

BOUNDARY AGREEMENT

THIS BOUNDARY AGREEMENT (the "Agreement") is made as of the 18th day of January, 2022, by and between THE CITY OF LAFAYETTE, COLORADO, a home-rule municipality ("City") whose address is 1290 S. Public Road, Lafayette, CO 80026, and Thao T. Nguyen ("Nguyen") whose address is 795 East County Line Road, Lafayette, CO 80026.

1. Recitals

1.1 The City is the owner of the property more particularly described in Exhibit A, attached hereto and made a part hereof ("City Parcel A").

1.2 The City is the owner of the property more particularly described in Exhibit B, attached hereto and a made a part hereof ("City Parcel B").

1.3 Thao T. Nguyen is the owner of the property described in Exhibit C, attached hereto and made a part hereof ("Nguyen Parcel").

1.4 The north line of the Nguyen Parcel adjoins the south line of City Parcel A. Over the years, the owners of the Nguyen Parcel have erected a fence between the Nguyen Parcel and City Parcel A, and it is unclear whether the fence demarcates the true boundary line between the two properties or if it was intended to represent the boundary line between the two properties.

1.5 The west line of City Parcel B overlaps an easterly portion of the Nguyen Parcel, creating a potential boundary line conflict between the Nguyen Parcel's easterly property line and the westerly line of City Parcel B.

1.6 The Parties intend for this Agreement: (1) to negate any presumptions that such fence ever has delineated, or nor or will in the future delineate, the boundary between City Parcel A and the Nguyen Parcel; (2) to negate any presumptions that a boundary conflict exists between City Parcel B and the Nguyen Parcel; and (3) to establish the true and correct boundary lines between City Parcel A, City Parcel B, and the Nguyen Parcel.

2. Consideration

The consideration for this Agreement is the mutual covenants and agreements exchanged between the parties hereto, the receipt and sufficiency of which are hereby confessed and acknowledged.

3. Establishment of Boundary Lines

3.1 *City Parcel A and Nguyen Parcel*

3.1.1 For all purposes, the City and Nguyen agree that the true, correct, and final boundary line between the south line of City Parcel A and the north line of Nguyen Parcel ("Boundary 1") shall be the boundary line established by survey prepared by

TOPOGRAPHIC LAND SURVEYORS, a true copy of which is attached hereto as Exhibit D and made a part hereof (the "Survey"). dated December 9, 2021, certified by Joel T. Vogt, L.S. No. 38099 (the "Survey").]

3.1.2 As shown on the Survey, Boundary 1 is more particularly described in Exhibit D, attached hereto and made a part hereof.

3.1.3 Each of the parties hereby conveys and quitclaims to the other party the adjoining real property, if any, which is in conflict with the Boundary 1 as established by the Survey.

3.1.4 Boundary 1, as described on the Survey, shall be and remain the boundary line between the south line of City Parcel A and the north line of the Nguyen Parcel, despite the continued existence of one or more walls or fences which might lie along and cross Boundary 1. Each of the parties hereto specifically disclaims, waives, and releases forever all right to claim any right, title, or interest in or to the property of the other party hereto by reason of actual possession or the location of said walls or fences, no matter how long such possession or said walls or fences may have existed or may continue to exist hereafter. If said walls or fences continue to encroach upon the lands of either of the parties hereto, they shall be deemed to exist with the express permission of such landowner and shall not at any time hereafter constitute evidence of adverse possession.

3.1.5 Either party hereto may remove any portion of the fences described in Paragraph 3.1.4 above lying on Boundary 1 or within the property owned by such party. Any fence or wall erected hereafter by either party to this Agreement along Boundary 1 shall be placed entirely upon the property of the party erecting such fence unless the parties shall hereafter agree in writing to share the cost of a joint fence or party wall to be constructed exactly on Boundary 1. Neither party shall ever claim any right, title, or interest in or to any portion of the land between Boundary 1 and a fence or wall hereafter erected by the other party within the other party's property.

3.2 *City Parcel B and Nguyen Property*

3.2.1 The City has executed and delivered to Nguyen a quit claim deed ("Quit Claim Deed"), a true copy of which is attached hereto as Exhibit E and made a part hereof.

3.2.2 For all purposes, the City and Nguyen agree that the true, correct, and final boundary line between west line of City Parcel B and the east line of the Nguyen Parcel ("Boundary 2") shall be the east line of the Nguyen Parcel based on the legal description contained in the Quit Claim Deed, prepared by Topographic Land Surveyors, dated December 9, 2021, certified by Joel T. Vogt, PLS.

3.2.3 Nguyen hereby conveys and quitclaims to the City all right, title, or interest in or to the adjoining real property, if any, which is in conflict with Boundary 2 or to City Parcel B, east of Boundary Line 2, as established by Quit Claim Deed.

3.2.4 Boundary 2, as described in the Quit Claim Deed, shall be and remain the boundary line between the west line of City Parcel B and the east line of the Nguyen Parcel. Each of the parties hereto specifically disclaims, waives, and releases forever all right to claim any right, title, or interest in or to the property of the other party hereto by reason of actual possession or the location of any walls or fences, no matter how long such possession or said walls or fences may have existed or may continue to exist hereafter. If said walls or fences continue to encroach upon the lands of either of the parties hereto, they shall be deemed to exist with the express permission of such landowner and shall not at any time hereafter constitute evidence of adverse possession.

3.2.5 Either party hereto may remove any portion of the fences described in Paragraph 3.2.4 above lying on Boundary 2 or within the property owned by such party. Any fence or wall erected hereafter by either party to this Agreement along Boundary 2 shall be placed entirely upon the property of the party erecting such fence unless the parties shall hereafter agree in writing to share the cost of a joint fence or party wall to be constructed exactly on Boundary 2. Neither party shall ever claim any right, title, or interest in or to any portion of the land between Boundary 2 and a fence or wall hereafter erected by the other party within the other party's property.

4. Miscellaneous

4.1 This Agreement has been executed by the parties voluntarily and in accordance with the specific provisions of C.R.S. § 38-44-112, in order to determine and permanently establish by written agreement of all parties thereby affected the line and boundary between City Parcel A and the Nguyen Parcel, and City Parcel B and the Nguyen Parcel.

4.2 Each of the parties hereby represents to the other that each is the owner of its, his, or her respective property as described herein, that each has the full power and authority to enter into and execute this Agreement, and that no other owner, lessee, lienor, or mortgagee has any right, title, or interest in its, his, or her respective property.

4.3 This Agreement shall be recorded in the real estate records in the office of the Clerk and Recorder of Weld County, Colorado, as an instrument affecting real estate, shall run with the land as a covenant burdening and benefitting City Parcel A, City Parcel B, and the Nguyen Parcel, and shall inure to the benefit of and be binding upon the heirs, successors, assigns, and personal representatives of the parties hereto.

IN WITNESS WHEREOF, City and Nguyen have executed this Boundary Agreement as of the day and year first above set forth.

[remainder of page left intentionally blank—signature pages to follow]

OWNER:

THAO T. NGUYEN

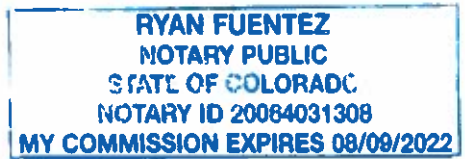
By [Signature]
Thao T. Nguyen

STATE OF COLORADO)
) ss
COUNTY OF Jefferson)

The foregoing instrument was acknowledged before me this 27th day of December, 2021, by Thao Thu Nguyen as owner of the Nguyen Parcel.

Witness my hand and official seal.

[Signature]
(Notary Public Official Signature)



Notary Public
(Title of office)

8/9/22
(Commission Expiration)

[remainder of page left intentionally blank - signature pages to follow]

CITY:

CITY OF LAFAYETTE, a Colorado
home-rule municipality

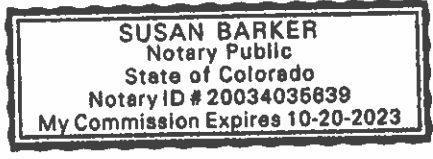
By: [Signature]
Jaideep Mangat, Mayor

STATE OF COLORADO)
) ss
COUNTY OF Boulder)

The foregoing instrument was acknowledged before me this 18th day of January,
2022, by Jaideep Mangat, as Mayor of City of Lafayette,
owner of City Parcel A and City Parcel B.

Witness my hand and official seal.

[Signature]
(Notary Public Official Signature)



Deputy City Clerk
(Title of office)

10.20.2023
(Commission Expiration)

EXHIBIT A

[Legal Description of City Parcel A]

DISTRICT COURT, COUNTY OF BOULDER, STATE OF COLORADO

Case No. 89CV1861, Division 5

ORDER VACATING RULE AND ORDER AND FOR IMMEDIATE POSSESSION

CITY OF LAFAYETTE, COLORADO, A Municipal Corporation,

Petitioner,

v.

FRANK SPINNER, GEORGE P. FORSYTH as the Boulder County
Treasurer, CLEMENT R. POWERS, and BETTY LOU POWERS,

Respondents.

THIS MATTER having come before the Court upon the Stipulation to Vacate Rule and Order and for Immediate Possession filed by the Petitioner and Respondent, Frank Spinner, and the Court having examined the file herein and heard the evidence presented to it, and being fully advised in the premises, makes the following findings and enters the following Order.

THE COURT FINDS that it has full and complete jurisdiction of the subject matter of this action and the parties thereto; and that service has been made upon all interested parties as required by law, or that same have subjected themselves to the jurisdiction of the Court.

THE COURT FURTHER FINDS that Petitioner is authorized by statute and its Home Rule Charter to exercise the power of eminent domain with respect to the properties which are the subject of these proceedings and that the Petitioner has negotiated in good faith with the Respondent, but the compensation to be paid for the subject property cannot be agreed upon by the parties.

THE COURT FURTHER FINDS that this matter was tried to the Court on April 12, 1990, at which time a Rule and Order was issued in favor of Petitioner against Respondents. On April 12, 1990, Petitioner deposited \$13,825.00 into the Registry of this Court consistent with the Rule and Order entered. This sum represented the amount of the Petitioner's appraisal evidence as to the value of the property condemned.

Respondent-Owner filed an appeal of the Court's Rule and Order in the Colorado Court of Appeals. The Court of Appeals affirmed part of the Rule and Order and reversed part. This matter was remanded to this Court to appoint a Commission properly to determine the compensation due Respondents for the property at issue.

THE COURT FURTHER FINDS that on April 12, 1990, Respondent George P. Forsyth, Boulder County Treasurer, was granted permission to withdraw \$3,881.02 from the Registry of the Court for taxes due on said property at issue in this proceeding, and that the Treasurer did in fact withdraw said amount on April 13, 1990.

THE COURT FURTHER FINDS that Petitioner is entitled to continued possession of the properties as more fully described in the Petition and Stipulation and subject to the requirements of this Order.

IT IS THEREFORE HEREBY ORDERED that the Petitioner may continue to possess the properties described in the Petition in Condemnation and in Exhibit A hereto, and may enter into, take, possess, use and enjoy said parcels of land and any structures thereon as against the said Respondent, Frank Spinner, or his successors, assigns, personal representatives, and each of them, and all persons whomsoever claiming any right, title or interest in and to said property, by, through or under the Respondent, together with the right to make cuts and fills thereon, and to take and use therefrom and add thereto any and all earth, stone, gravel, timber and other materials for construction and maintenance purposes, all during the pendency of and until the final conclusion of this action, and to expand and/or construct Petitioner's waste water treatment facility without interference from the Respondent, Frank Spinner, or his successors, assigns, heirs, devisees, personal representatives, guests or invitees, or by any person or persons claiming by, through or under said Respondent, Frank Spinner, upon the deposit by the Petitioner with the Clerk of this Court of the sum of \$13,825.00, which amount was deposited on April 12, 1990, for the properties as more fully described in the Petition, which sum the Court finds to be an amount equal, in all probability, to compensation which will ultimately be awarded the landowners when the same is determined by a commission.

IT IS FURTHER ORDERED that this Court's Rule and Order entered in this matter on April 12, 1990, and recorded at Reception #01036940, is vacated consistent with the Opinion and Judgment entered by the Colorado Court of Appeals on April 4, 1991, in Case No. 90CA0921.

IT IS FURTHER ORDERED that the residual sums currently remaining in the Registry of the Court will be placed in an interest bearing savings and loan association or bank account, and shall remain there until further order of the Court.

IT IS FURTHER ORDERED that pursuant to the provisions of C.R.S. §§ 38-1-105 and 38-1-116, the Respondents collectively, upon proper application to this Court, may withdraw up to 75 percent of the Petitioner's deposit, not to exceed the total sum withdrawn of \$10,368.75.

IT IS FURTHER ORDERED that if the ownership or interest in the subject property be not correctly set forth in the Petition, that the named Respondents shall set forth by Answer to the Petition the extent of his or their respective interests and the names of any other interested parties and the nature and extent of their interests, including leasehold interests.

DONE IN OPEN COURT this 18 day of July, 1991.

ORIGINAL SIGNED

BY MURRAY RICHEL

District Court Judge

Unofficial Copy

EXHIBIT "A"
LEGAL DESCRIPTION

A tract of land located in the SE 1/4 of Section 36, Township 1 North, Range 69 West of the 6th P.M., County of Boulder, State of Colorado, described as follows:

Commencing at the Southeast corner of said Section 36, from which the South 1/4 corner of said Section 36 bears South 89°53'10" West, thence North 54°58'27" West, 1637.49 feet to the true point of beginning; thence North 27°10'50" East, 336.76 feet; thence North 89°49'35" East, 415.76 feet to the Westerly right-of-way line of County Line Road (Boulder County Road No. 901); thence South 27°01'14" West, 526.77 feet along the Westerly right-of-way line of said County Line Road to a point that bears South 62°58'46" East from the true point of beginning; thence North 62°58'46" West, 370.74 feet to the true point of beginning. Area = 3.669 acres (159,823 square feet), more or less.

DISTRICT COURT, COUNTY OF BOULDER, STATE OF COLORADO

Civil Action No. 89CV1861, Division 5

RULE AND ORDER

THE CITY OF LAFAYETTE, COLORADO, a municipal corporation,

Petitioner,

vs.

FRANK SPINNER, BRENDA SPINNER, GEORGE P. FORSYTH as the
Boulder County Treasurer, CLEMENT R. POWERS, and BETTY LOU
POWERS,

Respondents.

THIS MATTER comes before the Court upon the award of the Commission of three freeholders filed herein on the 29th day of April, 1993, for which said Commission was duly impaneled and sworn to determine the issue of just compensation to be allowed the Respondents, Frank Spinner; Brenda Spinner; George P. Forsyth, as Treasurer for Boulder County, Colorado; Clement R. Powers; and Betty Lou Powers, for the taking of properties by Petitioner; and it appearing to the Court from the records and files herein that all persons interested as owners or otherwise, as appearing of record, have been joined herein as parties respondent.

THE COURT FINDS:

1. That the Court has full and complete jurisdiction of the subject matter of this action and the parties thereto;
2. That service has been made upon all interested parties as required by law, or that the same have subjected themselves to the jurisdiction of the Court; and a hearing to determine just compensation was held on April 28, 1993;
3. That Petitioner is authorized by statute, the Constitution of the State of Colorado, and its Home Rule Charter to exercise the power of eminent domain with respect

to the property which is the subject of these proceedings; that Resolution 89-26 of the City of Lafayette is a valid legislative enactment; that the expansion of the wastewater treatment plant by the City of Lafayette makes it necessary for the City to take the subject property for public use;

4. That the accurate legal descriptions of the subject property being acquired in fee by Petitioner herein is set forth in Exhibit "A" which is attached hereto and incorporated herein by reference;

5. That Respondents Clement R. and Betty Lou Powers were dismissed April 2, 1992;

6. That the Boulder County Treasurer filed a Motion for Dismissal on August 8, 1991;

7. That pursuant to the Court's Rule and Order of April 12, 1990, \$13,825.00 was deposited by Petitioner into the Registry of the Court on April 12, 1990;

8. That pursuant to the Court's Order Vacating Rule and Order and For Immediate Possession dated July 18, 1991, that Respondents collectively were entitled to withdraw an amount not to exceed 75 percent (\$10,368.75) of the amount on deposit with the Registry of the Court;

9. That the Boulder County Treasurer withdrew \$3,881.02 from the Registry of the Court on April 13, 1990 which satisfied the taxes due and payable through April 12, 1990;

10. That Respondents Clement R. and Betty Lou Powers withdrew \$300 from the Registry of the Court on April 2, 1992;

11. That Respondent Frank Spinner and his attorneys, Kelly, Stansfield & O'Donnell, withdrew \$6,187.73 from the Registry of the Court on or around April 2, 1992;

12. That the Commission found the value of the land taken to be \$14,400;

13. That the Commission found damages to the residue of the property in the amount of \$7,500;

14. That the total just compensation to which the Respondents are entitled is \$21,900 plus accrued interest and any costs yet to be determined;

15. That pursuant to C.R.S. §§ 38-1-116 and 5-12-106, Respondents are entitled to interest on the sum of \$11,531.25, being the difference between the award and the amounts which the Order for Immediate Possession authorized the Respondents to withdraw, from April 12, 1990, the date of possession, to May 31, 1993, compounded annually, as follows:

4/12/90 to 12/31/90 at 9% of \$11,531.25 x 263/365	\$ 747.79
1/1/91 to 12/31/91 at 9% of \$12,279.04	1,105.11
1/1/92 to 12/31/92 at 9% of \$13,384.15	803.05
1/1/93 to 5/31/93 at 8% of \$14,187.20 x 151/365	<u>293.46</u>
Total Interest	\$2,949.41

16. That Respondents withdrew the following sums from the Registry of the Court:

4/13/90	\$ 3,881.02
4/2/90	300.00
4/2/92	<u>6,187.73</u>
Total Withdrawals	\$10,368.75

17. That the amount currently on deposit in the Registry of the Court is as follows:

Original deposit	\$13,825.00
Total withdrawals	<u>10,368.75</u>
	\$ 3,456.25
Amount on deposit in Registry as of 4/2/92	\$ 3,456.25
Interest as of 4/30/93	<u>417.65</u>
Total Amount on Deposit in Registry	\$ 3,873.90

18. That the amount of the total judgment is as follows:

Commission award	\$21,900.00
Interest	<u>2,949.41</u>
Total award	\$24,849.41
Less withdrawals by Respondents	<u>10,368.75</u>
Total judgment	\$14,480.66

19. That Petitioner will be required to deposit into the Registry of the Court as follows:

Total judgment	\$14,480.66
Less amount on deposit in Registry	<u>3,873.90</u>
	\$10,606.76

20. That the remaining Respondents collectively will be entitled to withdraw sums from the Registry of the Court upon further Order of the Court;

21. That Petitioner is filing its Bill of Costs concurrently with filing of this Rule and Order;

A. IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as to the parcel of property described in Exhibit "A" attached hereto and incorporated herein by reference with respect to which the Petitioner is acquiring a fee simple title, that the property has been duly and lawfully taken by Petitioner pursuant to the statutes and the Constitution of the State of Colorado, and its Home Rule Charter; that all of the interests of Respondents Frank Spinner; Brenda Spinner; George P. Forsyth, as Treasurer for Boulder County, Colorado; Clement R. Powers; and Betty Lou Powers, in said property have been acquired by Petitioner, and that title to the property sought to be acquired by Petitioner, together with all appurtenances thereunto belonging is hereby vested in Petitioner, free and clear of all claims or interest in conflict with or superior to said title;

B. IT IS FURTHER ORDERED that Petitioner shall deposit the sum of \$10,606.76 into an interest-bearing account in the Registry of the Court;

C. IT IS FURTHER ORDERED that \$4,541.24 shall remain in the Court Registry until the Court rules on Petitioner's Bill of Costs;

D. IT IS FURTHER ORDERED that a certified copy of this Rule and Order be recorded and indexed in the office of the Clerk and Recorder of Boulder County in like manner and in like effect as if it were a Deed of Conveyance from the owners and parties interested to Petitioner herein.

1993.

Done in Boulder, Colorado, this 12 day of August

BY THE COURT:

ORIGINAL SIGNED BY

MORRIS W. SANDSTEAD JR.

Morris W. Sandstead, Jr.
District Court Judge

Unofficial Copy

EXHIBIT "A"
LEGAL DESCRIPTION

A tract of land located in the SE 1/4 of Section 36, Township 1 North, Range 69 West of the 6th P.M., County of Boulder, State of Colorado, described as follows:

Commencing at the Southeast corner of said Section 36, from which the South 1/4 corner of said Section 36 bears South $89^{\circ}53'10''$ West, thence North $54^{\circ}58'27''$ West, 1637.49 feet to the true point of beginning; thence North $27^{\circ}10'50''$ East, 336.76 feet; thence North $89^{\circ}49'35''$ East, 415.76 feet to the Westerly right-of-way line of County Line Road (Boulder County Road No. 904), thence South $27^{\circ}01'14''$ West, 526.77 feet along the Westerly right-of-way line of said County Line Road to a point that bears South $62^{\circ}58'46''$ East from the true point of beginning; thence North $62^{\circ}58'46''$ West, 370.74 feet to the true point of beginning. Area = 3.669 acres (159,823 square feet), more or less.

EXHIBIT B

[Legal Description of City Parcel B]

WHEN RECORDED MAIL TO:

City of Lafayette
1290 S. Public Road
Lafayette, CO 80026

no Doc fee - Tax Exempt

HTC
H057916a

QUITCLAIM DEED

THIS DEED, Made this 24th day of August, 2020, between **BNSF RAILWAY COMPANY**, a Delaware corporation, (formerly known as The Burlington Northern Inc., and formerly known as The Burlington Northern and Santa Fe Railway Company and formerly known as Burlington Northern Railroad Company), of 2500 Lou Menk Drive, Fort Worth, Texas 76131-2830, hereinafter called "Grantor", and **CITY OF LAFAYETTE**, a Colorado home rule municipal corporation, of 1290 S. Public Rd., Lafayette, Colorado 80026, hereinafter called "Grantee".

WITNESSETH: That the said Grantor, for Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, to the said Grantor in hand paid by the said Grantee, the receipt whereof is hereby confessed and acknowledged, hath remised, released, sold, conveyed and quitclaimed, and by these presents doth remise, release, sell, convey and quitclaim, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, unto the said Grantee, its successors and assigns, forever, all the right, title, interest, claim and demand, if any, which the said Grantor hath in and to the following described property (exclusive of any improvements thereon), subject, however, to all existing interests, including but not limited to all reservations, rights-of-way and easements of record or otherwise, located in Boulder County, Colorado, hereinafter called "Property", being more particularly described on **EXHIBIT "A"** attached hereto and by this reference made a part hereof.

Grantee covenants and agrees as follows:

(a) Grantee's interest shall be subject to the rights and interests of Grantor, Grantor's licensees, permittees and other third parties in and to all existing driveways, roads, utilities, fiber optic lines, tracks, wires and easements of any kind whatsoever on the Property whether owned, operated, used or maintained by the Grantor, Grantor's licensees, permittees or other third parties and whether or not of public record. Grantor does hereby reserve a perpetual easement on the Property for the use of such existing driveways, roads, utilities, fiber optic lines, tracks, wires and easements by Grantor and Grantor's licensees, permittees and customers.

(b) Grantee's interest shall further be subject to, and Grantor does hereby specifically reserve, all coal, oil, gas, casing-head gas and all ores and minerals of every kind and nature including sand and gravel underlying the surface of the Property, together with the full right, privilege and license at any and all times to explore, or drill for and to protect, conserve, mine, take, remove and market any and all such products in any manner which will not damage structures on the surface of the Property, together with the right of access at all times to exercise said rights.

(c) GRANTOR RESERVES UNTO ITSELF, ITS SUCCESSORS AND ASSIGNS, IN PERPETUITY, ANY AND ALL NON-RIPARIAN WATER AND WATER RIGHTS ASSOCIATED WITH THE PROPERTY, INCLUDING BUT NOT LIMITED TO, ANY AND ALL DITCHES AND DITCH RIGHTS, WATER WELLS, SPRINGS, DIVERSION WORKS, WATER LINES, PIPES, PUMPS, MOTORS, GENERATORS, ELECTRICAL GEAR AND WIRES, AND ANY RELATED EQUIPMENT AND IMPROVEMENTS WHATSOEVER, HISTORICALLY USED UPON OR ASSOCIATED WITH THE PROPERTY, INCLUDING ALL MUTUAL WATER COMPANY SHARES, DITCH SHARES, WATER SERVICE AGREEMENTS AND CONTRACTS, AND WATER CLAIMS, AND INCLUDING BUT NOT LIMITED TO, ALL UNAPPROPRIATED, UNDEVELOPED OR UNUSED WATER AND WATER RIGHTS ASSOCIATED WITH OR UNDERLYING THE PROPERTY, AND THE EXCLUSIVE RIGHT TO DEVELOP AND TAKE WATER FROM THE PROPERTY BY ANY MEANS, AND INCLUDING ALL APPROPRIATIONS, PRIORITIES, PERMITS AND CERTIFICATES WHICH ARE APPURTENANT TO, ASSOCIATED WITH, USED UPON, FLOWING OVER, UNDER, OR LYING ON, IN, OR UNDER THE PROPERTY, TOGETHER WITH THE PERPETUAL RIGHT TO CONSTRUCT, INSTALL, OPERATE, REPLACE, REWORK, RECONSTRUCT, REHABILITATE AND MAINTAIN ANY AND ALL WATER DIVERSION, PRODUCTION, AND TRANSPORTATION STRUCTURES, EQUIPMENT, IMPROVEMENTS AND PIPING, INCLUDING BUT NOT LIMITED TO, HEADGATES, DIVERSION STRUCTURES, WATER WELLS, WATER WELL HOUSES, WATER WELL CASING, WATER WELL SCREENS, SPRING COLLECTION GALLERIES, SUMPS, WATER PIPES, AND RELATED ELECTRICAL GEAR AND WIRES, AND TO CONSTRUCT, INSTALL, OPERATE AND MAINTAIN WATER PUMPS AND HYDROELECTRIC GENERATION EQUIPMENT AND ALL EQUIPMENT NECESSARY, CONVENIENT OR RELATED TO THE PRODUCTION, TRANSPORTATION OR DELIVERY OF WATER FROM, ON, UNDER OR ACROSS THE PROPERTY, OR ANY PORTION THEREOF.

(d) For 99 years after the Closing Date, Grantee covenants and agrees that the Property shall be used solely for non-residential purposes and that the groundwater will not be used for drinking water or irrigation purposes.

(e) Grantee has been allowed to make an inspection of the Property. **GRANTEE IS PURCHASING THE PROPERTY ON AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, INCLUDING THOSE**

RELATING TO THE ENVIRONMENTAL CONDITION OF THE PROPERTY, AND IS NOT RELYING ON ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM GRANTOR AS TO ANY MATTERS CONCERNING THE PROPERTY, including, but not limited to the physical condition of the Property; zoning status; tax consequences of this transaction; utilities; operating history or projections or valuation; compliance by the Property with Environmental Laws (defined below) or other laws, statutes, ordinances, decrees, regulations and other requirements applicable to the Property; the presence of any Hazardous Substances (defined below), wetlands, asbestos, lead, lead-based paint or other lead containing structures, urea formaldehyde, or other environmentally sensitive building materials in, on, under, or in proximity to the Property; the condition or existence of any of the above ground or underground structures or improvements, including tanks and transformers in, on or under the Property; the condition of title to the Property, and the leases, easements, permits, orders, licenses, or other agreements, affecting the Property (collectively, the **"Condition of the Property"**). Grantee represents and warrants to Grantor that Grantee has not relied and will not rely on, and Grantor is not liable for or bound by, any warranties, guaranties, statements, representations or information pertaining to the Property or relating thereto (including specifically, without limitation, Property information packages distributed with respect to the Property) made or furnished by Grantor, the manager of the Property, or any real estate broker or agent representing or purporting to represent Grantor, to whomever made or given, directly or indirectly, orally or in writing. Grantee assumes the risk that Hazardous Substances or other adverse matters may affect the Property that were not revealed by Grantee's inspection and, to the extent authorized by Colorado law and without waiving any rights, immunities, limitations, and protections afforded under the Colorado Governmental Immunity Act, Section 24-1-101 et seq., Colorado Revised Statutes, indemnifies, holds harmless and hereby waives, releases and discharges forever Grantor and Grantor's officers, directors, shareholders, employees and agents (collectively, **"Indemnitees"**) from any and all present or future claims or demands, and any and all damages, Losses, injuries, liabilities, causes of actions (including, without limitation, causes of action in tort or asserting a constitutional claim) costs and expenses (including, without limitation fines, penalties and judgments, and attorneys' fees) of any and every kind or character, known or unknown, arising from or in any way related to the Condition of the Property or alleged presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any Hazardous Substances in, on or under the Property. Losses shall include without limitation (a) the cost of any investigation, removal, remedial, restoration or other response action that is required by any Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) capital expenditures necessary to cause the Grantor remaining property or the operations or business of the Grantor on its remaining property to be in compliance with the requirements of any Environmental Law, (c) Losses for or related to injury or death of any person, (d) Losses for or related

to injury or damage to animal or plant life, natural resources or the environment, and (e) Losses arising under any Environmental Law enacted after transfer. The rights of Grantor under this section shall be in addition to and not in lieu of any other rights or remedies to which it may be entitled under this document or otherwise. This indemnity specifically includes the obligation of Grantee to remove, close, remediate, reimburse or take other actions requested or required by any governmental agency concerning any Hazardous Substances on the Property. The term "Environmental Law" means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law relating in any way to human health, occupational safety, natural resources, plant or animal life or the environment, including without limitation, principles of common law and equity, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, and any similar or comparable state or local law. The term "Hazardous Substance" means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated under any Environmental Law, and includes without limitation petroleum oil and any of its fractions.

The covenants and agreements set forth in paragraphs (a) through (e), above, shall be binding upon Grantee and its heirs, successors and assigns, and shall be covenants running with the land benefiting Grantor and its heirs, successors and assigns.

TO HAVE AND TO HOLD the Property unto the said Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, the said Grantor has caused this instrument to be signed by its authorized representative, attested by its Assistant Secretary, and its corporate seal to be affixed hereto on the day and year first above written.

BNSF RAILWAY COMPANY,
a Delaware corporation

By: _____


Blaine Bilderback

Its: Director Real Estate

ACCEPTED:

CITY OF LAFAYETTE

By: *Fritz Sprague*
Name: Fritz Sprague
Title: City Administrator

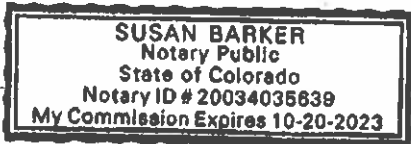
STATE OF COLORADO

§
§ ss.
§

COUNTY OF BOULDER

The foregoing instrument was acknowledged before me this 27th day of August, 2020, by Fritz Sprague as City Administrator, of CITY OF LAFAYETTE, a Colorado home rule municipal corporation.

WITNESS my hand and official seal.



Susan Barker
Notary Public

My Commission Expires: 10-20-2023

STATE OF TEXAS §
 § ss.
COUNTY OF TARRANT §

The foregoing instrument was acknowledged before me this 24th day of August, 2020, by Blaine Bilderback as Director Real Estate, of **BNSF RAILWAY COMPANY**, a Delaware corporation.

WITNESS my hand and official seal.



Cathy F. Benton
Notary Public

My Commission Expires: Feb. 22, 2023

This Instrument Prepared by:

BNSF Railway Company
LAW Department
2500 Lou Menk Drive, AOB 3
Fort Worth, Texas 76131-2830

FORM APPROVED BY LAW

APPROVED DESCRIPTION	KKH
APPROVED FORM	CB <u>CB</u>
APPROVED	MC

EXHIBIT "A"
LEGAL DESCRIPTION

Legal Description of BNSF Parcel:

A parcel of land described as follows:

All that portion of the S 1/2 SE 1/4 of Section 36, Township 1 North, Range 69 West of the 6th P.M., County of Boulder, State of Colorado, described as follows:

A strip of land 100.00 feet in width being 50.00 feet on each side of the following described center line:

Commencing at the Southwest corner of Section 1, Township 1 South, Range 69 West, Boulder County, Colorado;

Thence South 89°28' East along the South line of said Section 1, a distance of 430.40 feet;

Thence North 31°26'41" East, 2058.20 feet;

Thence along a 1°00' curve to the left having a central angle of 4°50' a distance of 483.30 feet;

Thence North 26°36'41" East, 3072.80 feet to the True Point of Beginning;

Thence continuing along the last described course, 1475.70 feet to the True Point of Termination;

Except that tract of land conveyed in Deed recorded May 9, 1939 in Book 664 at Page 536 and

Except that tract of land conveyed to Department of Highways in Deed recorded June 17, 1964 on Film 505 at Reception No. 758560 and

Except that tract of land conveyed to OEO, LLC, in quitclaim deed recorded September 21, 2017 at Reception No. 3616070.

Being that same parcel of land described as follows:

A parcel of land being a portion of the south half of the southeast quarter of Section 36, Township 1 North, Range 69 West of the Sixth Principal Meridian, Boulder County, Colorado, more particularly described as follows:

Commencing at the southeast corner of the southeast quarter of Section 36, an aluminum cap PLS 14083; Thence S 89°36'21" W, along the south line of said southeast quarter, a distance of 1421.10 feet, more or less, to the centerline of that tract described in Quit Claim Deed to Burlington Northern Inc. filed September 26, 1977 at Reception Number 243865; Thence N 26°14'21" E, along said centerline, a distance of 139.92 feet, more or less, to a point on the northerly right of way line of State Highway 7 as described in that Special Warranty Deed to The Department of Highways, State of Colorado filed June 17, 1964 at Reception Number 758560 and the POINT OF BEGINNING.

Thence S 89°36'21" W, along said northerly right of way line, a distance of 19.91 feet;

Thence S 55°52'51" W, continuing along said northerly right of way line, a distance of 65.12 feet;

Thence N 26°14'21" E a distance of 1298.12 feet, more or less, to a point on the southerly line of that BNSF Parcel 2 Rev-2 as described in Quit Claim Deed filed September 21, 2017 at Reception Number 3616070;

Thence N 89°36'21" E, along said southerly line, a distance of 111.87 feet;

Thence S 26°14'21" W a distance of 1257.67 feet, more or less, to a point on the northerly right of way line of State Highway 7;

Thence S 89°36'21" W, along said northerly line, a distance of 55.93 feet to the POINT OF BEGINNING.

Containing 2.902 acres more or less.

EXHIBIT C

[Legal Description of Nguyen Property]

QUITCLAIM DEED

THIS QUITCLAIM DEED, Executed this November 13th, 2010, between Thao T. Nguyen and Dang V Nguyen (Grantors) of the City and County of Boulder, State of Colorado and Thao T. Nguyen (Grantee) of the City and County of Jefferson, State of Colorado.

WITNESSETH, that, for good consideration and for the sum of \$10.00 (Ten Dollars) the receipt whereof is hereby acknowledged, does hereby remise, release, sold, conveyed, and quitclaim unto Grantees forever, all the right, title, interest and claim which Grantor has in and to the following described parcel of land, and improvements and appurtenances thereto in the Town of Lafayette, County of Boulder, State of Colorado, to wit:

Legal Description: SEE EXHIBIT A. Attached hereto and incorporated herein.

Commonly known as: 795 County Line Road Lafayette, CO 80226

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging, or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever of the grantors, either in law or equity, to the only proper use, benefit and behold of the grantees, their heirs, and assigns forever.

IN WITNESS WHEREOF, The said parties have signed and sealed these presents the day and year first above written.

[Signature] Grantor
D. Nguyen Grantor
[Signature] Grantee

Signed, sealed and delivered in presence of:

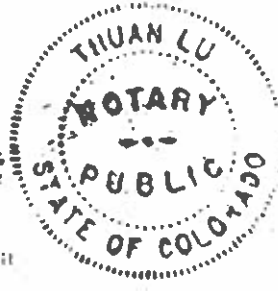
STATE OF COLORADO }
COUNTY OF DENVER }

On Nov 13th, 2010 before me, THUAN LU, personally appeared THAO NGUYEN AND DANG NGUYEN, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

[Signature]

Notary Public: THUAN LU



Affiant: Known Unknown

ID Produced: DRIVER LICENSE

EXHIBIT "A"

A TRACT OF LAND IN THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 36, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH P.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 36; THENCE SOUTH 00 DEG. 11' EAST, 1242.80 FEET, TO A POINT ON THE NORTHERLY RIGHT OF WAY OF STATE HIGHWAY NO. 7; THENCE NORTH 89 DEG. 48' EAST, 1184.66 FEET ALONG THE NORTHERLY RIGHT OF WAY OF STATE HIGHWAY NO. 7 TO THE TRUE POINT OF BEGINNING; THENCE NORTH 56 DEG. 04'30" EAST, 90.1 FEET; THENCE SOUTH 89 DEG. 48' WEST, 14.42 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY OF COUNTY ROAD NO. 148; THENCE NORTH 26 DEG. 59' EAST, ALONG THE WESTERLY RIGHT OF WAY OF SAID COUNTY ROAD NO. 148, 1255.34 FEET; THENCE SOUTH 89 DEG. 48' WEST, 371.00 FEET; THENCE SOUTH 26 DEG. 59' WEST, 1320 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY OF STATE HIGHWAY NO. 7; THENCE NORTH 89 DEG. 48' EAST, 334.33 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF BOULDER, STATE OF COLORADO,

EXCEPT THAT PORTION AS DESCRIBED BELOW:

A TRACT OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 36; TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 36, FROM WHICH THE SOUTH 1/4 CORNER OF SAID SECTION 36 BEARS SOUTH 89 DEG. 33'10" WEST; THENCE 54 DEG. 58'27" WEST, 1637.49 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 27 DEG. 10'50" EAST, 336.76 FEET; THENCE NORTH 89 DEG. 49'35" EAST, 415.76 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF COUNTY LINE ROAD (BOULDER COUNTY ROAD NO. 901); THENCE SOUTH 27 DEG. 01'14" WEST, 526.77 FEET ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID COUNTY LINE ROAD TO A POINT THAT BEARS SOUTH 62 DEG. 58'46" EAST FROM THE TRUE POINT OF BEGINNING; THENCE NORTH 62 DEG. 58'46" WEST, 370.74 FEET TO THE TRUE POINT OF BEGINNING.

EXHIBIT D

[Survey]

Exhibit D

Page 1 of 2

Parcel Description

That City of Lafayette parcel described in Order vacating Rule and Order and for Immediate Possession filed July 30, 1991 at Reception Number 1119858 and also described in Rule and Order filed August 23, 1993 at Reception Number 1328765; Together with a portion of that parcel Quit Claimed to the City of Lafayette filed September 2, 2020 at Reception Number 3812518; and Together with a portion of County Road 148 (901) all being a portion of the south half of the southeast quarter of Section 36, Township 1 North, Range 69 West of the Sixth Principal Meridian, Boulder County, Colorado, more particularly described as follows:

Note:

1. Basis of Bearings is the south line of the southeast quarter of Section 36 as monumented with an aluminum cap PLS 4846 as a witness corner which bears N 00°20'06" W a distance of 74.00' feet from the true corner position at the west end and an aluminum cap PLS 14083 at the east end with a grid bearing of N 89°36'21" E..
2. All directions, distances and dimensions are based on coordinates from the Colorado coordinate system of 1983 North zone (C.R.S. 38-52-102).

Commencing at the southeast corner of the southeast quarter of Section 36, an aluminum cap PLS 14083; Thence S 89°36'21" W, along the south line of said southeast quarter, a distance of 1421.10 feet, more or less, to the centerline of that tract described in Quit Claim Deed to Burlington Northern Inc. filed September 26, 1977 at Reception Number 243865; Thence N 26°14'21" E, along said centerline, a distance of 139.92 feet, more or less, to a point on the northerly right of way line of State Highway 7 as described in that Special Warranty Deed to The Department of Highways, State of Colorado filed June 17, 1964 at Reception Number 758560, said point also being a point on the northerly line of that parcel annexed to the City of Lafayette by Ordinance No. 35, Series 1988 filed December 27, 1988 at Reception Number 959468 and the POINT OF BEGINNING.

Thence S 89°36'21" W, along said northerly right of way line as extended, a distance of 34.33 feet, more or less, to a point on the easterly line of that parcel Quit Claimed to Thao T. Nguyen filed November 24, 2010 at Reception Number 3115964, said point also being on the westerly right of way line of County Road 148 (901); Thence N 26°47'26" E, along said easterly line, a distance of 752.50 feet, more or less, to a point on the southerly line of said parcel described at Reception Numbers 1119858 and 1328765; Thence N 63°12'47" W, along said southerly line, a distance of 328.34 feet, more or less, to a point on the boundary line of that parcel annexed to the Town of Erie by Ordinance No. 33 Series 2016 filed February 3, 2017 at Reception Number 3573282; Thence N 26°47'29" E, along said boundary line, a distance of 342.59 feet; Thence N 89°36'29" E, continuing along said boundary line as extended, a distance of 446.24 feet, more or less, to a point on the easterly line of Tract AC, Parkdale Filing No. 1 filed September 17, 2020 at Reception Number 3816093; Thence N 26°13'11" E, along said easterly line, a distance of 81.54 feet, more or less, to a point on the north line of the south half of the southeast quarter of said Section 36; Thence N 89°44'17" E, along said northerly line, a distance of 42.68 feet, more or less, to a point on the westerly line of that parcel annexed to the City of Lafayette by Ordinance No. 33 Series 1988 filed December 27, 1988 at Reception Number 959463; Thence S 26°46'57" W, along said easterly line and the easterly line of that parcel annexed to the City of Lafayette by Ordinance No. 05, Series 2005 filed August 2, 2005 at Reception Number 2709635, a distance of 1345.43 feet, more or less, to an angle point in said annexation filed at Reception Number 2709635; Thence S 89°36'21" W, continuing along said easterly line and along the northerly line of said parcel annexed to the City of Lafayette Reception Number 959468, a distance of 84.84 feet to the POINT OF BEGINNING.

Containing 6.361 acres more or less.

Prepared by Joel T. Vogt
For and on behalf of Topographic Land Surveyors
520 Stacy Ct. Ste B, Lafayette, CO 80026



Exhibit D

Page 2 of 2

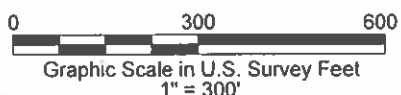
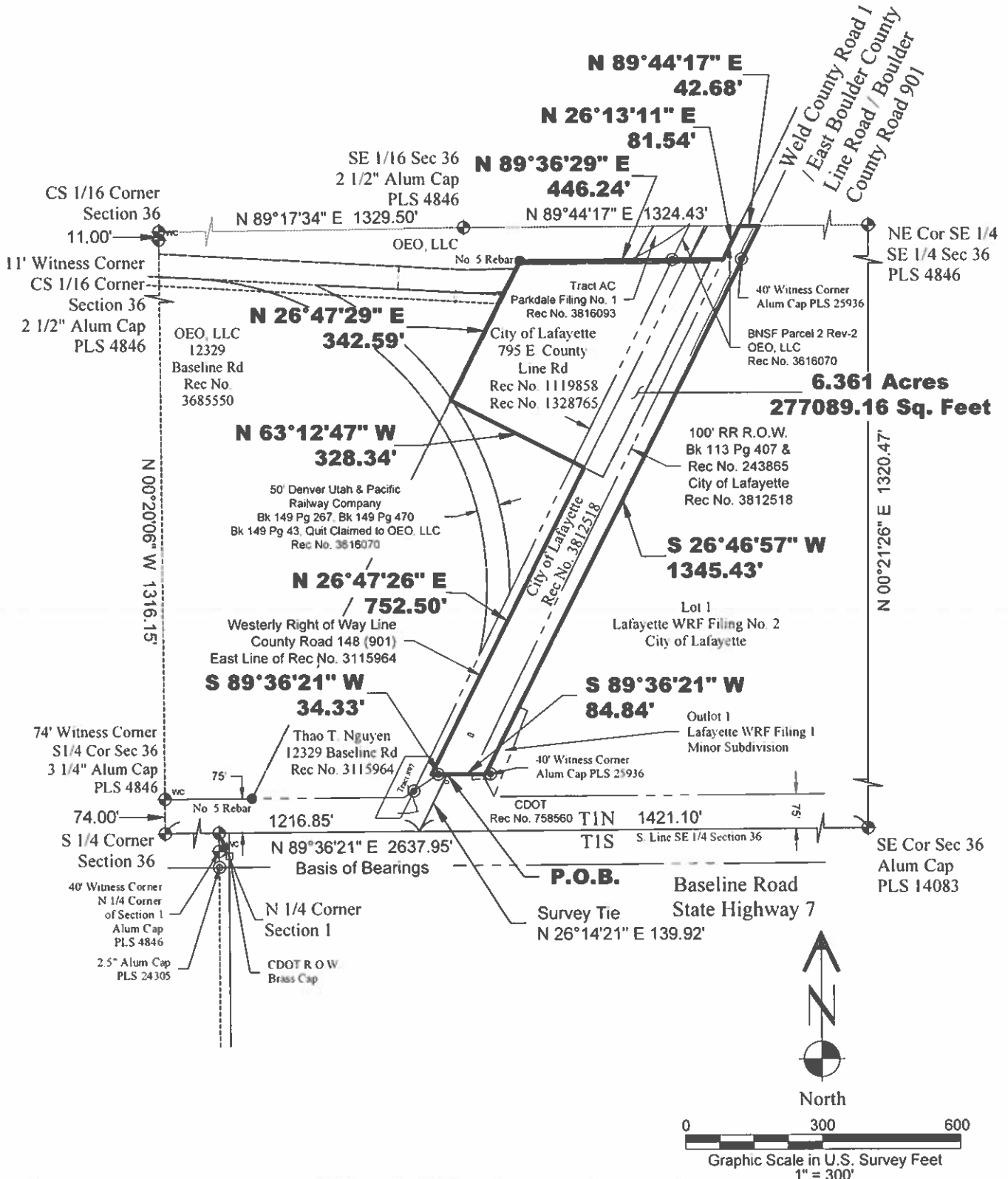


EXHIBIT E

[Quit Claim Deed]

QUIT CLAIM DEED

THIS DEED, made this ____ day of _____ 2021, by CITY OF LAFAYETTE, COLORADO, a home-rule municipality, whose address 1290 South Public Road, Lafayette, CO, 80026, County of Boulder, State of Colorado (“Grantor), to THAO T. NGUYEN, whose address is _____ (“Grantee”).

Grantor, for the sum of **TEN DOLLARS (\$10.00)** in hand paid, and other good and valuable consideration, hereby sells, remises, releases and QUITCLAIMS to Grantee all real property interest owned or held by Grantor in the following described real property located in the County of Boulder, State of Colorado; to wit:

As described in Exhibit A attached hereto and made a part of this quit claim deed.

[remainder of page left intentionally blank—signature page to follow]

EXHIBIT A

[Legal Description]

Exhibit A

Page 1 of 2

Parcel Description

A portion of that parcel Quit Claimed to the City of Lafayette filed September 2, 2020 at Reception Number 3812518 in the south half of the southeast quarter of Section 36, Township 1 North, Range 69 West of the Sixth Principal Meridian, Boulder County, Colorado, more particularly described as follows:

Note:

1. Basis of Bearings is the south line of the southeast quarter of Section 36 as monumented with an aluminum cap PLS 4846 as a witness corner which bears N 00°20'06" W a distance of 74.00' feet from the true corner position at the west end and an aluminum cap PLS 14083 at the east end with a grid bearing of N 89°36'21" E.
2. All directions, distances and dimensions are based on modified coordinates from the Colorado coordinate system of 1983 north zone (C.R.S. 38-52-102). CSF=1.000285131, Origin 0,0.

Commencing at the southeast corner of the southeast quarter of Section 36, an aluminum cap PLS 14083; Thence S 89°36'21" W, along the south line of said southeast quarter, a distance of 1421.10 feet, more or less, to the centerline of that tract described in Quit Claim Deed to Burlington Northern Inc. filed September 26, 1977 at Reception Number 243865; Thence N 26°14'21" E, along said centerline, a distance of 139.92 feet, more or less, to a point on the northerly right of way line of State Highway 7 as described in that Special Warranty Deed to The Department of Highways, State of Colorado filed June 17, 1964 at Reception Number 758560; Thence S 89°36'21" W, along said northerly right of way line, a distance of 19.91 feet to a northwesterly corner of said right of way and the POINT OF BEGINNING.

Thence S 55°52'51" W, along said northerly line, a distance of 65.12 feet to the westerly line of that parcel Quit Claimed to the City of Lafayette filed September 2, 2020 at Reception Number 3812518;

Thence N 26°14'21" E, along said westerly line, a distance of 802.85 feet to the southerly line of that City of Lafayette parcel described in Order vacating Rule and Order and for Immediate Possession filed July 30, 1991 at Reception Number 1119858 and also described in Rule and Order filed August 23, 1993 at Reception Number 1328765;

Thence S 63°12'47" E, along said southerly line, a distance of 26.56 feet to the easterly line of that parcel Quit Claimed to Thao T. Nguyen filed November 24, 2010 at Reception Number 3115964, said point also being on the westerly right of way line of County Road 148 (901);

Thence S 26°47'26" W, along said easterly and westerly line, a distance of 752.50 feet to a point on the northerly right of way line extended of State Highway 7 as described in that Special Warranty Deed to The Department of Highways, State of Colorado filed June 17, 1964 at Reception Number 758560;

Thence N 89°36'21" E, along said northerly line extended, a distance of 14.42 feet to the POINT OF BEGINNING.

Containing 0.413 acres more or less.

Prepared by Joel T. Vogt
For and on behalf of Topographic Land Surveyors
520 Stacy Ct. Ste B, Lafayette, CO 80026



