



## CITY COUNCIL ACTION FORM

<b>DEPARTMENT</b> City Clerk	<b>PRESENTED BY</b> Erin Kelley - City Clerk	<b>DATE</b> December 5, 2023
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### **ITEM**

New Brew Pub City Liquor License request for Elevation Beer Company LLC dba Elevation Beer Company at 146 W 1<sup>st</sup> Street.

### **BACKGROUND**

A new Colorado Brew Pub Liquor License application was filed with the City Clerk on October 24, 2023. The Notice of Public Hearing was published on October 27th, 2023 and the premises was posted on November 8, 2023.

All proper fees have been remitted to the City and State of Colorado.

### **STAFF RECOMMENDATION**

Staff recommends that the Liquor Licensing Authority approve a new Brew Pub Liquor License request for Elevation Beer Company LLC dba Elevation Beer Company at 146 W 1<sup>st</sup> Street.

### **SUGGESTED MOTION**

Following a public hearing on the matter, a Liquor Authority member should “move to approve a new Brew Pub Liquor License request for Elevation Beer Company LLC dba Elevation Beer Company at 146 W 1<sup>st</sup> Street.” followed by a second and roll call vote.

# Colorado Liquor Retail License Application

\* Note that the Division will not accept cash  Paid by check  Paid online

Uploaded to  Date   
 MoveIt on

New License  New-Concurrent  Transfer of Ownership  State Property Only  Master file

- All answers must be printed in black ink or typewritten
- Applicant must check the appropriate box(es)
- Applicant should obtain a copy of the Colorado Liquor, Beer and Wine Code: [SBG.Colorado.gov/Liquor](http://SBG.Colorado.gov/Liquor)

1. Applicant is applying as a/an  Individual  Limited Liability Company  Association or Other  
 Corporation  Partnership (includes Limited Liability and Husband and Wife Partnerships)

2. Applicant If an LLC, name of LLC; if partnership, at least 2 partner's names; if corporation, name of corporation  
 Elevation Beer Company, LLC FFIN Number

2a. Trade Name of Establishment (DBA) State Sales Tax Number   
 Elevation Beer Company Business Telephone  
719-539-5258

3. Address of Premises (specify exact location of premises, include suite/unit numbers)  
 146 W. First Street

City Salida	County Chaffee	State CO	ZIP Code 81242
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4. Mailing Address (Number and Street) PO BOX 310	City or Town Poncha Springs	State CO	ZIP Code 81242
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5. Email Address  
 accounting@elevationbeerco.com

6. If the premises currently has a liquor or beer license, you must answer the following questions

Present Trade Name of Establishment (DBA)	Present State License Number	Present Class of License	Present Expiration Date
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Section A Nonrefundable Application Fees*	Section B (Cont.) Liquor License Fees*
<input type="checkbox"/> Application Fee for New License ..... \$1,100.00	<input type="checkbox"/> Liquor-Licensed Drugstore (County) ..... \$312.50
<input checked="" type="checkbox"/> Application Fee for New License w/Concurrent Review ..... \$1,200.00	<input type="checkbox"/> Lodging & Entertainment - L&E (City) ..... \$500.00
<input type="checkbox"/> Application Fee for Transfer ..... \$1,100.00	<input type="checkbox"/> Lodging & Entertainment - L&E (County) ..... \$500.00
<b>Section B Liquor License Fees*</b>	<input type="checkbox"/> Manager Registration - H & R ..... \$30.00
<input type="checkbox"/> Add Optional Premises to H & R ..... \$100.00 X _____ Total _____	<input type="checkbox"/> Manager Registration - Tavern ..... \$30.00
<input type="checkbox"/> Add Related Facility to Resort Complex \$75.00 X _____ Total _____	<input type="checkbox"/> Manager Registration - Lodging & Entertainment ..... \$30.00
<input type="checkbox"/> Add Sidewalk Service Area ..... \$75.00	<input type="checkbox"/> Manager Registration - Campus Liquor Complex ..... \$30.00
<input type="checkbox"/> Arts License (City) ..... \$308.75	<input type="checkbox"/> Optional Premises License (City) ..... \$500.00
<input type="checkbox"/> Arts License (County) ..... \$308.75	<input type="checkbox"/> Optional Premises License (County) ..... \$500.00
<input type="checkbox"/> Beer and Wine License (City) ..... \$351.25	<input type="checkbox"/> Racetrack License (City) ..... \$500.00
<input type="checkbox"/> Beer and Wine License (County) ..... \$436.25	<input type="checkbox"/> Racetrack License (County) ..... \$500.00
<input checked="" type="checkbox"/> Brew Pub License (City) ..... \$750.00	<input type="checkbox"/> Resort Complex License (City) ..... \$500.00
<input type="checkbox"/> Brew Pub License (County) ..... \$750.00	<input type="checkbox"/> Resort Complex License (County) ..... \$500.00
<input type="checkbox"/> Campus Liquor Complex (City) ..... \$500.00	<input type="checkbox"/> Related Facility - Campus Liquor Complex (City) ..... \$160.00
<input type="checkbox"/> Campus Liquor Complex (County) ..... \$500.00	<input type="checkbox"/> Related Facility - Campus Liquor Complex (County) ..... \$160.00
<input type="checkbox"/> Campus Liquor Complex (State) ..... \$500.00	<input type="checkbox"/> Related Facility - Campus Liquor Complex (State) ..... \$160.00
<input type="checkbox"/> Club License (City) ..... \$308.75	<input type="checkbox"/> Retail Gaming Tavern License (City) ..... \$500.00
<input type="checkbox"/> Club License (County) ..... \$308.75	<input type="checkbox"/> Retail Gaming Tavern License (County) ..... \$500.00
<input type="checkbox"/> Distillery Pub License (City) ..... \$750.00	<input type="checkbox"/> Retail Liquor Store License-Additional (City) ..... \$227.50
<input type="checkbox"/> Distillery Pub License (County) ..... \$750.00	<input type="checkbox"/> Retail Liquor Store License-Additional (County) ..... \$312.50
<input type="checkbox"/> Hotel and Restaurant License (City) ..... \$500.00	<input type="checkbox"/> Retail Liquor Store (City) ..... \$227.50
<input type="checkbox"/> Hotel and Restaurant License (County) ..... \$500.00	<input type="checkbox"/> Retail Liquor Store (County) ..... \$312.50
<input type="checkbox"/> Hotel and Restaurant License w/one opt premises (City) ..... \$600.00	<input type="checkbox"/> Tavern License (City) ..... \$500.00
<input type="checkbox"/> Hotel and Restaurant License w/one opt premises (County) ..... \$600.00	<input type="checkbox"/> Tavern License (County) ..... \$500.00
<input type="checkbox"/> Liquor-Licensed Drugstore (City) ..... \$227.50	<input type="checkbox"/> Vintners Restaurant License (City) ..... \$750.00
	<input type="checkbox"/> Vintners Restaurant License (County) ..... \$750.00

**Questions? Visit: [SBG.Colorado.gov/Liquor](http://SBG.Colorado.gov/Liquor) for more information**

**Do not write in this space - For Department of Revenue use only**

Liability Information

License Account Number	Liability Date	License Issued Through (Expiration Date)	Total \$
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Name Elevation Beer Company		Type of License Brew Pub	Account Number	
7. Is the applicant (including any of the partners if a partnership; members or managers if a limited liability company; or officers, stockholders or directors if a corporation) or managers under the age of twenty-one years?				Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
8. Has the applicant (including any of the partners if a partnership; members or managers if a limited liability company; or officers, stockholders or directors if a corporation) or managers ever (in Colorado or any other state):				
a. Been denied an alcohol beverage license?				<input type="checkbox"/> <input checked="" type="checkbox"/>
b. Had an alcohol beverage license suspended or revoked?				<input type="checkbox"/> <input checked="" type="checkbox"/>
c. Had interest in another entity that had an alcohol beverage license suspended or revoked?				<input type="checkbox"/> <input checked="" type="checkbox"/>
If you answered yes to 8a, b or c, explain in detail on a separate sheet.				
9. Has a liquor license application (same license class), that was located within 500 feet of the proposed premises, been denied within the preceding two years? If "yes", explain in detail.				<input type="checkbox"/> <input checked="" type="checkbox"/>
10. Are the premises to be licensed within 500 feet, of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary?				<input type="checkbox"/> <input checked="" type="checkbox"/>
Waiver by local ordinance? <input type="checkbox"/> <input type="checkbox"/>				or
Other: _____				<input type="checkbox"/> <input type="checkbox"/>
11. Is your Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 1500 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of greater than (>) 10,0000? <b>NOTE:</b> The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.				<input type="checkbox"/> <input type="checkbox"/> N/A
12. Is your Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 3000 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of less than (<) 10,0000? <b>NOTE:</b> The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.				<input type="checkbox"/> <input type="checkbox"/> N/A
13. a. For additional Retail Liquor Store only. Was your Retail Liquor Store License issued on or before January 1, 2016?				<input type="checkbox"/> <input type="checkbox"/>
b. Are you a Colorado resident?				N/A <input type="checkbox"/> <input type="checkbox"/>
14. Has a liquor or beer license ever been issued to the applicant (including any of the partners, if a partnership; members or manager if a Limited Liability Company; or officers, stockholders or directors if a corporation)? If yes, identify the name of the business and list any <u>current</u> financial interest in said business including any loans to or from a licensee.				<input checked="" type="checkbox"/> <input type="checkbox"/>
15. Does the applicant, as listed on line 2 of this application, <b>have legal possession of the premises by ownership, lease or other arrangement?</b>				<input checked="" type="checkbox"/> <input type="checkbox"/>
<input type="checkbox"/> Ownership <input checked="" type="checkbox"/> Lease <input type="checkbox"/> Other (Explain in Detail) _____				
a. If leased, list name of landlord and tenant, and date of expiration, <b>exactly</b> as they appear on the lease:				
Landlord	Tenant	Expires		
146 W First St, LLC	Elevation Beer Company	10/10/2028		
b. Is a percentage of alcohol sales included as compensation to the landlord? If yes, complete question 16.				<input type="checkbox"/> <input checked="" type="checkbox"/>
c. Attach a diagram that designates the area to be licensed in black bold outline (including dimensions) which shows the bars, brewery, walls, partitions, entrances, exits and what each room shall be utilized for in this business. This diagram should be no larger than 8½" X 11".				
16. Who, besides the owners listed in this application (including persons, firms, partnerships, corporations, limited liability companies) will loan or give money, inventory, furniture or equipment to or for use in this business; or who will receive money from this business? Attach a separate sheet if necessary.				
Last Name	First Name	Date of Birth	FEIN or SSN	Interest/Percentage
None				
Last Name	First Name	Date of Birth	FEIN or SSN	Interest/Percentage
<b>Attach copies of all notes and security instruments and any written agreement or details of any oral agreement, by which any person (including partnerships, corporations, limited liability companies, etc.) will share in the profit or gross proceeds of this establishment, and any agreement relating to the business which is contingent or conditional in any way by volume, profit, sales, giving of advice or consultation.</b>				
17. Optional Premises or Hotel and Restaurant Licenses with Optional Premises:				
Has a local ordinance or resolution authorizing optional premises been adopted?				N/A <input type="checkbox"/> <input type="checkbox"/>
Number of additional Optional Premise areas requested. (See license fee chart)				
18. For the addition of a Sidewalk Service Area per Regulation 47-302(A)(4), include a diagram of the service area and documentation received from the local governing body authorizing use of the sidewalk. Documentation may include but is not limited to a statement of use, permit, easement, or other legal permissions.				N/A

Name Elevation Beer Company		Type of License Brew Pub	Account Number	
19. Liquor Licensed Drugstore (LLDS) applicants, answer the following: a. Is there a pharmacy, licensed by the Colorado Board of Pharmacy, located within the applicant's LLDS premise? <input type="checkbox"/> <input type="checkbox"/> If "yes" a copy of license must be attached. N/A				
20. Club Liquor License applicants answer the following: <b>Attach a copy of applicable documentation</b> Yes No a. Is the applicant organization operated solely for a national, social, fraternal, patriotic, political or athletic purpose and not for pecuniary gain? <input type="checkbox"/> <input type="checkbox"/> b. Is the applicant organization a regularly chartered branch, lodge or chapter of a national organization which is operated solely for the object of a patriotic or fraternal organization or society, but not for pecuniary gain? <input type="checkbox"/> <input type="checkbox"/> c. How long has the club been incorporated? N/A d. Has applicant occupied an establishment for three years (three years required) that was operated solely for the reasons stated above? <input type="checkbox"/> <input type="checkbox"/>				
21. Brew-Pub, Distillery Pub or Vintner's Restaurant applicants answer the following: a. Has the applicant received or applied for a Federal Permit? (Copy of permit or application must be attached) <input checked="" type="checkbox"/> <input type="checkbox"/>				
22. Campus Liquor Complex applicants answer the following: a. Is the applicant an institution of higher education? <input type="checkbox"/> <input type="checkbox"/> b. Is the applicant a person who contracts with the institution of higher education to provide food services? <input type="checkbox"/> <input type="checkbox"/> If "yes" please provide a copy of the contract with the institution of higher education to provide food services. N/A				
23. For all on-premises applicants. a. For all Liquor Licensed Drugstores (LLDS) the Permitted Manager must also submit an Manager Permit Application - DR 8000 and fingerprints.				
Last Name of Manager Koch		First Name of Manager Christian		
24. Does this manager act as the manager of, or have a financial interest in, any other liquor licensed establishment in the State of Colorado? If yes, provide name, type of license and account number. Yes No <input checked="" type="checkbox"/> <input type="checkbox"/>				
25. Related Facility - Campus Liquor Complex applicants answer the following: <input type="checkbox"/> <input type="checkbox"/> a. Is the related facility located within the boundaries of the Campus Liquor Complex? If yes, please provide a map of the geographical location within the Campus Liquor Complex. N/A If no, this license type is not available for issues outside the geographical location of the Campus Liquor Complex. b. Designated Manager for Related Facility- Campus Liquor Complex				
Last Name of Manager		First Name of Manager		
26. Tax Information. Yes No a. Has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? <input type="checkbox"/> <input checked="" type="checkbox"/> b. Has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? <input type="checkbox"/> <input checked="" type="checkbox"/>				
27. If applicant is a corporation, partnership, association or limited liability company, applicant must list all <b>Officers, Directors, General Partners, and Managing Members</b> . In addition, applicant must list any stockholders, partners, or members with <b>ownership of 10% or more in the applicant</b> . All persons listed below must also attach form DR 8404-I (Individual History Record), and make an appointment with an approved State Vendor through their website. See application checklist, Section IV, for details.				
Name Carlin Walsh	Home Address, City & State [REDACTED]	DOB [REDACTED]	Position MBR	%Owned [REDACTED]
Name Christian Koch	Home Address, City & State [REDACTED]	DOB [REDACTED]	Position MBR	%Owned [REDACTED]
Name	Home Address, City & State	DOB	Position	%Owned
Name	Home Address, City & State	DOB	Position	%Owned
Name	Home Address, City & State	DOB	Position	%Owned



Name Elevation Beer Company	Type of License Brew Pub	Account Number
<p>** If applicant is owned 100% by a parent company, please list the designated principal officer on above.  ** Corporations - the President, Vice-President, Secretary and Treasurer must be accounted for above (Include ownership percentage if applicable)  ** If total ownership percentage disclosed here does not total 100%, applicant must check this box:  <input checked="" type="checkbox"/> Applicant affirms that no individual other than these disclosed herein owns 10% or more of the applicant and does not have financial interest in a prohibited liquor license pursuant to Article 3 or 5, C.R.S.</p>		
<b>Oath Of Applicant</b>		
I declare under penalty of perjury in the second degree that this application and all attachments are true, correct, and complete to the best of my knowledge. I also acknowledge that it is my responsibility and the responsibility of my agents and employees to comply with the provisions of the Colorado Liquor or Beer Code which affect my license.		
Authorized Signature 	Printed Name and Title Christian Koch, Founder	Date 10/12/23
<b>Report and Approval of Local Licensing Authority (City/County)</b>		
Date application filed with local authority 10/24/23	Date of local authority hearing (for new license applicants; cannot be less than 30 days from date of application) 12/15/23	
For Transfer Applications Only - Is the license being transferred valid?		Yes <input type="checkbox"/> No <input type="checkbox"/>
The Local Licensing Authority Hereby Affirms that each person required to file DR 8404-I (Individual History Record) or a DR 8000 (Manager Permit) has been: <input checked="" type="checkbox"/> Fingerprinted <input checked="" type="checkbox"/> Subject to background investigation, including NCIC/CCIC check for outstanding warrants That the local authority has conducted, or intends to conduct, an inspection of the proposed premises to ensure that the applicant is in compliance with and aware of, liquor code provisions affecting their class of license (Check One) <input type="checkbox"/> Date of inspection or anticipated date _____ <input checked="" type="checkbox"/> Will conduct inspection upon approval of state licensing authority		
<input type="checkbox"/> Is the Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 1,500 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of > 10,0000?		Yes <input type="checkbox"/> No <input type="checkbox"/>
<input type="checkbox"/> Is the Liquor Licensed Drugstore(LLDS) or Retail Liquor Store (RLS) within 3,000 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of < 10,0000?		Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>NOTE:</b> The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.		
<input type="checkbox"/> Does the Liquor-Licensed Drugstore (LLDS) have at least twenty percent (20%) of the applicant's gross annual income derived from the sale of food, during the prior twelve (12) month period?		Yes <input type="checkbox"/> No <input type="checkbox"/>
The foregoing application has been examined; and the premises, business to be conducted, and character of the applicant are satisfactory. We do report that such license, if granted, will meet the reasonable requirements of the neighborhood and the desires of the adult inhabitants, and will comply with the provisions of Title 44, Article 4 or 3, C.R.S., and Liquor Rules. <b>Therefore, this application is approved.</b>		
Local Licensing Authority for		Telephone Number
		<input type="checkbox"/> Town, City <input type="checkbox"/> County
Signature	Print	Title
Signature	Print	Title
		Date

**PUBLIC NOTICE  
PURSUANT TO THE LIQUOR LAWS  
OF COLORADO**

Pursuant to the Liquor Laws of the State of Colorado, Elevation Beer Company LLC dba Elevation Beer Company, has requested the Local Licensing Authority of the City of Salida, Colorado to grant a new Brew Pub (City) liquor license to sell malt, vinous and spirituous liquors for consumption on premises at 146 W 1st Street, Salida, CO 81201. A hearing on the application received October 24, 2023 will be held before the Local Licensing Authority of the City of Salida, Colorado at the hour of 6:00 p.m., or as soon thereafter as may be heard, on Tuesday, December 5th, remotely through the GoToWebinar application via the following direct link: <https://attendee.gotowebinar.com/register/6382995264411204366>

At said time and place, any interested persons may appear to be heard for or against the granting of said license.

LOCAL LICENSING AUTHORITY  
Erin Kelley, City Clerk

Premises Posted by November 24th, 2023  
Published in The Mountain Mail October 27,  
2023



OFFICE OF THE SECRETARY OF STATE  
OF THE STATE OF COLORADO

**CERTIFICATE OF FACT OF GOOD STANDING**

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

Elevation Beer Company, LLC

is a

Limited Liability Company

formed or registered on 06/22/2010 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 20101352311 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 09/28/2023 that have been posted, and by documents delivered to this office electronically through 10/02/2023 @ 15:03:39 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 10/02/2023 @ 15:03:39 in accordance with applicable law. This certificate is assigned Confirmation Number 15369037 .



*Jena Griswold*

Secretary of State of the State of Colorado

\*\*\*\*\*End of Certificate\*\*\*\*\*

Notice: A certificate issued electronically from the Colorado Secretary of State's website is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's website, <https://www.coloradosos.gov/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our website, <https://www.coloradosos.gov> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."



COMMERCIAL LEASE

The 10th

This Lease is made to be effective the ~~10th~~ <sup>OCT 10</sup> day of October, 2023, between **146 West First Street, LLC**, a Colorado limited liability company, of 410 H Street, Salida, CO 81201, (herein "Lessor"), and **Elevation Beer Company, LLC**, a Colorado limited liability company, of PO Box [REDACTED] (herein "Lessee"), as follows:

**RECITALS**

WHEREAS, Lessor is the owner of the developed property located at 146 West First Street, Salida, CO 81201 (herein referred to as the "Premises"); and;

WHEREAS, Lessor entered into that certain Lease with The 146 Tap House, the previous owner of the business conducted on the Premises dated [REDACTED] ("Original Lease"); and

WHEREAS, Lessee purchased certain assets from The 146 Tap House; and

WHEREAS, Lessee desires to lease the Premises for the purposes of operating and maintaining a tap room or bar; and

WHEREAS, Lessor has the authority and discretion to approve an assignment of the Original Lease pursuant to Section 27 of the Original Lease;

WHEREAS, Lessor has required that the parties enter into this Lease Agreement as a condition of Lessor's consenting to the transfer of the business to Lessee; and

WHEREAS, the parties desire to enter into this Lease Agreement ("Lease") defining their respective rights, duties, obligations, and liabilities relating to the Premises and its use, and replacing and superseding in its entirety the Original Lease;

**NOW THEREFORE**, in consideration of the payment of rent and the performance of the covenants and agreements by the parties set forth below, the parties agree as follows:

**1. DESCRIPTION OF PREMISES, PURPOSE AND USE, AND RESERVATION BY LESSOR.** Lessor leases to Lessee for Lessee's exclusive use the Premises located at 146 West First Street, Salida, Colorado. Lessor reserves the area for Lessor's exclusive use shown on Exhibit A. This reserved area may be used by Lessor for placement, use, and maintenance of a camper or tiny house. Prior to any such improvements on the reserved area, Lessor shall fence the reserved area with fencing to be tasteful and consistent with existing improvements on the Premises. Further, Lessee acknowledges the limitations of use of those areas of the Premises described as the sewer line easement and easement serving the building on the adjoining property also shown on Exhibit A. Lessee shall use the demised Premises for the purpose of conducting a tap room bar, and/or restaurant Lessee shall not use the Premises for any other purposes, without the prior written consent of Lessor, which consent may be withheld at the sole discretion of Lessor. Lessee also agrees not to conduct or to permit to be conducted upon the

Premises any business or any act which is contrary to or in violation of the laws of the United States of America or of the State of Colorado or of any ordinances, regulations, or orders of any municipality or other public authority affecting the Premises. Lessee shall neither use nor occupy, nor permit the use or occupancy of the Premises, or any part thereof, for any unlawful, disreputable, or hazardous purpose nor operate its business in a manner constituting a nuisance of any kind

3. **TERM.** The initial term of this Lease shall be a five (5) year period commencing [REDACTED], and shall continue for five years thereafter. Lessee shall have an option to extend the Lease for an additional term of five (5) years conditioned upon Lessee giving Lessor written notice at least 90 days prior to the end of the initial term of Lessee's intent to extend, conditioned upon Lessee being in good standing under this Lease. Lessee shall not be in good standing if in the previous 12 months, Lessor has served two or more notices of default on Lessee. Further, upon receipt of Lessee's notice, Lessor shall have 20 days to propose amended terms for the renewal including rent adjustments based on market rates. Thereafter, if parties do not agree in writing to the proposed new terms for the renewal, then this Lease shall terminate at the end of the current term.

4. **RENTAL.** Installments of rent shall be payable in advance and without notice at to Lessor at 410 H Street, Salida, CO 81201, or as automatic deposit as directed by Lessor, or at such other place as Lessor from time to time designates in writing. The Base Rent in the first twelve (12) months of the initial term shall be [REDACTED]. The Base Rent for the initial term shall have an annual increase of rent at the minimum rate of four percent [REDACTED]. On the first of each month, Lessee shall also pay monthly installments of Taxes (Section 12B) and Insurance (Section 20F) which initially shall be in the sum of [REDACTED] subject to adjustment as set forth herein.

5. **LATE PAYMENT CHARGE.** In the event any payment required hereunder is not made within five (5) days after the payment is due, a late charge in the amount of ten percent (10%) of the payment will be paid by the Lessee. As set forth in Section 21A, Lessee shall be in default if Lessee fails to pay monthly rent within five (5) days of its due date.

6. **SECURITY DEPOSIT.** Lessee shall deposit with Lessor, the receipt of which is acknowledged by Lessor, the sum of [REDACTED] as security for the performance of Lessee's obligations under this Lease, including, without limitation, the surrender of possession of the Premises to Lessor as provided in this Lease. If Lessor applies any part of the deposit to cure any default of Lessee, Lessee shall, upon demand, deposit with Lessor the amount so applied, so that Lessor shall have the full deposit on hand at all times during the term of this Lease. The deposit

will be returned to Lessee within thirty (30) days after the end of the lease term if: (a) all obligations of Lessee have been performed, and (b) the Premises is not damaged and is left in its original condition, normal wear and tear excepted. Retention of said deposit shall not prevent Lessor from recovering additional damages. Lessee may not apply the deposit hereunder to the payment of rent reserved hereunder or the performance of other obligations. The Lessor may apply the deposit to cure any default under the terms of this Lease, including failure to pay rent or other charges, and shall account to the Lessee for the balance.

**7. ALTERATIONS, ADDITIONS, AND IMPROVEMENTS.**

A. At no time shall Lessee make any alterations, additions, or improvements in or to the demised Premises without a written proposal of such changes first being approved by the Lessor in writing. Said written proposal shall contain Lessee's promise to pay the full cost of the improvements and shall delineate Lessee's need, the material composition, and the decorative coordination to be used. Lessee shall provide Lessor the names and addresses of all persons performing labor or furnishing skill, materials, machinery, or fixtures in the alteration, addition, or improvement of the Premises, as soon as those persons are known. Lessee shall give notice to the aforementioned persons that Lessor's interest shall not be subject to any liens arising from any improvements, repairs, or alterations provided at the request of Lessee. Lessee shall not permit any contractor or subcontractor whose employees are not adequately covered by Workers' Compensation insurance to perform any work on or within the Premises and shall hold harmless and indemnify Lessor with respect to any and all claims of any and all persons who perform work or other services for or for the benefit of Lessee or Lessee's contractors or subcontractors.

B. Should any mechanic's lien be filed against the Premises as the result of any remodeling or alterations done by the Lessee at any time following Lessee's taking of possession, Lessee shall, within ten (10) days after demand by Lessor, cause said lien to be released.

C. Any approved alterations thereafter shall be performed in a workmanlike manner and shall not weaken or impair the structural strength or lessen the value of the building or any part thereof.

D. All work permitted hereunder shall be carried out and performed in accordance with requirements of applicable federal, state, and local statutes, laws, ordinance, codes, and regulations.

E. Subject to the requirements and restrictions set forth in the foregoing paragraphs A. through E. of this Section 7, Lessor shall not unreasonably withhold its approval of alterations, additions, or improvements to the demised Premises which might from time to time be requested by Lessee.

F. Upon the approval of any alterations, and upon the request of Lessee, Lessor and Lessee must also agree in writing as to whether any such alteration or improvement

shall be deemed a fixture which shall remain with the Premises upon termination or shall be deemed to be the personal property of Lessee which will be removed upon termination. The parties shall also set forth in writing the conditions or restoration needed for removal of any such improvement. In the absence of any such written agreement, all improvements and fixtures shall constitute the sole property of the Lessor as set forth in Section 8 herein.

G. At Lessee's cost, Lessee shall be permitted to make certain initial improvements which shall include the improvements described on Exhibit B.

8. **FIXTURES.** Any alterations made in the building located on the Premises (the "Building") by Lessee and any equipment or fixtures built into the Premises by Lessee shall upon the termination of this Lease become the sole property of the Lessor, unless otherwise agreed in writing by the parties.

9. **LESSEE'S MAINTENANCE OBLIGATIONS.** Lessee covenants to maintain, repair, replace and keep all exterior signage, all glass, all doors and windows, lighting fixtures and HVAC systems, as well as the interior of the Premises, and all improvements, fixtures and personal property therein, including, but not limited to, all doors, all restrooms, and all plumbing, electrical, HVAC and mechanical systems and fixtures, in good, safe and sanitary condition, order and repair and in accordance with all applicable laws, ordinances, orders, rules and regulations of governmental authorities having jurisdiction; to pay all costs and expenses in connection therewith; and to contract for the same in Lessee's own name. All maintenance and repairs by Lessee shall be done promptly, in a good and workmanlike fashion, and without diminishing the original quality of the Premises.

A. Lessee shall also be responsible for the repair of damages if any damage or defect was caused by the negligence of Lessee or Lessee's employees, agents, contractors, customers, clients, or other invitees, or if the damage or defect is caused by or otherwise due to work performed by Lessee or Lessee's agents or contractors.

B. Lessee shall keep the entire exterior Premises free from all litter, dirt, debris and obstructions; and to keep the Premises in a clean and sanitary condition as required by the ordinances of the city and county in which the Premises is situate. Lessee, at Lessee's sole expense, shall also be responsible for trash removal and janitorial services in the Premises. Lessee shall engage in a recycling program if commercially available. Lessee shall comply with all applicable fire codes and required inspections. Lessee shall keep the interior and exterior of all windows in a clean condition.

C. Lessee shall keep the sidewalks and parking areas on and around the Premises free and clear of ice and snow, and keep the entire exterior Premises free from all litter, dirt, debris and obstructions; and to keep the Premises in a clean and sanitary condition as required by the ordinances of the City of Salida. Specifically, at a minimum of once per day and prior to 10:00 AM, Lessee shall sweep and pick up all dirt, mud, trash, cigarette butts, and debris from the sidewalk and gutter in front of the Premises and along that part of G Street adjoining the Premises. Further, prior to 10:00 AM all snow and ice shall be thoroughly removed from the sidewalk and gutter in front of the Premises along



1<sup>st</sup> Street and along that part of G Street adjoining the Premises. Snow shall be piled around the base of the sidewalk trees in front of the Premises to provide moisture to the trees during the winter. Lessee shall clean all glass periodically.

D. Lessee agrees to return the Premises at the end of the Lease term, including all fixtures and lease improvements, in the same condition as the beginning of this Lease and in good working order subject to normal wear and tear.

10. **LESSOR'S MAINTENANCE OBLIGATIONS.** Lessor covenants and agrees to maintain, repair, replace and keep the roof, exterior walls, and foundation of the Premises, (excluding glass, signage, doors, and lighting), in good, safe and sanitary condition, order and repair and in accordance with all applicable laws, ordinances, orders, rules and regulations of governmental authorities having jurisdiction and to pay all costs and expenses in connection with. Further, if any repair, replacement or restoration is necessitated by any act or omission of Lessee, or any of Lessee's officers, employees, agents, guests or invitees, all costs and expenses incurred by Lessor in connection therewith shall be payable by Lessee immediately upon Lessor's written request. Except as provided in Section 20H., there shall be no allowance to Lessee for a diminution of rental value and no liability on the part of Lessor, by reason or inconvenience, annoyance or injury to, or interruption of business, arising from Lessor, Lessee or others making any repairs, restorations, replacements, alterations, additions or improvements in or to any portion of the Building or the Premises, or in or to fixtures, appurtenances or equipment thereof.

11. **UTILITIES.** All applications and connections for necessary gas, telecommunications, trash service, and electricity to the Premises shall be made in the name of the Lessee only. From the date Lessee takes possession of the Premises until this Lease is terminated, Lessee shall be solely liable for the payment of all water and sewer, gas, telecommunications, trash service and electricity deposits and charges for facilities and services.

12. **TAXES.**

A. Lessee's Taxes. During the term of this Lease, Lessee shall pay in full, as and when the same become due and payable, all personal property taxes levied on or with respect to Lessee's personal property located in or used in connection with the Premises, and all sales, use, and other taxes levied on or in connection with the operation of Lessee's business in the Premises.

B. Real Property Taxes. The parties acknowledge that the real property taxes are assessed in one assessment and tax bill against Lessor's Property, which includes the Premises. Lessee shall pay a portion of such taxes and assessments to Lessor in monthly installments, together with each monthly installment of rent due under this Lease, each installment in an amount equal to [REDACTED] of that amount which is equal to the amount (the "Tax Installment") that Lessor estimates (based on the most recent levy and the most recent assessment) will be needed to pay the next required installment or payment of real property taxes and assessments payable with respect to the Premises. Not less than annually, Lessor shall provide Lessee with copies of the tax bills and a revised calculation of the [REDACTED] [REDACTED] payment adjusted to reflect any increase in the tax assessment. The adjusted amount shall be due commencing with the next payment of rent.

13. **SIGNS.** Lessee shall at no time build, construct, erect, attach, or hang signs in the absence of Lessor's prior written consent, which will not be unreasonably withheld. All permitted signs must be erected and maintained in accordance with the provisions of applicable federal, state, and local law, rules, and regulations.

14. **PARKING.** Lessee acknowledges that there are no parking spaces on the Premises.

15. **OTHER COVENANTS OF LESSEE.**

A. Compliance with Insurance Requirements. Lessee covenants and agrees that nothing shall be done or kept on the Premises which might impair or increase the cost of insurance maintained with respect to the Premises, which might increase the insured risks, or which might result in cancellation of any such insurance. Failure to comply with any required fire inspection shall be deemed a default under this Lease.

B. No Waste or Impairment of Value. Lessee covenants and agrees that nothing shall be done or kept on the Premises which might impair the value of the Premises or which would constitute waste.

C. No Nuisance, Noxious or Offensive Activity. Lessee covenants and agrees that no noxious or offensive activity shall be carried on upon the Premises nor shall anything be done or kept on the Premises which may be or become a public or private nuisance or which may cause embarrassment, disturbance, or annoyance to others on adjacent or nearby property.

D. No Unsightliness. Lessee covenants and agrees that no unsightliness shall be permitted on the Premises which is visible from any adjacent or nearby property. Without limiting the generality of the foregoing, all unsightly conditions, equipment, objects and conditions shall be kept enclosed within the Premises; no refuse, scrap, debris, garbage, trash, bulk materials, used automobile parts, or waste shall be kept, stored or allowed to accumulate on the Premises except as may be enclosed within the Premises; no storage of abandoned vehicles shall be permitted on the Premises; and except for vehicles located on the portion of the property reserved for exclusive use by the Lessor, no vehicles shall remain parked on the Premises longer than that period of time which is reasonably required to service or repair said vehicles, and in no event longer than seventy-two (72) hours.

E. Environmental Compliance and Indemnity. Lessee covenants and agrees to conduct its business and operations on and from the Premises in accordance with all federal, state and local environmental laws, regulations, executive orders, ordinances and directives including, but not limited to, the Clean Air Act, Clean Water Act, Resource Conservation and Recovery Act, Toxic Substances Control Act, and state law counterparts, and any amendments thereto, including, without limitation, the Colorado Hazardous Waste Management Act, C.R.S. § 25-15-101 et seq., and not to cause, suffer or permit any damage or impairment to the health, safety or comfort of any person or to the environment at or on the Premises and surrounding property, including, but not limited to, damage or threatened

damage to the soil, surface or ground water resources at the Premises and surrounding property or any condition constituting a nuisance or causing a violation of or resulting in liability under any state, federal or local law, regulation or ordinance. The foregoing obligations of Lessee shall hereinafter collectively be referred to as the "Environmental Obligations." In the event of any violation of, or failure to comply with, any of the Environmental Obligations, Lessee agrees, at its sole cost and expense, promptly to remedy and correct such violation or failure, including all required or appropriate clean up, clean up-related activities and all other appropriate remedial action. Lessee covenants and agrees to protect, indemnify and save Lessor harmless from and against any and all liability, obligations, claims, including administrative claims and claims for injunctive relief, loss, cost, damage, expense or liability, including without limitation, any liability arising under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, plus reasonable attorney fees, incurred by or asserted against Lessor resulting from any failure to comply with the provisions of this Section 15 E. Lessor shall have the right to defend itself in any action, suit or proceeding commenced against Lessor as a result of Lessee's violation of or failure to comply with the provision of this Section 15 E., with attorneys and, as necessary, technical consultants chosen by Lessor, and Lessee agrees to pay to Lessor all reasonable attorney fees, consultant fees, and other costs in connection therewith incurred by Lessor. The provisions of this Section 15 E. shall survive the expiration or termination of this Lease.

F. OFAC Compliance. Lessee represents and warrants to Lessor that Lessee is currently in compliance with and shall at all times during the term of this Lease (including any further extensions or renewals) remain in compliance with the regulations of the Office of Foreign Assets Control ("OFAC") of the United States Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism), or other governmental action relating thereto.

G. No Security Interest. Lessee agrees and warrants that no security interest will or may be granted with respect to any fixture physically attached to the Premises at any time during the term hereof.

H. Dogs. Lessee's employees shall not leave dogs unattended in vehicles on the Premises or anywhere on Lessor's property.

I. Smoking. Smoking anywhere on the Premises or Lessor's Property shall be prohibited.

16. **CONDITION OF THE PREMISES.** The taking of possession of the Premises by Lessee shall be conclusive evidence as against Lessee that the Premises were in satisfactory condition when possession of the same was taken. Lessee shall be permitted to make a final walk-through inspection of the Premises prior to its taking possession thereof.

17. **ADJACENT PROPERTY ATTACHMENT.** Lessee hereby consents to the attachment or connection to the Building of any permanent or temporary structure which may be

constructed or placed on the property immediately adjacent to the Premises, provided that any such attachment or connection does not unreasonably interfere with or disturb the operation of Lessee's use and occupancy of the Premises as permitted hereunder.

18. **ACCESS AND QUIET ENJOYMENT.** Lessor warrants that Lessee shall have peaceable and quiet enjoyment of the Premises free from any eviction or interference by Lessor if Lessee pays the rent and other charges provided for herein, and otherwise fully and punctually performs the terms and conditions hereof.

19. **RESERVATIONS AND INSPECTION BY LESSOR.** Lessor or its agents shall have the right at any time to enter the Premises to examine the same to ensure Lessee's compliance with all terms of this Lease, or to make such repairs as it may deem necessary or proper for the safety, improvement, or preservation thereof. Lessor shall at all times have the right, at its election, to make such alterations of, changes in, or additions to any adjoining buildings, if any, not leased to the Lessee, as may appear desirable to Lessor, and to demolish and/or dispose of the adjoining premises as it shall elect, at Lessor's sole expense. Lessor may show the Premises to prospective purchasers and mortgagees, and during the three months prior to termination of this Lease, to prospective tenants, during business hours upon reasonable notice to Lessee.

20. **LIABILITY OF LESSOR, INDEMNIFICATION, AND INSURANCE.**

A. Except as otherwise provided herein, Lessee shall be in exclusive control and possession of the Premises from the date this Lease is executed until it is terminated. Lessor shall not be liable for any injury or damages to any property or to any person on or about the Premises nor for any injury or damage to any property of the Lessee. Lessor shall not be liable to Lessee for any entry on the Premises for inspection or repair purposes.

B. To the fullest extent permitted by applicable law, Lessee shall hold harmless and indemnify Lessor from and against all expenses, liabilities, and claims of every kind and character, including reasonable attorney fees and court costs, incurred, raised, or brought by or on behalf of any person or entity arising out of either: (1) a failure by Lessee to perform any of the terms or conditions of this Lease, (2) any injury or damage happening on or about the Premises, except for injury or damage caused solely by the negligence of Lessor, (3) Lessee's failure to comply with any law of any governmental authority, or (4) any mechanic's lien pertaining to work, services, or materials contracted for by Lessee or security interest filed against the Premises or equipment, materials, or alterations of buildings or improvements thereon which pertains to any indebtedness incurred by Lessee.

C. Lessee shall insure all building materials, supplies, personal property, furnishings, equipment, inventory, and records that it uses or stores on the Premises at any time following the execution hereof against fire and other hazards and shall promptly furnish proof of such insurance coverage to Lessor. Lessor shall be named as an additional insured under said policy.

D. Lessee shall obtain and maintain prior to taking possession of the Premises and at all times thereafter during the term hereof, including any optioned term, insurance



against liability for bodily injury and property damage, all to be in amounts and in forms of insurance policies as may from time to time be required by Lessor, with policy limits in an amount not less than [REDACTED] for death, illness or injury to one or more persons, and [REDACTED] for property damage, in respect of each occurrence. Not less than annually or upon request by lessor, Lessee shall provide Lessor with the declaration pages of the applicable policies and certificates evidencing such insurance coverage before occupying the Premises for performing any work within the Premises. Lessor shall be named as an additional insured under such policies.

E. Policies for such insurance shall be in a form and with an insurer reasonably acceptable to Lessor, and shall require at least 15 days written notice to Lessor of termination or material alteration during the term of this Lease, and shall waive any right of subrogation against Lessor and all individuals and entities for whom Lessor is responsible in law. Lessee shall deliver to Lessor, on the commencement date of the term of this Lease and on each anniversary thereof, certified copies or other evidence of such policies, or other evidence satisfactory to Lessor that all premiums thereof have been paid and that the policies are in full force and effect. Any default or breach of the insurance requirements of this Lease shall be deemed an immediate default and shall not require Lessor to give a 10 day notice of default described in Section 21 herein.

F. Lessor shall maintain at all times during the term of this Lease insurance coverage for the demised premises for property damage, fire and casualty, and extended coverage. Lessee shall pay a portion of such insurance premium to Lessor in monthly installments, together with each monthly installment of rent due under this Lease, each installment in an amount equal to [REDACTED] of that amount which is equal to the amount (the "Insurance Installment") that Lessor estimates (based on the most recent policy) will be needed to pay the next required installment or payment of such insurance premiums with respect to the Premises. Not less than annually, Lessor shall provide Lessee with copies of the insurance bills and a revised calculation of the [REDACTED] payment adjusted to reflect any increase in the Insurance Installment. The adjusted amount shall be due commencing with the next payment of rent.

G. In the event the Premises shall be damaged by fire or other casualty during the term of the tenancy, in a manner rendering all or a part of the Premises unusable for the intended purpose under this Lease, the parties shall be entitled to exercise the following options:

(1.) Lessor may repair the Premises at its own expense. Lessor shall be entitled to reimbursement from insurance proceeds from any casualty insurance for the Premises paid as a result of such damage to the Premises. If the casualty insurance policy was maintained by Lessee, Lessor shall be entitled to reimbursement not to exceed the total cost of repair to the Premises.

(2.) Lessee may repair the Premises at its own expense. Lessee shall be entitled to reimbursement from insurance proceeds from any casualty insurance for the Premises paid as a result of such damage to the Premises.

(3.) If neither party elects to repair the damaged portions of the Premises, by giving written notice of its intent to make the repairs to the other, within thirty (30) days following the date of the damage by fire or other casualty, or if the damage to the Premises cannot be substantially repaired within 180 days following the date when the Premises were damaged, Lessee or Lessor shall be entitled to declare this Lease null and void.

H. Except in cases where the damage to the Premises was proximately caused by the negligent actions or omissions of Lessee, or its employees, agents, customers, clients, or invitees, Lessee shall be entitled to an abatement of Lessee's obligation to pay rent hereunder as to so much of the Premises as are rendered unusable for their intended purpose under this agreement as a result of fire or other casualty for so long as the Premises remain unusable.

21. **DEFAULT AND REMEDIES.** Each of the following events shall constitute a default or breach of this Lease by Lessee:

A. If Lessee fails to pay Lessor such monthly rent within five (5) days of its due date, subject to the late charges set forth in Section 5, or if Lessee fails to pay any accrued late charges.

B. If Lessee fails to perform or comply with any of the other terms or conditions of this Lease and if the breach or nonperformance continues for a period of ten (10) days after notice thereof is given by Lessor to Lessee.

C. If Lessee vacates or abandons the Premises.

D. If this Lease or the estate of Lessee hereunder is transferred to or shall pass to any other person or party, except in the manner and to the extent herein permitted.

E. Lessee shall be in default in the event any lien is placed on the business of Lessee, Lessee's assets of any kind, on the Premises, Lessor's real or personal property, whether voluntarily by Lessee or by any creditor, taxing authority, or any party whatsoever.

F. Lessee shall be in default if Lessor has served three or more notices of default on Lessee within a 12-month period, in which case any and all rights to cure under this Lease shall not apply.

G. In the event of any default hereunder, as set forth above, the rights of Lessor shall be as follows:

(1.) Lessor shall have the right to cancel and terminate this Lease, as well as all of the right and interest of Lessee hereunder, by giving to Lessee not less than three (3) days' notice of the cancellation and termination in accordance with Colorado law and to re-enter and repossess the Premises, and to remove therefrom

any personal property belonging to the Lessee, without prejudice to any claim for rent or for the breach of covenants hereof.

(2.) Lessor may elect, but shall not be obligated, to make any payment required of Lessee herein or comply with any agreement, term or condition required hereby to be performed by Lessee, and Lessor shall have the right to enter the Premises for the purpose of correcting or remedying any such default and to remain until the default has been corrected or remedied, but any expenditure for the correction by Lessor shall not be deemed to waive or release the default of Lessee or the right of Lessor to take any action as may be otherwise permissible hereunder in the case of default.

22. **LIEN.** The Lessor shall have at all times a valid lien for all sums of rent due hereunder from the Lessee upon all of the personal property of the Lessee situate in the Premises, and said property shall not be removed therefrom without the consent of the Lessor until all arrearages in rent shall have first been paid and discharged.

23. **REMEDIES CUMULATIVE.** No reference to nor exercise of any specific right or remedy by Lessor shall prejudice or preclude Lessor from exercising or invoking any other remedy in respect thereof, whether allowed at law or in equity or expressly provided for herein. No such remedy shall be exclusive or dependent upon any other such remedy, but Lessor may from time to time exercise any one or more of such remedies independently or in combination.

24. **ATTORNEY FEES.** In the event there is controversy or dispute regarding this Agreement and/or any related documents and the parties are unable to settle the controversy or dispute through mediation or otherwise, the prevailing party in any administrative or legal action shall be entitled to recover from the breaching party all reasonable attorneys fees actually incurred, together with costs, including mediation fees. The term "prevailing party" shall include, without limitation, a party who obtains legal counsel or brings an action against the other by reason of the other's breach or default and obtains substantially the relief sought whether by compromise, settlement or judgment.

25. **SURRENDER AND POSSESSION.** Lessee shall, on the last day of the term or on earlier termination and forfeiture of the Lease, peaceably and quietly surrender and deliver the Premises to Lessor, including all buildings, additions, keys and security codes, and improvements constructed and placed thereon by Lessee, except Lessee's personal property, all in good condition and repair. Any personal property belonging to Lessee, if not removed at or before the termination or forfeiture date, and if Lessor shall so elect, shall be deemed abandoned and become the property of Lessor without any payment or offset therefor. Lessor may at its option remove such personal property from the Premises and store it at the risk and expense of Lessee. Lessee shall repair and restore all damage to the Premises caused by the removal of equipment and other personal property or be liable for the costs incurred in such repair or restoration. Lessee shall deliver the Premises back to Lessor in substantially the same condition as exists on the date on the execution of this Lease, normal wear and tear excepted. Upon termination of this Lease at any time for any reason, Lessee shall not have the right to remove from the Premises any leasehold improvements, including fixtures physically attached to any portion of the Premises, regardless of whether such leasehold improvements, including fixtures, were installed by Lessee, Lessor, or others. Once

attached, such leasehold improvements, including fixtures, shall become a part of the Premises subject to the terms of Sections 7 F. and 8 above.

26. **HOLDING OVER.** It is mutually agreed that if, after the expiration of this Lease, the Lessee shall remain in possession of the Premises, without a written agreement as to such holding, then such holding over shall be deemed and taken to be a holding upon a tenancy from month to month at a monthly rental equal to the monthly rental last payable hereunder, payable in advance on the 1<sup>st</sup> day of each calendar month. Any month-to-month tenancy or tenancy at sufferance hereunder shall be subject to all other terms and conditions of this Lease and nothing contained in this Section 26 shall be construed to alter or impair any of Lessor's rights of re-entry or eviction or constitute a waiver thereof.

27. **ASSIGNMENT, SUBLEASE AND LESSOR'S RIGHT OF FIRST.** Lessee may not assign or sublease any interest in the Premises without the prior written consent of Lessor. Lessee and all guarantors shall remain responsible for the lease payments under any approved sublease agreement. Nor shall any assignment for the benefit of creditors or by operation of law be effective to transfer any rights to the said assignees without the prior written consent of the Lessor first having been obtained. The sale of a [REDACTED] or greater interest of shares in the corporate entity of Lessee shall be considered a prohibited assignment under this Section 27. Further, if at any time hereafter, Lessee decides to market, sell or transfer that part of its business operated on the Premises or all or a portion of its assets (herein the "Business"), even if initiated by an unsolicited bona fide offer from a third party to purchase the business or all or a portion of its assets, then Lessee shall first give Lessor written Notice of Intent to Sell ("Notice") prior to marketing or offering the Business to any other prospective purchaser. The Notice from Lessee will include a true and complete copy of the terms and conditions of Lessee's intent to sell the Business, which shall be a bona fide offer with a purchase price that does not unreasonably exceed market value (the "Offer"). Within twenty (20) days after Lessor's receipt of the Notice (including the copy or summary of the Offer as required above), Lessor will notify Lessee whether Lessor will exercise Lessee's Right of First Offer. If Lessor fails or declines to notify Lessee regarding Lessor's exercise of the Right of First Offer within the sixty (60) day period allowed above, Lessor will be deemed to have decided against exercising Lessee's Right of First Offer, and Lessee will be free to market and sell the Business as communicated in the Notice from Lessor to Lessee.

28. **LESSOR'S ASSIGNMENT.** Lessor may, without notice, assign this Lease in whole or in part. Any such assignment shall operate to release Lessor from liability from and after the effective date thereof upon all of the covenants, terms and conditions of this lease, express or implied, and Lessee shall thereafter look solely to Lessor's successor in interest in and to this Lease. This Lease shall not be affected by any such assignment, and Lessee shall attorn to Lessor's successor in interest thereunder.

29. **SUBORDINATION AND ATTORNMENT.**

A. Subordination. Upon the written request of Lessor or any Mortgagee, Lessee will in writing subordinate its rights under this Lease to the lien of any mortgage or deed of trust now or hereafter in force against the Premises, the Building, or the underlying land, and to all advances made or hereafter to be made upon the security thereof, and to all extensions, modifications, and renewals thereunder. Lessee shall also, upon Lessor's



request, subordinate its rights under this Lease to any ground or underlying lease which may now exist or hereafter be executed affecting the Building and/or the underlying land. Lessee shall have the right to condition its subordination upon the execution and delivery of an attornment and nondisturbance agreement, as described in Section 29B, between the Mortgagee or the Lessor under any such ground or underlying lease and Lessee. Lessee shall not subordinate its rights hereunder to any lien other than that of a first mortgage or first deed of trust, except with the prior written consent of the Mortgagee holding such first mortgage or deed of trust.

B. Attornment. Upon the written request of the Lessor or any Mortgagee or any lessor under a ground or underlying lease, Lessee shall attorn to any such Mortgagee or lessor, provided such Mortgagee or lessor agrees that if Lessee is not in default under this Lease, Lessee's possession of the Premises in accordance with the terms of this Lease shall not be disturbed. Such agreement shall provide, among other things, (a) that this Lease shall remain in full force and effect, (b) that Lessee pay rent to said Mortgagee or lessor from the date of said attornment, (c) that said Mortgagee or lessor shall not be responsible to Lessee under this Lease except for obligations accruing subsequent to the date of such attornment, and (d) that Lessee, in the event of a foreclosure or a deed in lieu thereof or a termination of the ground or underlying lease, will enter into a new lease with the Mortgagee, lessor, or other person having or acquiring title on the same terms and conditions as this Lease and for the balance of the Term.

C. Nonmaterial Amendments. If any lender should require as a condition of loans secured by a lien on the Premises, the Building, or the land underlying the Building any modification of this Lease, Lessee will approve and execute any such modifications promptly after request, provided no such modification shall relate to the rent payable hereunder, the length of the Term, or otherwise materially change the rights or obligations of Lessor or Lessee.

30. **SUCCESSORS**. Subject to the restrictions of Section 27 above, the covenants and agreements contained in the within Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto and upon their respective heirs, executors, administrators, successors, and assigns, except as expressly otherwise hereinbefore provided.

31. **CONDEMNATION**. In the event of a condemnation or other taking by any governmental agency, all proceeds shall be paid to the Lessor hereunder, the Lessee waiving all right to any such payments.

32. **LESSEE'S BANKRUPTCY OR INSOLVENCY**. It is further agreed between the parties hereto that if the Lessee shall be declared insolvent or bankrupt, or if any assignment of the Lessee's property shall be made for the benefit of creditors or otherwise, or if the Lessee's leasehold interest herein shall be levied upon under execution, or seized by virtue of any writ of any court of law, or a Trustee in Bankruptcy or a receiver be appointed for the property of the Lessee, whether under the operation of the state or the federal statutes, then and in any such case, the Lessor may at its option immediately, with or without notice (notice described in Section 17 above being expressly waived), terminate this Lease and immediately retake possession of the Premises without the same working any forfeiture of the obligations of the Lessee hereunder.

33. **WAIVER.** No assent, express or implied, to any breach of any one or more of the agreements hereof shall be deemed or taken to be a waiver of any succeeding or other breach. Any payment by Lessee or acceptance by Lessor, of a lesser amount than due shall be treated only as a payment on account.

34. **SEVERABILITY.** All agreements and covenants contained herein are severable, and in the event any of them shall be held to be invalid by any competent court, this contract shall be interpreted as though such invalid agreements or covenants are not contained herein.

35. **NOTICES.** All notices required to be given in this Lease shall be in writing deposited in the United States Mail, certified or registered, with postage prepaid, and addressed to the parties at their respective addresses set forth herein, or notices may be delivered by e-mail or other electronic delivery with verified receipt, or maybe hand-delivered to the principal office of the party, or hand delivered to a principal or manager of the party.

36. **MEMORANDUM OF LEASE.** Lessee agrees, from time to time, to complete and execute a memorandum of lease for filing with the Department of Revenue, State of Colorado, in compliance with Sections 39-22-604, 39-26-117, and 39-26-205, C.R.S., or similar laws.

37. **TIME IS OF THE ESSENCE.** The parties hereto agree that time is of the essence of this Lease.

38. **ESTOPPEL.** Lessee shall, at any time and from time to time, upon not less than ten (10) days' prior notice from Lessor, execute, acknowledge and deliver a written statement ratifying this Lease and certifying any information concerning Lessee's lease and occupancy of the Premises reasonably required by Lessor.

39. **GOVERNING LAW.** This Lease shall be construed in accordance with the laws of the State of Colorado. All questions in dispute under this Lease between the parties shall be settled with venue in Chaffee County, Colorado.

40. **COUNTERPARTS.** This Lease may be executed in counterparts, in which case each such counterpart shall be construed as an original. Facsimile signatures shall be equally as binding as original signatures.

41. **INDEPENDENT COUNSEL.** The parties acknowledge that Powell & Murphy, P.C. represents Lessor. Lessee is advised to seek independent counsel if so desired.

42. **RIGHT OF FIRST OFFER.** Simultaneously with the execution of this Lease, the parties shall enter into the Right of First Offer pertaining to the sale of the Premises.

43. **ENTIRE AGREEMENT.** This Lease sets forth all the covenants, provisions, agreements, conditions, and understandings between the parties, and there are no other covenants, promises, agreements, conditions or understandings, either oral or written, between them. Any modifications of this Lease must be in writing and signed by the parties.

IN WITNESS WHEREOF, the parties have executed this Lease on the day and year first above written.

**LESSOR: 146 West First Street, LLC:**

By: [Redacted]  
Gregory J. Walter, Manager

Date: 10/10/23

By: [Redacted]  
Therese A. Dunn, Manager

Date: 10/10/23

**LESSEE: [Redacted] Company, LLC**

By: [Redacted]  
Carlin W. Walsh

Its: Manager

Date: 10/10/23

By: [Redacted]  
Christian Koch

Its: Manager

Date: 10/10/23

**GUARANTEE:**

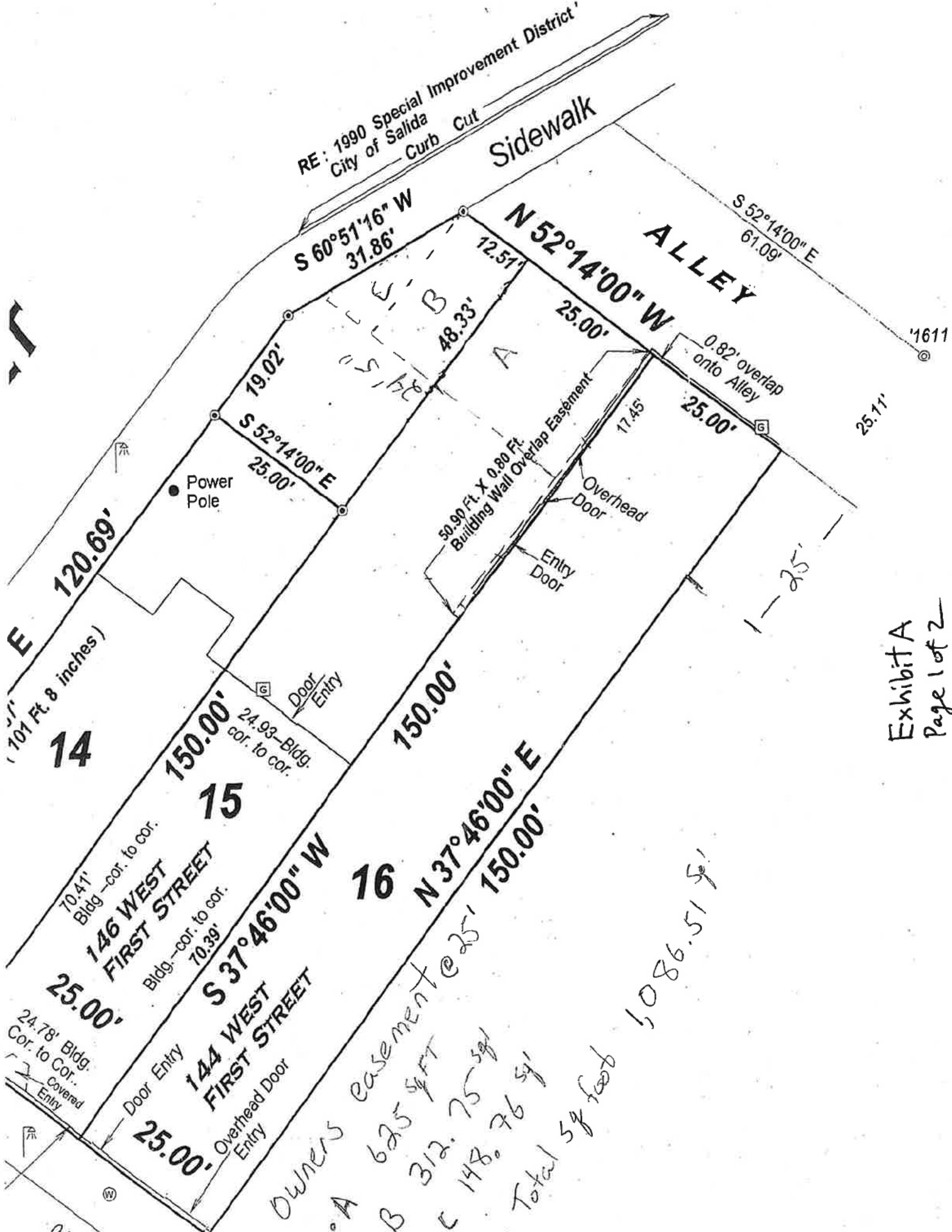
The undersigned hereby unconditionally guarantee, jointly and severally with all other guarantors, the payment by and performance of the obligations of Elevation Beer Co as Lessee under the above Lease.

Carlin Walsh  
Christian Koch, individually

10/10/23  
Date

Guarantor's Address: [Redacted]

RE: 1990 Special Improvement District  
 City of Salida  
 Curb Cut



101 Ft. 8 inches  
 E 120.69'

14

150.00'  
 15

16

150.00'  
 150.00'

ALLEY

Exhibit A  
 Page 1 of 2

Owners easement @ 25'  
 A 625 sq ft  
 B 312.75 sq ft  
 C 148.76 sq ft  
 Total 58 feet 1086.51 sq ft

24.78' Bldg.  
 Cor. to Cor.  
 Covered  
 Entry

146 WEST  
 FIRST STREET

144 WEST  
 FIRST STREET

50.90 Ft. X 0.80 Ft.  
 Building Wall Overlap Easement

N 52°14'00" W  
 25.00'

S 52°14'00" E  
 61.09'

'1611

25.11'

25.00'

0.82' overlap  
 onto Alley

12.57'

48.33'

S 52°14'00" E  
 25.00'

S 60°51'16" W  
 31.86'

Power Pole

Door Entry

24.93—Bldg.  
 cor. to cor.

Door Entry

Overhead Door

Overhead Door

Entry Door

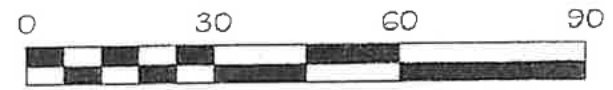
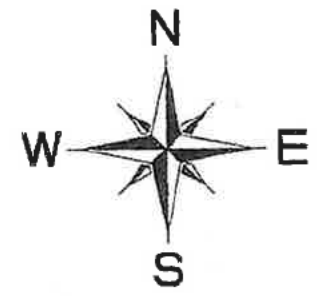
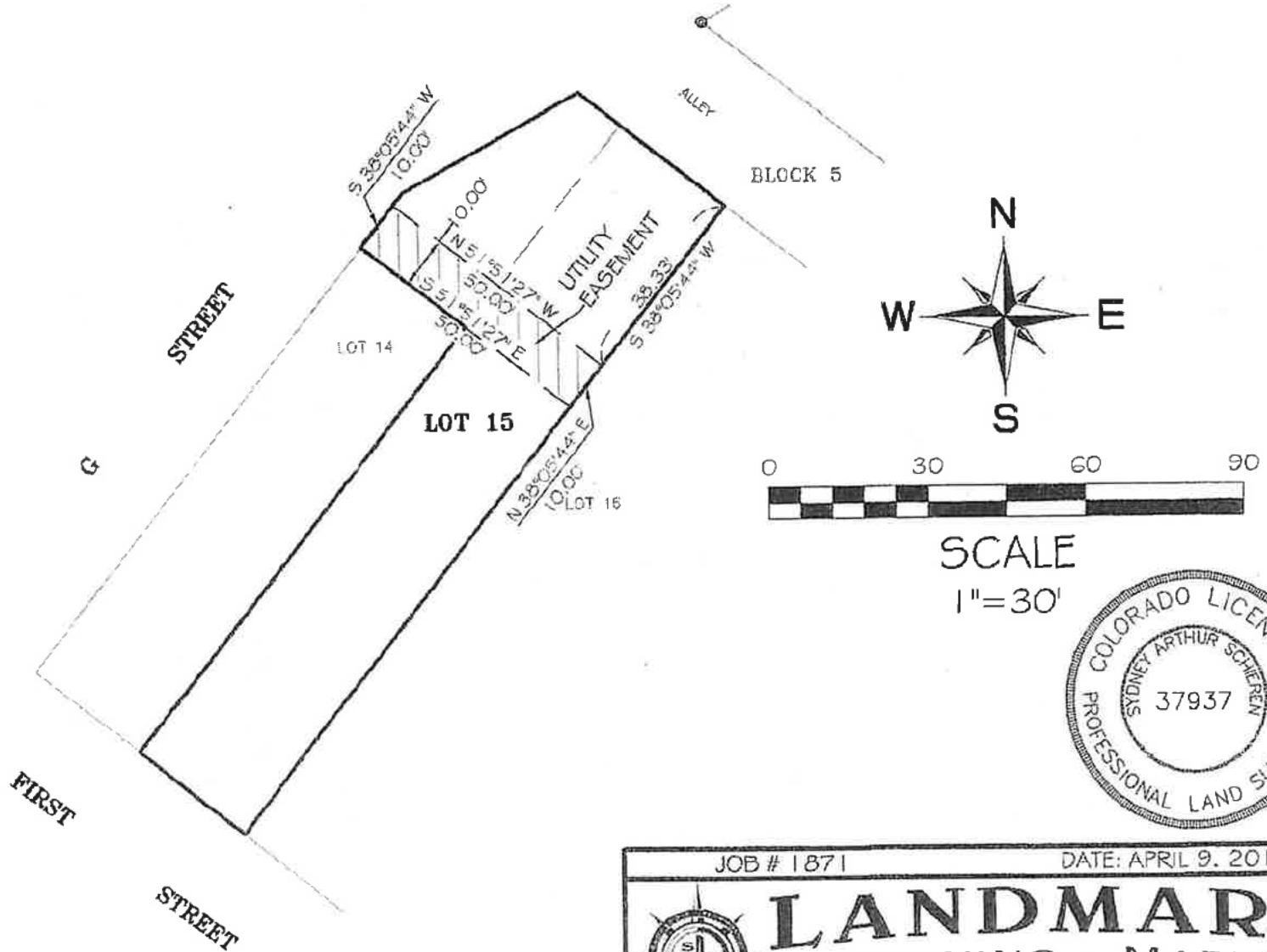
17.45'

25'

EXHIBIT B

# UTILITY EASEMENT EXHIBIT

LOCATED WITHIN LOTS 14 & 15, BLOCK 5  
CITY OF SALIDA  
CHAFFEE COUNTY, COLORADO



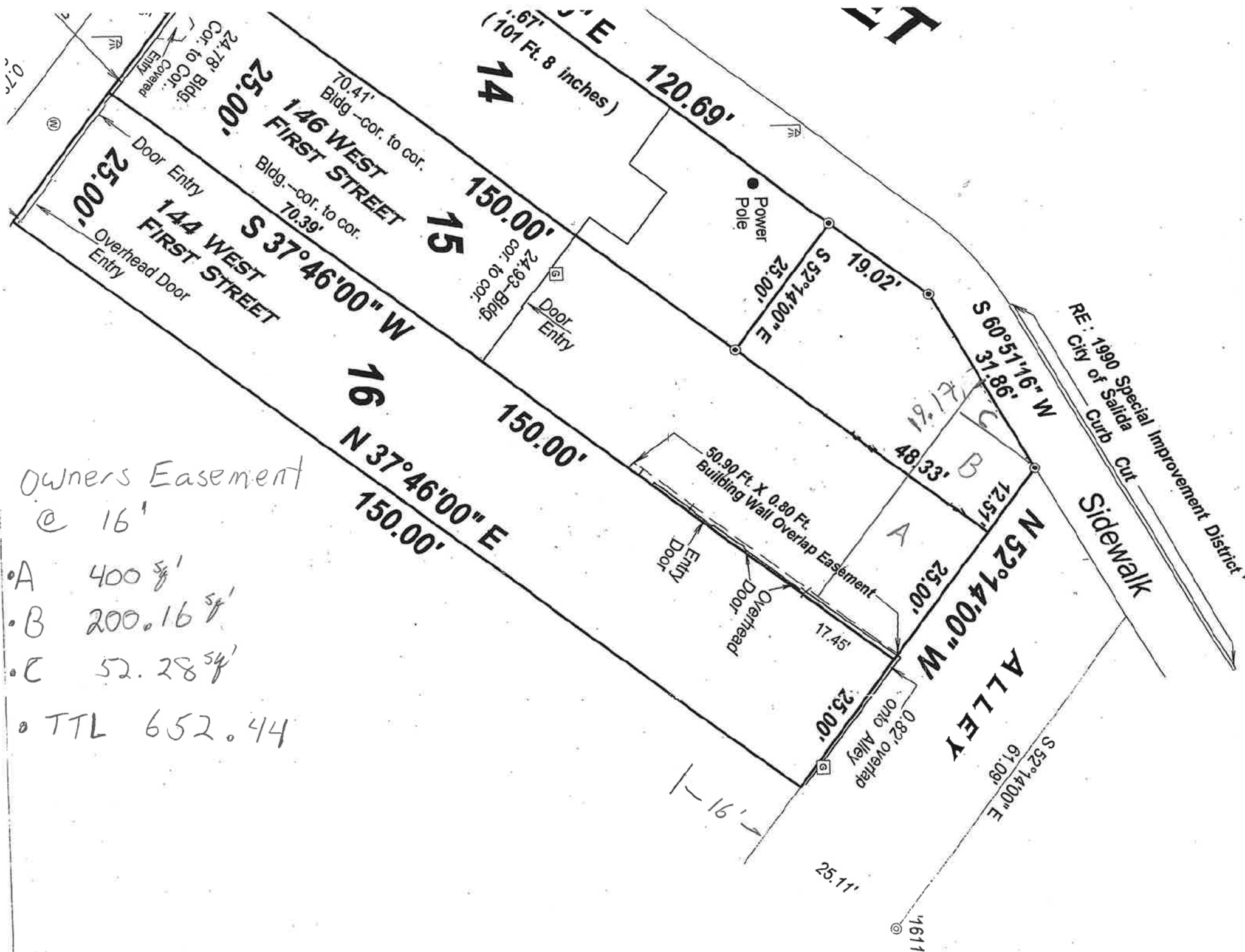
SCALE  
1"=30'



JOB # 1871      DATE: APRIL 9, 2018

**LANDMARK**  
SURVEYING & MAPPING  
P.O. BOX 668    SALIDA, CO 81201  
PH 719.539.4021    FAX 719.539.4031

Exhibit A  
Page 2 of 2

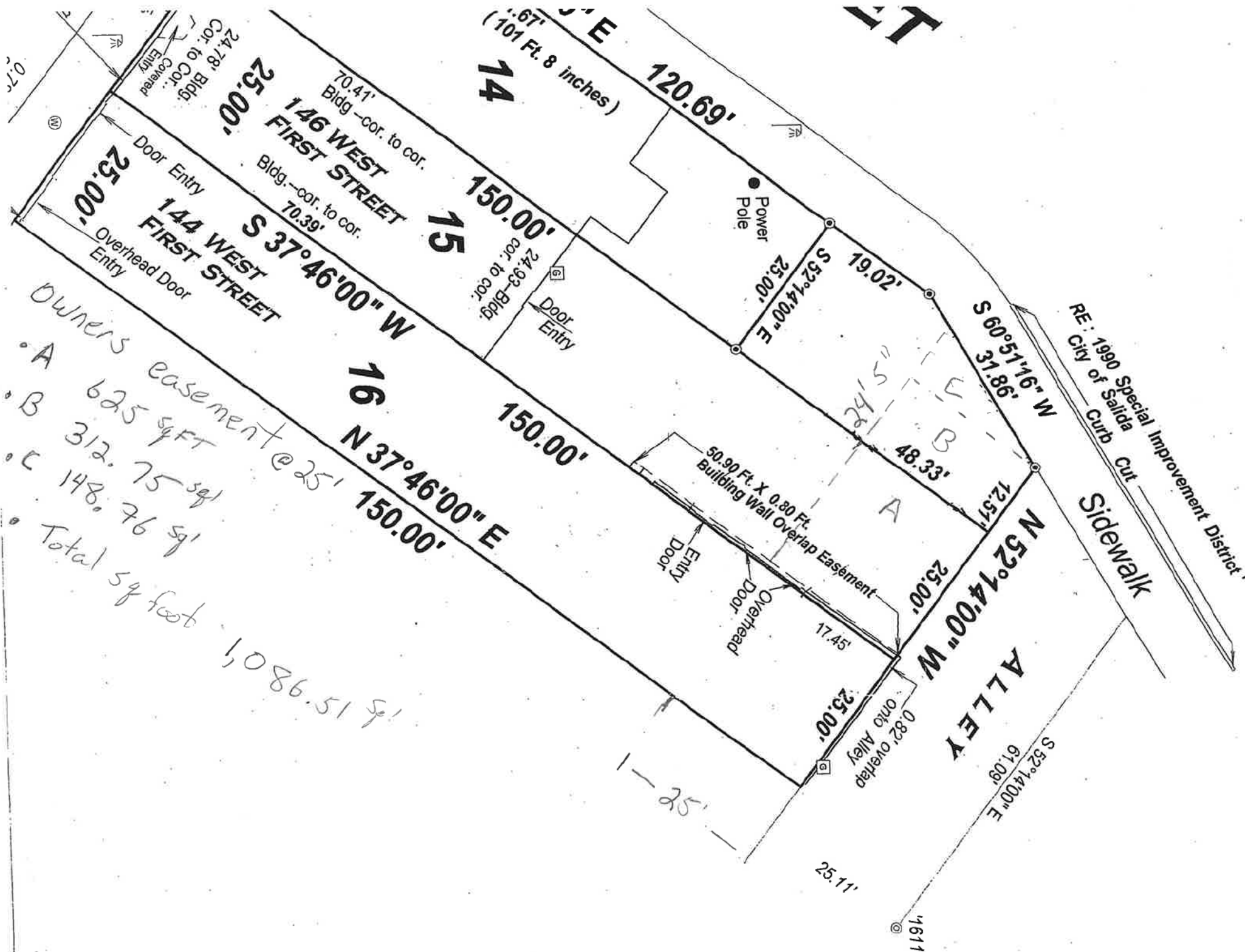


RE: 1990 Special Improvement District  
 City of Salida Curb Cut Sidewalk

Owners Easement @ 16'

- A 400<sup>sq</sup>'
- B 200.16<sup>sq</sup>'
- C 52.28<sup>sq</sup>'
- TTL 652.44





Owners easement @ 25'  
 • A 625 sq ft  
 • B 312.75 sq ft  
 • C 148.76 sq ft  
 Total 54 feet  
 1,086.51 sq ft

RE: 1990 Special Improvement District  
 City of Salida Curb Cut Sidewalk

AT

1611

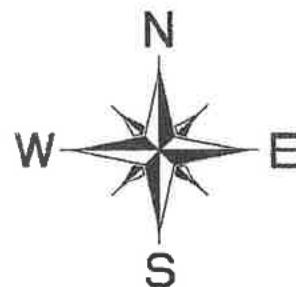
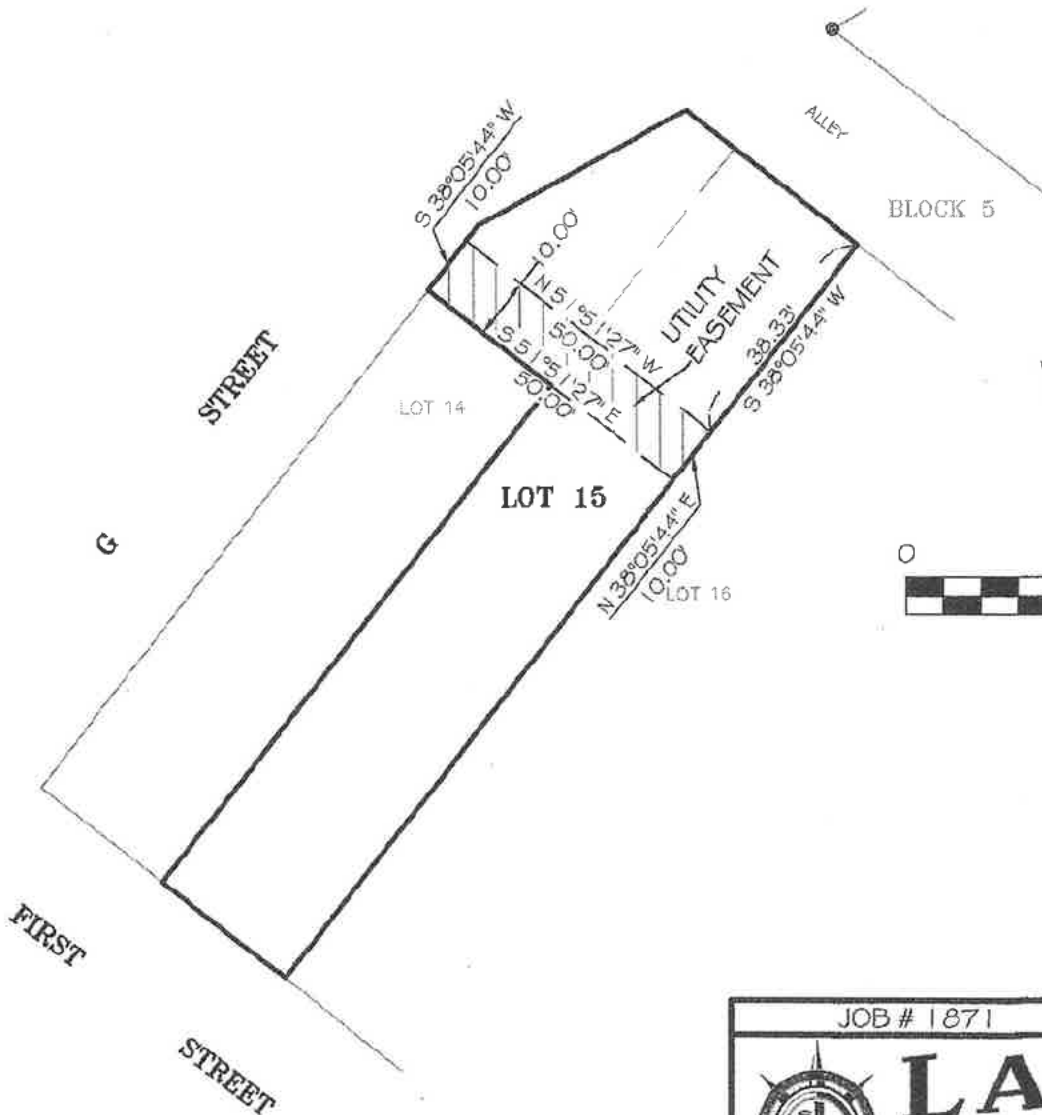
EXHIBIT B

# UTILITY EASEMENT EXHIBIT

LOCATED WITHIN LOTS 14 & 15, BLOCK 5

CITY OF SALIDA

CHAFFEE COUNTY, COLORADO



SCALE  
1" = 30'



JOB # 1871

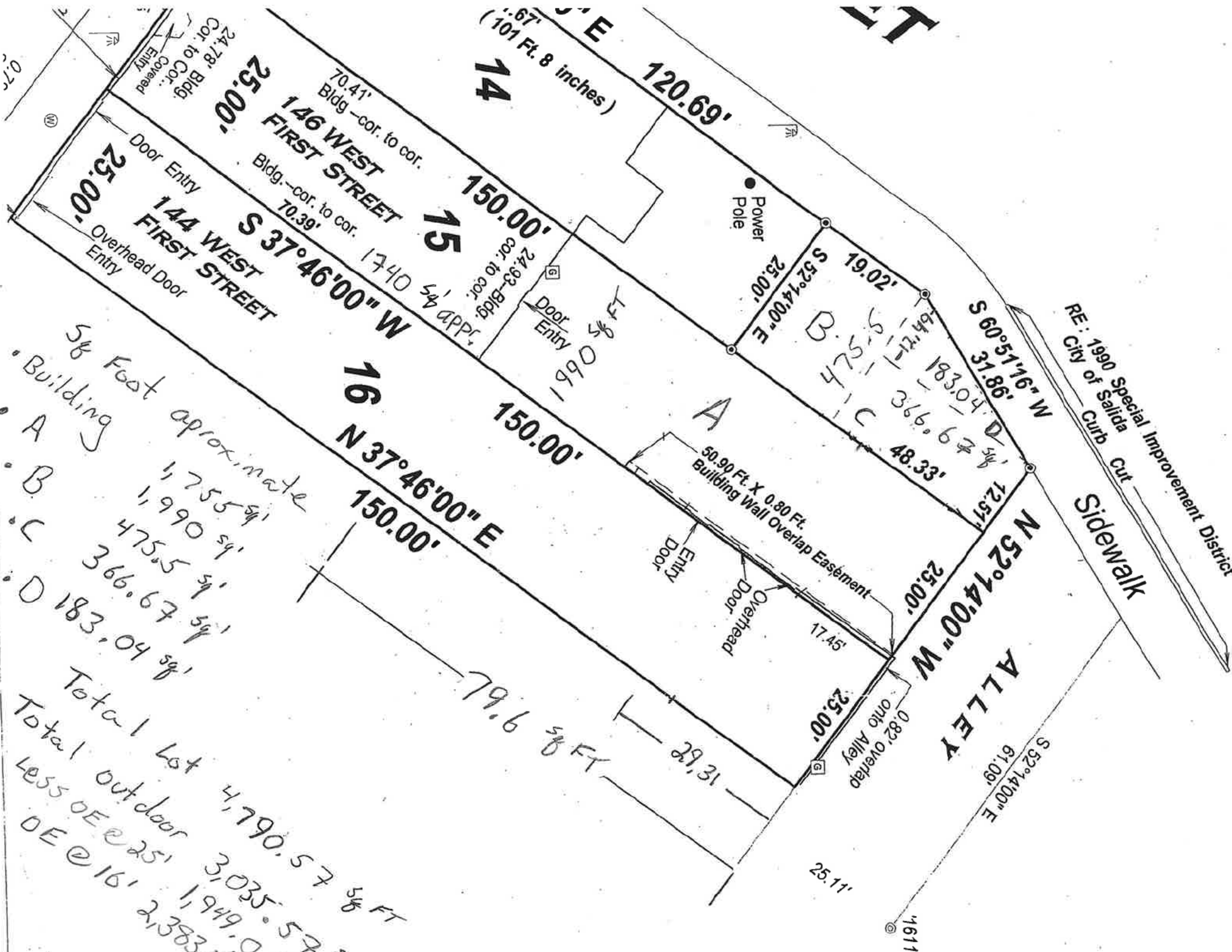
DATE: APRIL 9, 2018



## LANDMARK

SURVEYING & MAPPING

P.O. BOX 668 SALIDA, CO 81201  
PH 719.539.4021 FAX 719.539.4031



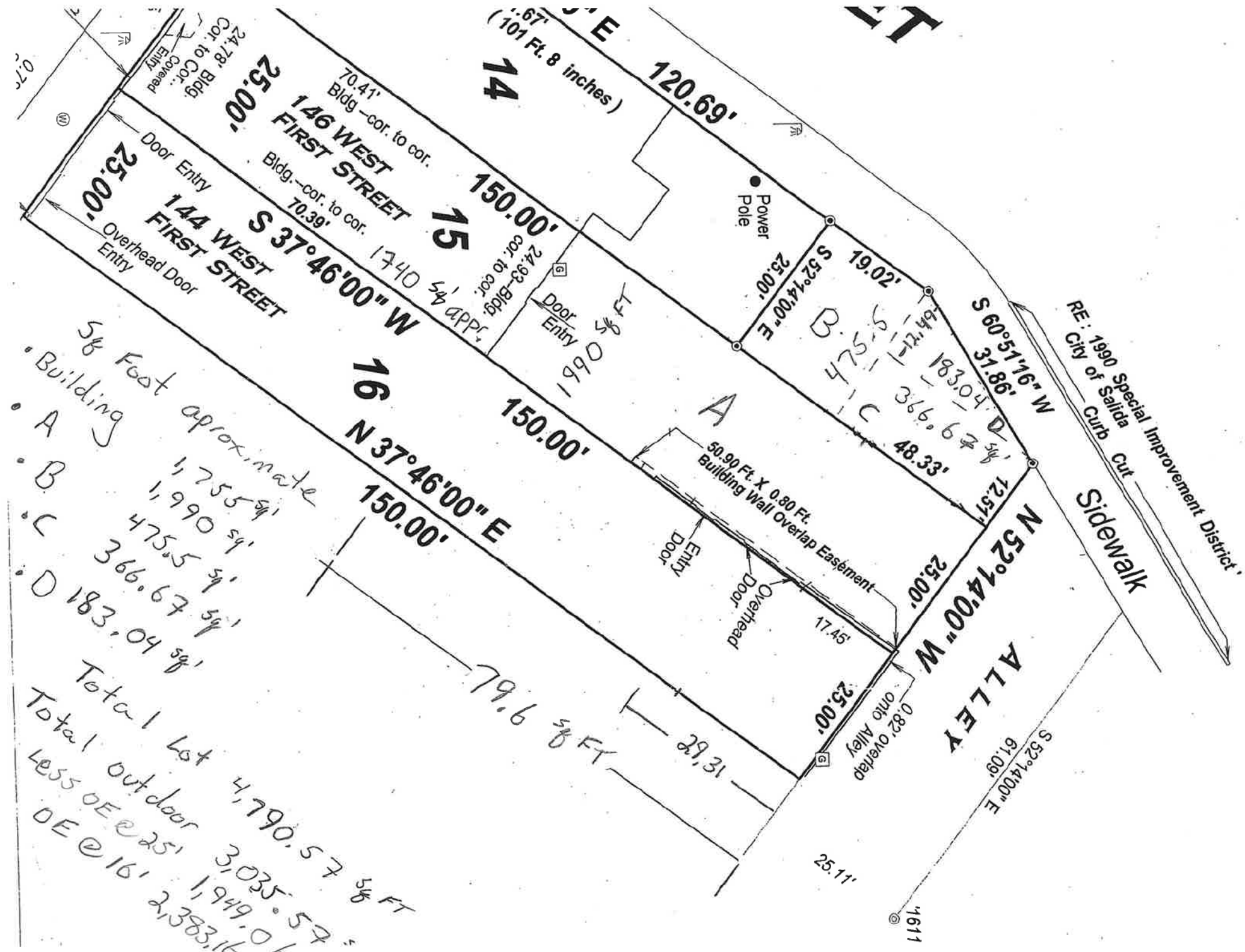
RE: 1990 Special Improvement District  
 City of Salida Curb Cut Sidewalk

5/8 Foot approximate  
 Building  
 • A 1,755 sq'  
 • B 1,990 sq'  
 • C 475.5 sq'  
 • D 366.67 sq'  
 Total lot 4,790.57 sq' 5/8 FT  
 Total outdoor 3,035.57  
 Less OE @ 25' 1,949.06  
 OE @ 16' 2,383.16

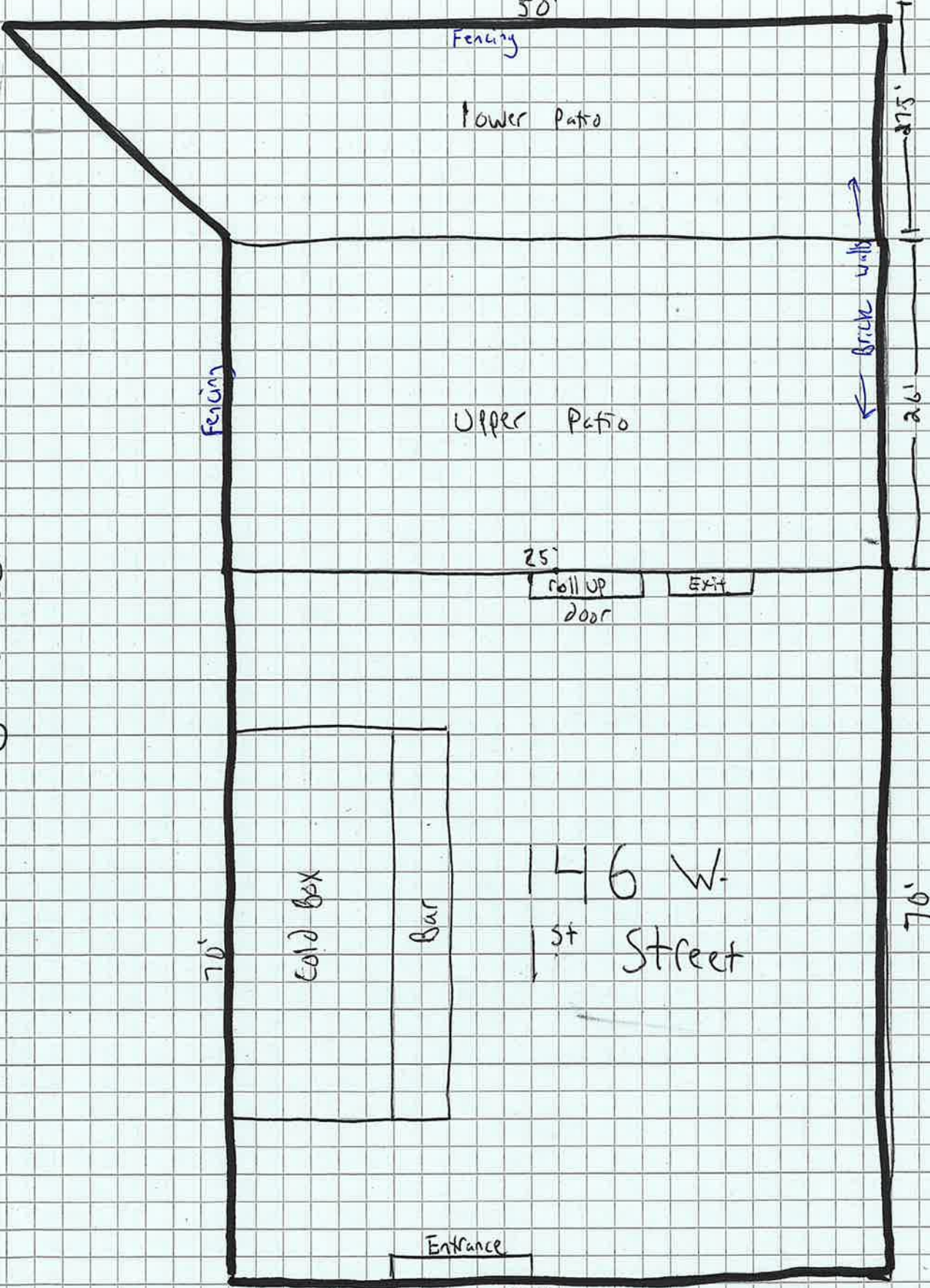
79.6 5/8 FT  
 29.31

B. S. C. 475.5  
 19.02'  
 183.04'  
 366.67  
 48.33'  
 12.57'

ALLEY  
 S 52°14'00" E  
 61.09'



G Street



50'

Fencing

Lower Patio

Upper Patio

25'

roll UP door

EXIT

27.5'

26.1'

Brick walk

Fencing

70'

Cold Box

Bar

146 W. 1st Street

70'

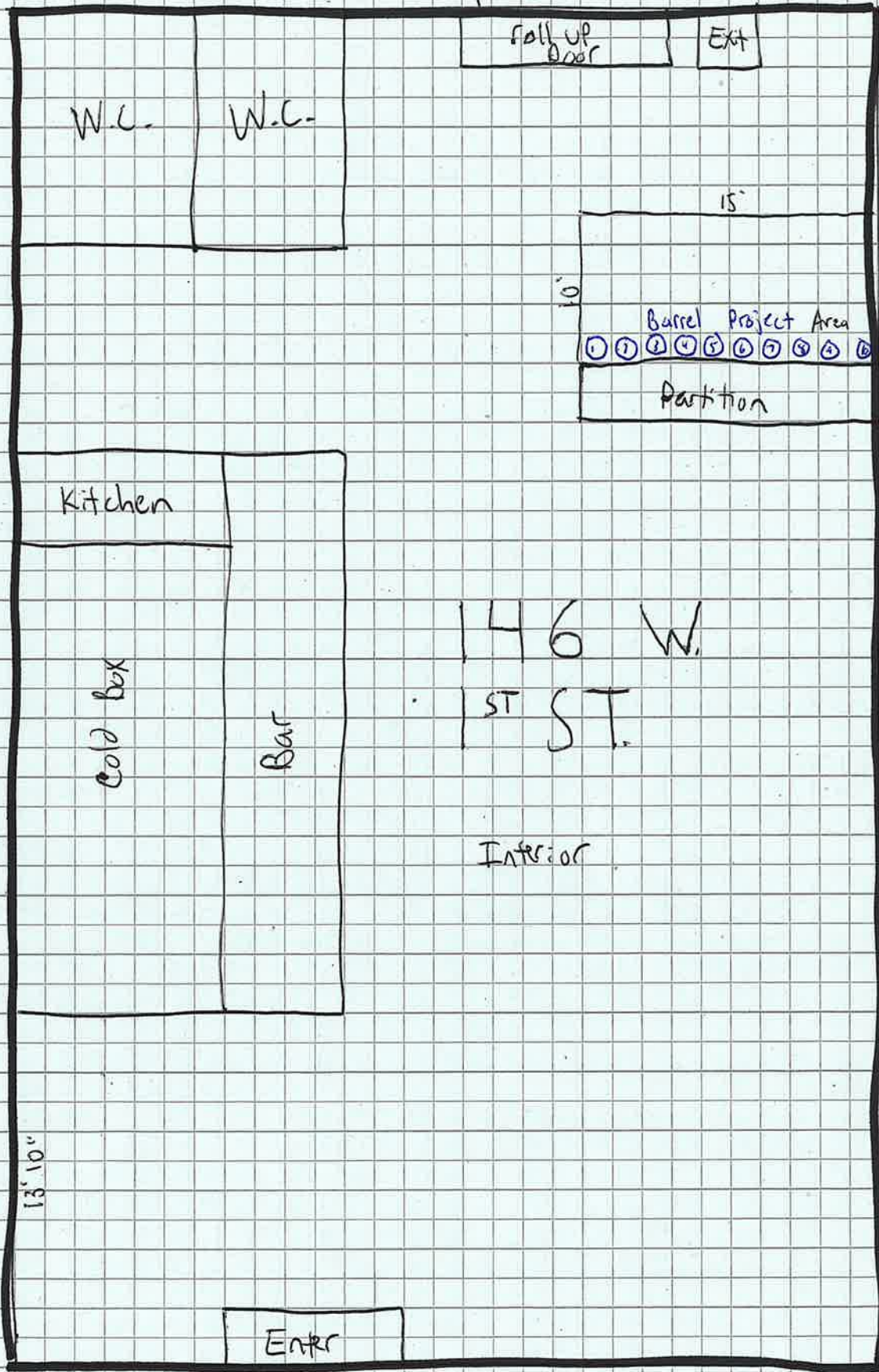
Entrance

25' City Side Walk

W. 1st Street



↑ Patio space ↑



W.C.

W.C.

roll up door

Ext

15'

10'

Barrel Project Area

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10

Partition

Kitchen

cold box

Bar

146 W.  
1st St.

Interior

13' 10"

Entr

25'

70'

146 W. 1<sup>st</sup> ST

Patio Space

50'

Stage

Lower Patio

27' 6"

Planter box

19'

Upper Patio

26'

↓ Rear entrance ↓

