RESOLUTION NO. _____-16

A RESOLUTION AUTHORIZING A LAND EXCHANGE BETWEEN THE CITY OF COLORADO SPRINGS AND THE BROADMOOR

WHEREAS, the City of Colorado Springs ("City") holds fee title to a 189.5-acre parcel of vacant property, which is situated on North Cheyenne Cañon Park near Mesa Drive and is map depicted on Exhibit B, attached hereto and incorporated herein by reference; and

WHEREAS, the Parks, Recreation and Cultural Services Department is the Controlling Department of the 189.5-acre parcel; and

WHEREAS, the City holds fee title to a 0.55-acre parcel of vacant property, which is situated near the Mt. Manitou Incline and is map depicted on Exhibit C, attached hereto and incorporated herein by reference; and

WHEREAS, the Colorado Springs Utilities is the Controlling Department of the .55-acre parcel; and

WHEREAS, the 189.5-acre parcel and the 0.55-acre parcel shall be referred to herein as the "City Property"; and

WHEREAS, the Manitou and Pike's Peak Railway Company, COG Land and Development Company, PF, LLC, and The Broadmoor Hotel, Inc., collectively referred to as the "Broadmoor", hold fee title to several parcels of land consisting of approximately 371.21 acres, situated near the Mt. Manitou Incline, Bear Creek Regional Park, Seven Falls, and several trail easement connections, which property is map depicted on Exhibits B, C, D, E, and F, attached hereto and incorporated herein by reference (collectively the "Broadmoor Property"); and

WHEREAS, the City desires to acquire the Broadmoor Property; and

WHEREAS, the Broadmoor desires to acquire the City Property; and

WHEREAS, the City recognizes that the City Property has intrinsic value as a public asset beyond the estimated fair market value and, in order to retain that value, will only transfer the City Property to the Broadmoor subject to certain terms, conditions and restrictions as provided in Exhibit A to this Resolution; and

WHEREAS, the Parks, Recreation and Cultural Services Department and Colorado Springs Utilities desire to exchange the City Property for the Broadmoor Property subject to the terms, conditions and restrictions on Exhibit A; and

WHEREAS, an exchange of the City Property for the Broadmoor Property is in the best interest of the City, because the City stands to gain 371.21 acres of fee property and 115.4 acres of new public trail easements in exchange for its 189.05 acres and the value of the property the City will receive has an estimated fair market value of $3,611,200 which exceeds the estimated value of the property the City intends to transfer, which is $2,161,000; and

WHEREAS, pursuant to Sections 4.5 and 5.5 of *The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests* ("RES Manual"), the City may enter into a land exchange upon approval of City Council; and

WHEREAS, each party agrees to pay any expenses that it has incurred or will incur in land surveying and establishing fair market value by its own independent real estate appraiser; and

WHEREAS, the Broadmoor has agreed that if City Council approves the land exchange the Broadmoor will pay any additional transaction costs of the land exchange, including but not limited to closing fees, recording fees, and policy of title insurance; and

WHEREAS, if City Council approves the land exchange, the Broadmoor desires that the City recognize the difference between the value of the Broadmoor Property and the City Property as a donation.

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

Section 1. Pursuant to the RES Manual, Sections 4.5 and 5.5, City Council hereby finds that the proposed land exchange is in the best interest of the City and approves a land exchange with the Broadmoor of the City Property for the Broadmoor Property, subject to the terms, conditions and restrictions set forth in Exhibit A attached hereto and incorporated herein by reference.

Section 2. Pursuant to the RES Manual, Section 2.11, City Council hereby authorizes the City's Real Estate Services Manager to execute all documents necessary to complete the land exchange of the City Property for the Broadmoor Property subject to the terms, restrictions and conditions contained herein and to obtain the Mayor's signature on the deed conveying the City Property to the Broadmoor.

Section 3. Pursuant to the RES Manual, Section 4.4 City Council hereby authorizes the acceptance of a donation of the difference in value between the City Property and the Broadmoor Property, if any, as determined by an appraisal conducted at the behest and expense of the Broadmoor.

DATED at Colorado Springs, Colorado, this ____ day of _____, 2016.

ATTEST:

_____
City Council President

_____
Sarah B. Johnson, City Clerk

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EXHIBIT A

Terms, Conditions and Restrictions

I. Broadmoor Property:

a. The Broadmoor shall convey to the City unrestricted fee interest in the real property known as El Paso County Tax Schedule Numbers 7406300001 and 8400000003, which is located west of Manitou Springs and includes a portion of the Mt. Manitou Incline and a portion of the Barr Trail, Colorado Springs, CO, and consisting of approximately 74.6 acres and 80 acres respectively, which are map depicted on Exhibit C ("Broadmoor Property 1" and "Broadmoor Property 2"). The exact location will be determined and identified by a licensed Land Surveyor

b. The Broadmoor shall grant the City permanent easements consistent with the rights granted to the City in the Grant of Park Trail License and Utility License, dated April 9, 2012, between the City and the Manitou and Pikes Peak Railway Company in connection with public access and use of the Mt. Manitou Incline and make any other amendments to the license necessary to carry out the purposes and intents of the land exchange.

c. The Broadmoor shall grant the City one (1) public permanent trail easement upon a portion of real property known as El Paso County Tax Schedule Number: 7400000003, located west of Manitou Springs, Colorado Springs, CO, which is map depicted on Exhibit C, ("Broadmoor Property 3") for the purpose of the Barr Trail connection. The exact location and size will be determined and identified by a licensed Land Surveyor.

d. The Broadmoor shall convey the real property known as El Paso County Tax Schedule Numbers: 7423400006 and 7423400005, located south and adjacent to Bear Creek Regional Park, Colorado Springs, CO, and consisting of approximately 3.26 acres and 5.35 acres respectively, which is map depicted on Exhibit D, ("Broadmoor Property 4" and "Broadmoor Property 5") to the City. After the conveyance, the City will impose a land use restriction on the title to Broadmoor Property 4 and Broadmoor Property 5 that restricts future commercial and residential development and only permits public park uses, as defined and allowed by the City of Colorado Springs "PK" zoned.

e. The Broadmoor shall convey to the City unrestricted fee interest in the real property known as El Paso County Tax Schedule Number 7500000263, located west of Seven Falls, Colorado Springs, CO, and consisting of approximately 208 acres, which is map depicted on Exhibit E, ("Broadmoor Property 6"). The exact location and size will be determined and identified by a licensed Land Surveyor.

f. The Broadmoor shall grant to the City a public permanent trail easement upon a portion of real property known as El Paso County Tax Schedule Numbers: 7502301005 and 7500000230, located east of the Will Rogers Shrine, Colorado Springs, CO, and consisting of approximately 4.4 acres, which is map depicted on Exhibit F, ("Broadmoor Property 7" and "Broadmoor Property 8") for the purpose of trail alignment for the Chamberlain Trail. The exact location and size will be determined and identified by a licensed Land Surveyor.

g. The Broadmoor shall grant to the City a public permanent trail easement upon a portion of real property known as El Paso County Tax Schedule Number: 75000000303, located east of Cloud Camp, Colorado Springs, CO, and consisting of

approximately 74.1 acres, which is map depicted on Exhibit F, ("Broadmoor Property 9") for the purpose of trail alignment for the Chamberlain Trail. The exact location and size will be determined and identified by a licensed Land Surveyor.

h. The Broadmoor shall grant to the City a public access easement across the Broadmoor real property known as El Paso County Tax Schedule Numbers 7400000326 and 74300000329, which is map depicted on Exhibit B, to provide the public with emergency access to/from the Hully Gully Ice Climbing area. The exact location of the easement shall be determined by a licensed Land Surveyor.

i. The Broadmoor shall grant to the City a utility and access easement for the purpose of access across the Broadmoor real property known as El Paso County Tax Schedule Number 740643005, which is map depicted on Exhibit C, to allow utilities, ingress and egress to the Colorado Springs Utilities Hydroelectric plant that is located adjacent to City Property 3, as defined below.

j. The existing Revocable License For Parking Area, dated April 9, 2009, between the City and Manitou and Pikes Peak Railway Company shall be terminated upon the closing of the land exchange.

II. City Owned Property:

a. The City's conveyance to the Broadmoor of the real property known as El Paso County Tax Schedule Numbers 7400000211, and 7400000327, located east of Seven Falls, Colorado Springs, CO, consisting of approximately 189.5 acres, and known as a portion of North Cheyenne Canon Park, which is map depicted on Exhibit B, ("City Property 1" and "City Property 2") shall be subject to the following:

1. Easements.

A. The City shall reserve three (3) permanent public trail easements for the purpose of maintaining the connection with the proposed alignment of the Chamberlain Trail, maintaining the connection of the South Canon Trail, and maintaining the connection of Hully Gully Trail. The exact location of the trail easements shall be determined by a licensed Land Surveyor.

B. The City shall reserve four (4) permanent public utility easements. The exact location of the utility easements shall be determined by a licensed Land Surveyor.

C. The City shall reserve an easement in the location of Old Stage Road for the purpose of public access and right of way and the right for present and future public utility easements. The exact location and size of the easement area shall be determined and identified by a licensed Land Surveyor.

2. Use. The City's conveyance of City Property 1 and City Property 2 to the Broadmoor shall include a deed restriction that will restrict the land use and zoning of City Property 1 and City Property 2 to "PK" zone, and any and all uses shall be consistent with the City's PK zone, and the City's Park Development Review process.

3. First Right of Refusal. The City shall retain a right of first refusal to acquire City Property 1 and City Property 2 upon the following terms and conditions:

A. Neither Broadmoor, nor any of its heirs, successors, or assigns, shall sell, convey, assign or transfer title, ownership or possession of City Property 1 or City Property 2, or any portion thereof, including but not limited to through a sale, an exchange or any other transfer of an interest in City Property 1 or City Property 2, without first offering the City Property 1 and City Property 2 to the City, for the agreed purchase price of $1,581,000.

B. Broadmoor shall notify the City of its right to exercise its first right of refusal, and the City agrees that within ninety (90) days after receipt of a written notice from Broadmoor, to give Broadmoor a written statement of rejection or acceptance by the City.

4. Conservation Easement. The Broadmoor, at its own expense, shall be required to convey a Conservation Easement covering the entire City Property 1 and City Property 2, to an appropriate certified conservation easement holder to preserve and protect the conservation values, and such Conservation Easement shall be recorded with the El Paso County Clerk and Recorder's office within twelve (12) months from the date of the closing of the land exchange. The Conservation Easement shall identify a "Building Envelope" that is no greater than 8.5 acres and is in a location that is consistent with the area set forth in the map depictions on Exhibit B. The exact location and size of the easement area shall be determined and identified by a licensed Land Surveyor.

A. Conservation Easement shall include the following Prohibited Uses:

i. New structures (outside of building envelope)
ii. Subdivision of the Property
iii. Commercial Timber Harvesting
iv. Mining
v. Road Construction and/or Paving (outside of building envelope)
vi. Trash and Dumping
vii. Transfer of Water Rights
viii. Alteration of Watercourses and Topography (outside of building envelope)
ix. Water Pollution
x. Industrial Activity
xi. Motor Vehicle Use (outside of building envelope)
xii. Billboards
xiii. Hazardous Materials
xiv. Wind and Solar Energy Generation
xv. Feedlots
xvi. Grazing
xvii. Active Recreation
xviii. Cell Phone Towers/ Transmission Towers
xix. Residential Development
xx. Commercial Development (except within building envelope associated with PK uses)

B. Conservation Easement shall include the following Allowable Uses:

i. Public recreation – specifically walking, hiking, mountain biking, horseback riding, picnicking, environmental education and other passive recreation uses
ii. Forestry and open space management activities
iii. Build and maintain trail system
iv. Install minor improvements such as wayfinding signage, interpretive signage, benches
v. Control soil erosion
vi. Invasive weed control
vii. Maintain and repair existing utilities
viii. New utilities (within the building envelope) to serve the Broadmoor's buildings
ix. Bury existing 3-phase overhead electric line

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x. 8.5 acre building envelope limited to park uses (PK Zone)
xi. Public access, parking, utilities, and improvements on Old Stage Road

5. Public Access to Property. Broadmoor shall allow free and open public access to all of City Property 1 and City Property 2 except the building envelope.

6. No Fence. No perimeter fence shall be installed or construction on City Property 1 and City Property 2, except within the building envelope.

7. Property Management. Broadmoor shall have the right to manage City Property 1 and City Property 2, including but not limited to promulgating rules and regulations and enforcing such rules and regulations for the protection of natural resources and to deter inappropriate and illegal behavior.

b. The City shall convey to the Broadmoor the real property known as El Paso County Tax Schedule Number: 7106301002, located adjacent to the Cog Rail Road site, and the Colorado Springs Utilities Hydroelectric site, Manitou Springs, CO, and known as a portion of the Cog parking lot, which is map depicted on Exhibit C, ("City Property 3"), subject to:

1. A public utility easement in the form of the current Colorado Springs Utilities public utility easement which shall be reserved on the entire City Property 3;

2. An access easement that allows vehicular access for all sizes of vehicles, cranes, trucks, trailers and other equipment;

3. The right of the City to use the City Property 3 on an as needed, basis for temporary staging of vehicles, equipment and construction equipment related to Colorado Springs Utilities activities in the area for maintenance, reconstruction and construction; and

4. A deed restriction that prohibits the construction of any structures on the City Property 3; provided however, that paving, building of retaining walls, landscaping and similar activities that are consistent with the City's rights under the above described easements shall be allowed.

III. Additional Conditions:

a. As additional consideration, the Broadmoor shall provide the City with the following:

1. The Broadmoor will allow free public access to the Green Settlement and Greenwood Park historic homestead sites, which are located south of Daniels Pass on the Broadmoor real property known as El Paso County Tax Schedule Number 7500000263.

2. The Broadmoor will provide to the City's Parks, Recreation and Cultural Services Department use of the group picnic facility for two (2) annual fundraising events free of rental charge, and provide free food and nonalcoholic beverages for up to 100 guests.

3. The Broadmoor will provide 25% of the Seven Falls gross tram fees to the City North Cheyenne Cañon Gift Trust annually to assist with the City Park Ambassadors program. City Park Ambassadors will assist in providing a presence on the City Property 1 and City Property 2 trails.

Exhibit B

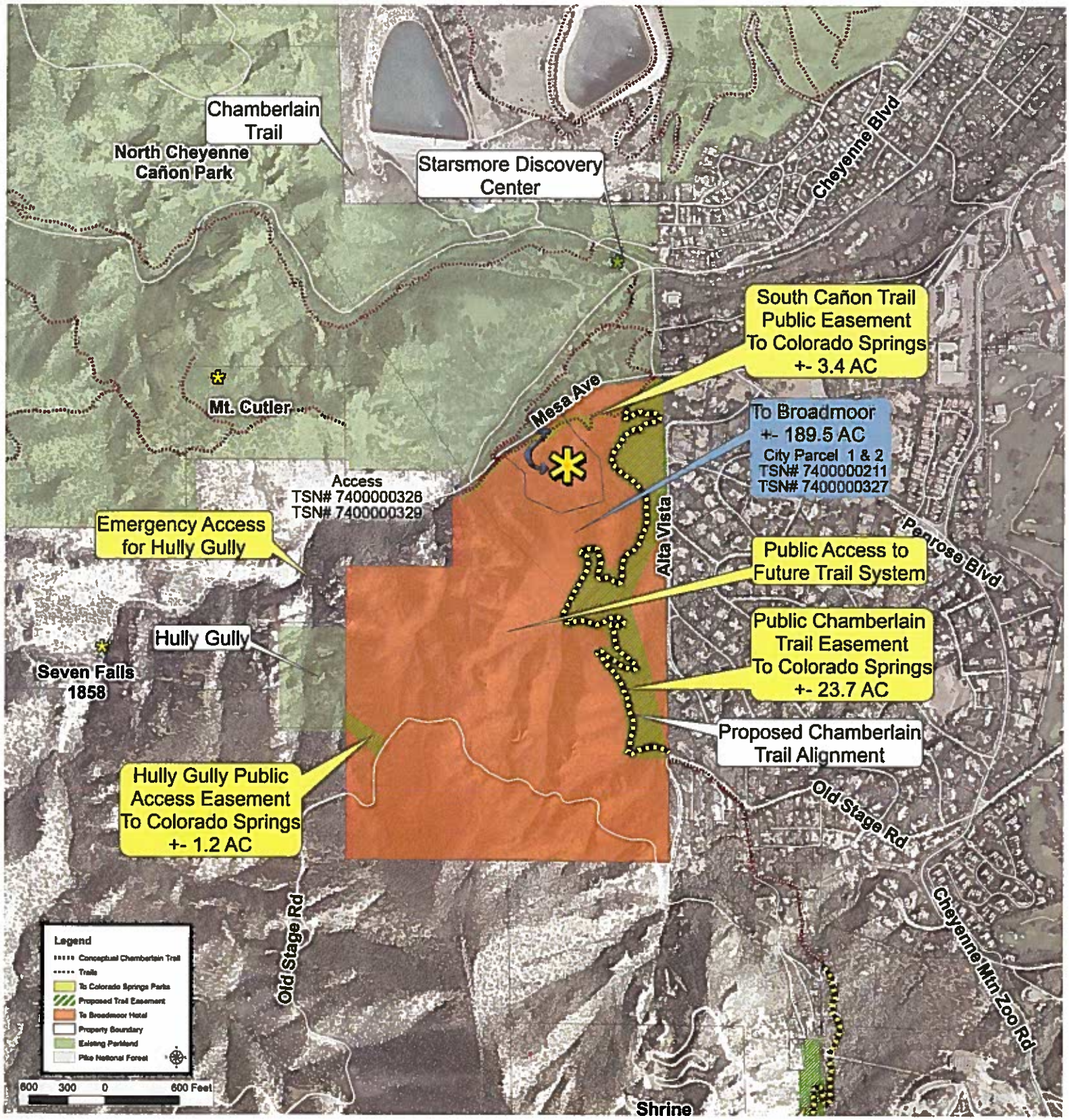

Chamberlain Trail
North Cheyenne Cañon Park
Starsmore Discovery Center
Cheyenne Blvd
South Cañon Trail Public Easement To Colorado Springs +- 3.4 AC
Mt. Cutler
Mesa Ave
To Broadmoor +- 189.5 AC
City Parcel 1 & 2
TSN# 7400000211
TSN# 7400000327
Access
TSN# 7400000326
TSN# 7400000329
Emergency Access for Hully Gully
Alta Vista
Penrose Blvd
Public Access to Future Trail System
Hully Gully
Seven Falls
1858
Public Chamberlain Trail Easement To Colorado Springs +- 23.7 AC
Proposed Chamberlain Trail Alignment
Hully Gully Public Access Easement To Colorado Springs +- 1.2 AC
Old Stage Rd
Old Stage Rd
Cheyenne Mtn Zoo Rd
Shrine
Legend
Conceptual Chamberlain Trail
Trails
To Colorado Springs Parks
Proposed Trail Easement
To Broadmoor Hotel
Property Boundary
Existing Parkland
Pike National Forest
600 300 0 600 Feet

Exhibit C

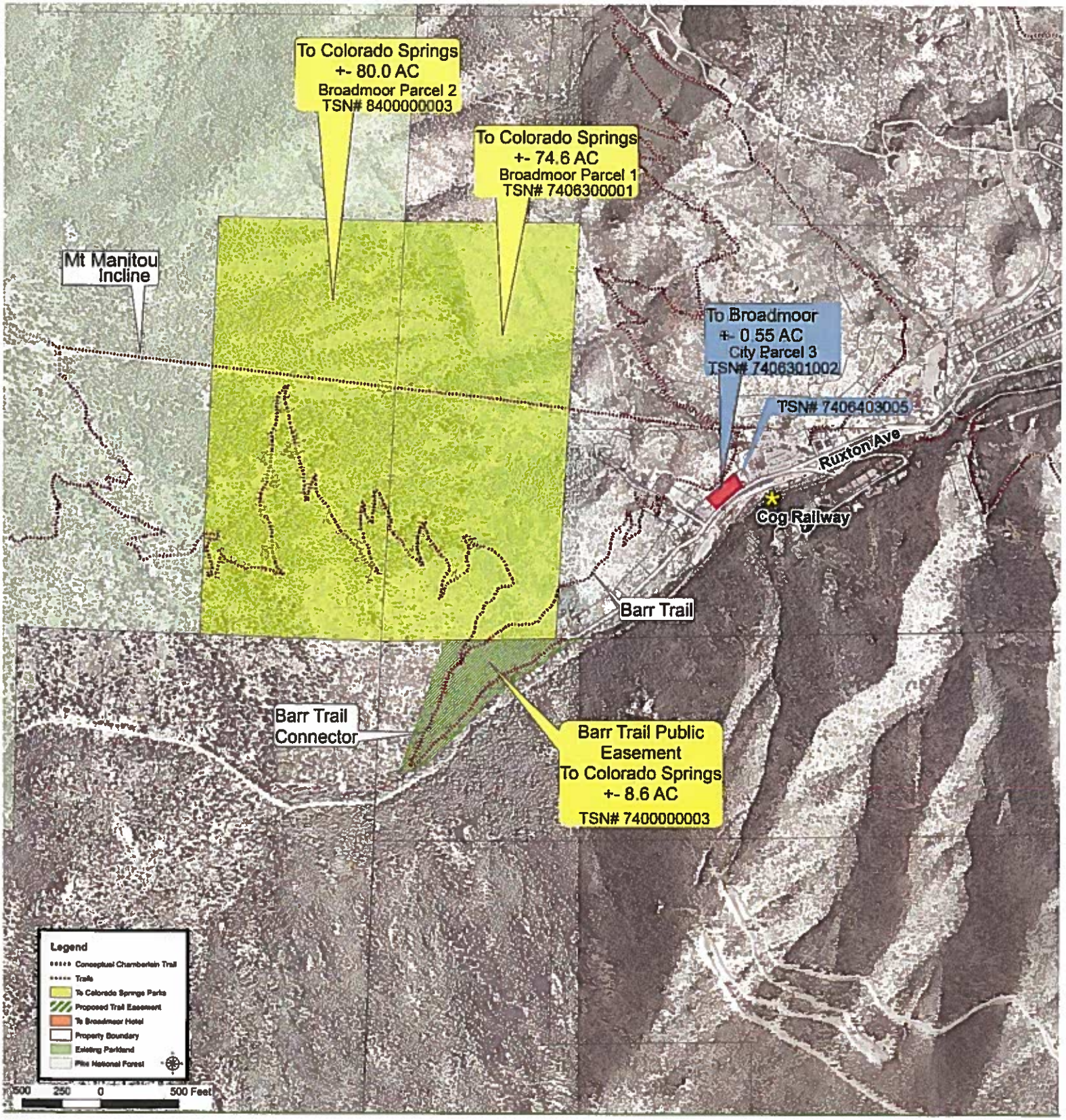

To Colorado Springs
+- 80.0 AC
Broadmoor Parcel 2
TSN# 8400000003
To Colorado Springs
+- 74.6 AC
Broadmoor Parcel 1
TSN# 7406300001
Mt Manitou Incline
To Broadmoor
+- 0.55 AC
City Parcel 3
TSN# 7406301002
TSN# 7406403005
Ruxton Ave
Cog Railway
Barr Trail
Barr Trail Connector
Barr Trail Public Easement
To Colorado Springs
+- 8.6 AC
TSN# 7400000003
Legend
Conceptual Chamberlain Trail
Trails
To Colorado Springs Parks
Proposed Trail Easement
To Broadmoor Hotel
Property Boundary
Existing Parkland
Pike National Forest
500 250 0 500 Feet

Exhibit D

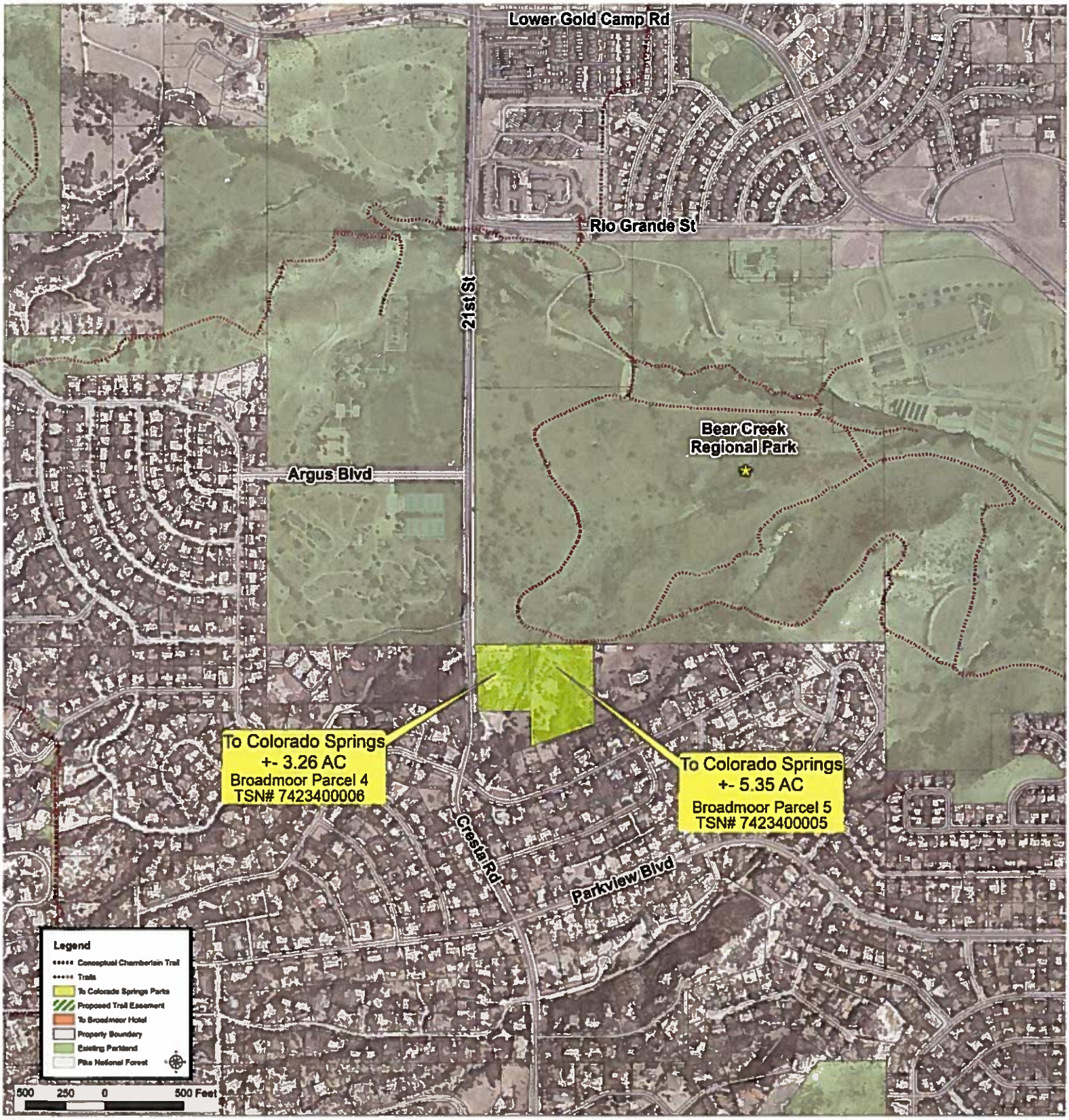

Lower Gold Camp Rd
Rio Grande St
21st St
Bear Creek
Regional Park
Argus Blvd
To Colorado Springs
+- 3.26 AC
Broadmoor Parcel 4
TSN# 7423400006
To Colorado Springs
+- 5.35 AC
Broadmoor Parcel 5
TSN# 7423400005
Cresta Rd
Parkview Blvd
Legend
Conceptual Chamberlain Trail
Trails
To Colorado Springs Parks
Proposed Trail Easement
To Broadmoor Hotel
Property Boundary
Existing Parkland
Pike National Forest
500 250 0 500 Feet

Exhibit E

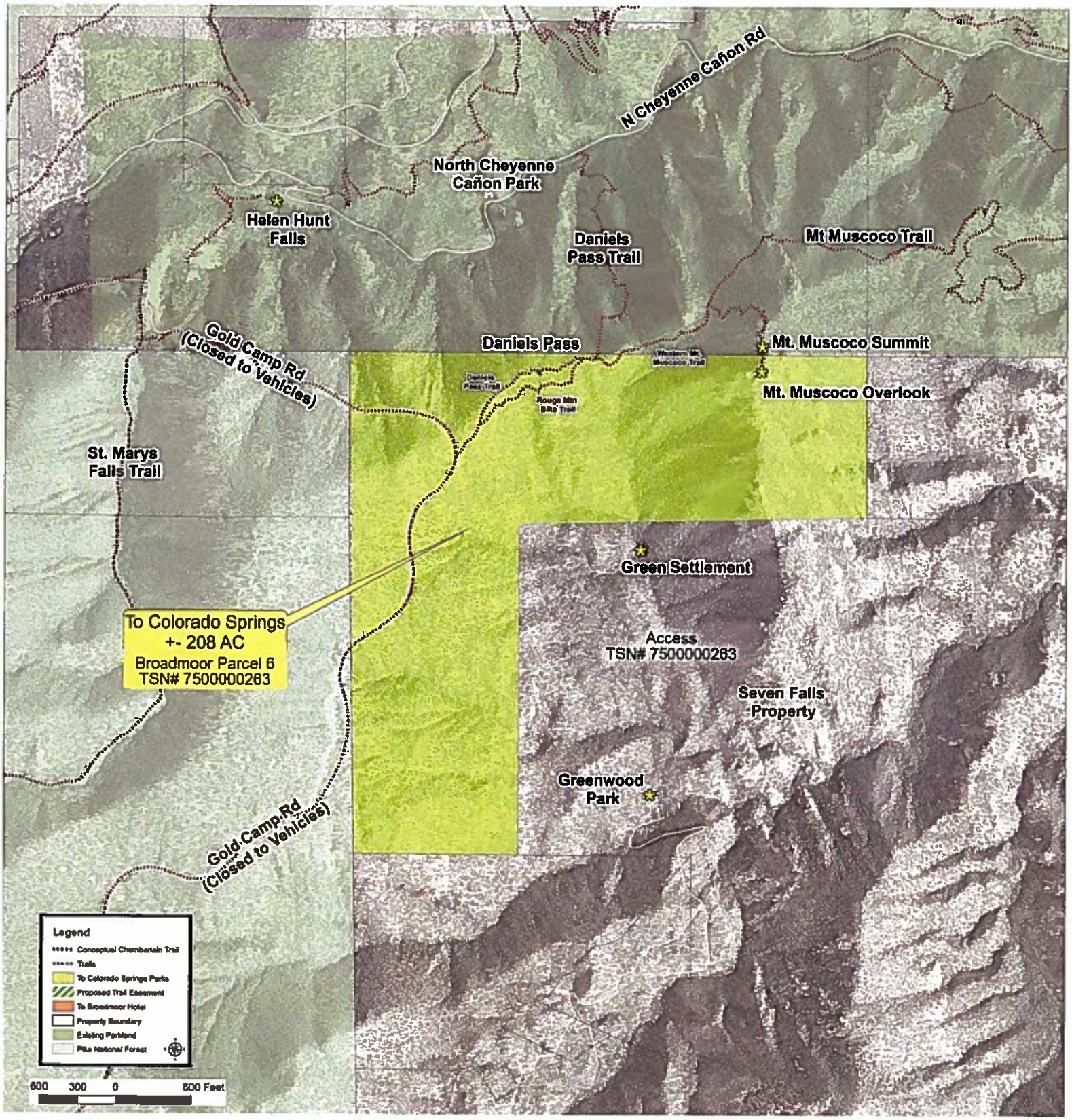
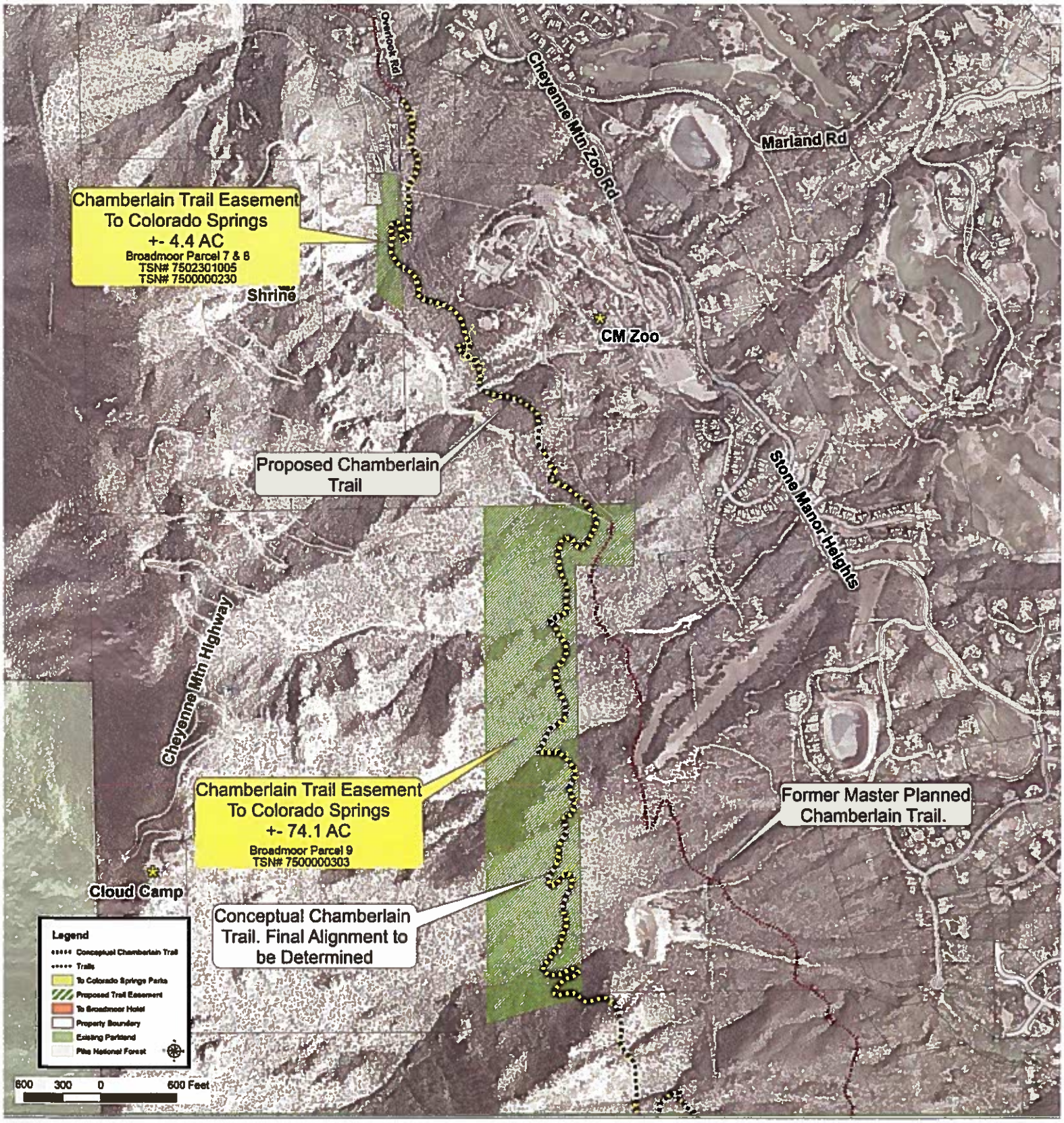

N Cheyenne Cañon Rd
North Cheyenne Cañon Park
Helen Hunt Falls
Daniels Pass Trail
Mt Muscoco Trail
Gold Camp Rd (Closed to Vehicles)
Daniels Pass
Mt. Muscoco Summit
Mt. Muscoco Overlook
St. Marys Falls Trail
Green Settlement
To Colorado Springs
+- 208 AC
Broadmoor Parcel 6
TSN# 7500000263
Access
TSN# 7500000263
Seven Falls Property
Greenwood Park
Gold Camp Rd (Closed to Vehicles)
Legend
Conceptual Chamberlain Trail
Trails
To Colorado Springs Parks
Proposed Trail Easement
To Broadmoor Hotel
Property Boundary
Existing Parkland
Pike National Forest
600 300 0 600 Feet

Exhibit F


Overlook Rd
Cheyenne Mtn Zoo Rd
Marland Rd
Chamberlain Trail Easement
To Colorado Springs
+- 4.4 AC
Broadmoor Parcel 7 & 8
TSN# 7502301005
TSN# 7500000230
Shrine
CM Zoo
Proposed Chamberlain Trail
Stone Manor Heights
Cheyenne Mtn Highway
Chamberlain Trail Easement
To Colorado Springs
+- 74.1 AC
Broadmoor Parcel 9
TSN# 7500000303
Former Master Planned Chamberlain Trail.
Cloud Camp
Conceptual Chamberlain Trail. Final Alignment to be Determined
Legend
Conceptual Chamberlain Trail
Trails
To Colorado Springs Parks
Proposed Trail Easement
To Broadmoor Hotel
Property Boundary
Existing Parkland
Pike National Forest
600 300 0 600 Feet