

RESOLUTION NO. R-020- 116

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO**

**A RESOLUTION AUTHORIZING THE COUNTY ATTORNEY TO FILE AND INSTITUTE
PROCEEDINGS IN EMINENT DOMAIN PURSUANT TO SECTION 38-1-101, C.R.S.,
AGAINST BEL LARIMER, LLC IN ORDER TO CONSTRUCT PUBLIC
IMPROVEMENTS ASSOCIATED WITH THE C-470 MULTI-MODAL TRAIL
GRADE SEPARATION AT YOSEMITE STREET**

WHEREAS, the Board of County Commissioners of the County of Douglas, State of Colorado (hereinafter "Board"), is a body politic and corporate under the laws of the State of Colorado; and

WHEREAS, the Board is authorized to exercise its power of eminent domain pursuant to section 38-1-101, et seq., C.R.S.; and

WHEREAS, on November 10, 2020, the Board approved a request to file proceedings in eminent domain at a work session to acquire the rights-of-way needed to construct two pedestrian/bicycle bridges over Yosemite Street and the C-470 westbound on-ramp at the Yosemite Street/C-470 Interchange to improve public safety and enhance traffic mobility (the "Project"); and

WHEREAS, the Board wishes to present this Resolution to further document the approval to file proceedings in eminent domain in order to construct the Project; and

WHEREAS, Douglas County (the "County") is preparing to construct the Project; and

WHEREAS, construction of the Project requires the acquisition of interests in real property from a parcel of land owned by Bel Larimer, LLC located adjacent to the northwest corner of the C-470/Yosemite Street Interchange, which interests consist of additional fee right-of-way, a temporary access easement and a temporary construction easement; and

WHEREAS, said additional fee right-of-way is more particularly described in Exhibits A and B and consist of 1,495 sq. ft. and 5,226 sq. ft. respectively, more or less, to include access control lines to relinquishment rights to access said additional fee right-of-way; and

WHEREAS, said temporary access easement is more particularly described in Exhibit C and consists of 36,327 sq. ft., more or less; and

WHEREAS, said temporary construction easement is more particularly described in Exhibit D and consists of 9,727 sq. ft., more or less; and

WHEREAS, in an appraisal with a date of valuation being November 2, 2019, prepared by Charles Nelson, MAI of Civil Technology Inc. ("Certified Independent Appraiser"), the value of the additional fee right-of-way to be acquired is established at \$84,013, the value of the temporary

access easement is \$45,409, the value of the temporary construction easement is \$12,159, the costs of owner affected improvement takings is \$65,983 and the costs of damages is \$0, for a rounded compensation estimate total of \$207,600, and an approved Fair Market Value and Review Report were issued by the Colorado Department of Transportation; and

WHEREAS, negotiations with Bel Larimer, LLC have included several verbal and written communications, including the following: "Notice of Intent to Acquire," dated August 21, 2019; "Summary Statement and Offer Letter," dated January 21, 2020; "Final Offer Letter," dated March 27, 2020; and "Last and Final Offer Letter," dated April 30, 2020; and

WHEREAS, to date, Bel Larimer, LLC has largely not responded to the County's repeated attempts at good faith negotiations and the parties have been unable to reach an agreement for the purchase of said right-of-way, temporary access easement and temporary construction easement; and

WHEREAS, the acquisition of said right-of-way and temporary access and construction easements is necessary because of the pending construction of the Project; and

WHEREAS, the Board has determined that there is a compelling public need and purpose to obtain the right-of-way, temporary access easement and temporary construction easement and that it intends to acquire the same; and

WHEREAS, all of the property interests sought to be taken in this proceeding is located within the County of Douglas, State of Colorado; now, therefore,

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE OF COLORADO, THAT:

Section 1. The Douglas County Attorney, either directly or through outside counsel, shall be, and hereby is, authorized to file a proceeding in eminent domain, pursuant to Section 38-1-101 et. seq., C.R.S., against Bel Larimer, LLC, in the Douglas County District Court to acquire the right-of-way described in the attached Exhibits A and B, the temporary access easement described in the attached Exhibit C, and the temporary construction easement described in the attached Exhibit D (Exhibits illustrated on Attachment 1 herein for reference). Staff and/or counsel shall be authorized to modify and/or amend legal descriptions in the Exhibits hereto as may be required for any administrative adjustments to be made or to correct any errors.

Section 2. The acquisition of such right-of-way, temporary access easement and temporary construction easements is deemed necessary for the health, safety and welfare of the citizens of Douglas County, Colorado.

Section 3. The County shall cause a deposit to be made into the Registry of the Court in an amount set by the Court for the purpose of acquiring the aforementioned property interests, or shall cause to be paid to Bel Larimer, LLC, or any party directed by the Court, an amount set by the Court for the purpose of acquiring the aforementioned property interests and as an alternative to depositing such sums into the Registry of the Court.

PASSED AND ADOPTED this 15th day of December, 2020, in Castle Rock, Douglas County, Colorado.

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, STATE OF COLORADO**

DocuSigned by:
Roger A. Partridge
BY: 6290A418556C4E9...
ROGER A. PARTRIDGE, Chair

ATTEST:

DocuSigned by:
Kristin Randlett
4D0E70F519BB420...
Kristin Randlett,
Deputy Clerk to the Board

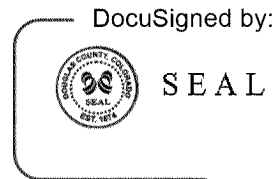


Exhibit A

DATE: MAY 3, 2019

DESCRIPTION

A tract or parcel of land No. RW-1 of the Department of Transportation, State of Colorado, Project No. TAP PIC4-001 containing 1,495 Square Feet more or less, being a portion of Lot 1A, Block 2, Parkway Subdivision Filing No. 3 - 3rd Amendment, a Subdivision recorded under Reception No. 9645526 in the records of Douglas County, said parcel located in Section 3, Township 6 South, Range 67 West of the Sixth Principal Meridian, County of Douglas, State of Colorado, described as follows:

Commencing at the most southerly corner of Lot 1, Block 2, Parkway Subdivision Filing No. 3 - 1st Amendment marked by a plus cut in concrete; Thence N 41°01'26" W along the southerly line of said Parkway Subdivision Filing No. 3 - 1st Amendment, a Subdivision recorded under Reception No. 353654 in the records of Douglas County also the northeasterly right of way line of State Highway C-470 as it existed prior to 1995, a distance of 439.91 to a point on the South line of Lot 1A, Block 2, Parkway Subdivision Filing No. 3 - 3rd Amendment, also the existing northeasterly right of way line of State Highway C-470, said point being the POINT OF BEGINNING, whence the West Quarter corner of said Section 3 bears South 60°45'36" W, 1251.98 feet;

1. Thence continuing North 41°01'26" West, along said northeasterly right of way line of State Highway C-470, a distance of 155.66 feet;
2. Thence South 68°54'37" East, a distance of 23.52 feet;
3. Thence South 41°01'26" East, a distance of 116.18 feet;
4. Thence South 10°32'56" East, a distance of 21.69 feet to the Point of beginning.

The above-described Right of Way contains 1,495 square feet (0.034 acres), more or less.

The purpose of the above described tract: Right of Way.

Basis of Bearings: Bearings are based on a Colorado State Plane Central Zone grid bearing from Point No. 2978, a 3.25" aluminum cap in a range box being the West Quarter Corner of Section 3, Township 6 South, Range 67 West of the Sixth P.M., S02°12'33"E to Point No. 59024, a 3.25" aluminum cap in range box, being the Southwest Corner of Section 3, Township 6 South, Range 67 West of the 6th P.M.

For and on Behalf of the
Colorado Department of Transportation
Michael Lindquist, PLS 38666
Wilson & Company, Inc. Engineers & Architects
1675 Broadway Ste. 200
Denver, CO 80202

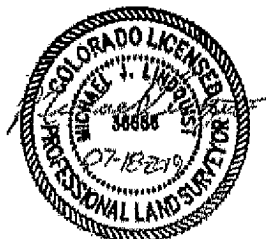


Exhibit B**DATE: MAY 3, 2019****DESCRIPTION**

A tract or parcel of land No. RW-1A of the Department of Transportation, State of Colorado, Project No. TAP P1C4-001 containing 5,226 Square Feet more or less, being a portion of Lot 1A, Block 2, Parkway Subdivision Filing No. 3 – 3rd Amendment, a Subdivision recorded under Reception No. 9645326 in the records of Douglas County, said parcel located in Section 3, Township 6 South, Range 67 West of the Sixth Principal Meridian, County of Douglas, State of Colorado, described as follows:

Commencing at the most southerly corner of Lot 1, Block 2, Parkway Subdivision Filing No. 3 – 1st Amendment marked by a plus cut in concrete; Thence N 41°01'26" W along the southerly line of said Parkway Subdivision Filing No. 3 – 1st Amendment, a Subdivision recorded under Reception No. 353654 in the records of Douglas County also the northeasterly right of way line of State Highway C-470 as it existed prior to 1995, a distance of 335.52 feet to a point marked by a 3-1/4 aluminum cap stamped CDOT PLS 24941 on the South line of Lot 1A, Block 2, Parkway Subdivision Filing No. 3 – 3rd Amendment, also the existing northeasterly right of way line of State Highway C-470, said point being the POINT OF BEGINNING, whence the West Quarter corner of said Section 3 bears South 65°20'53" West, 1277.39 feet;

1. Thence continuing North 41°01'26" West, along said northeasterly right of way line of State Highway C-470, a distance of 48.43 feet;
2. Thence South 62°32'17" East, a distance of 35.43 feet;
3. Thence South 70°51'08" East, a distance of 113.59 feet;
4. Thence South 15°34'57" East, a distance of 68.04 feet to a point on said northeasterly line;
5. Thence along said northeasterly line along the arc of a non-tangent curve to the right with a radius of 582.02 feet, a delta angle of 14° 48' 32", a curve length of 150.43 feet (the chord of said arc bears North 56° 35' 38" West, a distance of 150.01 feet) to the Point of Beginning.

The above described Right of Way contains 5,226 square feet (0.12 acres), more or less.

The purpose of the above described tract: Right of Way.

Basis of Bearings: Bearings are based on a Colorado State Plane Central Zone grid bearing from Point No. 2978, a 3.25" aluminum cap in a range box being the West Quarter Corner of Section 3, Township 6 South, Range 67 West of the Sixth P.M., S02°12'33"E to Point No. 59024, a 3.25" aluminum cap in range box, being the Southwest Corner of Section 3, Township 6 South, Range 67 West of the 6th P.M.

For and on Behalf of the
Colorado Department of Transportation
Michael Lindquist, PLS 38666
Wilson & Company, Inc. Engineers & Architects
1675 Broadway Ste. 200
Denver, CO 80202



Exhibit C**DATE: MAY 3, 2019****DESCRIPTION**

A tract or parcel of land No. TE-1 of the Department of Transportation, State of Colorado, Project No. TAP PIC4-001 containing 36,327 Square Feet more or less, being a portion of Lot 1A, Block 2, Parkway Subdivision Filing No. 3 – 3rd Amendment, a Subdivision recorded under Reception No. 9645526 in the records of Douglas County, said parcel located in Section 3, Township 6 South, Range 67 West of the Sixth Principal Meridian, County of Douglas, State of Colorado, described as follows:

Commencing at the West Quarter corner of said Section 3, Thence North 59°26'55" East, a distance of 1855.89 feet to a point on the East line of said Lot 1A, said point being the POINT OF BEGINNING;

1. Thence North 84°42'22" West, a distance of 54.53 feet;
2. Thence South 05°21'53" West, a distance of 117.15 feet;
3. Thence South 17°33'46" West, a distance of 292.20 feet to a point on the North line of TE-1A;
4. Thence North 86°13'12" West, a distance of 20.60 feet;
5. Thence North 17°33'46" East, a distance of 295.00 feet;
6. Thence North 05°21'53" East, a distance of 134.97 feet;
7. Thence South 84°42'22" East, a distance of 78.59 feet to a point on a non-tangent curve to the right;
8. Thence along the arc of said non-tangent curve to the right with a radius of 550.00 feet, a delta angle of 01° 33'10", a curve length of 14.91 feet (the chord of said arc bears South 16° 40' 31" West, a distance of 14.91 feet);
9. Thence South 17°13'56" West, a distance of 5.51 feet to the POINT OF BEGINNING;

The above described Temporary Easement contains 36,327 square feet (0.83 acres), more or less.

The purpose of the above described tract: Non-Exclusive Temporary Easement for Construction Access.

Basis of Bearings: Bearings are based on a Colorado State Plane Central Zone grid bearing from Point No. 2978, a 3.25" aluminum cap in a range box being the West Quarter Corner of Section 3, Township 6 South, Range 67 West of the Sixth P.M., S02°12'33"E to Point No. 59024, a 3.25" aluminum cap in range box, being the Southwest Corner of Section 3, Township 6 South, Range 67 West of the 6th P.M.

For and on Behalf of the
Colorado Department of Transportation
Michael Lindquist, PLS 38666
Wilson & Company, Inc. Engineers & Architects
1675 Broadway Ste. 200
Denver, CO 80202

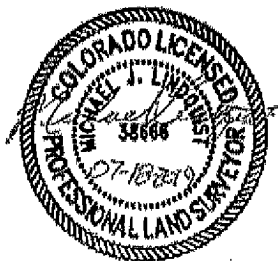


Exhibit D**DATE: MAY 3, 2019****DESCRIPTION**

A tract or parcel of land No. TE-1A of the Department of Transportation, State of Colorado, Project No. TAP P1C4-001 containing 9,727 Square Feet more or less, being a portion of Lot 1A, Block 2, Parkway Subdivision Filing No. 3 -- 3rd Amendment, a Subdivision recorded under Reception No. 9645526 in the records of Douglas County, said parcel located in Section 3, Township 6 South, Range 67 West of the Sixth Principal Meridian, County of Douglas, State of Colorado, described as follows:

Commencing at the most southerly corner of Lot 1, Block 2, Parkway Subdivision Filing No. 3 -- 1st Amendment marked by a plus cut in concrete; Thence N 41°01'26" W along the southerly line of said Parkway Subdivision Filing No. 3 -- 1st Amendment, a Subdivision recorded under Reception No. 353634 in the records of Douglas County also the northeasterly right of way line of State Highway C-470 as it existed prior to 1995, a distance of 335.53 feet to a point marked by a 3-1/4 aluminum cap stamped CDOT PLS 24941 on the South line of Lot 1A, Block 2, Parkway Subdivision Filing No. 3 -- 3rd Amendment, also the existing northeasterly right of way line of State Highway C-470, whence the West Quarter corner of said Section 3 bears South 65°20'53" West, 1277.39 feet; Thence continuing North 41°01'26" West, along said northeasterly right of way line of State Highway C-470, a distance of 48.43 feet to the POINT OF BEGINNING;

1. Thence North 49°00'55" East, a distance of 60.59 feet;
2. Thence South 86°13'12" East, a distance of 96.53 feet;
3. Thence South 04°06'29" West, a distance of 38.00 feet;
4. Thence South 86°13'12" East, a distance of 194.11 feet;
5. Thence South 17°13'56" West, a distance of 154.30 feet to a point on a non-tangent curve to the right;
6. Thence along the arc of said non-tangent curve to the right with a radius of 32.81 feet, a delta angle of 41° 48'09", a curve length of 23.94 feet (the chord of said arc bears North 88° 42' 26" West, a distance of 23.41 feet);
7. Thence North 67°43'53" West, a distance of 86.47 feet;
8. Thence North 15°34'57" West, a distance of 68.04 feet;
9. Thence North 70°51'08" West, a distance of 113.59 feet;
10. Thence North 62°32'17" West, a distance of 35.43 feet to the POINT OF BEGINNING;

The above described Temporary Easement contains 9,727 square feet (0.22 acres), more or less.

The purpose of the above described tract: Temporary Easement for construction improvements.

Basis of Bearings: Bearings are based on a Colorado State Plane Central Zone grid bearing from Point No. 2978, a 3.25" aluminum cap in a range box being the West Quarter Corner of Section 3, Township 6 South, Range 67 West of the Sixth P.M., S02°12'33"E to Point No. 59024, a 3.25" aluminum cap in range box, being the Southwest Corner of Section 3, Township 6 South, Range 67 West of the 6th P.M.

For and on Behalf of the
Colorado Department of Transportation
Michael Lindquist, PLS 38666
Wilson & Company, Inc. Engineers & Architects
1675 Broadway Ste. 200
Denver, CO 80202

