

DEVELOPMENT AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into this 14 day of April, 2021, between 6201 N. BROADWAY, a limited liability company eligible to conduct business in the State of Colorado ("Developer"), whose address is 12249 Pennsylvania Street, Thornton, CO 80241, and the Board of County Commissioners of the County of Adams, State of Colorado ("County"), whose address is 4430 S. Adams County Parkway, Brighton, CO 80601.

The purpose of this Development Agreement is to specify certain public improvements to be constructed by Developer pursuant to the terms and conditions of this Agreement.

WITNESSETH:

WHEREAS, Developer is the owner of real property in the County of Adams, State of Colorado, as described in **Exhibit A** attached hereto, and by this reference made a part hereof (the "Property").

WHEREAS, pursuant to that certain Brienza Exemption from Subdivision, recorded in the Office of the Adams County Clerk and Recorder, State of Colorado on May 3, 2000 at Reception No. C0666422, Developer has an outstanding obligation to dedicate thirty feet (30') of right of way abutting West 62nd Avenue and twenty feet (20') of right of way abutting Broadway.

WHEREAS, the County is in the planning phases for a capital improvement road widening project for West 62nd Avenue abutting the Property (the "West 62nd Avenue Project").

WHEREAS, it is provided by resolution of the Board of County Commissioners, County of Adams, State of Colorado, that where designated the Developer shall have entered into a written agreement with the County to install certain public improvements.

WHEREAS, in light of the upcoming West 62nd Avenue Project and otherwise, the Developer shall provide cash-in-lieu rather than construct the improvements on West 62nd Avenue adjacent to the Property.

WHEREAS, to construct the West 62nd Avenue Project, the County may require additional right of way along West 62nd Avenue to be obtained pursuant the procedures and requirements in the applicable Colorado Revised Statutes.

NOW, THEREFORE, in consideration of the foregoing, the parties hereto promise, covenant, and agree as follows:

1. **Engineering Services.** Developer shall furnish, at its own expense, all engineering and other services in connection with the design and construction of the improvements described and detailed on **Exhibit B** attached hereto, and by this reference made a part hereof (the "Broadway Improvements").
2. **Drawings and Estimates.** The Developer shall furnish drawings and cost estimates for all Broadway Improvements described and detailed on **Exhibit B** for approval by the County. Upon request, the Developer shall furnish one set of reproducible "as built" drawings and a final statement of construction costs to the County.
3. **Construction.** Developer shall furnish and construct, at its own expense and in accordance with drawings and materials approved by the County, the Broadway Improvements described and detailed on **Exhibit B**.
4. **Cash-in-Lieu.** Developer shall furnish to the County a cash escrow deposit with sufficient funds to make all cash-in-lieu payments required pursuant to this Agreement and Developer will furnish evidence of such cash escrow deposit to the County. Said cash escrow deposit shall be sufficient to satisfy the cost of the improvements described in **Exhibit C** in the amount of \$55,577.02.
5. **Time for Completion.** The Broadway Improvements shall be completed according to the terms of this Agreement within "construction completion date" appearing in **Exhibit B**. The Director of Community and Economic Development Department may for good cause grant

extension of time for completion of any part or all of the Broadway Improvements appearing on said **Exhibit B**. Any extension greater than 180 days may be approved only by the Board of County Commissioners. All extensions of time shall be in written form only.

6. **Certificate of Occupancy Issuance.** Approval of this Agreement, payment of the Cash-in-Lieu for the improvements in **Exhibit C**, and submittal of an acceptable form of collateral for the improvements in **Exhibit B** shall satisfy the requirements in the Adams County Development Standards and Regulations for issuance of a Certificate of Occupancy for BDP20-0605.
7. **Warranties of Developer.** Developer warrants that the Broadway Improvements shall be installed in good workmanlike manner and in substantial compliance with the plans and requirements of this Agreement and shall be substantially free of defects in materials and workmanship. These warranties of Developer shall remain in effect until Final Acceptance of the improvements by the County.
8. **Guarantee of Compliance.** Developer shall furnish to the County a cash escrow deposit or other acceptable collateral, releasable only by the County, to guarantee compliance with this agreement with respect to the Broadway Improvements. Said collateral shall be in the amount of \$53,685.27, including twenty percent (20%) to cover administration and five percent (5%) per year for the term of the Agreement to cover inflation. Upon completion of said Broadway Improvements constructed according to the terms of this Agreement, and Preliminary Acceptance by the Director of Public Works in accordance with section 5-02-05-01 of the County's Development Standards and Regulations, the collateral shall be released. Completion of said Broadway Improvements shall be determined solely by the County and a reasonable part of said collateral, up to 20%, may be retained to guarantee maintenance of the public Broadway Improvements for a period of one year from the date of Preliminary Acceptance.
9. **Acceptance and Maintenance of Public Improvements.** All Broadway Improvements designated "public" on **Exhibit B** shall be public facilities and become the property of the County or other public agencies upon acceptance. During the period of one year from and after the acceptance of public improvements, the Developer shall, at its own expense, make all needed repairs or replacement due to defective materials or workmanship which, in the opinion of the County, becomes necessary.
10. **Successors and Assigns.** This Agreement shall be binding upon the heirs, executors, personal representatives, successors, and assigns of the Developer, and shall be deemed a covenant running with the real property as described in **Exhibit A** attached hereto.
11. **Improvements.** The undersigned developer hereby agrees to provide the following improvements, and to dedicate described property.
 - A. **Broadway Improvements.**

See **Exhibit B** for description, estimated quantities, and estimated construction costs.
 - B. **Public dedication of land for right-of-way purposes or other public purpose.** Upon approval of this Agreement by the Board of County Commissioners, the Developer hereby agrees to convey by warranty deed to the County of Adams the land described in **Exhibit E** for right-of-way or other public purposes.
12. **Default by Developer.** A default by the Developer shall exist if: (a) Developer fails to construct the Broadway Improvements in substantial compliance with the Plans and the other requirements of this Agreement; (b) Developer fails to complete construction of the Broadway Improvements by the Completion Date provided herein as the same may be extended; (c) Developer fails to cure any noncompliance specified in any written notice of noncompliance within a reasonable time after receipt of the notice of noncompliance; or (d) Developer otherwise breaches or fails to comply with any obligation of Developer under this Agreement.
 - A. **Remedies of County.** If the County, after written notice, determines that a default by Developer exists and if Developer fails to cure such default within the time specified by the County the County shall be entitled to: (a) make a draw on the collateral for the amount reasonably determined by the County to be necessary to cure the default in a

manner consistent with the approved Plans up to the face amount of the Collateral; and
(b) sue the Developer for recovery of any amount necessary to cure the default over and above the amount available in the Collateral provided.

B. County Right to Completion of the Broadway Improvements. The right of the County to complete or cause completion of the Broadway Improvements as herein provided shall include the following rights:

- a. The County shall have the right to complete the Broadway Improvements, in substantial accordance with the plans, the estimated costs, and other requirements of this Agreement, either itself or by contract with a third party or by assignment of its rights to a successor developer who has acquired the Property by purchase, foreclosure, or otherwise.
- b. The County, any contractor under the County, or any such successor developer, their agents, subcontractors and employees shall have the non-exclusive right to enter upon the streets and easements shown on the final plat of the Subdivision and upon any part of the Subdivision owned by Developer for the purpose of completing the Broadway Improvements.

C. Use of Funds by County. Any funds obtained by the County through Collateral, or recovered by the County from Developer by suit or otherwise, shall be used by the County to pay the costs of completion of the Broadway Improvements substantially in accordance with the Plans and the other requirements of this Agreement and to pay the reasonable costs and expenses of the County in connection with the default by Developer, including reasonable attorneys' fees.

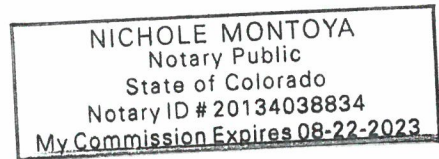
13. **West 62nd Avenue Project.** The County is planning to widen and improve West 62nd Avenue adjacent to this Property through the West 62nd Avenue Project, which is currently in the design phase. The Developer and the County have worked together to align the design of the West 62nd Avenue Project with the improvements to the Property to reduce impacts to business operations. As shown on Exhibit D, the County has determined that it will acquire no more than five feet (5') of right of way for the West 62nd Avenue Project and will not make revisions to the design depicted on Exhibit D that will impact the existing parking stalls on the Property. The additional five feet (5') is exclusive of the right of way required to be dedicated to the County pursuant to the Brienza Exemption from Subdivision. The County and Developer will negotiate the cost of additional right of way and any other impacts to the Property from the West 62nd Avenue Project subject to the requirements of the applicable Colorado Revised Statutes and during the normal course of right-of-way acquisition for the West 62nd Avenue Project.

[Signature pages follow]

Name/s
Developer

6201 N. BROADWAY, LLC,
a Colorado limited liability company

By: Michelle Carwin
Name: Michelle Carwin
Title: Manager



The foregoing instrument was acknowledged before me this 14 day of April,
2021, by Michelle Carwin.

My commission expires: 8/22/2023

Address: 10001 Pecos St
Westminster Colorado 80231 N Montoya
Notary Public

APPROVED BY resolution at the meeting of _____, 20__.

Collateral to guarantee compliance with this agreement and construction of public improvements shall be required in the amount of \$53,685.27. Cash-in-lieu in the amount of \$55,577.02, is required to satisfy the cost of improvements on 62nd Avenue. No certificates of occupancy shall be issued until said collateral and cash-in-lieu amount is furnished in the amount required and in a form acceptable to the Board of County Commissioners.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
ADAMS COUNTY, COLORADO

Clerk of the Board

Chair

Approved as to form

County Attorney

EXHIBIT A

Legal Description:

PARCEL B, BRIENZA EXEMPTION FROM SUBDIVISION, CASE NO.: 77-97-E, RECORDED MAY 3, 2000 AT RECEPTION NO. C0666422, COUNTY OF ADAMS, STATE OF COLORADO,

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PART OF THE SOUTH ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER (S1/2 SE1/4 NE1/4 NW1/4) OF SECTION 10, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, DESCRIBED AS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID S1/2 SE1/4 NE1/4 NW1/4; THENCE S89°50'22"W ALONG THE SOUTH LINE OF SAID S1/2 SE1/4 NE1/4 NW1/4 A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S89°50'22"W ALONG SAID SOUTH LINE A DISTANCE OF 316.87 FEET; THENCE N00°03'27"E PARALLEL WITH THE WEST LINE OF SAID S1/2 SE1/4 NE1/4 NW1/4 A DISTANCE OF 328.6 FEET TO THE NORTH LINE OF SAID S1/2 SE1/4 NE1/4 NW1/4; THENCE N89°51'13"E ALONG THE NORTH LINE OF SAID S1/2 SE1/4 NE1/4 NW1/4 A DISTANCE OF 337.17 FEET TO THE WEST RIGHT-OF-WAY LINE OF BROADWAY (COLORADO STATE HIGHWAY NO. 53), BEING 30.00 FEET WEST OF THE EAST LINE OF SAID S1/2 SE1/4 NE1/4 NW1/4; THENCE S00°06'37"W ALONG SAID WEST RIGHT-OF-WAY LINE AND PARALLEL WITH SAID EAST LINE A DISTANCE OF 303.88 FEET TO THE NORTHERLY CORNER OF A PARCEL DESCRIBED IN BOOK 3926 AT PAGE 815, ADAMS COUNTY RECORDS; THENCE S38°39'52"W ALONG THE WESTERLY LINE OF SAID PARCEL A DISTANCE OF 32.09 FEET TO THE POINT OF BEGINNING.

EXHIBIT B
Broadway Improvements

Description of Improvements:

The public improvements that will be constructed by Developer in along the public right of way commonly known as Broadway, are as described and shown on the approved 6201 N Broadway, LLC preliminary plans, also known as E. 62nd and Broadway.

Public Improvements: *Broadway Improvements - Exhibit B*

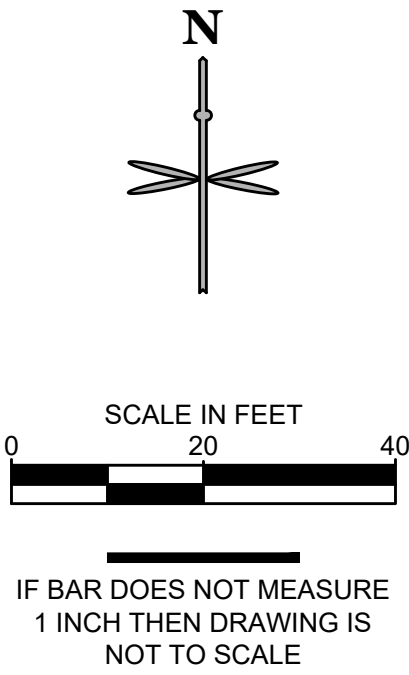
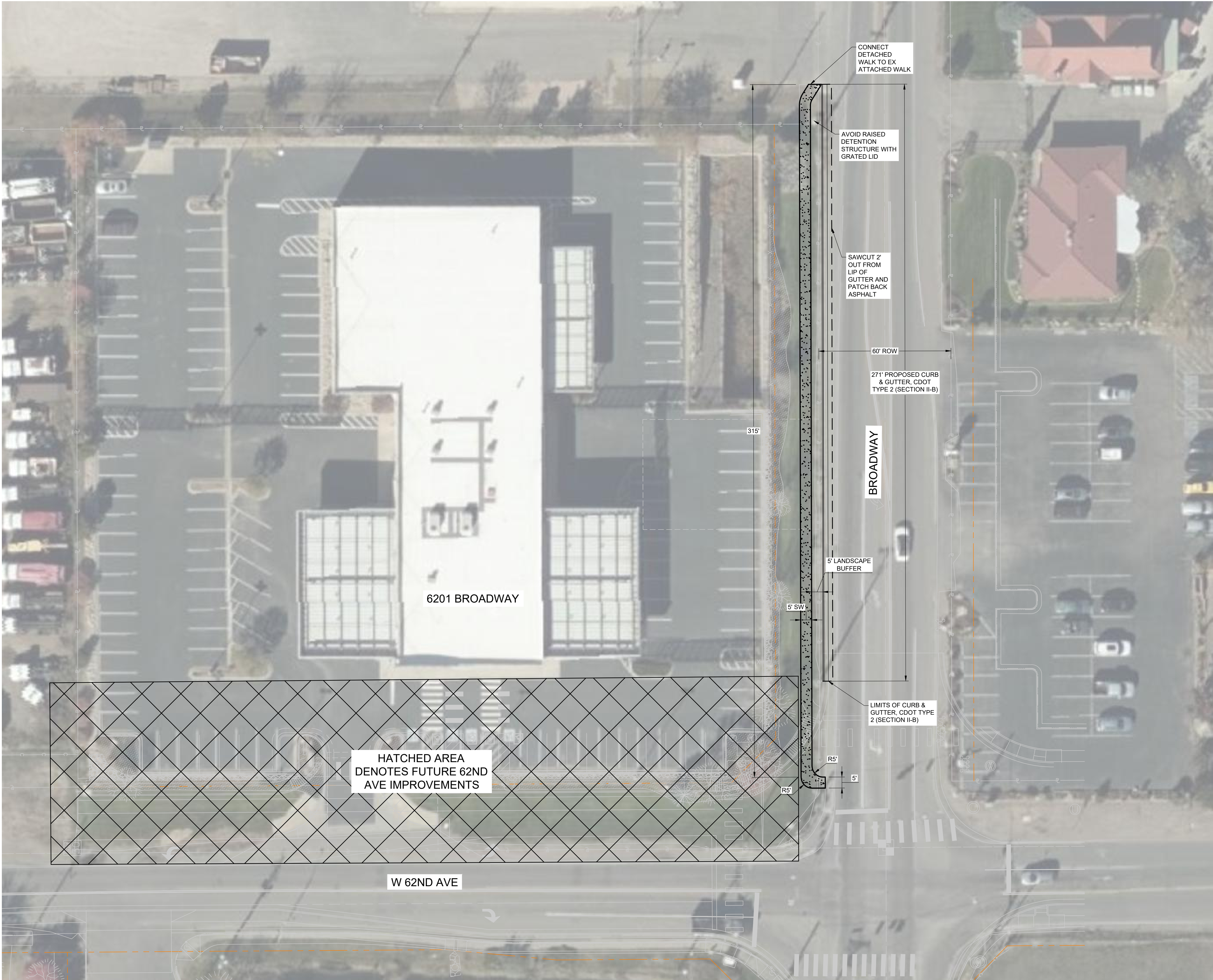
Description	Est Qty	Unit	Est Unit Cos	Est Cost	CDOT #
Curb & Gutter Type 2 (Section II-B)	271	LF	\$ 36.00	\$ 9,756.00	609-21020
Sawing Asphalt Material (10")	271	LF	\$ 7.40	\$ 2,005.40	202-05030
Sidewalk	182	SY	\$ 112.78	\$ 20,525.96	608-00000
Landscape Restoration	1	LS	\$6,000.00	\$ 6,000.00	212-01200
Hot Mix Asphalt (Patching)	60	SY	\$ 72.00	\$ 4,320.00	403-00721
Total				\$ 42,607.36	

*Unit costs from CDOT 2020 Cost Data Book
<https://www.codot.gov/business/eema/assets/2020-cost-data-book-full-year.pdf>

20% Administration fee =	\$ 8,521.47
Subtotal =	\$ 51,128.83
5% Inflation =	\$ 2,556.44
TOTAL =	\$ 53,685.27

Construction Completion Date: June 2022

6201 N Broadway, LLC Preliminary Plans
[Next Page]



NOTE:

1. SURVEYED LINEWORK PROVIDED BY ADAMS COUNTY AND USED FOR THE BASIS OF THIS DESIGN. PLEASE NOTE AERIAL IMAGE SLIGHTLY INCONSISTENT WITH SURVEYED INFORMATION.

REVISION		BY	DATE
No.	#	#	#
	#	#	#
	#	#	#
	#	#	#
	#	#	#

**PRELIMINARY
NOT FOR
CONSTRUCTION**

EES
ENGINEERING AND
ENTITLEMENT
SOLUTIONS, INC.
501 S Cherry St, Suite 300
Glendale, CO 80246
303-572-7997 www.ees.us.com

EXHIBIT

6201 N BROADWAY IMPROVEMENTS

6201 BROADWAY, DENVER CO 80221

BROADWAY ROW EXHIBIT

PROJECT NO:	BRD001.01
DESIGNED BY:	JNA
DRAWN BY:	JEM
DATE:	3/18/2021

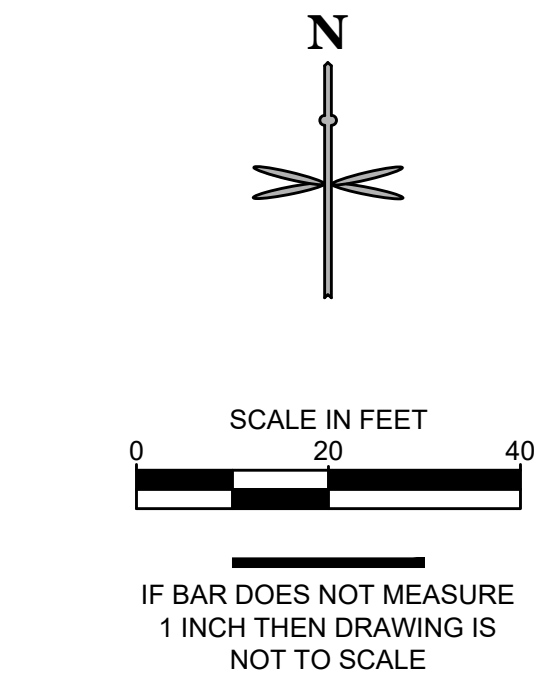
EXB

EXHIBIT C
Cash in Lieu for 62nd Avenue

Public Improvements: West 62nd Ave - Cash in lieu of

Description	Est. Quantity		Est. Unit Cost	Est. Const. Cost
Clear & Grub	6850	sf	\$ 3.00	\$ 20,550.00
Sawcut Entrance	80	lf	\$ 6.65	\$ 532.00
New Asphalt - 8" depth	127.73	sy	\$ 43.25	\$ 5,524.32
12" Scarify & Recompact - subgrade prep	1265	sf	\$ 5.00	\$ 6,325.00
Handcapped Ramp w/ truncated domes	2	ea	\$ 1,950.00	\$ 3,900.00
5' sidewalk	1265	sf	\$ 5.38	\$ 6,805.70
6" vertical Curb w/1' pan	80	lf	\$ 24.25	\$ 1,940.00
Mobilization, Evironmental Impact Fee, Concrete	1	ls	\$ 10,000.00	\$ 10,000.00
Estimated Construction Sub-Total				\$ 55,577.02

EXHIBIT D
West 62nd Avenue Project Design



- NOTE:**
1. COUNTY TO DESIGN AND PAY FOR POTENTIAL RETAINING WALL REQUIRED BETWEEN SIDEWALK AND ADA PARKING TO MAKE UP FOR GRADE DIFFERENTIAL.
 2. SURVEYED LINework PROVIDED BY ADAMS COUNTY AND USED FOR THE BASIS OF THIS DESIGN. PLEASE NOTE AERIAL IMAGE SLIGHTLY INCONSISTENT WITH SURVEYED INFORMATION.

REVISION		BY	DATE
No.	#	#	#
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#	#	#	#
#	#	#	#

**PRELIMINARY
NOT FOR
CONSTRUCTION**

EES
ENGINEERING AND
ENTITLEMENT
SOLUTIONS, INC.
501 S Cherry St, Suite 300
Glendale, CO 80246
303-572-7997 www.ees.us.com

EXHIBIT

6201 N BROADWAY IMPROVEMENTS

6201 BROADWAY, DENVER CO 80221

ROW EXHIBIT

PROJECT NO: BRD001.01

DESIGNED BY: JNA

DRAWN BY: JEM

DATE: 3/11/2021

EXB

EXHIBIT E

EXHIBIT

PAGE 1 OF 2

LEGAL DESCRIPTION

A Parcel of land, being a part of Parcel B, Brienza Exemption from Subdivision filed in the Clerk and Recorder's office of Adams County, Colorado as Survey No. 180, Reception No. C0666422, situated in the Northeast 1/4 of the Northwest 1/4 of Section 10, Township 3 South, Range 68 West of the Sixth Principal Meridian, County of Adams, State of Colorado, more particularly described as follows:

Commencing at the North 1/16 corner of said Section 10, and considering the east line of said Northeast 1/4 of the Northwest 1/4 to bear North 00°06'37" East;

Thence South 89°50'22" West along the south line of said Northeast 1/4 of the Northwest 1/4, a distance of 50.00 feet to the southeast corner of said Parcel B, the Point of Beginning;

Thence continuing South 89°50'22" West along the south line of said Parcel B, a distance of 316.87 feet;

Thence North 00°03'27" East along the west line of said Parcel B, a distance of 30.00 feet;

Thence North 89°50'22" East, a distance of 296.90 feet;

Thence North 44°58'29" East, a distance of 28.35 feet;

Thence North 00°06'37" East, a distance of 278.88 feet;

Thence North 89°51'13" East along the north line of said Parcel B, a distance of 20.00 feet;

Thence South 00°06'37" West along the east line of said Parcel B, a distance of 303.88 feet;

Thence South 38°39'52" West along the east line of said Parcel B, a distance of 32.09 feet to the Point of Beginning,

containing 16,034 Square Feet, or 0.368 Acre, more or less.

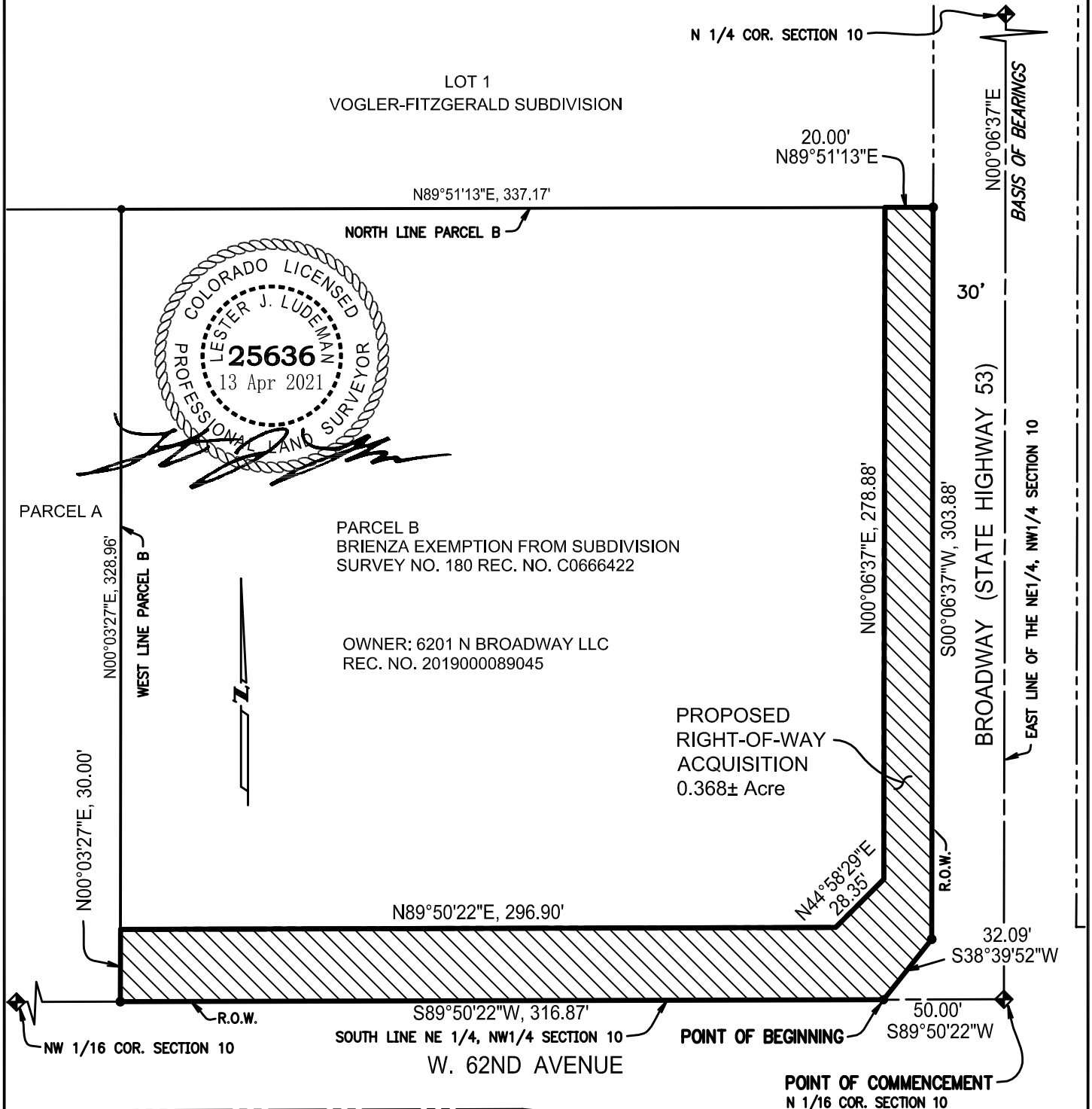
Prepared April 13, 2021 by L.J. Ludeman, PLS
1309 S. Inca Street, Denver, CO 80223



ILLUSTRATION FOR
EXHIBIT

PAGE 2 OF 2

LOCATED IN THE NE 1/4 OF THE NW 1/4 OF SECTION 10, T3S, R68W
--ADAMS COUNTY--



60 0 60 120 Feet

This Exhibit does not represent a Survey. It is
intended only to depict the accompanying description.

Scale: 1" = 60'