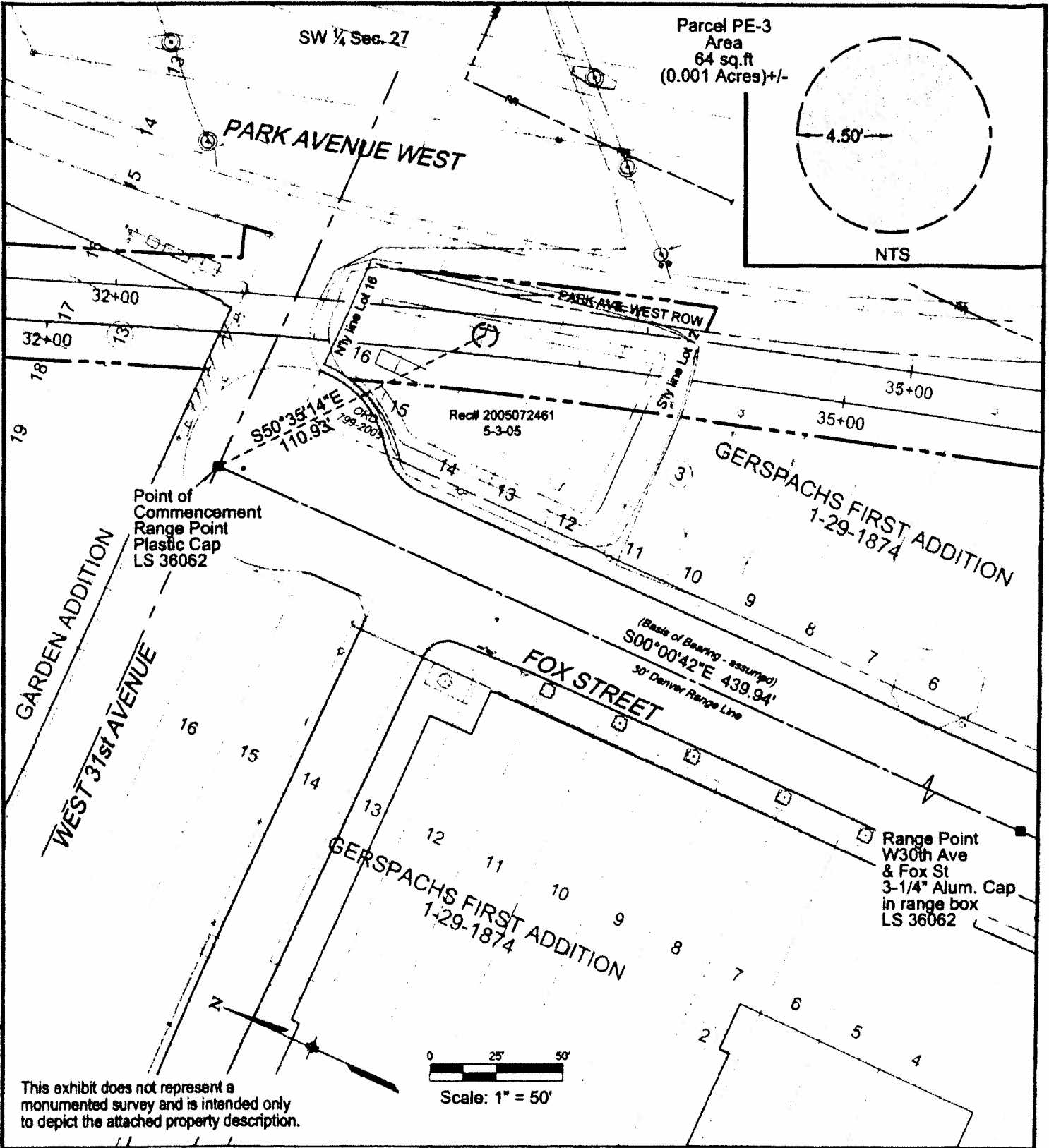
**COMMENCING** at the range point at West 31st Avenue and Fox Street (a plastic cap, LS 36062), **WHENCE** the range point at West 30th Avenue and Fox Street (a 3-¼" aluminum cap in a range box, LS 36062) bears S00°00'42"E 439.94 feet (basis of bearing – assumed);

**THENCE** S50°35'14"E a distance of 110.93 feet to the center point of said circle.

Containing 64 square feet, (0.001 Acres), more or less.

  
Prepared by  
Kenneth W. Carlson PLS 24542  
For and on behalf of Jacobs Engineering Group, Inc.  
707 17<sup>th</sup> Street  
Denver, CO 80202  
303.820.5240





JACOBS PROJECT NO.		WXW7411	
CLIENT PROJECT NO.			
REVISION DESCRIPTION		01-05-12 - Revised Description	
DRAWN	ODH	DATE	01-05-12
SCALE		1"=50'	
<b>JACOBS</b>			
707 17th Street, Suite 2300, Denver CO 80202 <small>(303) 838-3344 Fax (303) 838-3399</small>			
THIS MATERIAL AND ANY ASSOCIATED ELECTRONIC DATA WAS PREPARED BY JACOBS ENGINEERING GROUP INC. FOR THE PROJECT INDICATED. ANY REUSE OR MODIFICATION WITHOUT THE WRITTEN CONSENT OF JACOBS ENGINEERING GROUP INC. SHALL BE AT THE SOLE RISK OF THE USER.			

<b>EASEMENT PROPERTY EXHIBIT B-2</b>		
City & County of Denver		
SW ¼ Section 27, T3S, R68W, 6th P.M.		
TITLE:		
Fastracks CRMF		
REVISION:	DRAWING NO.	SHEET NO.
	PE-3.dgn	1 of 1