

RESOLUTION NO. \_\_\_\_ – 23

A RESOLUTION OF THE CITY COUNCIL OF COLORADO SPRINGS, COLORADO, PROVIDING WRITTEN CONSENT TO ALLOW THE BRADLEY HEIGHTS METROPOLITAN DISTRICT NO. 2 TO UTILIZE EMINENT DOMAIN TO COMPLETE THE INTERSECTION OF BRADLEY ROAD WITH MARKSHEFFEL ROAD IN SOUTHEASTERN COLORADO SPRINGS

WHEREAS, City Council by Resolution No. 67-10, approved the amended and restated service plan for Bradley Heights Metropolitan District No. 2 (the “District”), which provides that “[t]he District shall not exercise the power of eminent domain except upon the prior written consent of the City”; and

WHEREAS, the District desires to construct an intersection of Bradley Road with Marksheffel Road, which will provide access for the Bradley Heights development (the “Intersection”); and

WHEREAS, Land Title Guarantee Company provided a title search (the “Title Search”) of relevant deeds for the property comprising the Intersection; and

WHEREAS, the Title Search shows that El Paso County, Colorado, acquired the portion of Marksheffel Road adjacent to the Intersection by deed from L-P Associates, a Colorado general partnership (“LP Associates”), dated January 26, 1986, and recorded in Book 5120, page 92, in the real property records of the El Paso County, Colorado, Clerk and Recorder (the “Road Deed”); and

WHEREAS, El Paso County, Colorado, subsequently conveyed to the City the property in the Road Deed, together with other property comprising Marksheffel Road, by deed dated September 27, 2022, and recorded at Reception Number 222132266 in the real property records of the El Paso Count, Colorado Clerk and Recorder; and

WHEREAS, the Road Deed does not include a small area on the west side of Marksheffel Road that is shown on road maps and intended as a widened stretch of right of way (the “Gap Area”); and

WHEREAS, the Title Search shows that L-P Associates, and subsequent owners in its chain of title, did not include the Gap Area within the legal description of any conveyances; and

WHREAS, the Title Search shows that L-P Associates is still in title to the Gap Area: and

WHEREAS, L-P Associates is no longer an existing business entity in Colorado, and the District has not been able to contact the owners of L-P Associates to negotiate for the acquisition of the portion of the Gap Area required for the Intersection; and

WHEREAS, the District seeks the Council's authorization to utilize eminent domain to acquire a portion of the land within the Gap Area necessary for the Intersection, being Parcel # 2 (3.19305 acres, more or less) and Parcel #3 (0.58599 acres, more or less), as described and depicted in Exhibit "A," attached hereto and made a part hereof.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:**

Section 1. City Council consents to the District's use of eminent domain for the limited purpose of acquiring the real estate necessary for the Intersection, which is more particularly described and depicted in Exhibit "A."

Section 2. The District's use of eminent domain shall be at the District's sole cost and expense and shall be in compliance with applicable Colorado statutes and laws.

Dated at Colorado Springs, Colorado this 25th day of July, 2023.

\_\_\_\_\_  
Randy Helms. Council President

ATTEST:

\_\_\_\_\_  
Sarah B. Johnson, City Clerk

# RESOLUTION

## EXHIBIT A

### EXHIBIT A PARCEL DESCRIPTION (#2)

A PARCEL OF LAND LYING WITHIN THE NORTHEAST ONE-QUARTER OF SECTION 15, TOWNSHIP 15 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF COLORADO SPRINGS, COUNTY OF EL PASO, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS WITH BEARINGS REFERENCED TO THE NORTH-SOUTH CENTERLINE OF SECTION 9, TOWNSHIP 15 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF COLORADO SPRINGS, COUNTY OF EL PASO, STATE OF COLORADO, BEING MONUMENTED AT EACH END WITH A 3-1/4 INCH ALUMINUM CAP STAMPED "RLS 10377" RECOVERED 0.1' BELOW THE SURFACE, HAVING AN ASSUMED BEARING OF SOUTH 00° 19' 23" EAST A DISTANCE OF 5252.20 FEET;

COMMENCING AT THE SOUTH ONE-QUARTER CORNER OF SAID SECTION 9;

THENCE NORTH 88°57'55" EAST, ON THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 9, A DISTANCE OF 2,642.71 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 9;

THENCE SOUTH 83°46'17" EAST A DISTANCE OF 3,118.79 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF MARKSHEFFEL BOULEVARD, AS DESCRIBED IN THAT QUITCLAIM DEED RECORDED OCTOBER 18, 2022 IN THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER UNDER RECEPTION NUMBER 222132266, SAID POINT BEING THE POINT OF BEGINNING;

THENCE SOUTH 42°37'37" EAST, ON SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 624.62 FEET;

THENCE SOUTH 47°22'08" WEST A DISTANCE OF 344.94 FEET TO A POINT ON THE EXTERIOR OF A PARCEL OF LAND AS DESCRIBED IN THAT SPECIAL WARRANTY DEED RECORDED MAY 31, 2022 IN SAID RECORDS UNDER RECEPTION NUMBER 222074546;

THENCE NORTH 42°37'48" WEST, ON SAID EXTERIOR, A DISTANCE OF 332.64 FEET TO THE EXTERIOR OF PARCEL OF LAND AS DESCRIBED IN THAT DEED RECORDED AUGUST 25, 1989 IN SAID RECORDS IN BOOK 5661 AT PAGE 1398;

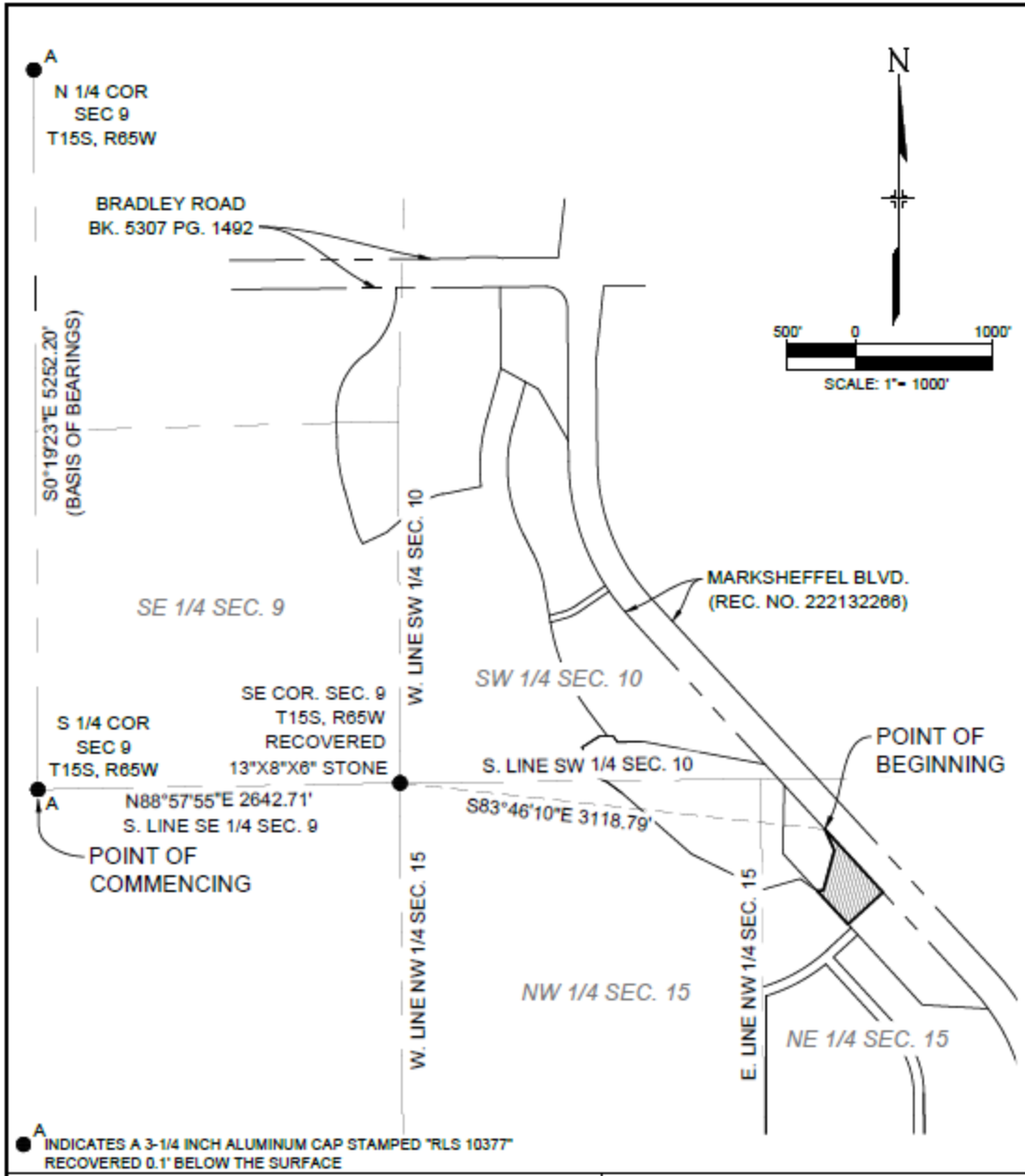
THENCE ON SAID EXTERIOR THE FOLLOWING THREE (3) COURSES:

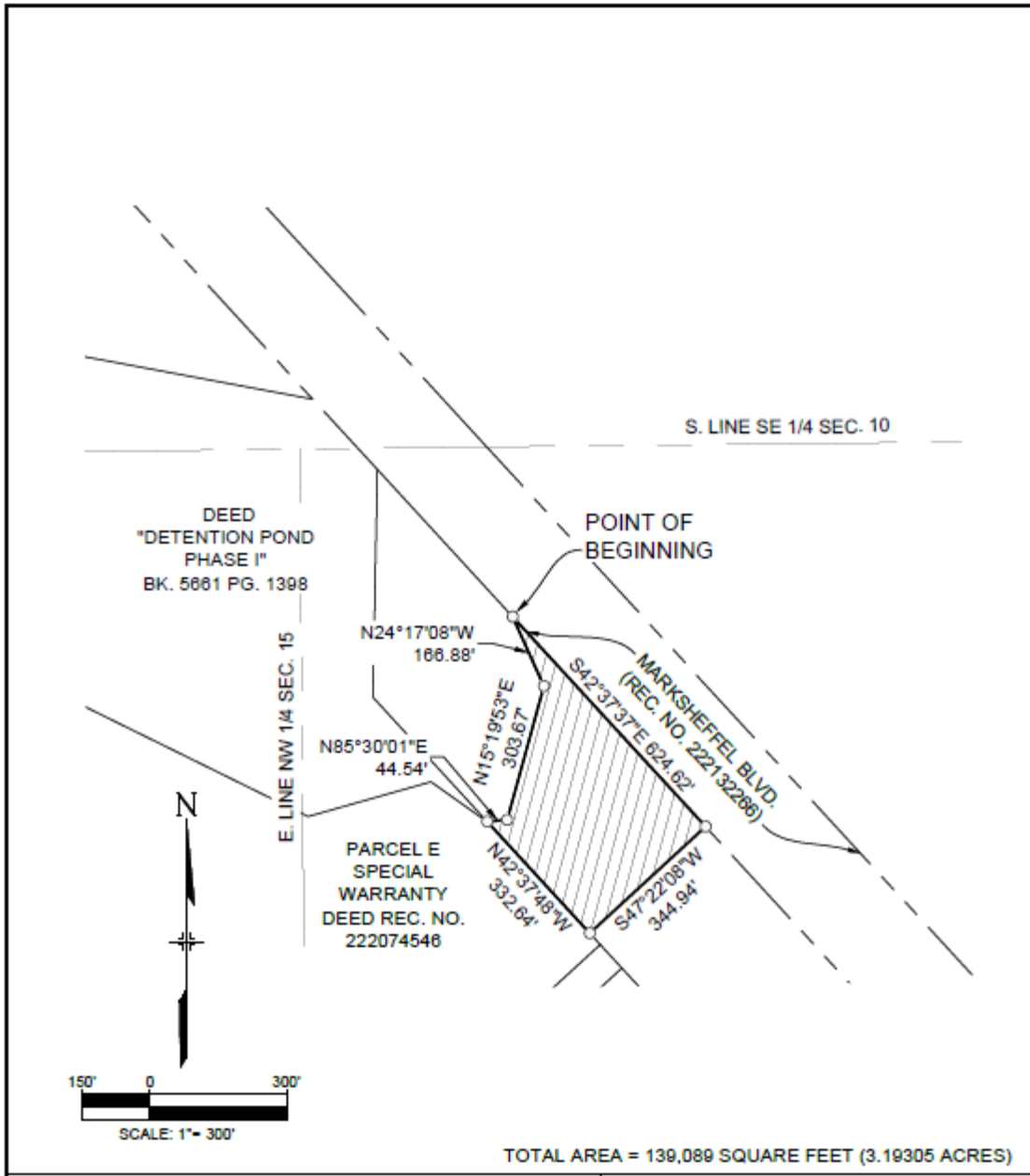
1. NORTH 85°30'01" EAST A DISTANCE OF 44.54 FEET;
2. NORTH 15°19'53" EAST A DISTANCE OF 303.67 FEET;
3. NORTH 24°17'08" WEST A DISTANCE OF 166.88 FEET TO THE POINT OF BEGINNING.

THE ABOVE PARCEL DESCRIPTION CONTAINS A CALCULATED AREA OF 139,089 SQUARE FEET OR (3.19305 ACRES), MORE OR LESS, AND IS DEPICTED ON THE ATTACHED GRAPHICAL EXHIBIT FOR REFERENCE.



PATRICK S. JERNIGAN, PLS 38977  
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**EXHIBIT A  
PARCEL DESCRIPTION (#3)**

A PARCEL OF LAND LYING WITHIN THE NORTHEAST ONE-QUARTER OF SECTION 15, TOWNSHIP 15 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF COLORADO SPRINGS, COUNTY OF EL PASO, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS WITH BEARINGS REFERENCED TO THE NORTH-SOUTH CENTERLINE OF SECTION 9, TOWNSHIP 15 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF COLORADO SPRINGS, COUNTY OF EL PASO, STATE OF COLORADO, BEING MONUMENTED AT EACH END WITH A 3-1/4 INCH ALUMINUM CAP STAMPED "RLS 10377" RECOVERED 0.1' BELOW THE SURFACE, HAVING AN ASSUMED BEARING OF SOUTH 00° 19' 23" EAST A DISTANCE OF 5252.20 FEET;

COMMENCING AT THE SOUTH ONE-QUARTER CORNER OF SAID SECTION 9;

THENCE NORTH 88°57'55" EAST, ON THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 9, A DISTANCE OF 2,642.71 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 9;

THENCE SOUTH 77°14'15" EAST A DISTANCE OF 3,612.63 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF MARKSHEFFEL BOULEVARD, AS DESCRIBED IN THAT QUITCLAIM DEED RECORDED OCTOBER 18, 2022 IN THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER UNDER RECEPTION NUMBER 222132266, SAID POINT BEING THE POINT OF BEGINNING;

THENCE SOUTH 42°37'37" EAST, ON SAID WESTERLY RIGHT-OF-WAY LINE; A DISTANCE OF 74.00 FEET;

THENCE SOUTH 47°22'08" WEST A DISTANCE OF 344.94 FEET TO THE EXTERIOR OF THE PARCEL LABELED "TSN 55000-00-397" IN THAT PERSONAL REPRESENTATIVE'S DEED RECORDED MARCH 18, 2021 IN SAID RECORDS UNDER RECEPTION NUMBER 221054106;

THENCE NORTH 42°37'48" WEST, ON SAID EXTERIOR, A DISTANCE OF 40.06 FEET TO THE EXTERIOR OF "PARCEL E" OF THAT SPECIAL WARRANTY DEED RECORDED MAY 31, 2022 IN SAID RECORDS UNDER RECEPTION NUMBER 222074546;

THENCE NORTH 42°37'48" WEST, ON SAID EXTERIOR, A DISTANCE OF 33.94 FEET;

THENCE NORTH 47°20'29" EAST A DISTANCE OF 344.94 FEET TO THE POINT OF BEGINNING.

THE ABOVE PARCEL DESCRIPTION CONTAINS A CALCULATED AREA OF 25,526 SQUARE FEET OR (0.58599 ACRES), MORE OR LESS, AND IS DEPICTED ON THE ATTACHED GRAPHICAL EXHIBIT FOR REFERENCE.



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