

**EASEMENT AGREEMENT**

This Agreement is by and between Edward A. Powell, Jr. and Diane Linen Powell, the Town of Telluride, a Colorado Municipal Corporation, and Idarado Mining Company, a Delaware Corporation authorized to do business in the State of Colorado.

**RECITALS**

A. Purpose of this Easement Agreement: This Agreement concerns the adjustment of an access easement and the vacation of an access easement, for the purpose of adjusting the access to Lot 1 and the Town of Telluride Water Tank Parcel, as described below.

B. Lot 1: Edward A. Powell, Jr. and Diane Linen Powell (hereafter the "Owner(s) of Lot 1") own certain real property located in San Miguel County, Colorado, described as follows:

Lot 1, The Falls at Telluride, according to the plat recorded in Plat Book 1 at page 1403, together with ingress-egress and earthwork easements, dedicated open space, the Easterly Idarado Easement and other easements and rights of way shown on the plat for the purposes as shown, as dedicated to the owners of Lots 1, 2, 3 and 4 on the recorded plat, and together with the right of ingress and egress and the placement of utilities, utility extensions, lines and facilities within the Westerly Idarado Easement and addition thereto shown on the recorded plat and amendment thereto, as reserved therein for the benefit of the owners of Lots 1, 2, 3 and 4, all amended by Insubstantial Subdivision Amendment to the Falls at Telluride recorded November 23, 1994 in plat book 1 at page 1771. (Hereafter, "Lot 1.")

**AGREEMENT**

In consideration of the mutual covenants and conditions outlined below, the parties hereby agree as follows:

1. Revised Access to Lot 1 and the Water Tank Parcel: Idarado Mining Company hereby enters into a non-exclusive easement agreement with the Owner(s) of Lot 1 and the Town of Telluride with regard to the property on which an easement is shown on Exhibit "A", attached, consisting of two pages, page one being a metes and bounds description, and page two being a map, delineating the easement as amended by the area designated as "New Easement" (hereafter the "Idarado Easement"), as follows:

A. Idarado Mining Company hereby enters into a non-exclusive easement agreement with the Owner(s) of Lot 1 with regard to the Idarado Easement. The easement, which runs in perpetuity and inures to the benefit of the Owner(s) of Lot 1, and their heirs, successors and assigns, grants the Owner(s) of Lot 1 unimpeded non-exclusive use of the



Edward A. Powell, Jr.



Diane Linen Powell



Richard A. River



Margaret A. Curran

delineated roadway for access, ingress and egress for private vehicular and pedestrian traffic to be used exclusively by the Owner(s) of Lot 1 and their guests and invitees, for access only to Lot 1, together with and subject to the right and obligation by the Owner(s) of Lot 1, at the Owner(s) of Lot 1's sole cost and expense, to construct, reconstruct, improve, and maintain the easement area in good and proper condition for its intended purpose.

- B. Idarado Mining Company hereby enters into a non-exclusive easement agreement with the Town of Telluride with regard to the Idarado Easement. The easement, which runs in perpetuity and inures to the benefit of the Town of Telluride, and its successors and assigns, grants the Town of Telluride unimpeded non-exclusive use of the delineated roadway for access, ingress and egress for the purpose of access to the Town of Telluride Water Tank Parcel, as shown on Exhibit "A" attached hereto, including the right to disrupt the Owner(s) of Lot 1's access if and when required for the maintenance of existing facilities or the construction of new facilities.
- C. The Owner(s) of Lot 1 hereby convey back to Idarado Mining Company the triangle-shaped portion of the Old Easement that consists of Idarado Mining Company property, as shown on page two of Exhibit "A". The Owners(s) of Lot 1 also hereby vacate the portion of the Old Easement which traverses Uncompahgre National Forest land, as shown on page two of Exhibit "A". This Agreement shall supercede and replace the two Easement Deeds, the first recorded January 15, 1993, at book 504, page 610, at reception no. 282265 in the office of the Clerk and Recorder of San Miguel County, Colorado, and the second recorded September 1, 1993, at book 516, page 770, at reception no. 287052 in said office, insofar as those documents grant and describe the "Westerly Idarado Easement" defined therein, and to the extent that any portion of such "Westerly Idarado Easement" is not contained within the Idarado Easement defined above, the Owner(s) of Lot 1 hereby convey and quitclaim all of their right, title and interest in such portion of the "Westerly Idarado Easement" to the current owners thereof.

**2. Vacation of Access Portion of Water Tank Easement:** Due to the access to the Water Tank Parcel outlined in paragraph 1(B), above, the Town of Telluride hereby vacates certain rights of access in the Water Tank Easement, as shown on Exhibit "B" attached, consisting of two pages, page one being a metes and bounds description, and page two being a map, delineating the area as the "Town/Idarado Easement," as follows:

- A. On or about November 14, 1978, by instrument recorded at Book 375 Pages 159-161, the Idarado Mining Company conveyed the Town/Idarado Easement to the Town of Telluride. This easement was conveyed for the purpose of (1) providing the Town of Telluride access between Highway 145 and the Town of Telluride Water Tank Parcel, and

  
Edward A. Powell, Jr.

  
Diane Linen Powell

  
Richard A. River

  
Margaret A. Curran

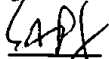
(2) providing the Town of Telluride an easement for the maintenance and operation of a water pipeline from the Town of Telluride Water Tank Parcel to Highway 145.

- B. The Town of Telluride hereby conveys back to the Idarado Mining Company and vacates its easement rights to use the Town/Idarado Easement for access between Highway 145 and the Water Tank Parcel. However, all other aspects of the Town/Idarado Easement remain in full force and effect, such that the Town of Telluride retains all other easement rights, including but not limited to the right to maintain, operate and reconstruct a water pipeline through the Town/Idarado Easement area, and to use the Town/Idarado Easement for access to the water pipeline for maintenance, operation and reconstruction of said water pipeline.

3. Construction of Roadway: The Owner(s) of Lot 1 are hereby authorized to construct the roadway, and in so doing, to place supporting fill material on Idarado Mining Company's adjoining land, provided the Owner(s) of Lot 1 satisfy the following conditions:

- A. The Owner(s) of Lot 1 shall hold Idarado Mining Company harmless against any claims from construction of the roadway and placement of fill material on adjoining property.
- B. The Owner(s) of Lot 1 shall provide Idarado Mining Company with a construction plan and schematic plan for the fill to be placed on Idarado Mining Company property, all of which shall be subject to Idarado Mining Company's approval. Idarado Mining Company's approval will not be unreasonably withheld so long as the fill to be placed on Idarado Mining Company land is geologically stable and aesthetically and environmentally acceptable.
- C. The Owner(s) of Lot 1 shall carry out, at their expense, complete revegetation of that part of the fill area which lies on Idarado Mining Company property.
- D. The Owner(s) of Lot 1, at the Owner(s) of Lot 1's sole cost and expense, shall: (1) construct the roadway, including asphalt paving; (2) maintain the roadway in good and proper condition for its intended purpose, including winter and asphalt maintenance; and (3) perform snow removal such that the Town of Telluride Water Tank facilities remain accessible at all times.

4. Easement over Town of Telluride Water Tank Parcel: The Town of Telluride hereby conveys and delivers to the Owner(s) of Lot 1, and their heirs, successors and assigns, a perpetual non-exclusive easement over and across the area described on Exhibit "C" attached, consisting of two pages, page one being a metes and bounds description, and page two being a map, delineating an easement (the "Town Easement Area") for access, ingress and egress

  
Edward A. Powell, Jr.

  
Diane Linen Powell

  
Richard A. River

  
Margaret A. Curran

for private vehicular and pedestrian traffic to be used exclusively by the Owner(s) of Lot 1 and their guests and invitees, for access only to Lot 1, together with and subject to the right and obligation by the Owner(s) of Lot 1, and the Owner(s) of Lot 1's sole cost and expense, to construct, reconstruct, improve, and maintain the Town Easement Area in good and proper condition for its intended purpose, and subject to the Town of Telluride's right to disrupt the Owner(s) of Lot 1's access, as long as reasonably necessary, to construct, reconstruct, repair or maintain the water tank and water line in the easement.

5. Runs with the Land: This Agreement and the acts and benefits herein contained shall be binding upon and inure to the benefit of the parties hereto, their heirs, successors and assigns, and shall run with the land.

6. Recordation: This Agreement shall be recorded in the property records of San Miguel County.

7. Waiver: No provision of this Agreement shall be modified waived or discharged unless the modification, waiver or discharge is agreed to in writing and signed by all parties. No waiver by any party of any breach of, or of compliance with, any condition or provision of this Agreement by any other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time.

8. Governing Law: The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of Colorado. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, venue shall be in San Miguel County, Colorado, and the prevailing party shall be entitled to reasonable attorneys' fees and costs, in addition to any other relief to which the party may be entitled.

9. Entire Agreement: This Agreement contains the entire Agreement between the parties and supersedes all prior oral and written Agreements, understandings, commitments, and practices between the parties concerning this matter. No other agreements, representations or understandings, whether oral, written, express or implied, which are not expressly set forth in this Agreement have been made or entered into by either party with respect to the subject matter hereof. No amendments to this Agreement may be made except by a writing signed by all parties.

10. Severability: If any provision or provisions of this Agreement shall be found invalid or unenforceable, this shall not affect the validity of the remaining provisions of this Agreement, and the remaining provisions shall remain in full force and effect.

11. Arm's Length: The parties hereby agree and acknowledge that this Agreement was prepared and executed at arm's length and after free and full negotiation by the parties, and that each party was encouraged to be represented by counsel, and that there shall be no presumption to construe the terms of this Agreement in favor of one party and against another, but rather the terms of this Agreement shall be construed objectively as written.

Edward A. Powell, Jr.

Diane Linen Powell

Richard A. River

Margaret A. Curran

12. Notice: If the parties wish to contact or notify each other concerning the subject matter herein, they shall deliver written notice, via U.S. Mail, as follows:

If to the Powells:

Edward A. Powell, Jr.  
Diane Linen Powell  
3939 Fordham Road Northwest  
Washington, D.C. 20016  
tel (202) 237-7511

Edward A. Powell, Jr.  
Assistant Secretary for Financial Management  
Department of Veterans Affairs  
810 Vermont Avenue, Northwest  
Washington, D.C. 20420  
tel (202) 273-5589 / fax (202) 273-6892

Copy to:

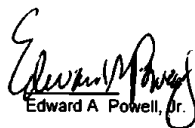
Joseph A. Solomon  
J. DAVID REED, P.C.  
101 E. Colorado Ave., #203  
P.O. Box 2470  
Telluride, Colorado 81435  
tel (970) 728-4944 / fax (970) 728-3474


If to Idarado Mining Company:


Richard A. River, Vice President and General Manager  
Idarado Mining Company  
P.O. Box 584  
311 Main Street  
Ouray, Colorado 81427  
tel (970) 325-4482 / fax (970) 325-4481


If to the Town of Telluride:

Sandra M. Stuller, Town Attorney  
Town of Telluride  
113 West Columbia Avenue  
P.O. Box 397  
Telluride, Colorado 81435  
tel (970) 728-3071 / fax (970) 728-3078

  
Edward A. Powell, Jr.

  
Diane Linen Powell

  
Richard A. River

  
Margaret A. Curran

13. Execution: All parties shall initial the preceding pages and sign below.

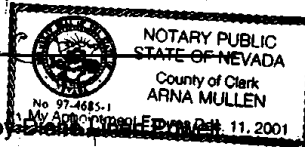
Edward A. Powell, Jr.  
Edward A. Powell, Jr.

Diane Linen Powell  
Diane Linen Powell

STATE OF NEVADA )  
 ) ss.  
COUNTY OF CLARK )

ACKNOWLEDGED before me this 01 day of May, 2000, by Edward A. Powell, Jr.  
Witness my hand and official seal.  
My commission expires:

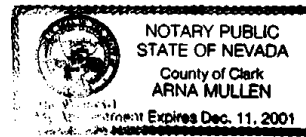
[Signature]  
Notary Public



ACKNOWLEDGED before me this 16 day of MAY, 2000, by [Signature]  
Witness my hand and official seal.  
My commission expires:

[Signature]  
Notary Public

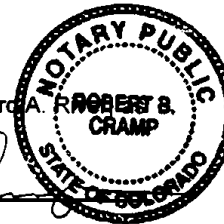
Idarado Mining Company  
By: [Signature]  
Richard A. River, Executive Vice President



STATE OF COLORADO )  
 ) ss.  
COUNTY OF OURAY )

ACKNOWLEDGED before me this 12 day of JUNE, 2000, by Richard A. River, Executive Vice President of Idarado Mining Company.  
Witness my hand and official seal.  
My commission expires: 12-6-2002

[Signature]  
Notary Public

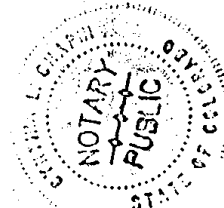


Town of Telluride  
By: [Signature]  
Margaret A. Curran, Town Manager

STATE OF COLORADO )  
 ) ss.  
COUNTY OF SAN MIGUEL )

ACKNOWLEDGED before me this 22 day of JUNE, 2000, by Margaret A. Curran, as Town Manager of the Town of Telluride.  
Witness my hand and official seal.  
My commission expires: 4-18-2003

[Signature]  
Notary Public



FOLEY ASSOCIATES, INC.  
 CIVIL ENGINEERING AND LAND SURVEYING  
 P. O. BOX 1385  
 TELLURIDE, CO 81435  
 303-728-6153

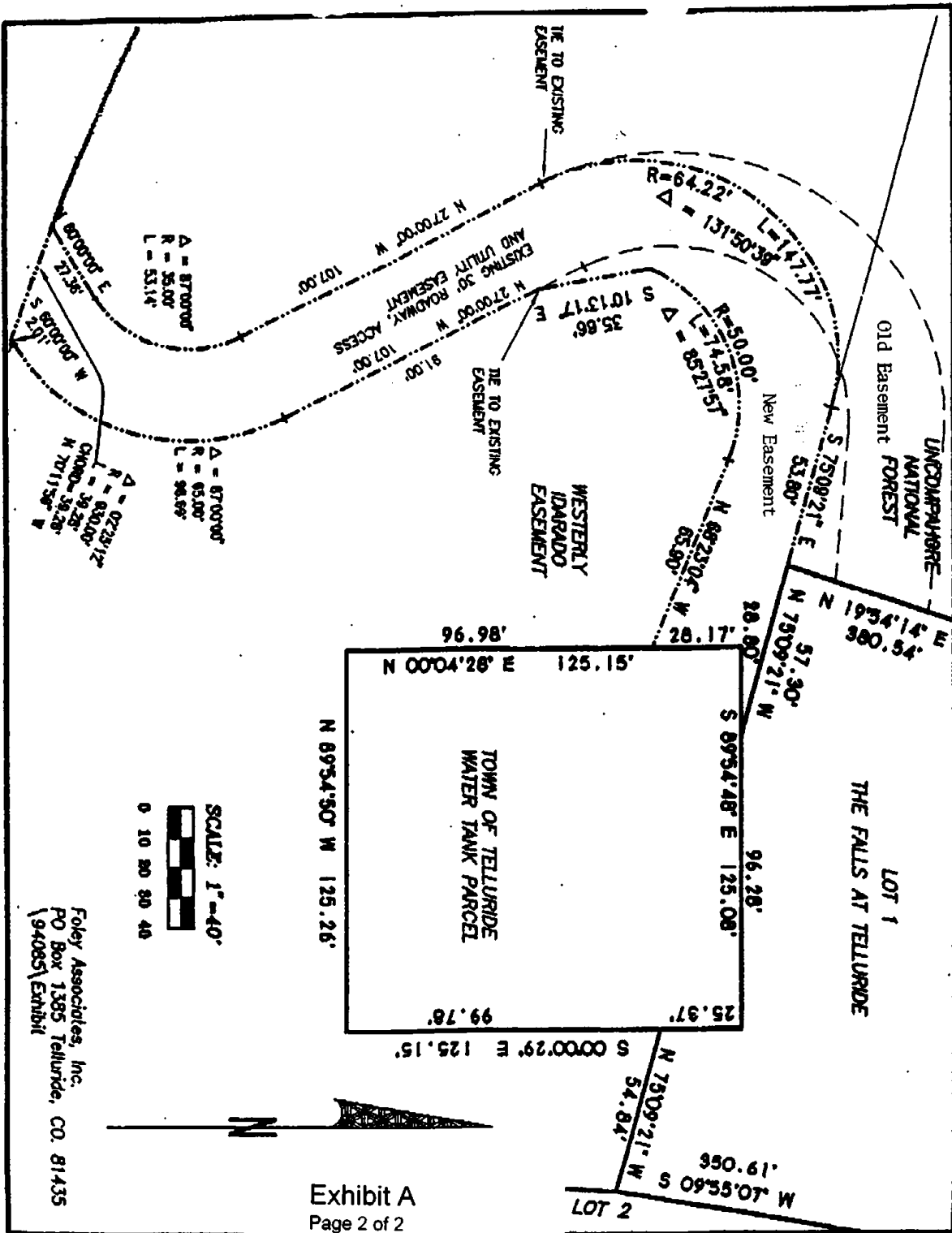
LEGAL DESCRIPTION

Beginning at the southwest corner of Lot 1, The Falls at Telluride, according to the plat recorded in the office of the Clerk and Recorder in Plat Book 1 at pages 1403-1404; Thence S 75°09'21" E 57.30 feet along the southerly boundary of said Lot 1 to the northerly boundary of the Town of Telluride Water Tank Parcel as described in Book 375 at page 156 in the records of the Clerk and Recorder; Thence N 89°54'48" W 28.80 feet to the northwest corner of said Water Tank Parcel; Thence S 00°04'28" W 28.17 feet along the westerly boundary of said Water Tank Parcel; Thence N 68°23'04" W 65.90 feet; Thence along a tangential curve to the left with a radius of 50.00 feet, a delta angle of 85°27'57" and an arc length of 74.58 feet; Thence S 10°13'17" E 35.66 feet to the easterly boundary of the 30 foot easement for roadway, access and utility purposes as described on said plat for The Falls at Telluride; Thence S 27°00'00" E 91.00 feet along the easterly boundary of said 30 foot easement; Thence along a tangential curve to the right with a radius of 65.00 feet, a delta angle of 87°00'00" and an arc length of 98.69 feet along the easterly boundary of said 30 foot easement; Thence S 60°00'00" W 2.01 feet along the easterly boundary of said 30 foot easement to the right-of-way of State Highway 145 Spur; Thence along a non-tangential curve to the right with a radius of 930.00 feet, a delta angle of 02°25'12", an arc length of 39.28 feet, being subtended by a chord which bears N 70°11'59" W 39.28 feet along said right-of-way to the westerly boundary of said 30 foot easement; Thence N 60°00'00" E 27.36 feet along the westerly boundary of said 30 foot easement; Thence along a tangential curve to the left with a radius of 95.00 feet, a delta angle of 87°00'00" and an arc length of 53.14 feet along the westerly boundary of said 30 foot easement; Thence N 27°00'00" W 107.00 feet along the westerly boundary of said 30 foot easement; Thence along a tangential curve to the right with a radius of 64.22 feet, a delta angle of 131°50'39" and an arc length of 147.77 feet to the northerly boundary of the St. James Placer MS 1035, Upper San Miguel Mining District; Thence S 75°09'21" E 53.80 feet along the northerly boundary of said St. James Placer to the Point of Beginning, County of San Miguel, State of Colorado.

J. David Foley,  S. #24954

IDAHO EASEMENT

Exhibit A  
 Page 1 of 2



Foley Associates, Inc.  
 PO Box 1385 Telluride, CO. 81435  
 194085\Exhibit

Exhibit A  
 Page 2 of 2

Town/Idarado Easement  
For Access to the Water Tank  
and  
Maintenance and Operation of a Waterline

LEGAL DESCRIPTION

Beginning at a point from which corner No. 2 of the Royer Creek Placer, Mineral Survey No. 2189, bears N 5°00'21" W 166.77 feet; thence S 63°00' W 118.5 feet; thence S 41°30' W 85 feet, more or less, to the point of terminus, on the northerly right-of-way line of the spur of Colorado State Highway No. 145. The easement shall be thirty (30) feet in width, extending fifteen (15) feet on either side of the above described center line, for purposes of construction of a water line. Thereafter, the easement shall be ten (10) feet in width, extending five (5) feet on either side of the centerline for the purpose of access to the Water Tank Parcel and operation and maintenance of the water line.

S ±  
S ±  
S ±  
ES ±

LJT 1  
1.567 Ac.±

30' DRAINAGE  
EASEMENT

S 19°54'14" W  
380.54'

350.61'

1" IRON ROD  
MKD 2-2189  
CORNER  
NO. 2

S 85°00'00" E  
56.65'

S 09°55'07" W

S 29°53'19.92"  
19.92'

WESTERLY  
IDARADO  
EASEMENT

28.80' 99.61'  
BK 376, PG 156  
TOWN OF  
TELLURIDE  
WATER TANK  
PARCEL NOT  
PART OF THIS  
SUBDIVISION

EASEMENT  
LIMITS

N 27°00'00" W  
107.00'

N 00°04'28" E  
125.15'

S 00°00'29" E  
99.77'

N 89°54'50" W  
125.26'

S 02°44'26" W  
72.05'

Town/Idarado Easement  
NOT A PORTION OF  
THIS SUBDIVISION

ASSUMED  
273.32'

L=183.48'  
R=930.00'

S 17°02'50" W  
103.08'

EXC

COLORADO

2"  
24954

Exhibit B  
Page 2 of 2

DIAMETER

FOLEY ASSOCIATES, INC.  
CIVIL ENGINEERING AND LAND SURVEYING  
P. O. BOX 1385  
TELLURIDE, CO 81435  
303-728-6153

LEGAL DESCRIPTION

Beginning at the northeast corner of the Town of Telluride Water Tank Parcel as described in Book 375 at page 156 in the records of the Clerk and Recorder; Thence N 89°54'48" W 125.08 feet to the northwest corner of said Water Tank Parcel; Thence S 00°04'28" W 28.17 feet along the westerly boundary of said Water Tank Parcel; Thence N 74°22'48" E 32.85 feet; Thence S 86°11'19" E 93.70 feet to the easterly boundary of said Water Tank Parcel; Thence N 00°00'29" W 25.37 feet to the Point of Beginning, County of San Miguel, State of Colorado.



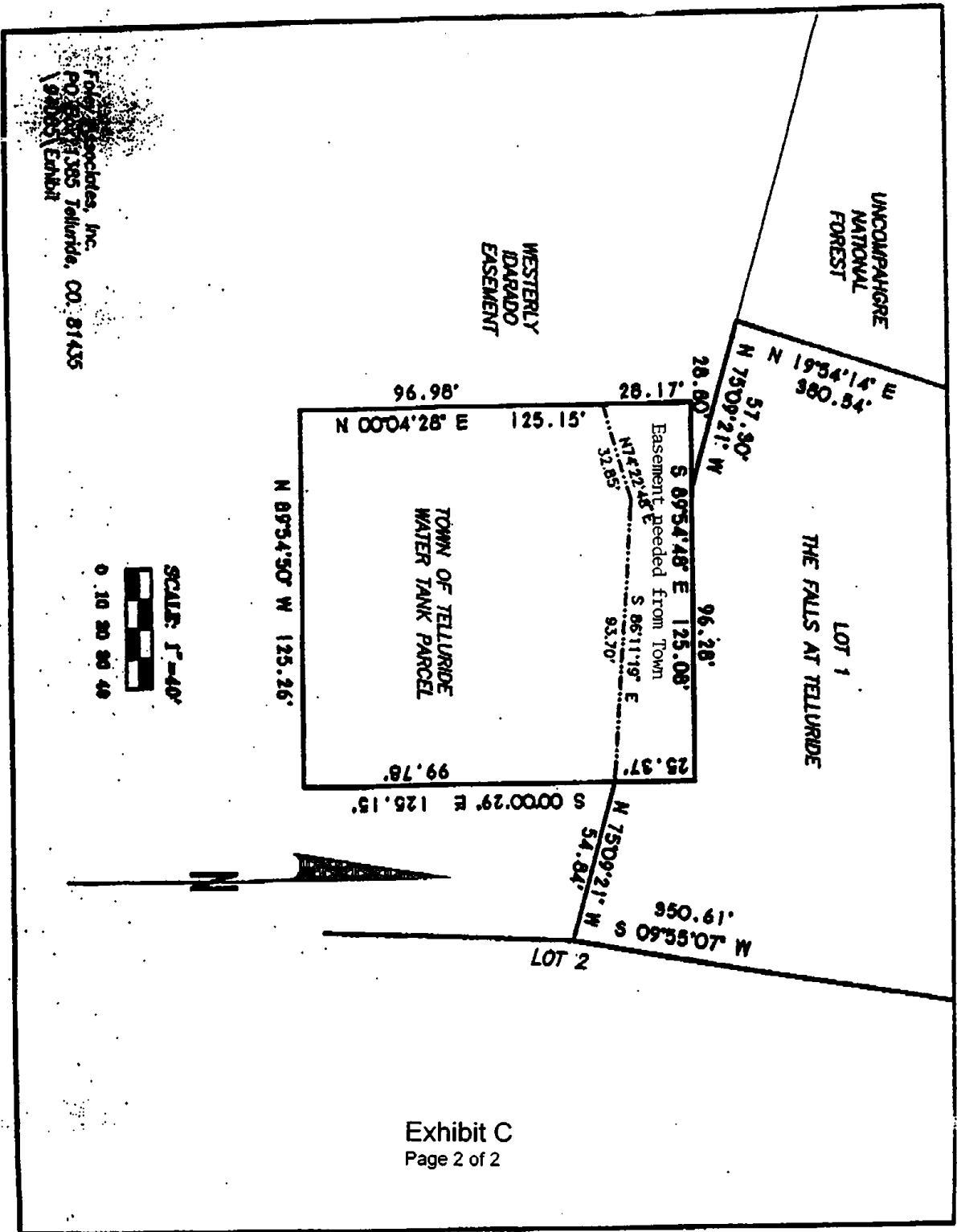
J. David Foley,

P.L.S. #24954

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Exhibit C  
Page 1 of 2

TOWN EASEMENT



For: Associates, Inc.  
 P.O. Box 1385 Telluride, CO. 81435  
 19905 Exhibit

Exhibit C  
 Page 2 of 2