

ORDINANCE NO. 954

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, AUTHORIZING THE ACQUISITION BY EMINENT DOMAIN OF CERTAIN REAL PROPERTY INTERESTS NECESSARY TO PROVIDE, OPERATE AND MAINTAIN A WATER PIPELINE FOR THE CONVEYANCE OF WATER

WHEREAS, the Town of Firestone ("Town") possesses the power of eminent domain pursuant to the provisions of C.R.S. §§ 31-15-708(1)(b), 31-35-402(1)(a), and 38-1-202(1)(e) to acquire an easement in the real property described herein for the purposes of constructing, locating, maintaining, operating, repairing and replacing a water pipeline and other appurtenant structures and facilities for the conveyance and distribution of water as part of the Town's public water system; and

WHEREAS, the Town, in carrying out its functions and in order to deliver water services, finds it is necessary for the Town to acquire a perpetual, non-exclusive easement (the "Property Rights") over, across and under certain real property, as more particularly described on Exhibit A, attached hereto and incorporated herein by this reference; and

WHEREAS, the Town will negotiate in good faith for the acquisition of the Property Rights from the owner(s) thereof; and

WHEREAS, the Board of Trustees finds and determines that the acquisition of an easement for the aforementioned purposes enhances the public health, safety and welfare of the community by providing needed water facilities and additional water supply capacity, thereby providing an improved level of service for users of the Town's water system; and

WHEREAS, the Board of Trustees finds and determines that the acquisition of the Property Rights is desirable and necessary for the Town to provide public water services and facilities, and is essential to protect and preserve the health, safety, welfare and convenience of the Town's citizens;

WHEREAS, the Town is a statutory town organized and existing pursuant to the provisions of the Colorado Revised Statutes, and is vested with the power of eminent domain pursuant the provisions of the Colorado Revised Statutes; and

WHEREAS, the Town is authorized under C.R.S. §§ 31-15-708(1)(b), 31-35-402(1)(a), and 38-1-202(1)(e) to use the power of eminent domain to acquire the Property Rights, and the acquisition of the Property Rights may, by law, be accomplished through eminent domain.

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

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

Section 2. The Board of Trustees hereby finds and determines that it is necessary in the public interest to acquire the Property Rights described in Exhibit A, attached hereto and made a part hereof, for the Town to provide public water services and facilities, and hereby declares its intent to acquire the Property Rights for the public purpose of providing, operating, and maintaining a

water pipeline and for the conveyance and distribution of potable water, which include, multi-use paths, sidewalks, ADA curb ramps, enhanced bicycle and pedestrian crossings and signalized intersections with lighting and pedestrian activated signage.

Section 3. The Board of Trustees hereby authorize the Town Attorney and other appropriate Town staff and consultants to take all necessary steps, as required by all applicable laws, rules, regulations and requirements, to acquire the Property Rights for the Town, including without limitation, good faith negotiations with the owner of the Property Rights, or their representative(s), and the initiation of legal proceedings, including eminent domain or other legal actions, if required, for such acquisition.

Section 4. The Town Manager and Town Attorney are further authorized to incur reasonable costs associated with acquiring the Property Rights, including, without limitation, compensation for the Property Rights, the cost of title examination, title insurance, appraisal fee payments, normal closing costs, filing fees and charges, legal fees, and all other related or incidental costs or expenses customarily associated with the quiet title, acquisition or condemnation of the Property Rights.

Section 5. The Town Manager, or his designee, is authorized to hereafter amend the terms, conditions or legal description of, or to clarify the nature and extent of the Property Rights to be acquired.

Section 6. The Board of Trustees further find that, in the event acquisition by eminent domain of the Property Rights is commenced, immediate possession is necessary for the public health, safety and welfare.

Section 7. If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of Trustees hereby declare it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 8. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED IN
FULL this 10th day of July, 2019.



ATTEST:

Leah Vanarsdall
Leah Vanarsdall, Town Clerk

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar
Bobbi Sindelar, Mayor

APPROVED AS TO FORM:

William P. Hayashi
William P. Hayashi, Town Attorney

EXHIBIT A

DESCRIPTION OF PERMANENT EASEMENT

A STRIP OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 2 NORTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF WELD, TOWN OF FIRESTONE, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 20, FROM WHICH THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 20 BEARS N00° 41' 55"W (BASIS OF BEARING); THENCE N00° 41' 55"W, 308.51 FEET ALONG SAID SOUTHWEST LINE TO A POINT ON SOUTH PROPERTY LINE OF THE PARCEL DESCRIBED IN THE DEED RECORDED AT RECEPTION NUMBER 4284609; SAID POINT ALSO BEING THE POINT OF BEGINNING;

THENCE ALONG THE FOLLOWING FOUR (4) COURSES;

N00° 41'55"W 101.97 FEET ALONG THE SOUTHWEST QUARTER OF SAID SECTION 20 TO A POINT ON THE NORTH PROPERTY LINE OF SAID PARCEL DESCRIBED IN THE DEED RECORDED AT RECEPTION NUMBER 4284609;

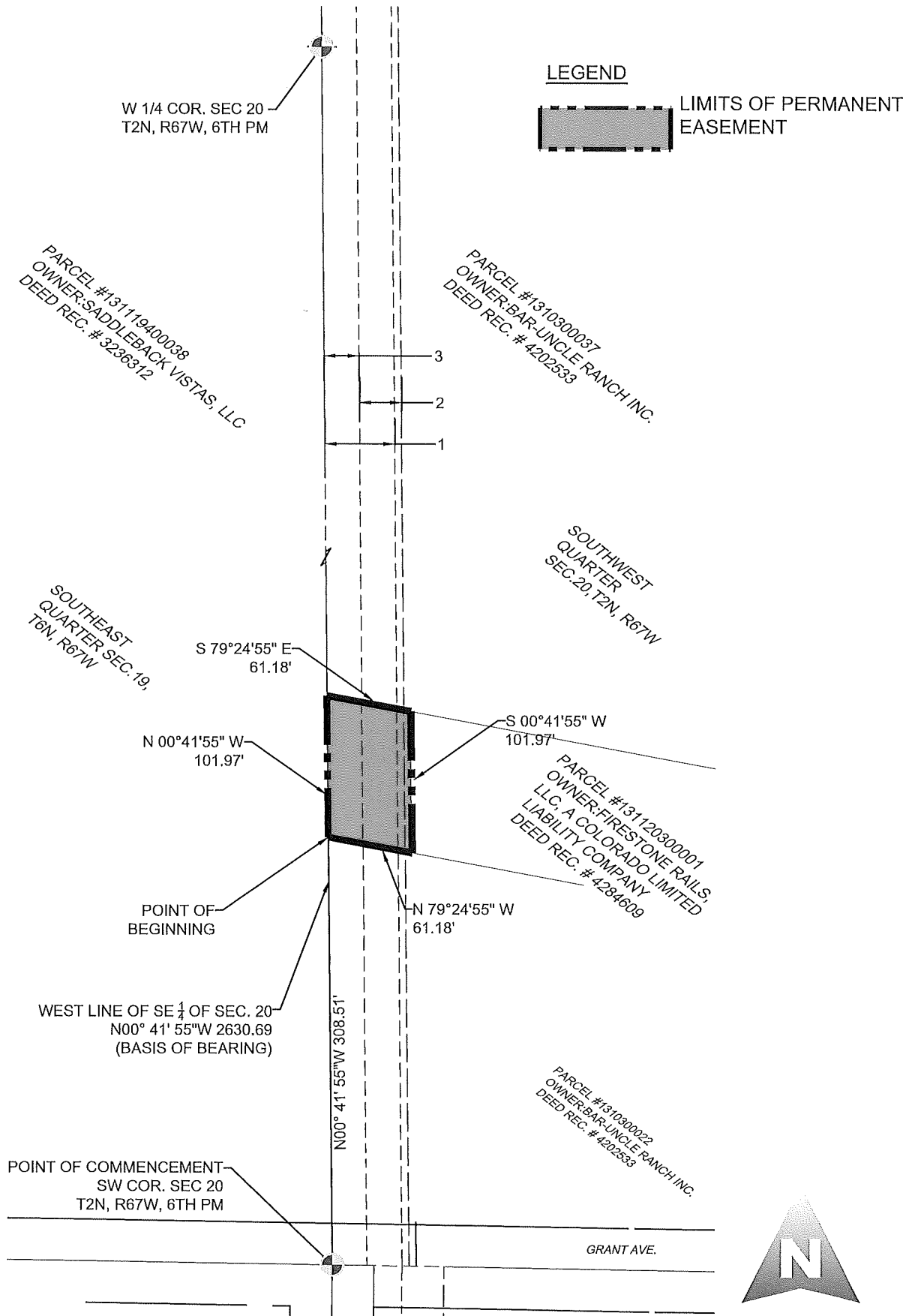
THENCE S79° 24'55"E 61.18 FEET ALONG THE NORTH PROPERTY LINE OF SAID PARCEL;

THENCE S00° 41' 55"E 101.97 FEET TO A POINT ON THE SOUTH PROPERTY LINE OF SAID PARCEL;

THENCE N79° 24' 55"W 61.18 FEET ALONG THE SOUTH PROPERTY LINE OF SAID PARCEL TO THE POINT OF BEGINNING.

AREA = 6,118 SQUARE FEET (0.140 ACRES), MORE OR LESS.

EXHIBIT A



1. 50' PETROLEUM PIPELINE EASEMENT AMOCO PRODUCTION CO. BK. 769, REC. 1691207
2. 30' WATER LINE EASEMENT CENTRAL WELD COUNTY WATER DIST. BK. 710, REC. 1632344.
3. 25' PIPELINE EASEMENT INDUSTRIAL GAS SERVICES, INC. BK. 701, REC. 1622693