

Return to:  
City Clerk  
City of Aurora Colorado  
15151 E Alameda Pkwy Suite 1400  
Aurora Colorado 80012

### **AVIGATION EASEMENT**

1. The undersigned (the "Grantor(s)") (is)(are) the owner(s) of that certain parcel of real property more particularly identified and described in the legal description attached to and made a part of this instrument as Exhibit A (the "Property").
2. Grantor(s), for (itself)(themselves), (its)(their) successors and assigns, hereby grant(s) and convey(s) to THE CITY OF AURORA, COLORADO, its successors and assigns (the "City"), a perpetual and assignable easement in and over the Property and a right-of-way for the free and unrestricted passage and flight of all aircraft in the navigable airspace above the surface of the Property as defined by the Federal Aviation Act of 1958, 49 U.S.C. § 40101, et seq., and the regulations adopted pursuant thereto, as the same are from time to time amended (the "Airspace").
3. Said easement and right-of-way shall include, but is not limited to:
  - a. For the use and benefit of the public, the easement and continuing right to fly, or cause or permit the flight by any and all persons of any and all aircraft now known or hereafter invented, used, or designated for navigation of or flight in the air, in, through, across or about any portion of the Airspace;
  - b. The right to cause or create, or permit or allow to be caused or created in the Airspace, such noise, dust, turbulence, vibration, illumination, air currents, fumes, exhaust, smoke, and all other effects as may be inherent in the proper operation of aircraft;
  - c. The right to clear and keep clear the Airspace of any portions of buildings, structures, or improvements of any and all kinds, and of trees, vegetation, or other objects, including the right to remove or demolish those portions of such buildings, structures, improvements, trees or any other objects which extend into the Airspace and the right to cut to the ground level and remove any trees which extend into the Airspace;
  - d. The right to mark and light, or cause or require to be marked or lighted, as obstructions to air navigation, any and all buildings, structures, or other improvements, and trees or other objects now upon, or that in the future may be upon, the Property, and which extend into the Airspace; and

e. The right of ingress to, passage within, and egress from the Property, solely for the above stated purposes.

4. Grantor(s) hereby covenant(s) with Grantee as follows:

a. Grantor(s) will not construct, install, permit or allow any building, structure, improvement, tree, or other object on the Property to extend into the Airspace, constitute an obstruction to air navigation, or obstruct or interfere with the use of the easement and right-of-way herein granted; and

b. Grantor(s) will not use or ~~permit~~<sup>affirmatively allow</sup> the use of the Property in such a manner as to create electrical or electronic interference with radio communication or radar operation between any installation upon the Airport and any aircraft.

5. The easement and right-of-way granted herein shall be deemed in gross, being conveyed to Grantee for their benefit and the benefit of any and all members of the general public who may use said easement or right-of-way operating aircraft in or about, or in otherwise flying through, the Airspace.

6. The covenants and agreements made herein shall run with the land and shall be binding upon Grantor(s) and (its) (their) successors and assigns.

7. The City is hereby designated as agent for all purposes regarding the enforcement or removal of the easement and right-of-way granted herein.

8. It is understood and agreed that Grantor(s) shall have no right or cause of action, either in law or in equity, for damages or injury to any person or property arising out of or resulting directly or indirectly, from the overflight of aircraft, or for damages or injury to any person or property resulting from any noise or nuisance of any kind or description resulting, directly or indirectly, from aircraft overflights; provided, however, that nothing herein shall divest Grantor(s) of any right or cause of action for damages to any person or property resulting from the negligent operation of aircraft overflights over the described premises at any altitude above ground level.

9. Nothing herein shall be construed to be a waiver of the governmental immunity afforded to the City or any other governmental agency or department by virtue of the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S., as amended.

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EXECUTED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

GRANTOR(S)

FDG Lona Associates, LLC

By: Forum Management, Inc., its Manager

By: *Kevin Foltz*  
Kevin Foltz, Vice President

ATTEST:

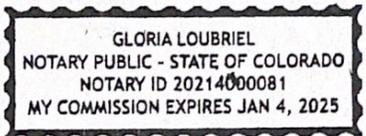
By: \_\_\_\_\_

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Arapahoe )

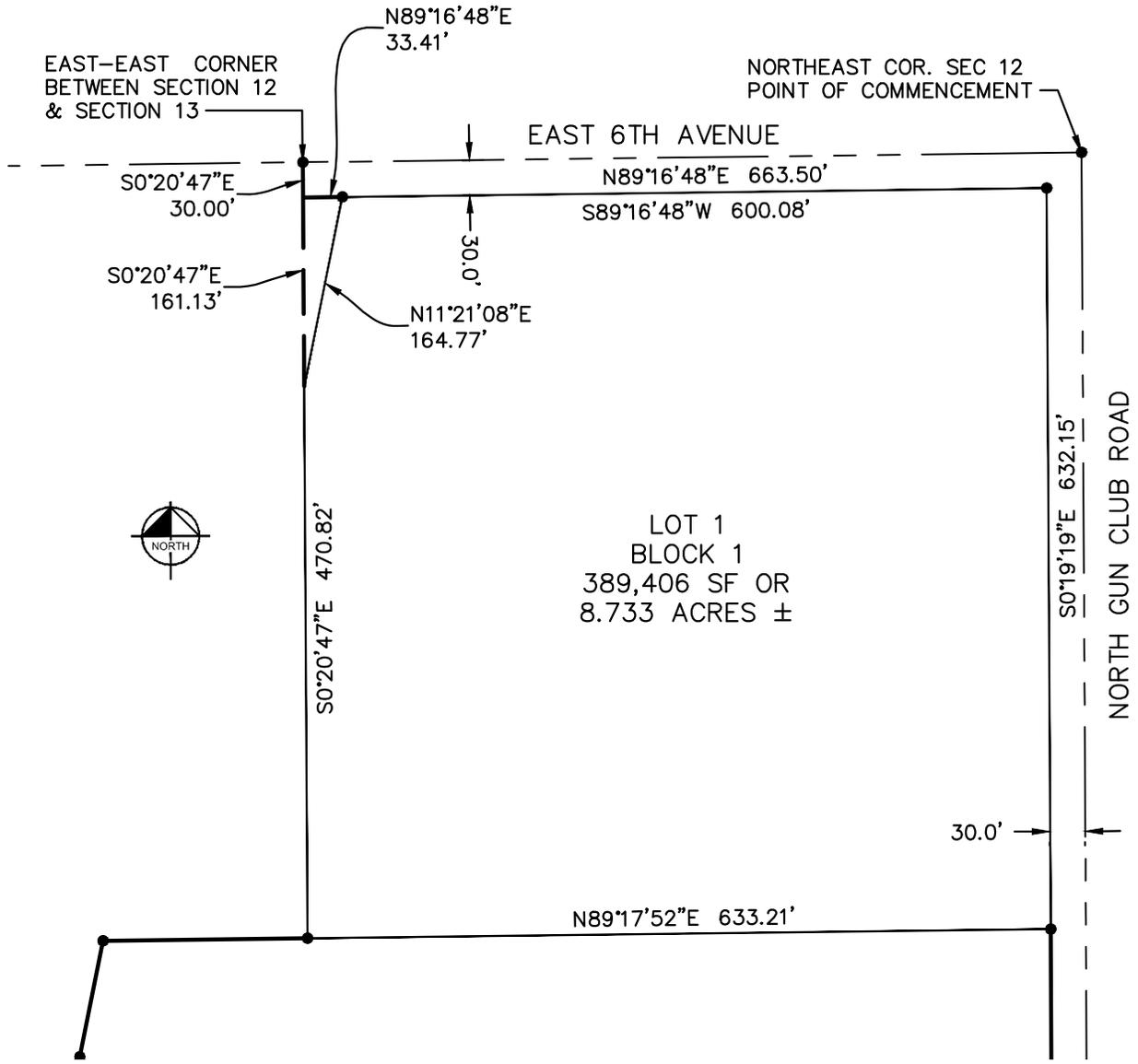
The foregoing instrument was acknowledged before me this 8 day of September, 2021, by Kevin Foltz, as Vice President of Forum Management, Inc., as Manager of ~~and~~ FDG Lona Associates, LLC ~~and~~ FDG Lona Associates, LLC (Grantor(s)).

Witness my hand and official seal. *Gloria Aubrie*

My Commission Expires: Jan 4, 2025

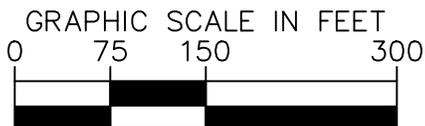


# EXHIBIT 'A'



## LEGEND

-  PROPERTY BOUNDARY
-  SECTION LINE
-  ADJOINING PARCEL BOUNDARY LINES



# EXHIBIT 'B'

## LEGAL DESCRIPTION

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KNOW ALL PEOPLE BY THESE PRESENTS THAT THE UNDERSIGNED WARRANT IT IS THE OWNER OF A PARCEL OF LAND SITUATED IN THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE CITY OF AURORA, COUNTY OF ARAPAHOE, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PORTION OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, IN THE CITY OF AURORA, COUNTY OF ARAPAHOE, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 12, FROM WHICH THE NORTHERLY LINE OF THE NORTHEAST 1/4 OF SAID SECTION 12 BEARS SOUTH 89°16'48" WEST BETWEEN THE FOUND MONUMENTS AS SHOWN HEREON, WITH ALL BEARINGS CONTAINED HEREIN BEING REFERENCED TO SAID NORTHERLY LINE;

THENCE ALONG SAID NORTHERLY LINE, SOUTH 89°16'48" WEST, A DISTANCE OF 663.50 FEET TO THE EAST-EAST 1/64 CORNER BETWEEN SECTION 12 AND SECTION 13;

THENCE ALONG THE WESTERLY LINE OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4, SOUTH 00°20'47" WEST, A DISTANCE OF 30.00 FEET TO A LINE PARALLEL WITH AND DISTANT 30.00 SOUTHERLY FROM SAID NORTHERLY LINE OF THE NORTHEAST 1/4 OF SECTION 12, BEING THE SOUTHERLY RIGHT-OF-WAY OF EAST 6TH AVENUE, A 30-FOOT-WIDE PUBLIC RIGHT-OF-WAY;

THENCE ALONG SAID PARALLEL LINE, NORTH 89°16'48" EAST, A DISTANCE OF 33.41 FEET TO THE INTERSECTION OF SAID PARALLEL LINE WITH THE EASTERLY LINE OF THE PARCEL OF LAND DESCRIBED IN THE RULE AND ORDER RECORDED MARCH 1, 1999 AT RECEPTION NO. A9034383 IN THE OFFICE OF THE CLERK AND RECORDER FOR THE COUNTY OF ARAPAHOE, BEING THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID PARALLEL LINE, NORTH 89°16'48" EAST, A DISTANCE OF 600.08 FEET TO THE WESTERLY RIGHT-OF-WAY OF NORTH GUN CLUB ROAD, A PUBLIC RIGHT-OF-WAY WITH A WIDTH THAT VARIES;

THENCE ALONG SAID WESTERLY RIGHT-OF-WAY, SOUTH 00°19'19" EAST, A DISTANCE OF 632.15 FEET TO THE SOUTHERLY LINE OF SAID NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 12;

THENCE ALONG SAID SOUTHERLY LINE, SOUTH 89°17'52" WEST, A DISTANCE OF 606.21 FEET TO THE NORTHEAST-NORTHEAST 1/64 CORNER OF SAID SECTION 12;

THENCE ALONG THE WESTERLY LINE OF SAID NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 12, NORTH 00°20'47" WEST, A DISTANCE OF 470.82 FEET TO THE SOUTH CORNER OF SAID PARCEL OF LAND DESCRIBED IN THE RULE AND ORDER AT RECEPTION NO. A9034383;

THENCE ALONG THE EASTERLY LINE OF SAID PARCEL OF LAND, NORTH 11°21'08" EAST, A DISTANCE OF 164.77 FEET TO THE POINT OF BEGINNING.

CONTAINING A TOTAL OF 397,610 SQUARE FEET OR 9.128 ACRES, MORE OR LESS.

HAVE LAID OUT, PLATTED, AND SUBDIVIDED THE SAME INTO ONE LOT AND ONE BLOCK AS SHOWN ON THIS PLAT UNDER THE NAME AND STYLE OF **VISTA CREEK SUBDIVISION FILING NO. 1**, AND BY THESE PRESENTS DO HEREBY DEDICATE TO THE CITY OF AURORA, COLORADO, FOR THE PERPETUAL USE OF THE PUBLIC, THE STREETS AND EASEMENTS AS SHOWN HEREON AND NOT PREVIOUSLY DEDICATED TO THE PUBLIC.