

TOWN OF SUPERIOR
RESOLUTION NO. R-4
SERIES 2021

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR APPROVING THE PURCHASE OF PROPERTY FOR THE 88TH STREET IMPROVEMENT PROJECT FROM THE VICTOR C. THOMAS FAMILY, LLC AND CLADD LLC IN THE AMOUNT OF \$266,000, APPROVING THE ASSOCIATED RIGHT-OF-WAY AGREEMENT, AND ACCEPTING THE ASSOCIATED SPECIAL WARRANTY DEED

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, as follows:

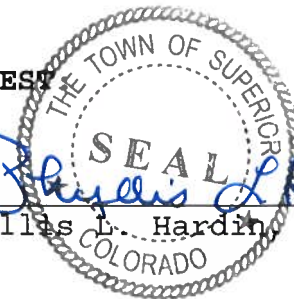
Section 1. The Board of Trustees hereby approves the purchase of property for the 88th Street Improvement Project from the Victor C. Thomas Family, LLC and CLADD LLC in the amount of \$266,000. The Board of Trustees hereby approves the associated Right-of-Way Agreement in substantially the same form as attached hereto, subject to final approval by the Town Attorney, and accepts the special warranty deed in substantially the same form as attached hereto, subject to final approval by the Town Attorney.

ADOPTED this 11th day of January, 2021.



Clint Folsom, Mayor

ATTEST



Phyllis L. Hardin, Town Clerk-Treasurer

RIGHT-OF-WAY AGREEMENT

This Agreement is made and entered into by and between **Victor C. Thomas Family Limited Liability Company**, a Colorado limited liability company and **CLADD L.L.C.**, a Colorado Limited Liability Company, whose address is 7907 Zenobia Street, Westminster, CO 80030 (collectively, the "**Owner**"), and the **TOWN OF SUPERIOR, COLORADO**, Colorado municipality (the "**Town**") for the conveyance of rights-of-way on property located at 7500 South 88th Street, Superior, CO 80027, hereinafter (the "**Property**") for the 88th Street Improvements Project (the "**Project**"). The legal description and conveyance documents for the interests on said Property are set forth in **Exhibit 1** attached hereto and incorporated herein by this reference.

The compensation agreed to by the Owner and the Town for the acquisition of the Property interests described herein is **TWO HUNDRED SIXTY-SIX THOUSAND AND NO/100'S DOLLARS (\$266,000.00)** including the performance of the terms of this Agreement, the sufficiency of which is hereby acknowledged. This consideration has been agreed upon and between the parties as the total just compensation due to the Owner and the consideration shall be given and accepted in full satisfaction of this Agreement.

In consideration of the above premises and the mutual promises and covenants below, the Owner and the Town agree to the following:

1. The Owner hereby warrants that the Owner is the sole Owner of the Property, that the Owner owns the Property in fee simple subject only to matters of record and that the Owner has the power to enter into this Agreement.

2. The Town acknowledges that Owner is also the owner of additional real property that is immediately adjacent to the Property being conveyed by this Agreement (the "**Remaining Property**"), and that Owner requires that it reserve access easements across the Property in order for Owner to have adequate ingress, egress, and utility service to the Remaining Property that is sufficient to develop the Remaining Property (the "**Easements**").

3. The Owner agrees to execute and deliver to the Town the Special Warranty Deed (the "**Deed**") upon tender by the Town of a warrant (check) for the compensation agreed upon as soon as possible following the execution of this agreement. The Deed shall contain reservations in order for Owner to fully reserve and retain title to the Easements.

4. Owner hereby irrevocably grants to the Town possession and use of the Property interests on the Property upon execution of this Agreement by the Owner and the Town. This grant of possession shall remain in effect with respect to the Property until such time as the Town obtains from the Owner the Deed.

5. The Town shall promptly provide, at no cost to Owner, an asphalt millings driveway at least 15 feet in width in the "**Gate Access Easement**", which will enable Grantor to have vehicular access from 88th Street to the existing gate located approximately 300 feet south of the Promenade Drive intersection.

6. The Owner has entered into this Agreement acknowledging that the Town has the power of eminent domain and requires the Property for a public purpose.

7. If the Owner fails to consummate this agreement for any reason, except the Town's default, the Town may at its option, enforce this agreement by bringing an action against the Owner for specific performance.

8. The Town agrees to reimburse Owner for its actual, incurred legal fees and costs, not to exceed \$5,000, and to provide Owner with an as-built survey of the improvements when the Property improvements are completed.

9. This Agreement contains all agreements, understandings and promises between the Owner and the Town, relating to the Project and shall be deemed a contract binding upon the Owner and Town and extending to the successors, heirs and assigns.

10. Owner shall be responsible for reporting proceeds of the sale to taxing authorities, including the submittal of Form 1099-S with the Internal Revenue Service, if applicable.

11. This Agreement has been entered into in the State of Colorado and shall be governed according to the laws thereof.

SIGNATURES ON FOLLOWING PAGE

Owner: VICTOR C. THOMAS FAMILY LIMITED LIABILITY COMPANY, a
Colorado limited liability company

By: Jode E. Thomas
Title: Managing member
Date: 12-22-20

Owner: CLADB L.L.C., a Colorado Limited Liability Company

By: David L. Schavies
Title: MANAGER
Date: Dec 29, 2000

Approved:

TOWN OF SUPERIOR

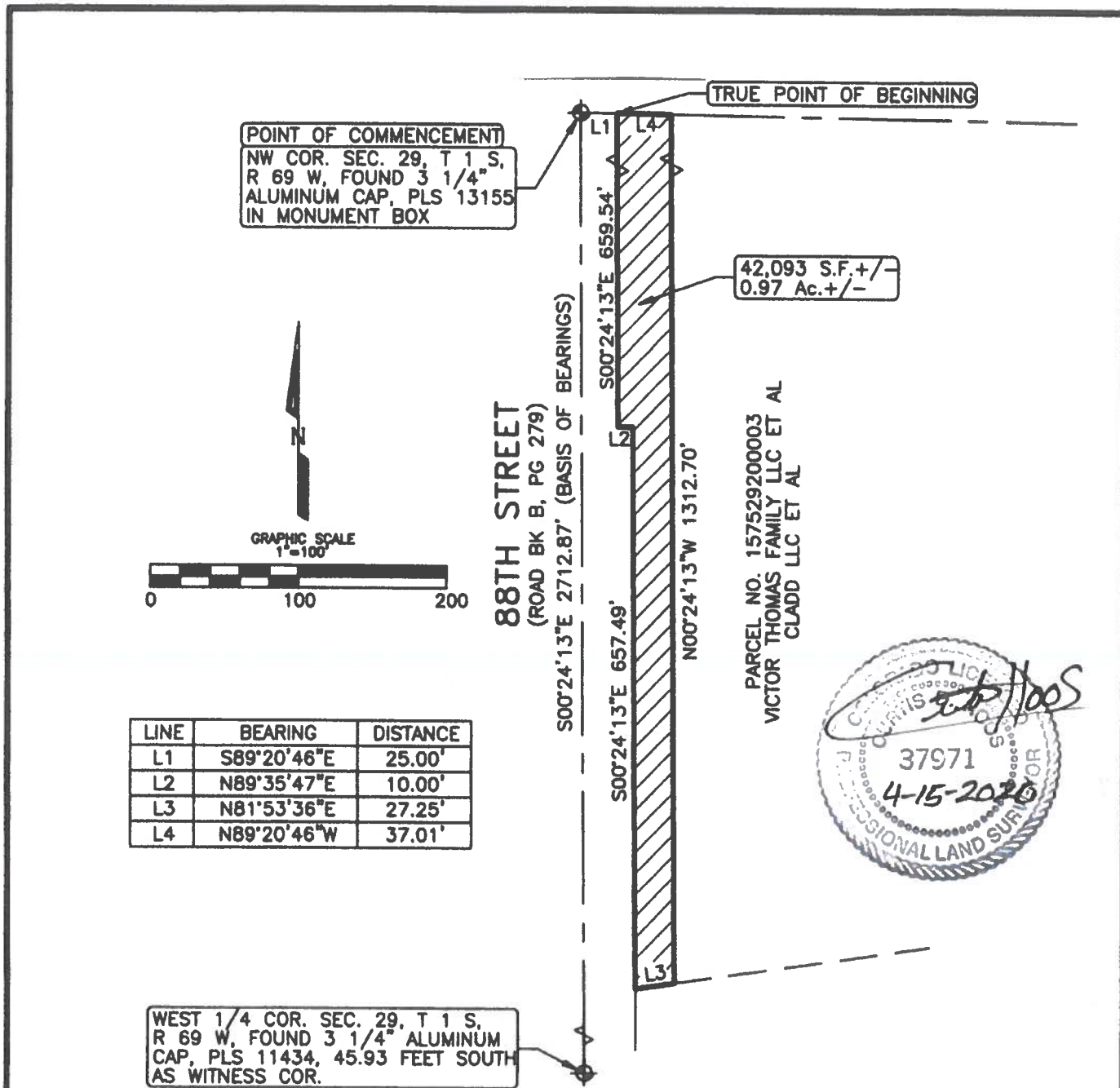
Matthew G. Magley
Matthew G. Magley, Town Manager

ATTEST:

Phyllis L. Hardin
Phyllis L. Hardin, Town Clerk/Treasurer



EXHIBIT "1"



NOTE: THIS DRAWING IS MEANT TO DEPICT THE ATTACHED DESCRIPTION AND IS FOR INFORMATIONAL PURPOSES ONLY. IT DOES NOT REPRESENT A MONUMENTED LAND SURVEY. NOTE: THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY AMERICAN WEST LAND SURVEYING CO. TO DETERMINE OWNERSHIP, RIGHTS-OF-WAY OR EASEMENTS OF RECORD.

<p>LEGEND:</p> <p>⊕ ALIQUOT MONUMENT, AS NOTED.</p>	<p>DRAWN BY: CDH</p> <p>FIELD: CDH</p>	<p>American West Land Surveying Co. <small>A Colorado Corporation</small></p>
<p>PARCEL NO. 157529200003 VICTOR THOMAS FAMILY LLC ET AL CLADD LLC ET AL</p>	<p>APRIL 14, 2020</p> <p>PAGE 2 OF 2</p>	
<p>PO Box 129, Brighton, CO 80601 * P 303-659-1832 F 303-655-0576 * AMWESTLS.COM</p>		

EXHIBIT "1"

A PARCEL OF LAND LOCATED IN THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 1 SOUTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

CONSIDERING THE WEST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 29 TO BEAR SOUTH 00°24'13" EAST, BEING MONUMENTED ON THE NORTH END BY A 3 1/4" ALUMINUM CAP, PLS 13155 IN MONUMENT BOX, AND ON THE SOUTH END BY A 45.93' WITNESS CORNER BEING A 3 1/4" ALUMINUM CAP, PLS 11434 FLUSH WITH SIDEWALK, AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 29; THENCE SOUTH 89°20'46" EAST, COINCIDENT WITH THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 29, A DISTANCE OF 25.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF 88TH STREET AS SHOWN ON THE BOULDER COUNTY ROAD MAP FOR ROAD NO. 144 DATED JULY 24, 1901 AND RECORDED IN ROAD BOOK B AT PAGE 279, BOULDER COUNTY RECORDS AND THE TRUE POINT OF BEGINNING; THENCE SOUTH 00°24'13" EAST, COINCIDENT WITH SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 659.54 FEET; THENCE NORTH 89°35'47" EAST, COINCIDENT WITH SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 10.00 FEET; THENCE SOUTH 00°24'13" EAST, COINCIDENT WITH SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 657.49 FEET TO THE SOUTH LINE OF THAT PARCEL OF LAND DESCRIBED IN DEED RECORDED DECEMBER 24, 1996 AS RECEPTION NO. 1666386 IN THE RECORDS OF THE CLERK AND RECORDER FOR BOULDER COUNTY, COLORADO; THENCE NORTH 81°53'36" EAST, COINCIDENT WITH SAID SOUTH LINE, A DISTANCE OF 27.25 FEET; THENCE NORTH 00°24'13" WEST, PARALLEL WITH AND 62.00 FEET EASTERLY FROM THE WEST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 29, A DISTANCE OF 1312.70 FEET TO THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 29; THENCE NORTH 89°20'46" WEST, COINCIDENT WITH SAID NORTH LINE, A DISTANCE OF 37.01 FEET TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINS 42,093 SQUARE FEET OR 0.97 ACRES, MORE OR LESS.

**PREPARED BY: CURTIS D. HOOS, PLS 37971
FOR AND ON BEHALF OF:
AMERICAN WEST LAND SURVEYING CO.
BRIGHTON, CO 80601**

