

## RESOLUTION NO. 20-19

### A RESOLUTION CONCERNING THE ISSUANCE OF A REVOCABLE PERMIT TO DOWNTOWN GRAND JUNCTION REGENERATION LLC TO ALLOW FOR EAVES OF NEW HOMES TO OVERHANG AND ENCROACH IN THE WHITE AVENUE AND NORTH 8<sup>TH</sup> STREET RIGHTS-OF- WAY ADJACENT TO LOT 2 R5 BLOCK SUBDIVISION AMENDED

#### Recitals.

A. Downtown Grand Junction Regeneration LLC, hereinafter referred to as the Petitioner, represents it is the owner of the following described real property in the City of Grand Junction, County of Mesa, State of Colorado, to wit: LOT 2 R5 Block Subdivision Amended

B. The Petitioner has requested that the City of Grand Junction issue a Revocable Permit to allow for eaves of new homes to overhang and encroach in the White Avenue and North 8<sup>th</sup> Street rights-of-way adjacent to Lot 2 R5 Block Subdivision Amended, subject to the terms of the permit, within the limits of the following described public rights-of-way, to wit (refer to Exhibit A for graphical representation):

A certain parcel of land lying in the Southeast Quarter (SE 1/4) of Section 14, Township 1 South, Range 1 West of the Ute Meridian, County of Mesa, State of Colorado, lying across the North two feet (2.00 feet) of White Avenue right-of-way adjoining the South property line of Lot 2 of R5 Block Subdivision Amended recorded at Reception No. 2835112 at the Mesa County Clerk and Records Office and the West two feet (2.00 feet) of North 8th Street right-of-way adjoining the East property line of Lot 2 of said R5 Block Subdivision, White Avenue and North 8th Street right-of-way depicted on Plat of Resurvey of Second Division of City of Grand Junction, Plat Book 2, Page 37 recorded at the Mesa County Clerk and Records Office and being more particularly described as follows:

Commencing at the City Block Monument at the road intersection of White Avenue and North 8th Street whence the City Block Monument at the road intersection of White Avenue and North 7th Street bears N89°55'18"W with all bearings being relative thereto; thence N44°55'50"W, a distance of 28.29 feet to the Point Of Beginning and the Southeast corner of said Lot 2; thence S00°03'39"W, a distance of 2.00 feet; thence N89°55'18"W, a distance of 96.00 feet; thence N00°03'39"E, a distance of 2.00 feet to the South Line of said Lot 2; thence S89°55'18"E along the South Line of said Lot 2, a distance of 96.00 feet to the Point of Beginning.

and

Continuing from the Point Of Beginning and the Southeast corner of said Lot 2 S89°55'18"E, a distance of 2.00 feet; thence N00°03'39"E, a distance of 58.08 feet; thence N89°55'18"W, a distance of 2.00 feet to the East Line of said Lot 2; thence S00°03'39"W along the East Line of said Lot 2, a distance of 58.08 feet to the Point of Beginning.

Said description contains an area of 308 SQ FT more or less, as described herein and illustrated on Exhibit "A".

C. Relying on the information supplied by the Petitioner and contained in File No. SUB-2018-578 in the office of the City's Community Development Department, the City Council has determined that such action would not at this time be detrimental to the inhabitants of the City of Grand Junction.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

1. That the City Manager is hereby authorized and directed to issue the attached Revocable Permit to the above-named Petitioner for the purpose aforescribed and within the limits of the public right-of-way aforescribed, subject to each and every term and condition contained in the attached Revocable Permit.

PASSED and ADOPTED this 20<sup>th</sup> day of March, 2019.

Attest:

*W Winkelman*

City Clerk

*Andy Taylor Smith*

President of the City Council



## REVOCABLE PERMIT

### Recitals.

A. Downtown Grand Junction Regeneration LLC, hereinafter referred to as the Petitioner, represents it is the owner of the following described real property in the City of Grand Junction, County of Mesa, State of Colorado, to wit: LOT 2 of R5 Block Subdivision Amended

B. The Petitioner has requested that the City of Grand Junction issue a Revocable Permit to allow for eaves of new homes to overhang and encroach in the White Avenue and North 8<sup>th</sup> Street rights-of-way adjacent to Lot 2 R5 Block Subdivision Amended, subject to the terms of the permit, within the limits of the following described public rights-of-way, to wit (refer to Exhibit A for graphical representation):

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Said description contains an area of 308 SQ FT more or less, as described herein and illustrated on Exhibit "A".

C. Relying on the information supplied by the Petitioner and contained in File No. SUB-2018-578 in the office of the City's Community Development Department, the City Council has determined that such action would not at this time be detrimental to the inhabitants of the City of Grand Junction.

NOW, THEREFORE, IN ACCORDANCE WITH THE ACTION OF THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

1. The Petitioner's use and occupancy of the public right-of-way as authorized pursuant to this Permit shall be performed with due care or any other higher standard of care as may be required to avoid creating hazardous or dangerous situations and to avoid damaging public improvements and public utilities or any other facilities presently existing or which may in the future exist in said right-of-way.
2. The City hereby reserves and retains a perpetual right to utilize all or any portion of the public right-of-way for any purpose whatsoever. The City further reserves and retains the right to revoke this Permit at any time and for any or no reason.
3. The Petitioner, for himself and for his successors and assigns, agree that they shall not hold, nor attempt to hold, the City of Grand Junction, its officers, employees and agents, liable for damages caused to any improvements and/or facilities to be installed by the Petitioners within the limits of the public right-of-way (including the removal thereof), or any other property of the Petitioners or any other party, as a result of the Petitioners' occupancy, possession or use of said public right-of-way or as a result of any City, County, State or Public Utility activity or use thereof or as a result of the installation, operation, maintenance, repair and replacement of public improvements.
4. The Petitioner agrees that he shall at all times keep the above described public right-of-way and the facilities authorized pursuant to this Permit in good condition and repair.
5. This Revocable Permit for the overhangs and encroachments in the rights-of-way shall be issued only upon concurrent execution by the Petitioner of an agreement that the Petitioner and the Petitioner's successors and assigns shall save and hold the City of Grand Junction, its officers, employees and agents harmless from, and indemnify the City, its officers, employees and agents, with respect to any claim or cause of action however stated arising out of, or in any way related to, the encroachment or use permitted, and that upon revocation of this Permit by the City the Petitioner shall, at the sole expense and cost of the Petitioner, within thirty (30) days of notice of revocation (which may occur by mailing a first class letter to Petitioner's last known address), peaceably surrender said public right-of-way and, at their own expense, remove any encroachment so as to make the described public right-of-way available for use by the City, the County of Mesa, the State of Colorado, the Public Utilities or the general public. The provisions concerning holding harmless and indemnity shall survive the expiration, revocation, termination or other ending of this Permit.

6. This Revocable Permit, the foregoing Resolution and the following Agreement shall be recorded by the Petitioner, at the Petitioner's expense, in the off of the Mesa County Clerk and Recorder.

Dated this 20<sup>th</sup> day of March, 2019.

Written and Recommended by:



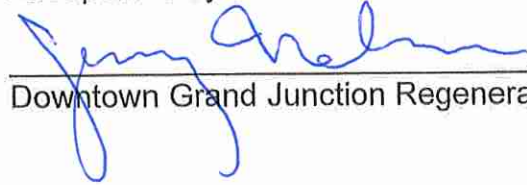
City Clerk

The City of Grand Junction,  
a Colorado home rule municipality



City Manager

Acceptance by the Petitioner:



Downtown Grand Junction Regeneration LLC

6. This Revocable Permit, the foregoing Resolution and the following Agreement shall be recorded by the Petitioner, at the Petitioner's expense, in the off of the Mesa County Clerk and Recorder.

Dated this 20<sup>th</sup> day of March, 2019.

Written and Recommended by:

W Wukelman

City Clerk

The City of Grand Junction,  
a Colorado home rule municipality

[Signature]

City Manager

Acceptance by the Petitioner:

Downtown Grand Junction Regeneration LLC

**AGREEMENT**

Downtown Grand Junction Regeneration LLC, for the itself and its successors and assigns, does hereby agree to:

(a) Abide by each and every term and condition contained in the foregoing Revocable Permit;

(b) Indemnify and hold harmless the City of Grand Junction, its officers, employees and agents with respect to all claims and causes of action, as provided for in the approved Resolution and Revocable Permit;

(c) Within thirty (30) days of revocation of said Permit by the City Council, peaceably surrender said public right-of-way fully available for use by the City of Grand Junction or the general public; and

(d) At the sole cost and expense of the petitioner, remove any encroachment so as to make said public right-of-way fully available for use by the City of Grand Junction or the general public.

Dated this 05 day of April, 2019.

  
Downtown Grand Junction Regeneration LLC

Jeremy Nelson

State of Colorado )  
                                  )ss.  
County of Mesa     )

The foregoing Agreement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by Downtown Grand Junction Regeneration LLC.

~~See attached~~  
California Ack. or Jurat  
New Notary Certificate

My Commission expires: \_\_\_\_\_

Witness my hand and official seal.

~~See attached~~  
California Ack. or Jurat  
New Notary Certificate

\_\_\_\_\_  
Notary Public

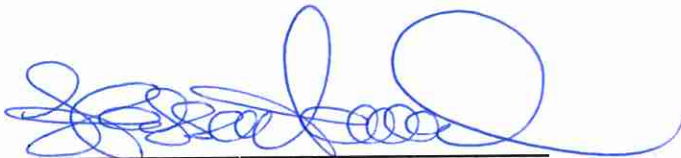
**ACKNOWLEDGEMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }  
County of San Francisco }

On Friday, April 05, 2019 before me Hasan Ahmed, Notary Public,  
Personally Appeared **JEREMY NELSON** who 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.

I certify under PENALTY OF PERJURY under the laws of the State of **California** that the foregoing paragraph is true and correct.



Signature



WITNESS my hand and official seal.

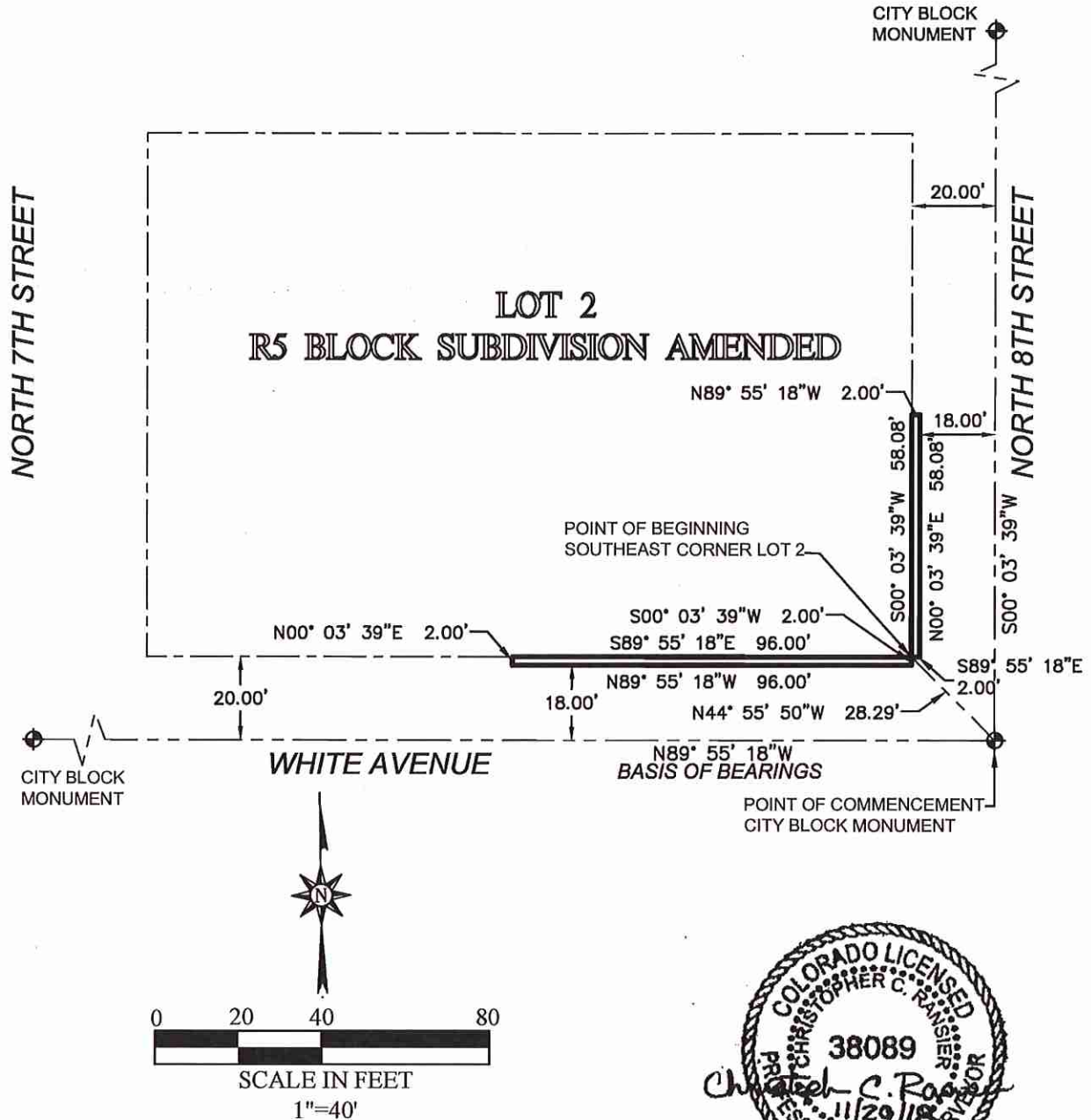
**Agreement.**



# EXHIBIT A

## REVOCABLE PERMIT

Located within the SE 1/4 of Section 14, Township 1 South, Range 1 West, Ute Meridian,  
City of Grand Junction, County of Mesa, State of Colorado



\*This Exhibit is not intended to be used for establishing or verifying property boundary lines.  
\*Linear units are in U.S. Survey Feet.



CHRISTOPHER C. RANSIER  
CO PLS 38089  
717 CENTAURI DRIVE  
GRAND JUNCTION, CO 81506