

## **LICENSE TO BUILD WITHIN EASEMENT AREA (2020-PM-0000689)**

THIS LICENSE, made and executed as of the Effective Date, by the City and County of Denver, a municipal corporation and home rule city, duly organized and existing under and by virtue of the Constitution of the State of Colorado, hereinafter referred to as the "CITY," and Sarkisian Brothers Bannock LLC, a Colorado limited liability company, whose address is 693 E Speer Boulevard, Denver, Colorado 80203, hereinafter referred as the "LICENSEE".

### WITNESSETH:

WHEREAS, the LICENSEE is the owner of the real property described in Exhibit A, attached hereto and incorporated herein (the "Property"; and

WHEREAS, an easement for sanitary sewer and other utilities was reserved by the City in Ordinance No. 251, Series of 2005) at Reception No. 2005066629 ("Easement") which Easement area is within said Property; and

WHEREAS, pursuant to the Easement, the CITY has an easement for the continued use and right to locate, construct, inspect, operate, maintain, repair, remove, replace, relocate, and reconstruct a sanitary sewer line and other utilities in the Easement area; and

WHEREAS, the CITY owns and presently maintains and operates an eight (8) inch diameter sanitary sewer line in, along and through said Easement area; and

WHEREAS, the LICENSEE desires to construct and maintain a mixed-use structure with retail, residences and structured parking located on the PROPERTY above, upon, under, across, through and over and the Easement area, including above, upon, over, across, under or around the sanitary sewer line and other utilities in the Reserved Easement area; and

WHEREAS, contingent upon the LICENSEE'S seeking and procuring all other permits and authorizations required by law, the LICENSEE will be allowed to use and occupy the Easement area within the Property with the proposed building structure to provide 23' vertical clearance, as shown on plans for 10<sup>th</sup> and Cherokee ("Project").

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. Subject to the terms and conditions hereinafter set forth, the CITY as holder of the Easement, hereby grants the LICENSEE permission to construct and maintain the Project above, within, upon, over, across, under or around the Easement.
2. The CITY, however, reserves the right to do all things reasonably necessary or proper for the inspection, operation, maintenance, repair, replacement, relocation, and reconstruction of the sanitary sewer line and other utilities covered in the Easement in the Easement area.
  - A. The LICENSEE agrees to defend, indemnify and save the CITY harmless and to repair or pay for the repair of any and all damages to the PROPERTY of the LICENSEE which may be caused by or in any way result from the inspection,

- operation, maintenance, repair, replacement, relocation, and reconstruction of that part of the said sanitary sewer line or other utilities located in the Easement area by the CITY, except for such damages caused by the gross negligence or willful misconduct of the CITY. The CITY agrees to take reasonable steps and precautions to minimize such damage in the conduct of any such inspection, operation, maintenance, repair, replacement, relocation, and reconstruction of the sanitary sewer line or other utilities.
- B. The LICENSEE agrees to defend, indemnify and save the CITY harmless from any and all liability for damages or injury to any of the construction or the maintenance of the Project, by the LICENSEE or his agents, above, upon, over, across, under or around the Easement area.
  - C. The LICENSEE agrees to defend, indemnify and save the CITY harmless and to repair or pay for the repair of any and all damages to the sanitary sewer line, or other properties that are connected to the other utilities and the sanitary sewer line, which damages may be caused by or in any way result from the construction or the maintenance of the Project above, upon, over, across, under or around the other utilities or sanitary sewer line.
  - D. The LICENSEE further agrees, should the relocation or replacement of the other utilities or sanitary sewer line become necessary as determined by the Manager of Public Works in his sole and absolute discretion, to pay the cost and expense of such relocation or replacement that is attributable to the location of the Project above, upon, over, across, under or around the Easement area.
  - E. The LICENSEE further agrees, should the CITY wish to increase the capacity of the sanitary sewer line from the existing capacity or alter in any way the sanitary sewer line, to pay the cost and expense of such reconstruction that is attributable to the location of the Project above, upon, over, across, under or around the Easement area.
  - F. The City reserves the right to remove any encroachment, other than the Project into the Easement area in order to correct or eliminate any violation of the License.
3. It is mutually agreed to by the parties hereto that this license shall only apply to the Project that is permitted and approved for construction on the Property on the Effective Date, and shall not be construed as permission to add any additional structures or improvements encroaching on the Easement area.
  4. This LICENSE shall run with the land and all the covenants and agreements of LICENSEE herein contained shall inure and extend to and be obligatory upon the heirs, successors including successors-in-title, and assigns of the LICENSEE. Any transferee of all or any portion of the Property shall automatically be deemed, by acceptance of the title to the Property, or portion thereof, to have assumed all obligations contained in this LICENSE. The transferor of all or any portion of the Property shall, upon the completion of such transfer, be relieved of all further liability hereunder except for such liability as may have arisen during the transferor's period of ownership of the Property or portion thereof so conveyed and which remains unsatisfied.

5. This LICENSE does not extinguish or, in any way modify, the rights of other utility providers under the Easement.
6. This LICENSE shall be recorded by the CITY upon execution.
7. The Effective Date of this License shall be the date on the City's signature page.

**[SIGNATURE PAGES FOLLOW]**

IN WITNESS WHEREOF, the parties hereto have caused this LICENSE TO BUILD WITHIN EASEMENT AREA to be executed as of \_\_\_\_\_.

**Contract Control Number:**  
**Contractor Name:**

FINAN-202262194-00  
Sarkisian Brothers Bannock LLC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

**SEAL**

**CITY AND COUNTY OF DENVER:**

**ATTEST:**

By:

\_\_\_\_\_

\_\_\_\_\_

**APPROVED AS TO FORM:**

**REGISTERED AND COUNTERSIGNED:**

Attorney for the City and County of Denver

By:

By:

\_\_\_\_\_

\_\_\_\_\_

By:

\_\_\_\_\_

**Contract Control Number:**  
**Contractor Name:**

FINAN-202262194-00  
Sarkisian Brothers Bannock LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

See attached  
signature page

ATTEST: [if required]


By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

**Contract Control Number:**  
**Contractor Name:**

FINAN-202262194-00  
Sarkisian Brothers Bannock LLC

By:  \_\_\_\_\_

Name: Louis Tor Sarkisian

Title: Manager

ATTEST: [if required]

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

# EXHIBIT "A"

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 4 SOUTH,  
RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN,  
CITY AND COUNTY OF DENVER, STATE OF COLORADO  
SHEET 1 OF 2

LAND DESCRIPTION:

A PORTION OF THE ALLEY OF BLOCK 6, WHITSITT'S ADDITION TO DENVER, VACATED PER ORDINANCE NO. 251 OF SERIES 2005, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE 20' RANGE LINE OF CHEROKEE STREET TO BEAR SOUTH 00°17'43" EAST, A DISTANCE OF 286.81 FEET BETWEEN A FOUND PARTIALLY ILLEGIBLE 2-1/2" ALUMINUM CAP STAMPED "LS 31158" AT THE INTERSECTION OF THE 20' RANGE LINE OF CHEROKEE STREET AND THE 0' RANGE LINE BETWEEN WEST 10TH AVENUE AND WEST 11TH AVENUE AND A FOUND 2-1/2" ALUMINUM CAP STAMPED "LS 31158" AT THE INTERSECTION OF CHEROKEE STREET AND WEST 10TH AVENUE, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT SAID RANGE POINT IN THE INTERSECTION OF CHEROKEE STREET AND WEST 10TH AVENUE; THENCE SOUTH 73°26'38 EAST, A DISTANCE OF 208.59 FEET TO THE NORTHEASTERLY CORNER OF LOT 40, BLOCK 6, WHITSITT'S ADDITION TO DENVER AND THE POINT OF BEGINNING;

THENCE ALONG THE NORTHERLY LINE OF SAID BLOCK 6, NORTH 89°50'21" EAST, A DISTANCE OF 20.00 FEET TO THE NORTHWESTERLY CORNER OF LOT 1, SAID BLOCK 6; THENCE ALONG THE WESTERLY LINE OF LOTS 1 THROUGH 5, SAID BLOCK 6, SOUTH 00°14'07" EAST, A DISTANCE OF 124.75 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 5; THENCE ALONG THE SOUTHERLY LINE EXTENDED OF SAID LOT 5, SOUTH 89°50'21 WEST, A DISTANCE OF 10.00 FEET TO A POINT ON THE CENTERLINE OF THE VACATED ALLEY OF SAID BLOCK 6; THENCE ALONG SAID CENTERLINE ALLEY, NORTH 00°14'07" WEST, A DISTANCE OF 0.25 FEET; THENCE SOUTH 89°50'21" WEST, A DISTANCE OF 10.00 FEET TO A POINT ON THE EASTERLY LINE OF LOT 36, SAID BLOCK 6; THENCE ALONG THE EASTERLY LINE OF LOTS 36 THROUGH 40, SAID BLOCK 6, NORTH 00°14'07" WEST, A DISTANCE OF 124.50 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 2,493 SQ. FT. OR 0.06 ACRES, MORE OR LESS.

I, JOSHUA BREEDLOVE, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC., THAT THIS PARCEL DESCRIPTION AND ATTACHED EXHIBIT, BEING MADE A PART THEREOF, WERE PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE, ARE ACCURATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, ARE IN ACCORDANCE WITH APPLICABLE STANDARDS OF PRACTICE AND ARE NOT A GUARANTY OR WARRANTY, EITHER EXPRESSED OR IMPLIED. SAID PARCEL DESCRIPTION AND EXHIBIT WERE PREPARED AT THE REQUEST OF THE CLIENT AND ARE NOT INTENDED TO REPRESENT A MONUMENTED LAND SURVEY OR SUBDIVIDE LAND IN VIOLATION OF STATE STATUTE.



JOSHUA BREEDLOVE  
COLORADO P.L.S. #38174  
VICE PRESIDENT, FLATIRONS, INC.

JOB NUMBER: 21-74,694  
DRAWN BY: M. LUND  
DATE: MARCH 03, 2022

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

**Flatirons, Inc.**  
Land Surveying Services



4501 LOGAN ST.  
DENVER, CO 80216  
PH: (303) 936-6997  
FAX: (303) 923-3180  
[www.FlatironsInc.com](http://www.FlatironsInc.com)

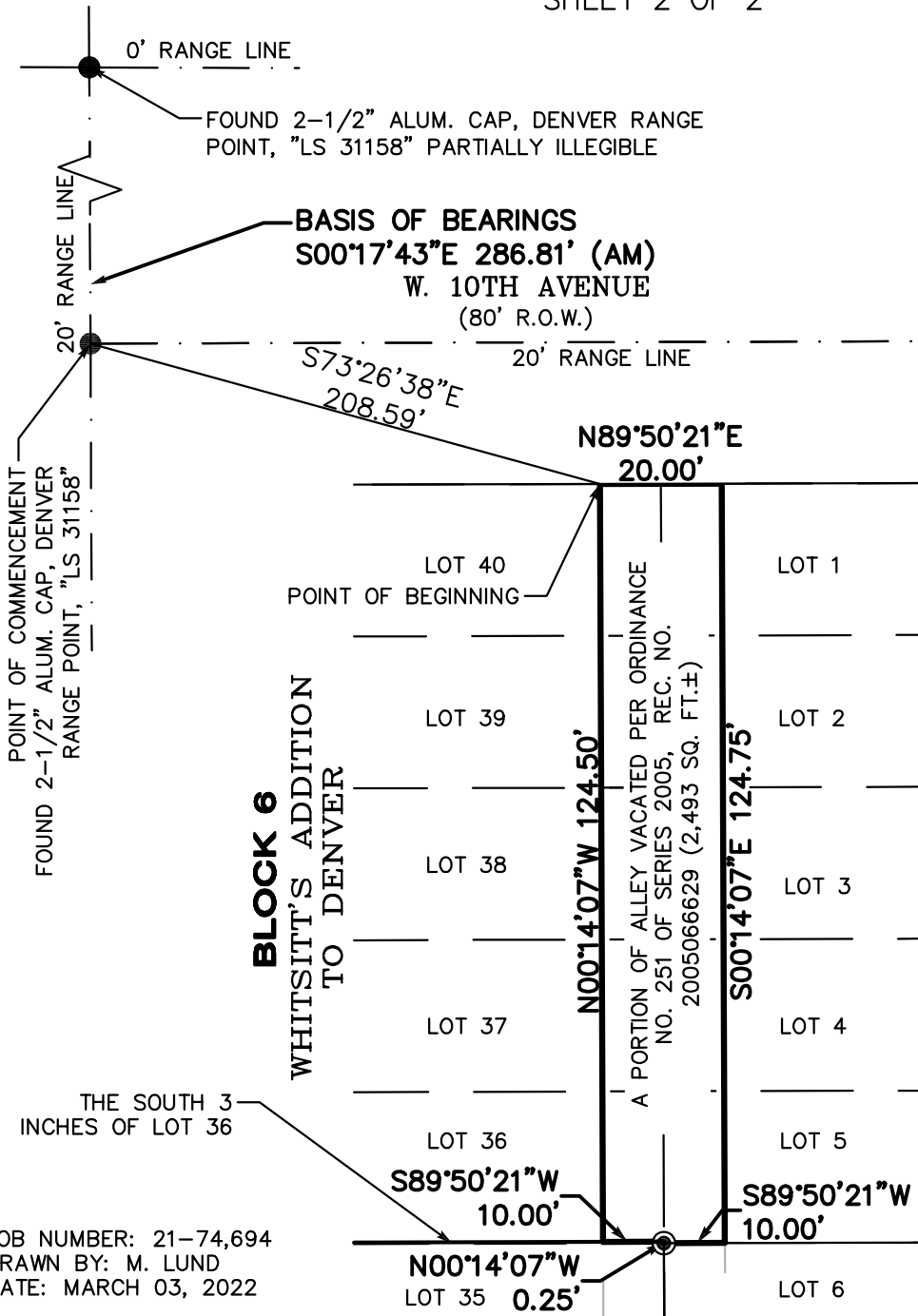
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# EXHIBIT "A"

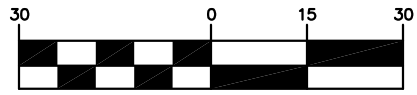
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 4 SOUTH,  
 RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN,  
 CITY AND COUNTY OF DENVER, STATE OF COLORADO

SHEET 2 OF 2

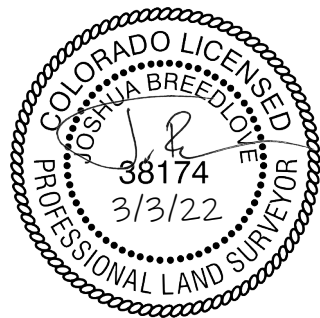
BY:MLUND FILE:74694-GOLDEN TRIANGLE ALTA\_RECOVER.DWG DATE:3/3/2022 10:19 AM



GRAPHIC SCALE



( IN FEET )  
 1 inch = 30 ft.



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