

**TOWN OF ERIE
RESOLUTION NO. 20-__**

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
ERIE, COLORADO AUTHORIZING NEGOTIATIONS, PURCHASE,
AND IF NECESSARY, THE EXERCISE OF THE TOWN'S POWERS OF
EMINENT DOMAIN TO ACQUIRE A FEE INTEREST IN CERTAIN
REAL PROPERTY FOR A PUBLIC WATER PIPELINE AND A PUBLIC
TRAIL**

WHEREAS, the Board of Trustees intends to install, construct, maintain, use, repair and replace an underground, public water pipeline and related appurtenances and facilities and a public trail across a parcel of open space land located in Boulder County, Colorado that is currently owned by Boulder County;

WHEREAS, the Board has determined that it needs to acquire from Boulder County a fee interest in a 30-foot wide strip of land across, under and through the open space parcel for the Town's water pipeline and public trail, as described and depicted in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Property");

WHEREAS, the Board has determined that the acquisition of the Property is necessary for the construction, installation, maintenance, use, repair and replacement of the water pipeline and related appurtenances and facilities and a public trail which constitutes a public use and purpose that will serve the Town and its residents; and

WHEREAS, the Board desires to accomplish the following: declare the intent to acquire the Property for the public purposes and use as described herein; authorize negotiations for and the acquisition of title to, and possession of the Property as may be necessary for the water pipeline and public trail and its timely installation and construction; and authorize the Town Attorney to institute condemnation proceedings to acquire the Property necessary for the water pipeline and public trail, in the event that the Town is unable to acquire or secure the Property voluntarily.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, THAT:

Section 1. The Board hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. The Board hereby finds and determines that the water pipeline and public trail is a public use and purpose that will secure and enhance water service for the public and public access to existing trail systems. The Board also finds and determines that there is a need and necessity for the Town to acquire immediate possession of and to obtain and secure title to the Property.

Section 3. The Board hereby authorizes the Town Administrator and the Town Attorney to take necessary and appropriate action to acquire the Property needed, including good faith negotiations, acquisition, and if necessary, filing a petition in condemnation to acquire the

Property through the exercise of the Town's eminent domain authority under C.R.S. §§ 31-35-402, 31-35-512, 38-6-101 and other authorities.

Section 4. The Town Administrator and the Town Attorney are authorized to establish a reasonable amount of compensation to be offered to the owner(s) of the Property that is reflective of the Property's fair market value, to negotiate terms and conditions of the property to be acquired, and to incur reasonable transactional costs and expenses associated therewith.

Section 5. As appropriate and necessary, the Town Administrator and the Town Attorney are directed to undertake good faith negotiations with the owner(s) of the Property on the basis of fair and reasonable value. Negotiations may be based upon appraisal reports and/or other valuation information which has been approved by the Town Administrator and the Town Attorney. The Town Administrator and the Town Attorney are further authorized to make binding offers to the owners of the Property based upon appraisal reports and/or valuation information, and to execute agreements for the acquisition of title to or possession of the Property. Should such negotiations fail, the Town is authorized to institute eminent domain proceedings and prosecute the same to completion so as to acquire immediate possession of, and good title to the Property.

Section 6. The Board finds and determines it is necessary and in the interest of the public's health, safety and welfare for it to acquire title to, and possession of the Property as soon as possible. The Board finds and determines there is a public need and necessity for obtaining immediate possession of and acquiring the Property.

Section 7. The Town Administrator and the Town Attorney shall be authorized to incur reasonable costs associated with acquiring the Property, including, without limitation, the cost of title examination, title insurance, appraisal fee payments for both the Town and the Property owner(s), normal closing costs, litigation costs, such as attorney fees, filing fees and charges, expert witness fees, and all other related or incidental costs or expenses customarily associated with the acquisition or condemnation of the Property.

Section 8. The Town Administrator and the Town Attorney are authorized to provide legal descriptions and to hereafter amend, adjust, or clarify the Property to be acquired and the terms, conditions and nature of the interests to be acquired so that the Town may acquire appropriate property interests necessary for the water pipeline and public trail. The Town Administrator and the Town Attorney are further authorized to condition the acquisition of the Property (via a deed restriction or other instrument) on such terms that will meet the public objectives stated herein, but not allow other uses of the Property that are unrelated to these public purposes.

Section 9. If negotiations are not successful, the Board hereby authorizes the Town Attorney to initiate eminent domain proceedings in Boulder County District Court, to perfect service on the purported owners of the Property, by publication if necessary, to make such deposits of compensation into the Court Registry as may be ordered by the Court, and to take such other actions that are reasonably necessary for the Town to acquire title to and immediate possession of all remaining interests owned by others, if any, in the Property.

ADOPTED this 28th day of April, 2020.

Jennifer Carroll, Mayor

ATTEST:

Heidi Leatherwood, Town Clerk

EXHIBIT A

(legal description of Property)

EXHIBIT

COUNTY OF BOULDER

PROPERTY DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF THE PROPERTY DESCRIBED IN THE DOCUMENT RECORDED UNDER RECEPTION NO. 1808022 IN THE RECORDS OF THE BOULDER COUNTY CLERK AND RECORDER, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF ERIE, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE EAST LINE OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, BEING MONUMENTED BY A 3-1/4" ALUMINUM CAP STAMPED "PLS 16406" AT THE CENTER QUARTER CORNER AND A 3" ALUMINUM CAP "ILLEGIBLE" AT THE SOUTH QUARTER CORNER, BEARING N00°13'49"W PER THE PLAT OF COMPASS FILING NO. 3 AMENDMENT 1.

BEGINNING AT THE CENTER QUARTER CORNER OF SECTION 25, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN:

THENCE ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 25, S00°13'48"E A DISTANCE OF 30.00 FEET;

THENCE ON LINE BEING 30.00 FEET SOUTHERLY OF AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHWEST QUARTER, N89°42'50"W A DISTANCE OF 2,648.24 FEET, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF NORTH 119TH STREET;

THENCE ON SAID EASTERLY RIGHT-OF-WAY LINE, BEING 30.00 FEET EASTERLY OF AND PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST QUARTER, N00°21'56"W A DISTANCE OF 30.00 FEET, TO A POINT ON THE NORTH LINE OF SAID SOUTHWEST QUARTER;

THENCE ON SAID NORTH LINE, S89°42'50"E A DISTANCE OF 2,648.31 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 79,448 SQUARE FEET OR 1.8239 ACRES.

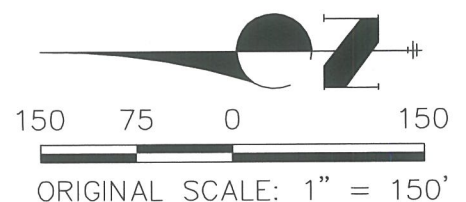
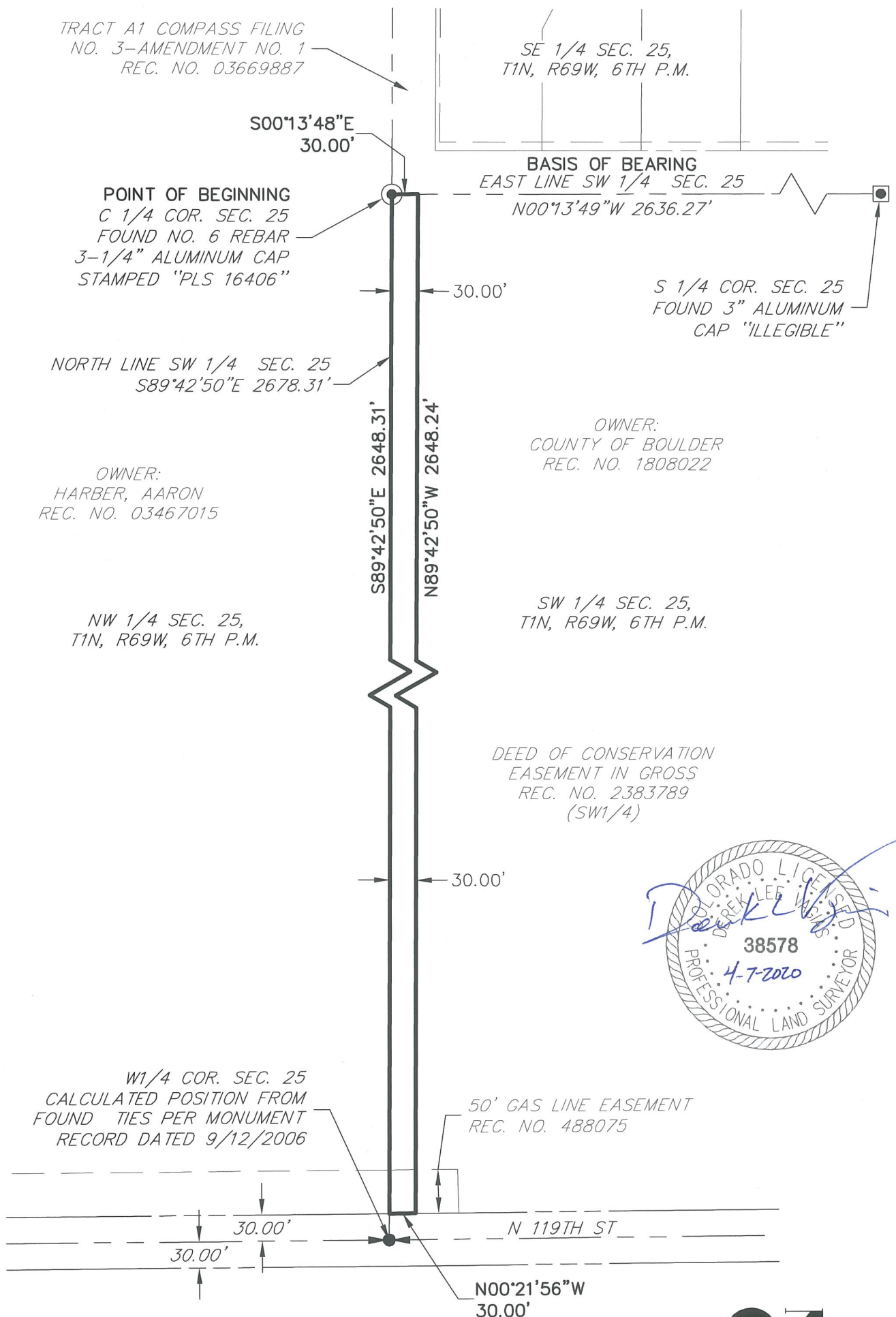
PROPERTY DESCRIPTION STATEMENT

I, DEREK LEE VAGIAS, A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE PROPERTY DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED UNDER MY RESPONSIBLE CHARGE, AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, ARE CORRECT.

DEREK LEE VAGIAS, PROFESSIONAL LAND SURVEYOR
COLORADO NO. 38578
FOR AND ON BEHALF OF JR ENGINEERING, LLC



EXHIBIT



NOTE: THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED PROPERTY DESCRIPTION.

PROPERTY DESCRIPTION
COUNTY OF BOULDER
PROJECT NO.: 15708.08
DATE: 04/07/2020

SHEET: 2 OF 2

 **J·R ENGINEERING**
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Fort Collins 970-491-9888 • www.jrengineering.com