



DS Project No. 2017PM00154

**PERMANENT NON-EXCLUSIVE EASEMENT**

3770 Walnut Street  
Denver, Colorado

This Permanent Non-Exclusive Easement (“Easement”), made this 16 day of April, 2018 between WALNUT LAND HOLDINGS, LLC, whose address is 3770 Walnut Street, Suite 202, Denver, Colorado 80202, PHILLIPS LOEFFLER, LLC, whose address is 3718 & 3722 Walnut Street (“Grantor(s)” or “Owner(s)”) and the CITY AND COUNTY OF DENVER, a home rule city and municipal corporation of the State of Colorado, whose address is 1437 Bannock Street, Denver, Colorado 80202 (“City” or “Grantee”)

For and in consideration of connection to city wastewater facilities and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, the Grantor agrees as follows:

1. The Grantor is the owner of the property commonly known and addressed as 3770 Walnut Street (the “Property”), described in **Exhibit A** attached hereto and incorporated herein, which will be served by the following privately owned wastewater facilities: ~~sanitary sewer, storm sewer, permanent underground detention/water quality structure with~~ and without pumps and storm sewer outlet pipes (collectively the “Facilities”).
2. The Grantor(s) are jointly and severally responsible for the maintenance and service of such Facilities to ensure conformance with all applicable plans and standards approved by the City.
3. The Grantor(s) hereby grant(s) and convey(s) a permanent non-exclusive easement to the City under, in, upon, across and over the land described in **Exhibit B** attached hereto and incorporated herein (“Easement Area”), for the purpose of maintaining, repairing, and servicing the Facilities if required as set forth herein, together with any and all rights of ingress and egress, necessary or convenient to the City to accomplish such purposes.
4. The Grantor shall pay for and be responsible for all costs to construct, reconstruct, repair and maintain the Property, the Easement Area and all Facilities within the Easement Area to ensure conformance with all applicable plans and standards relating to the Facilities approved by the City. The City shall not be responsible for any construction, repairs, maintenance, cleaning, snow removal or any other services on the Property, within the Easement Area or of the Facilities.
5. If, in the sole opinion of the City’s Manager of Public Works, Facilities are not properly maintained, constructed, repaired, or serviced by Grantor(s), the City shall give notice to

the Grantor(s) and if maintenance, construction, repairs, servicing, or corrections are not made within the time designated in such notice, the City is authorized, but not required, to make or have made maintenance, construction, repairs, servicing or corrections. If the City performs such maintenance, construction, repair, servicing or correction, the City shall charge and collect the cost thereof from the Grantor(s). However, in cases of emergency, as solely determined by the City's Manager of Public Works, the City may choose to make immediate maintenance, servicing, repairs or corrections and to collect the cost thereof from the Grantor without notice.

6. The Grantor(s) shall in no way consider or hold the City or its personnel liable for trespass in the performance of any of the maintenance, construction, repairing, servicing, correcting or other activities referred to herein. Grantor(s) hereby agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Easement ("Claims"), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions either passive or active, irrespective of fault, including City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City. Grantor(s) duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether claimant has filed suit on the Claim. Grantor(s) duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City's negligence or willful misconduct was the sole cause of claimant's damages. Grantor(s) will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy. This defense and indemnification obligation shall survive the termination of this Easement.

7. If the Grantor(s) forms an Owners Association to hold title to and/or administer the use, construction, repair, servicing and maintenance of the Facilities, the declaration or any similar instrument for any such Owners Association shall clearly state that the Owners Association has joint and several financial responsibility for the maintenance and repair of such Facilities, and the indemnity provisions of this Easement.

8. This Easement shall run with the land and shall be binding upon, jointly and severally, and shall inure to the benefit of, the parties hereto, their heirs, successors, or assigns.

9. This Permanent Non-Exclusive Easement shall be recorded in the Denver County real property records.

10. Notices required hereunder shall be in writing and shall be personally delivered or mailed by registered and certified United States mail, postage prepaid, return receipt

requested to the following address, or at such other addresses that may be specified in writing:

If to City:                   Manager of Public Works  
                                  201 W. Colfax, Department 608  
                                  Denver, CO 80202

If to Grantor:               Walnut Land Holdings, LLC  
                                  ~~3770 Walnut Street~~      1150 Delaware St, Suite 204  
                                  ~~Denver, CO 80202~~      Denver, CO 80204

                                  Phillips Loeffler, LLC  
                                  ~~3718 & 3722 Walnut Street~~   1150 Delaware St., Suite 204  
                                  ~~Denver, CO 80202~~      Denver, CO 80204

11. All obligations of the City pursuant to this Easement, if any, are subject to prior appropriation of monies expressly made by the City Council for the purposes of this Easement and paid into the Treasury of the City.

[Signatures follow on next page.]

IN WITNESS WHEREOF, the Grantor hereto has executed this Permanent Non-Exclusive Easement as of the day and year first above written.

GRANTOR: Walnut <sup>Land LLC</sup> Holdings, a ~~Delaware~~ <sup>Colorado</sup> limited liability company

BY: Anthony Loeffler <sup>Manager</sup>  
Person(s) and Title(s)

Anthony Loeffler  
Printed Name(s)

GRANTOR: Phillips Loeffler, a <sup>LLC</sup> ~~Delaware~~ <sup>Colorado</sup> limited liability company

BY: Anthony Loeffler <sup>Manager</sup>  
Person(s) and Title(s)

Anthony Loeffler  
Printed Name(s)

STATE OF COLORADO )

) ss

COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this 16 day of April, 2016, by Anthony Loeffler as Manager of Peak Development Group, Walnut Land Holdings LLC and Phillipps Loeffler LLC

Witness my hand and official seal.

My commission expires: 8/24/2019

Matthew J. Sanders

Notary Public



1150 Delaware, #207, Denver, CO 80204  
Address

# EXHIBIT A

PROPERTY  
PAGE 1 OF 2  
LAND DESCRIPTION

2017-PROJMSTR-0000<sup>154</sup>~~023~~-PNEE

## LAND DESCRIPTION

A PARCEL OF LAND LOCATED IN THAT PORTION OF LOTS 3 THROUGH 13, BLOCK 26, RIVERSIDE ADDITION TO DENVER, LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 23, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE WEST CORNER OF SAID LOT 13; **THENCE** ALONG THE NORTHWEST LINE OF SAID LOTS 13 THROUGH 4 AND A PORTION OF SAID LOT 3, N 44° 55' 13" E, 268.97 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 299.00 FEET, TO WHICH BEGINNING OF CURVE A RADIAL BEARS N 89° 58' 50" E; **THENCE** SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 06° 05' 41", AN ARC LENGTH OF 31.81 FEET TO A POINT OF TANGENCY ON THE EASTERLY LINE OF SAID LOT 4, AS DESCRIBED IN BOOK 9654, PAGE 526; **THENCE** TO THE SOUTHEAST CORNER OF LOT 9, SAID BLOCK 26, AS DESCRIBED IN BOOK 9234, PAGE 566, S 09° 23' 21" W, 176.36 FEET; **THENCE** TO THE SOUTH LINE OF SAID BLOCK 26, S 12° 50' 24" W, 66.77 FEET; **THENCE** ALONG THE SAID SOUTH LINE TO THE POINT OF INTERSECTION WITH THE SOUTHWEST LINE OF SAID LOT 13, N 89° 54' 55" W, 61.04 FEET; **THENCE** ALONG THE SOUTHWEST LINE OF SAID LOT 13, N 46° 09' 29" W, 115.92 FEET TO THE **POINT OF BEGINNING**.

PARCEL HAVING AN AREA OF 24,709.73 SQUARE FEET, 0.57 ACRES (MORE OR LESS)

BEARINGS NOTED HEREON ARE BASED ON THE SOUTHWEST LINE OF SAID LOT 13. SAID LINE BEARS N 46° 09' 29" W.

I, JOHN W. DOTY, BEING A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THIS EXHIBIT WAS MADE BY ME OR UNDER MY RESPONSIBLE CHARGE, IN ACCORDANCE WITH THE APPLICABLE STANDARD OF PRACTICE AS SET FORTH DURING THE TIME OF THIS EXHIBIT, BEING THE MONTH OF MARCH, 2018. I FURTHER STATE THIS DOCUMENT IS NOT A MONUMENTED LAND SURVEY. THIS CERTIFICATION DOES NOT CONSTITUTE A GUARANTY OR WARRANTY, EITHER EXPRESSED OR IMPLIED.

JOHN W. DOTY, COLORADO PLS NO. 37993  
FOR & ON-BEHALF OF ARROW POINT SURVEYING, LTD.



6076 Blue Terrace Pl.  
Castle Pines, CO 80106  
720.384.5330  
arrowpointsurveying@gmail.com

PROJECT: 201703103

DATE: MARCH, 2018

NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS DOCUMENT WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS DOCUMENT BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON PER STATE STATUTE 13-80-105(3)(e) C.R.S. THIS DOCUMENT DOES NOT REPRESENT A MONUMENTED LAND SURVEY.





# EXHIBIT B

EASEMENT AREA

PAGE 1 OF 2

## LAND DESCRIPTION

A PARCEL OF LAND LOCATED IN THAT PORTION OF LOT 7 THROUGH LOT 11, BLOCK 26, RIVERSIDE ADDITION TO DENVER, LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 23, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE WEST CORNER OF LOT 13, SAID BLOCK 26; **THENCE** ALONG THE NORTHWEST LINE OF LOTS 13 THROUGH 9 AND A PORTION OF LOT 8, SAID BLOCK 26, N 44° 55' 13" E, 141.69 FEET; **THENCE** DEPARTING SAID NORTHWEST LINE, PERPENDICULAR THERETO, S 45° 04' 47" E, 44.23 FEET TO THE **POINT OF BEGINNING**;

**THENCE** S 80° 36' 39" E, 23.00 FEET;

**THENCE** S 09° 23' 21" W, 5.51 FEET;

**THENCE** TO THE EAST LINE OF SAID LOT 7, S 80° 36' 39" E, 18.50 FEET;

**THENCE** ALONG THE EAST LINE OF SAID LOT 7 AND A PORTION OF SAID LOT 8, S 09° 23' 21" W, 20.00 FEET;

**THENCE** DEPARTING THE SAID EAST LINE, N 80° 36' 39" W, 18.50 FEET;

**THENCE** S 09° 23' 21" W, 76.00 FEET;

**THENCE** N 80° 36' 39" W, 23.00 FEET;

**THENCE** N 09° 23' 21" E, 101.50 FEET TO THE **POINT OF BEGINNING**.

PARCEL HAVING AN AREA OF 2,704.55 SQUARE FEET, 0.06 ACRES (MORE OR LESS)

BEARINGS NOTED HEREON ARE BASED ON THE SOUTHWEST LINE OF LOT 13, SAID BLOCK 26. SAID LINE BEARS S 46° 09' 29" E.

I, JOHN W. DOTY, BEING A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THIS EXHIBIT WAS MADE BY ME OR UNDER MY RESPONSIBLE CHARGE, IN ACCORDANCE WITH THE APPLICABLE STANDARD OF PRACTICE AS SET FORTH DURING THE TIME OF THIS EXHIBIT, BEING THE MONTH OF MARCH, 2018. I FURTHER STATE THIS DOCUMENT IS NOT A MONUMENTED LAND SURVEY. THIS CERTIFICATION DOES NOT CONSTITUTE A GUARANTY OR WARRANTY, EITHER EXPRESSED OR IMPLIED.

JOHN W. DOTY, COLORADO PLS NO. 37993  
FOR & ON-BEHALF OF ARROW POINT SURVEYING, LTD.



6078 Blue Terrace Pl.  
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PROJECT: 201703103

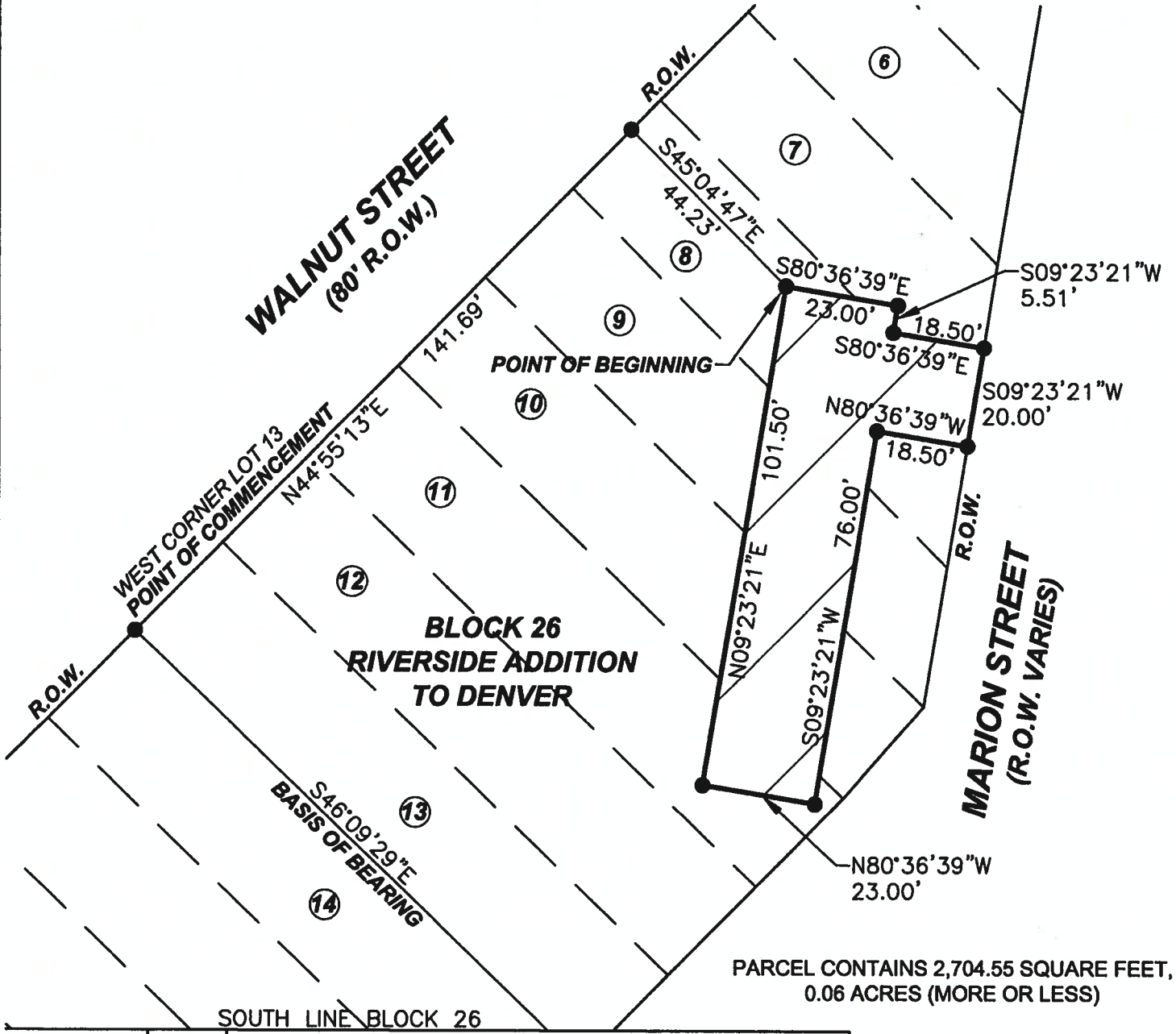
DATE: MARCH, 2018

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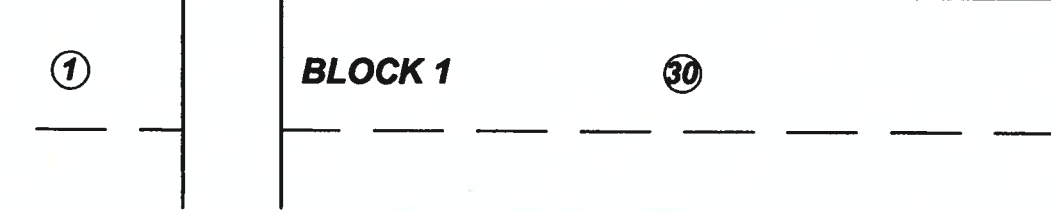
# EXHIBIT B

EASEMENT AREA

PAGE 2 OF 2



PARCEL CONTAINS 2,704.55 SQUARE FEET,  
0.06 ACRES (MORE OR LESS)



● REPRESENTS CHANGE IN COURSE AND/OR DISTANCE

**Arrow Point**  
Surveying, Ltd.

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Scale: 1" = 30'  
0 30 60  
FEET

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