DENARGO MARKET METROPOLITAN DISTRICT NO. 1

141 Union Boulevard, Suite 150
Lakewood, Colorado 80228-1898
Tel: 303-987-0835 800-741-3254
Fax: 303-987-2032

NOTICE OF A SPECIAL MEETING AND AGENDA

Board of Directors	Office	Term/Expires
Laura H. Newman	President	2023/May 2023
Donald D. Cabrera	Treasurer	2023/May 2023
Jeffrey D. Jones	Asst. Secretary	2022/May 2022
David H. Smith	Asst. Secretary	2022/May 2022
Todd T. Wenskoski	Asst. Secretary	2022/May 2022
Ann E. Finn	Secretary	

DATE: April 13, 2021

TIME: 4:30 p.m.

PLACE: DUE TO CONCERNS REGARDING THE SPREAD OF THE CORONAVIRUS (COVID-19) AND THE BENEFITS TO THE CONTROL OF THE SPREAD OF THE VIRUS BY LIMITING IN-PERSON CONTACT, THIS DISTRICT BOARD MEETING WILL BE HELD VIA ZOOM WITHOUT ANY INDIVIDUALS (NEITHER DISTRICT REPRESENTATIVES NOR THE GENERAL PUBLIC) ATTENDING IN PERSON. IF YOU WOULD LIKE TO ATTEND THIS MEETING, PLEASE SEE THE BELOW REFERENCED ZOOM MEETING INFORMATION.

THIS MEETING MAY BE ATTENDED VIA ZOOM AND CAN BE JOINED THROUGH THE DIRECTIONS BELOW:

https://us02web.zoom.us/j/84229437652?pwd=R2w1ZnJ5enM5VTF6UWZDdWxUV0FKQT09

Phone: 1 (669) 900-6833 or 1 (253) 215-8782
Meeting ID: 842 2943 7652
Password: 173953

I. ADMINISTRATIVE MATTERS

A. Present Disclosures of Potential Conflicts of Interest.

B. Confirm quorum, approve Agenda, confirm location of the meeting and posting of meeting notices.

II. **CONSENT AGENDA** – These items are considered to be routine and will be approved and/or ratified by one motion. There will be no separate discussion of these items unless a Board member so requests; in which event, the item will be removed from the Consent Agenda and considered in the Regular Agenda.

- Ratify agreement with ABC Asphalt, Inc. for the asphalt repair (enclosure).
- Ratify approval of the engagement of Dazzio & Associates, P.C. to perform the 2020 Audit in the amount of $4,000 (enclosure).

III. PUBLIC COMMENT

A. Members of the public may express their views to the Board on matters that affect the District. Comments will be limited to three (3) minutes per person.

VI. LEGAL MATTERS

A. Discuss and consider approval of the Denargo Market Development Agreement by and among the City and County of Denver, JV Denargo LLC and the District (enclosure).

B. Discuss and consider adoption of Resolution of the Board of Directors of the Denargo Market Metropolitan District No. 1 ("District") Acknowledging and Adopting the District Amended and Restated Rules and Regulations for Construction Activity (enclosure).

VII. OPERATIONS AND MAINTENANCE

A.

VIII. OTHER MATTERS

A.

IX. ADJOURNMENT ***THE NEXT REGULAR MEETING IS SCHEDULED FOR JUNE 15, 2021.***

EXHIBIT A AND B
SCOPE OF SERVICES/COMPENSATION

CID#

Customer Special District Mansgement Services Inc.
141 Union Blvd. Ste.150
Lakewood, Co. 80228
Email: mcohrs@sdmsi.com
PH: 720-270-9822
Matt Cohrs

Job Name Denargo Market

ABC Asphalt Inc.
PO Box 1226
Brighton, CO. 80602
Phone (303) 659-3706
Fax (303) 659-1896

John Bonney
Estimator/Project Manager
Email johnbonney@abcasphaltco.com

ITEM	DESCRIPTION	QTY	UNITS	UNIT PRICE	EXTENSION
	BASE BID				
1	Remove & Replace Sectionof Asphalt add Base and Compact Approximately	128	SF	$ 43.78	$ 5,603.84
2	Traffic Control Plan	1	LS	$ 300.00	$ 300.00
3	1 Day of Traffic Control	1	LS	$ 1,600.00	$ 1,600.00
					$ 7,503.84
	ALTERNATE				
1A					
2A					
1B					
2B					
1C					
2C					
1D					
1E					
1F					
1G					
1H					
1I					
	Total Cost				

EXCLUSIONS and NOTES:

* ABC Asphalt Inc., will not be responsible for damaged concrete while crossing to perform our scope of work.
* Price excludes: milling, surveying, testing, QC/QA, engineering, permits, fees, bonds, traffic control, saw cut, sweeping, erosion control, final adjustment of structures, treatment of subgrade, subgrade stabilization, signage, dewatering, winter heat, winter blankets, high early, color, patterns, pumping, steel reinforcing, joint sealants, fiber mesh, trickle channel, valley pans, fore bays, inlets, outlets, structures, concrete wash out.
* Due to the volatility of asphalt prices our quote is only valid for 30 days.
* Price based on 58-28 Asphalt Cement, Grade S & SX for paving operations with 20% RAP.
* All asphalt pricing above includes emulsified asphalt (slow setting).
* ABC Asphalt, Inc. will not be responsible for trench settling that effects the asphalt integrity
* ABC Asphalt, Inc. cannot guarantee complete drainage in areas with less than 2% fall.
* Decrease in quantities are subject to revised pricing.
* Access to the job site for operations to be made available by the Contractor/Owner Rep.
* Final Field Measurement will determine billing and payment.
* Additional mobilizations will be invoiced per each.
* Contractor/Owner must provide an on site water source.
* For final adjustment of structures add: $525.00/Manhole.
* Add 2% for bond.
* Prices do not include any night work.

If acceptable, please sign in the space provide below and return to **ABC Asphalt Inc.** . Special attention is called to the attached Terms and

Submitted By: ***Accepted By:***

ABC Asphalt Inc.

Printed Name ***Printed Name***

John Bonney	
Title	***Title***
Estimator	
Signature	***Signature***
John Bonney	
Date	***Date***
Friday, March 5, 2021	

Terms and Conditions

SCOPE OF WORK; CHANGES: ABC Asphalt, Inc. (Herein after known as ABC) will furnish all necessary labor, material and equipment to complete the job described. Changes in the scope of work shall be in writing. If items of work are to be deleted at Owner's request, Owner shall be responsible for payment to ABC for partially completed work and for costs of specifically ordered material less salvage value. All added items (extra work) shall be billed to Owner on a time, equipment and materials basis. Extra work shall include overruns of asphalt, gravel and other materials necessary because of soft or unstable solid conditions. On request by ABC, Owner agrees to make available at the site its representative to identify and document overruns of material.

PRICE: If work is not performed during ABCs current paving season, ABC may increase prices in the following paving season when the work is completed. ABCs normal paving season extends from May to September, depending on weather conditions. Due to market conditions, ABC is unable to obtain long-term price commitments from its suppliers of petroleum-based materials and is not willing to guarantee the quoted prices for work to be commenced later than thirty(30) days from this proposal so that ABC may inform you of any price changes. After ABC has notified you of changes, if any, the prices hereunder shall be adjusted accordingly and ABC shall proceed with the work unless at least five (5) days prior to the time for commencement of work you shall deliver to ABC written notice that you are unwilling to accept such changes. In that event the contract shall be terminated, provided however that ABC, at its option, may elect to proceed and complete the work at contract prices herein provided. If this contract is terminated as provided in this paragraph, you shall promptly pay ABC for all work, if any, performed to the date of termination and ABC shall have no further obligation to perform any additional work or any further liability.

BOUNDARIES; SUB-SURFACE CONDITIONS: Owner shall be responsible to provide ABC with surveys, maps and drawings, which accurately depict: the location of all property boundaries and the areas on which work is to be performed; the location, extent and depth of all underground utilities, sprinkler systems, wiring, manholes, valves or other installation which are not exposed to view. You shall obtain all approvals, which may be required by utility companies or others having easements or right-of-way, which may be affected by the work. ABC will not be responsible or liable for damage to underground utilities or other subsurface improvements or conditions not accurately depicted on surveys, drawings and plans furnished to ABC prior to construction. You shall hold ABC harmless and shall defend it from all claims for damage, costs, or expense whatsoever, including attorneys' fees, for any such matters.

GRADING AND DRAINAGE: Unless the job description on this proposal specifically included site preparation or excavation as part of the work to be performed by ABC, you shall be responsible for proper preparation, compaction, and grading of the area on which the work is to be performed prior to commencement of the construction by ABC. The Owner, and its engineers and other contractors, shall be responsible to ensure that all surface accumulations of moisture and water are properly drained off the location on which work is to be performed by ABC and ABC will not be held responsible for any drainage or any damage where there is less than a 2% drainage factor.

ACCEPTANCE OF PROPOSAL: The person or persons accepting this proposal represent that they are the Owner of the premises on which the work is to be done, or that they are the authorized representative of the Owner, and that permission and authority is hereby granted to ABC to perform such work on those premises. Acceptance of this proposal gives ABC permission and authority to check the credit history of the Owner.

SOIL STERILIZATION: It is to be understood that if a soil sterilization is applied. It is in an effort to retard weed growth and no guarantee is expressed or implied that it will be effective.

OBSTRUCTIONS: Property Owner is responsible for removal of all vehicles and other obstructions from the job site on the job date(s) set expressed or implied that its use will be effective.

PERFORMANCE: ABC cannot give assurance as to a completion date since all work is subject to weather conditions, prior commitments of ABC to third parties, mechanical failures, labor difficulties, fuel or material shortages, fire governmental authority or regulation, acts of God, and any cause beyond its control. In the event ABC is delayed for more than sixty (60) days in the performance of this contract for any of the reasons set forth herein, you shall have the right upon seven (7) days written notice to ABC, to terminate this contract, in which even ABC shall be paid for the work performed by it to the date of such termination and all the parties hereto shall be release of any obligation hereunder. Under no conditions will ABC be held responsible for the following: gravel or asphalt paving installed on projects or areas that are not stable due to excessive moisture, frozen ground, or inclement weather, for rough texture or rough joints when asphalt paving is requested during cold temperatures, for asphalt cracking or failure due to prevailing expansive soil conditions; for settlement of asphalt due to improperly placed or compacted backfill, for the establishing of property corners, dimension and boundary lines.

TERMS OF PAYMENT: The person or persons and company accepting this proposal each agree to pay to ABC the full quoted price with any adjustments provided for herein for the work herein specified. Invoices may be issued monthly for work completed during that month. Each invoice rendered by ABC will be paid when rendered and payment shall be overdue and delinquent thirty (30) days from the date thereof. Interest shall accrue and be payable on delinquent amounts at the rate of 1 ½% per month (an annual percentage rate of 18%). And if ABC commences legal proceedings for the collection of any delinquent amounts it shall also be entitled to recover its reasonable attorney's fees and costs.

FINANCIAL RESPONSIBILITY: If at any time ABC, in its sole judgment, determines that the financial responsibility of the person or persons or the Company accepting this proposal is unsatisfactory, it reserves the right to require payment in advance or satisfactory guarantee that invoices will be paid when due. If any payments are not paid when due, ABC at its option, may cancel any unfulfilled portion of the agreement, without further liability, and all work theretofore completed shall thereupon be invoiced and due and payable at once.

Dazzio & Associates, PC
Certified Public Accountants

March 26, 2021

To the Board of Directors and Management
Denargo Market Metropolitan District No. 1
c/o Special District Management Services
141 Union Blvd., Suite 150
Lakewood, CO 80228

We are pleased to confirm our understanding of the services we are to provide Denargo Market Metropolitan District No. 1 (the District) for the year ended December 31, 2020. We will audit the financial statements of the governmental activities and the major fund including the related notes to the financial statements, which collectively comprise the basic financial statements of the District as of and for the year ended December 31, 2020.

Audit Objective

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and will include tests of the accounting records and other procedures we consider necessary to enable us to express such opinions. We will issue a written report upon completion of our audit of the District's financial statements. Our report will be addressed to the Board of Directors of the District. We cannot provide assurance that unmodified opinions will be expressed.

Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions on the financial statements are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or may withdraw from this engagement.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards. In addition, an audit is not designed to detect immaterial misstatements, or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the District's compliance with the provisions of applicable laws, regulations, contracts, and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion.

Management Responsibilities

Management is responsible for establishing and maintaining effective internal controls, including monitoring ongoing activities; for the selection and application of accounting principles; and for the preparation and fair presentation of the financial statements in conformity with U.S. generally accepted accounting principles.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws and regulations.

You are responsible for the preparation of the supplementary information in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

The audit documentation for this engagement is the property of Dazzio & Associates, PC and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to a regulatory agency or its designee. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Dazzio & Associates, PC personnel. Furthermore, upon request, we may provide copies of selected audit documentation to regulatory agency or its designee. The regulatory agency or its designee may intend or decide to distribute the copies or information contained therein to others, including other governmental agencies.

Stephen Dazzio is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.

Our fee for these services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) except that we agree that our gross fee, including expenses will not exceed $4,000. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

We appreciate the opportunity to be of service to the District and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy, and return it to us.

Very truly yours,

Dazzio & Associates, P.C.

RESPONSE:

This letter correctly sets forth the understanding of Denargo Market Metropolitan District No. 1.

Management signature: Ann Finn

Title: District Manager

Date: 03 / 29 / 2021

Board signature: Laura Newman

Title: President

Date: 03 / 29 / 2021

HELLOSIGN

Audit Trail

TITLE	Denargo Market MD No. 1 - Audit Engagement Letter
FILE NAME	Denargo Mar... Letter.pdf and 1 other
DOCUMENT ID	8fdda58d7fa192385f4e4aef822cee7371209bda
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	● Completed

Document History

SENT	**03** / **29** / **2021** 14:47:17 UTC	Sent for signature to Laura H. Newman (lnewman@goco.com) and Ann Finn (afinn@sdmsi.com) from apadilla@sdmsi.com IP: 50.78.200.153
VIEWED	**03** / **29** / **2021** 15:32:41 UTC	Viewed by Ann Finn (afinn@sdmsi.com) IP: 50.78.200.153
SIGNED	**03** / **29** / **2021** 15:33:30 UTC	Signed by Ann Finn (afinn@sdmsi.com) IP: 50.78.200.153
VIEWED	**03** / **29** / **2021** 17:40:07 UTC	Viewed by Laura H. Newman (lnewman@goco.com) IP: 67.176.16.17
SIGNED	**03** / **29** / **2021** 17:40:30 UTC	Signed by Laura H. Newman (lnewman@goco.com) IP: 67.176.16.17
COMPLETED	**03** / **29** / **2021** 17:40:30 UTC	The document has been completed.

THE DENARGO MARKET DEVELOPMENT AGREEMENT

THIS DENARGO MARKET DEVELOPMENT AGREEMENT (this "**Development Agreement**") is made and entered into as of the date set forth on the City's signature page below (the "**Effective Date**"), by and between the **CITY AND COUNTY OF DENVER**, a Colorado municipal corporation and home rule city (the "**City**"), **JV DENARGO LLC**, a Delaware limited liability limited partnership ("**Developer**"), and **DENARGO MARKET METROPOLITAN DISTRICT NO. 1**, a Colorado quasi-municipal corporation and political subdivision (together with its permitted assigns, the "**District**"). City, Developer and District are sometimes referred to together herein as the "Parties" or singularly, as a "Party."

Recitals

This Development Agreement is made with respect to the following facts:

A. Developer is the owner of certain real property that is depicted and legally described on **Exhibit A** attached hereto and made a part hereof (the "**Property**"). The Property is generally located in downtown Denver and is bounded by Brighton Boulevard to the south, Denargo Street to the west, the South Platte River (the "**River**") to the north, and 29th Street to the east.

B. As master developer, Developer seeks to develop the Property as a sustainable, mixed-use community that revitalizes the River and provides high-quality public open spaces, celebrates Denver's city life and neighborhood serving retail, and provides attainable housing across income levels (the "**Project**").

C. The City and Developer completed the Large Development Review (LDR) process pursuant to Denver Zoning Code ("**DZC**") Section 12.4.12, with the resulting Large Development Framework ("**LDF**") Project Number 2019PM0000298 dated April 28, 2020, and recorded November 17, 2020 at Rec. No. 2020192293, which documents the required regulatory applications and review, sequencing of applications and reviews, and high-level project requirements for the development of the Property. Along with the A&R GDP (detailed below), this Development Agreement is the next step in the process to memorialize the commitments between Developer and the City as part of the rezoning of the Property.

D. The Property is part of a larger, original 2007 Denargo Market General Development Plan, as amended ("**2007 GDP**"), consisting of 33.8 acres. Simultaneously with, or shortly after, the execution of this Development Agreement, the Denargo Market Amended and Restated General Development Plan ("**A&R GDP**"), relating only to the Property, which is made up of the remaining, undeveloped portions totaling approximately 12.97 acres, which was recommended for approval by the Denver Planning Board on January 20, 2021, will be signed and recorded following the Rezoning. The A&R GDP is intended to supersede and replace the 2007 GDP as to the Property, with the 2007 GDP remaining unmodified and in full force and effect for the remainder of the acreage that it addresses.

E. Simultaneously with, or shortly after, the execution of this Development Agreement, the Denver City Council, is anticipated to consider an ordinance rezoning the Property to a mix of C-MX-8, C-MX-12, C-MX-16, and C-MX-20 zoning designations, to accommodate development of the Project (the "**Rezoning**"). This Development Agreement memorializes certain

basic parameters, standards and expectations for the Project in connection with the Rezoning based upon the LDF, the A&R GDP, and adopted City plans and goals as of the Effective Date.

F. The Property has been subject to environmental remediation under a Voluntary Cleanup Plan approved by Colorado Department of Public Health and Environment ("CDPHE"), which Developer intends to replace with an updated plan that reflects current regulatory standards and criteria and the Project design. The Parties desire to set forth the approach by which development of the Project and transfer of public infrastructure improvements to the City will be accomplished in conjunction with implementation of remaining remediation and/or materials management requirements and consistent with standards protective of human health and the environment.

G. In 2008, an Affordable Housing Plan was recorded with the Denver Clerk and Recorder against the 2007 GDP area (including the Property) at Rec. No. 2008152785 ("**2008 Affordable Housing Plan**"), to govern the development of for-sale affordable housing, committing that 10% of all for-sale dwelling units would be moderately priced. This Development Agreement is intended to supersede and replace the 2008 Affordable Housing Plan as applied to the Property with an increase in the affordable housing commitment, both in percentage and to apply to for-sale and for-rent dwelling units.

H. It is intended that the Project will be developed in accordance with the A&R GDP for the Property through the standard Development Services review process. Relevant portions of an Infrastructure Master Plan (IMP) contemplated by Section 12.4.14 of the DZC are being incorporated into the A&R GDP. The A&R GDP, along with this Development Agreement, will serve as the guiding documents of needed infrastructure to serve development on the Property and will contain infrastructure master plan concepts and layout of all land use, development parcels, streets, sanitary sewer, storm drainage, water, river improvements, pedestrian, bike, and transit facilities, and open spaces needed to service and support the development of the Project. The Property will be developed in multiple phases. Future site plan level studies may identify future improvements that are needed beyond those identified in the A&R GDP and this Development Agreement.

I. Development of the Project will require substantial investments in infrastructure improvements and public facilities, including, without limitation, streets, drainage facilities, sanitary sewer facilities, water lines, and parks that will serve the needs both of the Property and the surrounding neighborhoods of the City. Completion of these improvements and facilities will involve substantial investments by Developer, other future owners of portions of the Project, and the Denargo Market Metropolitan Districts Nos. 1, 2 and 3 that were created for the area in conjunction with the 2007 GDP and again being utilized for the infrastructure needs of the Property pursuant to the A&R GDP and this Development Agreement. The District is executing this Agreement for the purposes of binding itself to Sections 4, 7, 12, 13, 18, **Exhibit B**, and **Exhibit C**.

J. The legislature of the State of Colorado adopted Sections 24-68-101, et seq. of the Colorado Revised Statutes (the "**Vesting Statute**") to provide for the establishment of vested property rights for certain site-specific development plans in order to ensure reasonable certainty in the land use planning process, stability and fairness in the land use planning process and in order

to stimulate economic growth, secure reasonable investment-backed expectations of landowners and foster cooperation between the public and private sectors in the area of land use planning. The Vesting Statute and the City's home rule powers under Article XX of the Colorado Constitution authorize the City to enter into agreements with landowners providing for vesting of certain development rights.

K. The City has determined that development of the Property in accordance with this Development Agreement will provide for orderly growth in accordance with the policies and goals set forth in the City's Comprehensive Plan 2040, Blueprint Denver, Housing an Inclusive Denver, and the River North Plan (2004). As an example, on p. 252 Blueprint Denver identifies the Property as part of the Urban Center neighborhood context which calls for "a high mix of uses throughout" where "even the residential areas are highly mixed-use, often with high-intensity multiunit residential in mixed-use buildings." Blueprint Denver also notes on page 260 that Urban Center High Residential Places should have "good access to parks and other open spaces" where "plazas are common" and "green infrastructure is often integrated into the streetscape." The Project meets these and other goals of Blueprint Denver.

L. In exchange for these benefits and the other benefits to the City contemplated by this Development Agreement or other related agreements and/or derived by the City from development of the Property, Developer desires to receive the assurance that it may proceed with development of the Property pursuant to the terms and conditions contained in the A&R GDP and this Development Agreement. The City has determined that considering the size, phasing and duration of the Project and the unpredictability of economic cycles and market conditions over the life of the development of the Property, it is appropriate to provide certain assurances to Developer and its successors and assigns through this Development Agreement.

Agreement

NOW, THEREFORE, in consideration of the mutual covenants and promises made herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Recitals.** All of the recitals above are hereby confirmed and incorporated herein as part of this Development Agreement.

2. **Project**. As master developer, Developer seeks to develop the Property as a sustainable, mixed-use community that revitalizes the River and provides high-quality public open spaces, celebrates Denver's city life and neighborhood serving retail, and provides attainable housing across income levels. Historically, uses within the 2007 GDP have been primarily industrial along with small business and retail. New apartment buildings have, in recent years, begun to replace former industrial sites to align with plans for Denargo Market as a high-density district. Proposed C-MX zoning will further diversify current uses by providing an opportunity for office as well as more residential and retail uses in what is now primarily a residential area with few ground-level active uses. The current conceptual development plans project, at full build-out anticipated to take approximately 15 years, the addition of up to approximately 1,500,000 square feet of office, 1,100 residential units, 80,000 square feet of retail, and integrated parking

structures on the remaining vacant parcels within the A&R GDP, although the final square footages and number of units may vary.

3. **Improvements.** The Project, as outlined in the A&R GDP, contains a new street network that subdivides the largest existing land parcel (11.2 acres) into eight walkable development blocks. The Project also contemplates a bicycle network, as depicted in the A&R GDP, most particularly linking bicycle lanes on 29th Street extending from Brighton Boulevard to the existing South Platte Trail access ramp. The 2007 GDP was 33.8 acres and required 12% of the net developable area (excluding right of way) to be open space in three primary locations: 1) Riverfront Open Space; 2) Denargo Plaza; and 3) Brighton Boulevard Open Space, the last of which is already constructed and operational today. This Project, as detailed in the A&R GDP and this Development Agreement, is 12.97 acres with increased open space of 13.14% of the net developable area (excluding right of way), and adjusts the location of the open spaces, as further detailed below in Section 7. Improvements may be owned and maintained by the City, Developer, or the District, as further set forth in this Development Agreement and the A&R GDP, or if not determined herein then as the Parties shall agree in the future.

4. **District**. Development of the Project will require substantial investments in infrastructure improvements and public facilities, including, without limitation, streets, drainage facilities, sanitary sewer facilities, water lines, and parks that will serve the needs both of the Property and the surrounding neighborhoods of the City. Completion of these improvements and facilities will involve substantial investments by Developer, other future owners of portions of the Project, and the metropolitan districts that were created for the area in conjunction with the 2007 GDP and are again being utilized for the infrastructure needs of the Property pursuant to the A&R GDP and this Development Agreement. Denargo Market Metropolitan District No. 1 serves as the management district, and Denargo Market Metropolitan Districts Nos. 2 and 3 serve as the financing districts. The current debt mill levy cap is 40 mills, and the current operating mill levy cap is 10 mills. The District may improve, maintain and own improvements and property within the Property, as conveyed by Developer in furtherance of the Project. Developer may construct, or cause to be constructed, public infrastructure improvements on the Property and complete and convey these improvements to the District for ownership, upon acceptance and completion.

5. **Rezoning.** Current zoning of the Property is R-MU-30 with waivers and conditions for a 75' maximum height throughout the site, and a 55' transition zone on the northwest portion of the site parallel to the River, with one planned unit development district ("**PUD**") zoning with a 210' maximum height, and I-A under the DZC. In order to achieve the redevelopment of the Property, Developer has submitted an application for the Rezoning, an ordinance rezoning the Property to a mix of C-MX-8 DO-7, C-MX-12 DO-7, C-MX-16 DO-7, and C-MX-20 DO-7 zoning designations. In this Rezoning, the tallest proposed zoning designations are in the middle of the A&R GDP and are intended to establish a neighborhood center that transitions down from C-MX-20 to C-MX-8 in order to align with the zoning designations of the surrounding properties to the north and south. This transition to lower height is also consistent with the original intent of the Denargo Market Urban Design Standards and Guidelines.

6. **Development Applications and Applicable Regulatory Documents**. In accordance with Section 12.4.14 of the DZC and the LDF, Developer has submitted the A&R GDP to govern the land use, development and infrastructure issues related to the Project, along with this

Development Agreement. Accordingly, the following defines the regulatory documents, application submittal requirements and process for review of the documents and applications required prior to any development on the Property:

6.1 Guiding Plans. The Property is subject to Comprehensive Plan 2040, Blueprint Denver, Housing an Inclusive Denver, and the River North Plan (2004). These plans describe a framework plan, vision elements, strategies, and implementation strategies for the future evolution of the area. They also identify needs and make recommendations for infrastructure, mobility, parking, land use, open space, economic development, housing, partnerships, and other cultural and community investments. No traffic or wastewater analysis was done as part of these guiding plans. Additional infrastructure may be needed to support the Project.

6.2 Large Development Framework. The Property is subject to the Large Development Framework ("**LDF**") Project Number 2019PM0000298 dated April 28, 2020, and recorded November 17, 2020 at Rec. No. 2020192293, which documents the required regulatory applications and review, sequencing of applications and reviews, and high-level project requirements for the development of the Property.

6.3 Amended & Restated General Development Plan. The Property is part of a larger, original 2007 GDP, consisting of 33.8 acres. The A&R GDP, relating only to the Property, which is made up of the remaining, undeveloped portions totaling approximately 12.97 acres, which was recommended for approval by the Denver Planning Board on January 20, 2021, approved by the City Development Review Committee on January 27, 2021, will be signed and recorded shortly after or simultaneously with this Development Agreement. The A&R GDP is intended to supersede and replace the 2007 GDP as to the Property, with the 2007 GDP remaining unmodified and in full force and effect for the remainder of the acreage that it addresses. Relevant portions of an Infrastructure Master Plan (IMP) contemplated by Section 12.4.14 of the DZC are incorporated into the A&R GDP (and, thus, a separate IMP is not required), including the submittal of various technical reports such as Traffic Impact Analysis and Drainage and Sewer Reports. The A&R GDP, will serve as the guiding document of needed infrastructure to serve development on the Property and will contain infrastructure master plan concepts and layout of all land use, development parcels, streets, sanitary sewer, storm drainage, water, river improvements, pedestrian, bike, and transit facilities, and open spaces needed to service and support the development of the Project. The Property will be developed in multiple phases. Future site plan level studies may identify future improvements that are needed beyond those identified in the A&R GDP and this Development Agreement.

6.4 Urban Design Standards and Guidelines. The Property is subject to Denargo Market Urban Design Standards and Guidelines ("**Design Guidelines**"), which were updated and reviewed by the Denver Planning Board on December 16, 2020, were reviewed by the public during a comment period, and will be signed and adopted shortly after or simultaneously with the A&R GDP.

7. **Publicly Accessible Open Space**. The Project will provide future residents, employees, and the general public with open space and parks for their recreational needs. Usable

open space includes areas of plazas, playgrounds, and landscaped areas open to the sky, all of which are developed for recreational and/or leisure purposes. As further detailed in Section 7.3 below, open space owned by the District will be subject to a public accessibility easement to ensure it is maintained as publicly accessible open space.

7.1 **Calculation of Open Space.** Given the Property's adjacency to the River, Developer may aggregate open space (including City and District owned property) across the Project site, pursuant to the A&R GDP, so long as 12% of the net developable area is preserved, as described in the A&R GDP. The A&R GDP includes a total acreage of 3.13 acres of open space (~12.97% of the net developable area excluding public right of way). This 12.97% of net area shall be maintained as publicly accessible open space, as required under Division 10.8 of the DZC. The total remaining open space to be constructed on the Property as part of the Project is 1.05 acres. The total open space to be constructed by the Developer on city-owned property is 1.32 acres. Ownership and calculations of the open space area as described on the Parks and Open Space Development Agreement Table on **Exhibit B** attached hereto and a made part hereof.

7.2 **Parks and Open Space.** The Property contains different parks and open space which cover different areas, have varying characteristics and amenities, and have different ownership and maintenance responsibilities. Each of these areas is quantified, depicted and described on **Exhibit B** attached hereto and made a part hereof.

7.3 **Maintaining the Open Space as Publicly Accessible**. As required under Division 10.8 of the DZC, each area of open space must be maintained as publicly accessible open space. If the portion of the Property making up all or part of the open space is owned by the District, the District shall enter into a non-exclusive public accessibility easement with the City in substantially the form attached as **Exhibit C**.

8. **Riverfront Improvements**.

8.1 **Riverfront**. The Project will include a large contiguous publicly accessible open space along the River made up of 2.15 City-owned acres which includes the Riverfront Open Space and the RiNo Promenade Extension having ID# 9, 10 and 11 as described on **Exhibit B** (the "**Riverfront Open Space and Promenade Extension**"), and 0.92 District-owned acres (the "**Riverfront Green and Riverfront Plaza**"), having ID# 1 as described on **Exhibit B** and shown in the A&R GDP.

(i) The Riverfront Open Space and Promenade Extension are to be constructed on land owned by the City. The uses for the Riverfront Open Space and Promenade Extension will consist of a mix of recreation and leisure uses as approved by the City's Department of Parks & Recreation ("**DPR**") during the design process. Hardscape and landscape materials shall meet DPR standards and provide recreation and leisure elements that support neighborhood and City-wide recreation needs. Developer acknowledges that the Riverfront Open Space owned by the City contains a 78" diameter Metro Wastewater ("**Metro**") main, and is subject to an easement for such main, and all improvements within this Riverfront Open Space will be limited to those allowed within

the easement and adjacent to the main, per the requirements and standards of Metro and the City's Department of Transportation & Infrastructure ("**DOTI**").

(ii) The Riverfront Green and Riverfront Plaza owned by the District will be made up of a mix of hard and soft scape surfaces and some underground stormwater detention and is intended to be the center of civic life in the Project. Similarly, the 28th Street Linear Park owned by the District will enhance the pedestrian connection from Brighton to the Riverfront by adding a wider pedestrian zone on the northeast side of 27th Street between the new Denargo Street alignment and Delgany Street.

8.2 **Open Space Improvements Funding**. It is the intent of the Parties that the costs of the initial improvements of the Riverfront Open Space and Promenade Extension ("**Riverfront Open Space and Promenade Extension Improvements**") and the City-owned portions of the Corner Parks having ID# 6, 7 and 8 as generally described on **Exhibit B** ("**City Corner Parks Improvements**"), will be funded by Developer, District and DPR; however, as of the Effective Date, such costs are not fully known and, therefore, the Parties cannot commit to their respective funding obligations. Developer, at its cost and expense, shall provide to the City the design for the Riverfront Open Space and Promenade Extension Improvements and City Corner Parks Improvements. Upon finalization by Developer of such design and estimated costs of the Riverfront Open Space and Promenade Extension Improvements and City Corner Parks Improvements, DPR will work in good faith to identify available funds to contribute up to one-third of the funds needed for the cost of construction of the Riverfront Open Space and Promenade Extension Improvements and the City Corner Parks Improvements, pursuant to a future separate funding agreement with Developer, which agreement shall be subject to City's budgeting and appropriation processes, including approval by City Council to the extent required by City Charter. Developer may, but is not obligated to, commit its contribution of the funds or undertake the construction or installation of the Riverfront Open Space and Promenade Extension Improvements or City Corner Parks Improvements until Developer enters into a future separate funding agreement with DPR. The District and DPR anticipate entering into one or more separate maintenance agreements for long-term maintenance of the Riverfront Open Space, under which DPR will maintain the Riverfront Open Space in accordance with then-current DPR standards and practices for similar open space areas and if the District desires a higher level of maintenance above the DPR standards, the District shall be responsible for all associated maintenance beyond the DPR standards.

8.3 **Corner Parks.** The Project includes multiple Corner Parks, some of which are City-owned (ID # 6, 7 and 8 on **Exhibit B**), and some of which are District-owned (ID # 4 and 5 on **Exhibit B**) (collectively, the "**Corner Parks**"), which are to be treated similarly to the RiNo Promenade improvements completed along Arkins Court between 36th and 38th Streets in 2019. Developer acknowledges that the Corner Parks contain multiple large public utility mains, and all improvements within the Corner Parks will be limited to those allowed above or adjacent to such mains, pursuant to standards and requirements of Metro, Denver Water, and DOTI.

(i) District-owned portions of the Corner Parks having ID# 4 and 5 and as generally described on **Exhibit B**, will not be dedicated or designated as a City park, but

will be maintained by the District with the primary purpose of an active park and recreation area (and the same requirement applies to anything in current right of way that will be park later), evidenced by the District entering into a non-exclusive public accessibility easement with the City in substantially the form attached as **Exhibit C.**

(ii) The Corner Parks, including City-owned portions of the Corner Parks having ID# 6, 7 and 8 as generally described on **Exhibit B**, will be operated, maintained, repaired and replaced by the District in accordance with then-current DPR standards and practices for similar park areas. The District may assign such maintenance obligations with the prior written consent of the Manager of DPR, which consent will not be unreasonably withheld, conditioned or delayed.

8.4 **Platte River Loop.** A new local, City-owned (public right of way) and maintained, pedestrian-oriented street will run parallel to the River to provide public access to open space while also allowing for fire access and service to future buildings, which access will be further detailed at site development plan with priority being given to maintaining Platte River Loop as a pedestrian-oriented street. This street will also serve as a festival street for special events with the ability to limit access for certain times of day, subject to required street occupancy / closure permits from the City. The Developer, at its cost and expense, is responsible for the design and construction of the initial improvements of the street in accordance with DOTI City-street standards. Once the street improvements are accepted by the City, the City is responsible for long-term maintenance of the street to the quality and level of a typical City-street standard. If Developer desires a higher level of improvement(s) or maintenance above the City-street standard, Developer shall be responsible for all associated incremental additional costs beyond the City standard.

9. **Transportation Infrastructure**. The transportation infrastructure detailed in the A&R GDP shall be appropriate to serve the Project in multimodal ways to the City's satisfaction based upon the findings of the Mobility Study dated November 2020 prepared by Fehr & Peers, which Study is being updated and for which City-approval is needed. The transportation infrastructure will be commensurate to the proposed levels of development, provide connectivity to surrounding properties as applicable, and include multimodal transportation facilities. The standards, regulations, criteria, and requirements of the Department of Transportation & Infrastructure ("**DOTI**") shall govern the design, construction, management and operation of any improvements within the proposed public right-of-way unless a variance is approved by DOTI.

10. **29th Street Bicycle Improvements**. Developer is responsible for those bicycle improvements on 29th Street immediately adjacent to the Property, between the Property and the center line of 29th Street. The City is responsible for improvements between Delgany and Brighton and on the northeast side of 29th between Arkins Ct. and Delgany. The design and construction of Developer-provided bicycle improvements and the adjacent Property are to occur concurrently. The timing of development for the adjacent Property is subject to market conditions. Developer and the City intend to coordinate the installation of the bicycle improvements on 29th Street but they may not be completed or constructed at the same time.

11. **Transportation Demand Management**. The Project will develop, implement, support and sustain a comprehensive transportation demand management ("**TDM**") program

designed to minimize traffic congestion, mitigate vehicle trip generation, reduce parking demand, and facilitate mode-shift away from single-occupant vehicles. This Project shall comply with the City's Transportation Demand Management (TDM) Ordinance [insert Ord. # here or DRMC Ch. & Art.] ("**TDM Ordinance**") and subsequently adopted Rules and Regulations. Project-wide TDM strategies, if desired, shall be established through coordination with DOTI TDM Program Staff prior to any submittals for site development plans. Individual side development plans will be required to submit a TDM Plan, in accordance with [(DRMC reference]. In the event City Council does not adopt the TDM Ordinance, the Project will set trip-generation and mode-sharing targets for the development as a whole, and for individual development areas within the Project and will implement a TDM program that incorporates the necessary strategies to achieve the desired trip-generation and mode-split targets, as well as measures to ensure ongoing compliance and support. These targets shall be established in the Transportation Engineering Plan (TEP). All site development plans for vertical construction shall be required to submit a TDM Plan in substantially the same form as **Exhibit D**.

12. **Public Art**. As part of the Riverfront Open Space, the City may be installing public art, subject to the approval process described in this Section. Approval and funding of public art shall be done on a case by case basis, in accordance with the Denver Public Art Ordinance at Denver Revised Municipal Code ("**DRMC**") 20-85. Public art shall be maintained in accordance with the Design Guidelines and the cost of maintaining the public art shall be borne by the City if on City-owned property and the District if on District-owned property. The Developer shall not install any public art on City-owned property unless expressly and specifically approved and permitted by the City.

13. **Acceptance of City Infrastructure; Environmental Standards and Protocols.**

13.1 **Acceptance of City Infrastructure.**

(i) The City and Developer acknowledge that Developer will construct (a) horizontal infrastructure and parks and open space improvements pursuant to this Agreement and the A&R GDP on property currently owned, operated, and maintained by the City that will continue to be owned, operated, and maintained by the City following construction; (b) horizontal infrastructure (but not parks and open space improvements) pursuant to this Agreement and the A&R GDP on property currently owned by the Developer or the District to which, depending upon the environmental condition of the property, access rights may be conveyed in the form of an easement to allow operation and maintenance of horizontal infrastructure following construction; and (c) horizontal infrastructure and parks and open space improvements pursuant to this Agreement and the A&R GDP on property currently owned, operated, and maintained by the Developer or the District that will continue to be owned, operated, and maintained by the District following construction. Infrastructure described in (a) and (b) of the foregoing sentence shall be referred to herein as "**City Infrastructure.**"

(ii) The City may observe and inspect any of Developer's activities on property owned by the City. The City also may observe and inspect the Developer's activities on property where City Infrastructure will be located during the course of any site investigation, during construction, and upon completion of construction. Prior to the

commencement of construction of City Infrastructure, Developer will identify the locations of City Infrastructure and provide a preliminary construction schedule to the Denver Department of Public Health and Environment ("**DDPHE**"). In addition, Developer will notify DDPHE via telephone at (720) 865-5452 at least one (1) week in advance of planned site investigation and commencement of construction of City Infrastructure so that DDPHE may have staff available on short notice. If Developer encounters suspected environmental contamination during site investigation activities associated with, or during construction of, the City Infrastructure, Developer shall immediately stop work in such location and provide notice to the City's designee within DDPHE as soon as reasonably possible. Developer also shall provide to the DDPHE the results of any analytical samples collected by Developer. Within one (1) business day following receipt of notice by Developer, DDPHE shall contact Developer's designee to schedule a time to observe, obtain analytical samples, and upon receiving analytical results, determine the appropriate next steps in accordance with the Environmental Protocols in Section 13.3; provided that if DDPHE does not schedule such site visit within three (3) business days following receipt of notice by Developer, Developer may continue work in such location to avoid further delay or interference with construction of City Infrastructure. However, nothing in the foregoing sentence will limit Developer's obligation to comply with the Environmental Protocols, including the City MMP.

(iii) City Infrastructure shall be accepted by the City pursuant to this Section 13.1. Developer may seek acceptance of City Infrastructure by the City in phases and is not required to complete all improvements prior to providing a notice of completion as provided below. Upon completion of City Infrastructure, or any phase thereof, Developer shall provide a notice of completion ("**Notice of Completion**") to the City's designees within the Department of Community Planning and Development and DDPHE. Such Notice of Completion shall include (a) MMP Records and any Other Environmental Records (as defined herein), that relate to the environmental condition of the property where such infrastructure is located, (b) analytical data verifying the environmental standards for acceptance have been met, (c) as-built drawings, including the limits of excavation, for City Infrastructure constructed within such property; and (d) as applicable, a draft form of easement, including a legal description, for such property.

(iv) Upon receipt of a Notice of Completion, the City shall arrange for review of the Notice of Completion by the appropriate City departments and provide a notice of acceptance ("**Notice of Acceptance**") following receipt of such Notice of Completion if: (a) such property and associated City Infrastructure meet the environmental standards for acceptance set forth in Section 13.2 below and the environmental protocols set forth in Section 13.3 below (together, the "**Environmental Standards**"); (b) such City Improvements have been constructed in accordance with the design standards and requirements of the City set forth this Agreement and the A&R GDP; and (c) as applicable, the legal description for such property is correct and the easement is in a form specified in Section 13.2 below based on the environmental condition of the parcel (together (a), (b), and (c) are the "**Standards for Acceptance**"). Otherwise, the City shall provide written comments identifying the reasons the property and associated infrastructure do not meet the Standards for Acceptance. If the City determines that the property and associated City Infrastructure do not meet the Standards for Acceptance, Developer and the City shall work

in good faith to resolve the City's comments and the Notice of Completion shall be resubmitted for review and acceptance by the City upon resolution of City comments.

(v) For City Infrastructure constructed on property owned by the District or the Developer, easements to such parcels and associated City Infrastructure shall be conveyed to the City within fifteen (15) business days following receipt of a Notice of Acceptance by the City and the City shall own and be responsible for operation and maintenance of the City Infrastructure covered under the applicable Notice of Acceptance beginning on and after the date the deed or easement for the property where such infrastructure is located is recorded in the Office of the City Clerk and Recorder.

(vi) For City Infrastructure constructed on property owned by the City, the City shall own and be responsible for operation and maintenance of the City Infrastructure covered under the applicable Notice of Acceptance beginning on and after the date of such Notice of Acceptance.

13.2 Environmental Standards.

(i) The City acknowledges that, as of the date of this Agreement, environmental conditions in property where the City Infrastructure will be constructed may not meet the Environmental Standards set forth below. The City and Developer acknowledge that the intent of the Environmental Standards applicable to City Infrastructure is to assure that the soil meets standards protective of parks users and construction workers acceptable to the City and all utility providers. With regard to the costs associated with materials management or remediation necessary to meet the Environmental Standards:

A. The City and the District shall share in the costs of materials management and off-site disposal of contaminated soil and groundwater encountered during construction that is necessary to meet the Standards for Acceptance for City Infrastructure on property owned by the City associated with open space and parks in the same manner and cost share set forth in Section 8.3 of this Agreement for other construction costs of such City Infrastructure.

B. Neither the Developer nor the District shall be responsible for any costs of remediation beyond those costs of materials management and off-site disposal of contaminated soil and groundwater encountered during construction necessary to meet the Standards of Acceptance for City Infrastructure on property owned by the City in accordance with the City MMP.

C. The City shall not be responsible for the costs of (i) materials management or off-site disposal of contaminated soil or groundwater encountered during construction, or of any other environmental remediation, that is necessary to meet the Standards for Acceptance for City Infrastructure not associated with open space and parks on property owned by the City; or (ii) the costs of materials management or off-site disposal of contaminated soil or

groundwater encountered during construction, or of any other environmental remediation, on property owned by the Developer or the District.

(ii) Subject to all other requirements for City acceptance of City Infrastructure, City ownership and access requirements for City Infrastructure and parcels where City Infrastructure is located shall be determined as follows:

A. City Infrastructure on City-Owned Property.

i. For construction of City Infrastructure on property owned by the City ***not*** associated with open space and parks, soils within the Utility Corridor, as well as soils to a depth of two (2) feet below pavement for the full width of the parcel, shall meet at least industrial standards as set forth in the table titled "EPA Regional Screening Level (RSL) Summary Table (TR=1E-6, HQ=1) dated November 2020", as such table may be updated or superseded from time to time ("RSL Summary Table"), as determined in accordance with the Environmental Protocols set forth in Section 13.3. "Utility Corridor" shall mean a trench that extends at least two (2) feet below the deepest utility lines or facilities in depth and greater than or equal to the depth from finished grade to the bottom of the utility lines or facilities on either side of such utility lines or facilities in width. The boundary of the Utility Corridor shall be marked using an identification barrier.

ii. For construction of open space and parks on property owned by the City, surface soils to a depth of two (2) feet below final grade shall meet the residential soil standards set forth in the RSL Summary Table as determined in accordance with the Environmental Protocols set forth in Section 13.3. Construction of City Infrastructure associated with open space and parks below such depth shall be performed in accordance with the Environmental Protocols set forth in Section 13.3. A design for parks and open space improvements that avoids disturbance of soils below the existing grade shall be acceptable; provided any such design includes an identification barrier marking current surface grades.

B. **City Infrastructure on District- or Developer-Owned Property.** For City Infrastructure located on District or Developer-owner property:

i. **Exclusive Permanent Easement to Depth.** If soils meet the industrial (construction worker) standards set forth in the RSL Summary Table in effect at the time of construction, but groundwater exceeds Colorado Basic Standards for Groundwater beneath such parcel in effect at the time of construction, both as determined in accordance with the Environmental Protocols, the

City may accept an exclusive permanent easement to such parcel. Such easement shall be limited in depth to an elevation that is no less than two feet below the deepest utility and not greater than two feet above the groundwater surface at the time of easement conveyance. The form of easement shall be substantially the form of easement attached hereto as **Exhibit C**.

ii. Non-Exclusive Permanent Easement for Maintenance and Access.

(a) If soils meet industrial standards set forth in the RSL Summary Table in effect at the time of construction within the Utility Corridor, but not outside the Utility Corridor, as determined in accordance with the Environmental Protocols, the City may accept a non-exclusive permanent easement in a form reasonably acceptable to the City solely to operate and maintain subsurface utilities owned by the City within the Utility Corridor, and for public access to and use of streets located within such parcels. In such case, the District shall otherwise own and maintain the parcel and streets. For purposes of this subsection (iii), "Utility Corridor" shall be defined to mean the full width of the parcel at depths less than eight (8) feet from finished grade. At depths greater than eight (8) feet from finished grade, "Utility Corridor" shall mean a trench that extends at least two (2) feet below the deepest utility and greater than or equal to the depth from finished grade to the bottom of the utility on either side of such utility lines or facilities in width. The boundary of the Utility Corridor shall be marked using an identification barrier.

(b) The forms of easements to be executed by the District and the City, if applicable, pursuant to this Section 13.2(ii)(B)(ii) are attached hereto as **Exhibit C.**

C. **District Ownership and Maintenance.** Any parcels that do not meet the standards set forth in (i) through (iii) above shall be owned and maintained by a District. The City shall not own horizontal infrastructure located within such parcels and the District must provide to the City permanent non-exclusive easements to allow public access and to allow City maintenance of horizontal infrastructure if the District fails to maintain such horizontal infrastructure. The forms of easements to be executed by the District and the City, if applicable, pursuant to this Section 13.2(ii)(C) is attached hereto as **Exhibit C.**

13.3 Environmental Protocols.

(i) **Materials Management Plans.** The City hereby acknowledges and relies upon Developer's material representations that (i) Developer will prepare a Materials Management Plan ("**Developer MMP**") to assure appropriate management of environmental contamination on the Property; (ii) Developer will submit the MMP to

CDPHE for approval as part of a Voluntary Cleanup Plan for the Property; (iii) the Developer MMP will address procedures for screening, removal, reuse, and disposal of contaminated soils, groundwater, and debris from the Property; and (iv) CDPHE will provide the City the opportunity to review and comment on the VCUP for the Property, including the Developer MMP, as part of its standard review and approval procedures. Developer acknowledges that the City has developed a materials management plan for use on property owned by the City entitled the "City and County of Denver Materials Management Plan" dated November 13, 2019, attached as **Exhibit F** hereto, which includes the "City and County of Denver Guidance for Reuse of Soil in City Projects" dated October 5, 2017 ("**City MMP**").

(ii) Unless otherwise approved by the City:

A. The Developer agrees to perform all soil-disturbing activities associated with City Infrastructure in accordance with the procedures set forth in the City MMP and using applicable environmental standards specified for such location set forth in Section 13.2 of this Agreement (i.e., residential or industrial standards, as applicable).

B. Developer also shall follow City MMP requirements for imported fill material used on property where City Infrastructure will be located. Developer shall not reuse any soil taken from parcels of the Property subject to a Voluntary Cleanup Plan on property where City Infrastructure will be located.

C. Any water quality ponds and other water quality facilities must be lined with an impermeable material or otherwise constructed so that any water collected does not come into contact with groundwater and so that the facility does not alter groundwater quality or flow. If such facilities are not lined, Developer must provide information to the DDPHE regarding soil permeability, pond depth and relation to groundwater levels, or other information demonstrating to DDPHE's reasonable satisfaction that this requirement can be met without lining such facility.

D. For purposes of demonstrating that City Infrastructure meets standards for conveyance set forth herein, the City agrees that Developer shall be required to provide to the City a summary report prepared pursuant to the City MMP, including but not limited to, maps identifying sample locations and depths, field notes, analytical data, and laboratory records for both soils and groundwater, if any ("**MMP Records**") and from any other samples collected in Developer's sole discretion, if any ("**Other Environmental**

Records"). The City may observe construction and conduct additional confirmation sampling in its discretion prior to accepting conveyance of City Infrastructure in accordance with Section 13.1(ii) herein.

E. The Developer MMP shall not be amended without approval from CDPHE. Developer shall provide a copy of any request for amendment or modification of the Developer MMP to a designee of DDPHE at the time of submittal to CDPHE.

14. **Affordable Housing.** Developer agrees that, consistent with the goals of Comprehensive Plan 2040, Blueprint Denver, and Housing an Inclusive Denver, no less than fifteen percent (15%) of the total residential units in the Project shall be income-restricted at a variety of affordability levels for a period of no less than sixty (60) years, as further set forth in the Affordable Housing Agreement attached hereto and incorporated herein as **Exhibit E**. The Executive Director of the City's Department of Housing Stability is authorized on behalf of the City to agree to modification of the Affordable Housing Agreement, provided that such director-approved modifications may not include any change to the mix of affordability levels, decrease the fifteen percent (15%) affordability percentage, or decrease the 60-year affordability restriction requirement. Any and all such modifications shall require a written amendment signed by an authorized representative of each Party and recorded in the real property records of the City and County of Denver. The Parties agree that the Affordable Housing Agreement satisfies the requirements of DRMC Chapter 27 and, if the City approves any future ordinances or regulations requiring different affordable housing requirements in the City, this Affordable Housing Agreement shall supersede and govern.

15. **Vesting of Property Rights**. In recognition of the size and nature of the development contemplated under this Development Agreement, the substantial investment and time required to complete the development of the Project, the phased development of the Project, and the possible impact of economic cycles and varying market conditions during the course of development, Developer and the City agree that the vested property rights established under this Development Agreement shall commence on the Effective Date and shall continue for a term of ten (10) years (the "**Vesting Period**"). After the expiration of the Vesting Period, the provisions of this Section 15 shall be deemed terminated and of no further force or effect; provided, however, that such termination shall not affect (a) any common-law vested rights obtained prior to such termination, or (b) any right arising from City permits, approvals or other entitlements for the Property or the Project which were granted or approved prior to, concurrent with, or subsequent to the approval of this Development Agreement. Developer and the City agree that this Section 15, **Exhibit G** of this Agreement and the A&R GDP constitute an approved "Site-specific development plan" as defined in the Vesting Statute, and shall constitute a vested property right pursuant to the Vesting Statute.

15.1 Vested Rights. The entitlements for the Property described below (the "**Vested Rights**") shall be vested for the Vesting Period:

(i) The components of the C-MX zone district categories identified on **Exhibit G**.

(ii) Open Space requirements set forth in **Exhibit G** and the A&R GDP.

15.2 Provisions Related to Vested Rights.

(i) The establishment of Vested Rights herein shall not preclude the application of any other City ordinances or regulations.

(ii) This Development Agreement shall constitute a "development agreement" between the City and Developer for purposes of the Vesting Statute.

(iii) "Vested," as used in this Section 15 means the right to develop, plan and engage in land uses within the Property in the manner and to the extent set forth in, and in accordance with the parameters set forth in this Section 15 and the A&R GDP.

(iv) Except as set forth below, the City agrees that any conditions, standards, requirements and dedications imposed on the Property shall not have the effect of materially and adversely altering, impairing, preventing, diminishing, imposing a moratorium on development, delaying or otherwise adversely affecting any of the Vested Rights.

(v) Except as set forth below, the City shall not initiate any zoning, land use or other legal or administrative action that would have the effect of materially and adversely altering, impairing, preventing, diminishing, imposing a moratorium on development, delaying or otherwise adversely affecting any of the Vested Rights.

(vi) The establishment of Vested Rights under this Development Agreement shall not exempt the Project from subsequent reviews and approvals by the City to ensure compliance with the terms and conditions of City ordinances, standards and regulations, including, without limitation, all infrastructure requirements and standards for the Project.

15.3 Elimination of Zone District Category; Changes in Zoning. Notwithstanding anything in the foregoing to the contrary, in the event that the City eliminates altogether the C-MX zone district category or any of such categories or the City initiates a change of the zoning of any of the Property to a different zone district, Developer shall, during the Vesting Period, be entitled to develop any such affected parcel in accordance with the Vested Rights that are related to the zoning of such parcel as of the Effective Date, notwithstanding such City actions, and the uses shall have the same classification (e.g. Permitted Use without Limitations; Permitted Use with Limitations; Not Permitted Use; Zoning Permit Review) as in the DZC as of the Effective Date.

15.4 Selection of Which Zoning Applies at Time of Each Site Development Plan Application. At the time of application for either a concept site development plan or a formal Site Development Plan, such applicant shall state in its application what zoning code regulations it intends to develop such concept site development plan or formal Site

Development Plan, as applicable, in accordance with: (X) the components of the applicable C-MX zone district category identified in the DZC in effect as of the Effective Date and as contained in the Vested Rights; or (Y) the then current zoning code provisions within the most recently adopted DZC in place at the time of site development application, and shall provide a reasonably detailed explanation of applicable portions of the Vested Rights together with its Site Development Plan or Zoning Permit application, respectively.

16. **Accommodation of Property Development**. The Parties acknowledge that development of the Project may require certain right-of-way vacations, easement relinquishments or right-of-way acquisitions by Developer and/or the District. In such an instance, the City will process in normal course any request by Developer and/or the District regarding the same. Nothing in this Section 16 binds the City's City Council to any specific decision regarding any requests, including right-of-way vacations, easement relinquishments or right-of-way acquisitions.

17. **No Obligation to Develop**. Developer shall have the right to develop the Property in the order, at the rate and at the time as market conditions dictate, subject to the terms and conditions of this Development Agreement and the A&R GDP. Developer shall have no obligation to the City to commence construction of any phase; provided, however, it is expressly understood that Developer may not receive a certificate of occupancy for any phase unless Developer has constructed all necessary public and private improvements within, or to support, such a phase. Developer shall have no obligation to develop all or any portion of the Property, notwithstanding the development or non-development of any phase.

18. **General Provisions**

18.1 Time is of the Essence. It is understood and agreed between the Parties that time is of the essence hereof; and all the agreements herein contained shall be binding upon and for the benefit of each Party's successors and assigns.

18.2 Default by City. A "breach" or "default" by the City under this Development Agreement shall be defined as the City's failure to fulfill or perform any material obligation of the City contained in this Development Agreement.

18.3 Default by Developer. A "breach" or "default" by Developer shall be defined as Developer's failure to fulfill or perform any material obligation of Developer contained in this Development Agreement.

18.4 Default by District. A "breach" or "default" by the District shall be defined as the District's failure to fulfill or perform any material obligation of the District contained in this Development Agreement.

18.5 Notices of Default; Cure Period. In the event of a default by either Party under this Development Agreement, the non-defaulting Party shall deliver written notice to the defaulting Party of such default, at the address specified below, and the defaulting Party shall have 30 days from and after receipt of such notice to cure such default. If such default is not of a type which can be cured within such 30-day period and the defaulting Party gives written notice to the non-defaulting Party within such 30-day period that it is actively and diligently pursuing such cure, the defaulting Party shall have a reasonable

period of time given the nature of the default following the end of such 30-day period to cure such default, provided that such defaulting Party is at all times within such additional time period actively and diligently pursuing such cure.

18.6 Remedies. If any default under this Development Agreement is not cured as described above, the non-defaulting Party shall have all remedies available at law or in equity, including an action for injunction and/or specific performance, but each Party hereby waives the right to recover, to seek and to make any claim for damages for default under this Development Agreement, or for attorneys' fees or costs.

18.7 Authority to Execute. The Parties each represent that the persons who have affixed their signatures hereto have all necessary and sufficient authority to bind each Party. The Developer represents and warrants that it is lawfully seized and possessed of the Property; has good and lawful right, power and authority to bind and encumber the Property.

18.8 Cooperation of the Parties. If any legal or equitable action or other proceeding is commenced by a third party challenging the validity of any provision of this Development Agreement, the City and Developer shall reasonably cooperate in defending such action or proceeding, each to bear its own expenses in connection therewith. Unless the City and Developer otherwise agree, each Party shall select and pay its own legal counsel to represent it in connection with such action or proceeding.

18.9 Assignment. The rights and obligations under this Development Agreement may not be assigned to any entity without the prior written consent of the other Party, except that any responsibility for the financing, acquisition, planning, design, engineering, permitting, remediation or engineering controls, construction, completion, operation, maintenance, repair or replacement of any park, recreation or storm drainage facility or any other public infrastructure specified in this Development Agreement may be assigned to and performed by the District in accordance with the District's service plan. Any assignment must ensure close cooperation and coordination with the City in the development of public spaces/infrastructure. Written notice of any such assignment shall be given to the City. If this Development Agreement is assigned, all the covenants and agreements herein contained shall be binding upon and inure to the benefit of the successors, assigns, heirs and personal representatives of the respective Parties. Notwithstanding the foregoing, Developer shall have the right to assign or transfer all or any portion of its interests, rights and obligations under this Development Agreement without the prior written consent of the City, to third parties acquiring an interest or estate in the Property, including, but not limited to, purchasers or long-term ground lessees of individual lots, parcels, or of any improvements now or hereafter located within the Property, provided that to the extent Developer assigns any of its obligations under this Development Agreement, the assignee of such obligations shall expressly assume such obligations. The express assumption of any of Developer's obligations under this Development Agreement by its assignee shall thereby relieve Developer of any further obligations under this Development Agreement with respect to the matter so assumed.

18.10 Severability. The promises and covenants contained herein are several in nature. Should any one or more of the provisions of this Development Agreement be judicially adjudged invalid, void or unenforceable, such judgment shall not affect, impair, or invalidate the remaining provisions of this Development Agreement, so long as each Party receives substantially all the benefits contemplated in this Development Agreement and so long as enforcement of the remaining provisions would not be inequitable to the Party against whom they are being enforced under the facts and circumstances then pertaining.

18.11 Compliance with General Regulations. Nothing in this Development Agreement shall preclude the City's application of its health and safety regulations, its regulations of general applicability (including, but not limited to, street and streetscape regulations, building, fire, plumbing, electrical and mechanical codes, the Denver Revised Municipal Code, and other City rules and regulations) or the application of state or federal regulations, as all of such regulations exist on the date of this Development Agreement or may be enacted or amended after the date of this Development Agreement. Developer does not waive its right to oppose the enactment or amendment of any such regulations or to challenge the validity of such regulations through proper means.

18.12 No Discrimination in Employment. In connection with the performance of work under this Development Agreement, the Parties agree not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability; and further agree to insert the foregoing provision in all subcontracts hereunder.

18.13 When Rights and Remedies Not Waived. In no event shall any performance hereunder constitute or be construed to be a waiver by any Party of any breach of covenant or condition or of any default which may then exist. The rendering of any such performance when any such breach or default exists shall in no way impair or prejudice any right of remedy available with respect to such breach or default. Further, no assent, expressed or implied, to-any breach of any one or more covenants, provisions, or conditions of this Development Agreement shall be deemed or taken to be a waiver of any other default or breach.

18.14 Subject to Local Laws: Venue. Each and every term, provision, and condition herein is subject to the provisions of the laws of the United States, the State of Colorado, the City Charter, and the ordinances, executive orders, rules, and regulations of the City and County of Denver. Venue for any legal action relating to this Development Agreement shall lie in the District Court in and for the City and County of Denver, Colorado.

18.15 Extensions: Amendments. Except as otherwise provided for herein, no prior or contemporaneous addition, deletion or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. Except as otherwise provided for herein, no subsequent notation, renewal, addition, deletion, or other

amendment to or termination of this Development Agreement shall have any force or effect unless embodied in a written amendatory or other agreement executed by the Parties, with the same formality as this Development Agreement. City Council approval shall be required for amendments to the extent required by the City Charter. The Parties agree that any time for performance of any term or satisfaction of any condition hereunder may be extended for up to two (2) years by a letter signed by the City's Director of DOTI and the City's Director of CPD and an authorized representative of Developer. For the purposes of any amendment to or termination of this Development Agreement, "Developer" shall mean only JV Denargo LLC and those parties, if any, to whom JV Denargo LLC may specifically grant, in writing, the power to enter into such amendment or termination.

18.16 Section Headings. The section headings are inserted herein only as a matter of convenience and for reference and in no way are intended to be a part of this Development Agreement or to define, limit or describe the scope or intent of this Development Agreement or the particular sections hereof to which they refer.

18.17 No Third-Party Beneficiary. It is the intent of the Parties that no third-party beneficiary interest is created in this Development Agreement except for an assignment pursuant to this Development Agreement. The Parties are not presently aware of any actions by them or any of their authorized representatives which would form the basis for interpretation construing a different intent, and in any event expressly disclaim any such acts or actions, particularly in view of the integration of this Development Agreement.

18.18 Counterparts, Electronic Signatures and Electronic Records. This Development Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one of the same document. Facsimile signatures shall be accepted as originals. The Parties consent to the use of electronic signatures by any Party hereto. The Development Agreement and any other documents requiring a signature may be signed electronically by each Party in the manner specified by that Party. The Parties agree not to deny the legal effect or enforceability of this Development Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of this Development Agreement in the form of an electronic record, a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the grounds that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

18.19 Appropriation. All obligations of the City under and pursuant to this Development Agreement are subject to prior appropriations of monies expressly made by the City Council for the purposes of this Development Agreement and paid into the treasury of the City.

18.20 Reasonableness of Consent or Approval. Whenever under this Development Agreement "reasonableness" is the standard for the granting or denial of the consent or approval of either Party hereto, such Party shall be entitled to consider public and governmental policy, moral and ethical standards, as well as business and economic considerations.

18.21 No Personal Liability. No elected official, director, officer, agent, manager, member or employee of the City or Developer shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Development Agreement or because of any breach thereof or because of its or their execution, approval or attempted execution of this Development Agreement.

18.22 Conflict of Interest by City Officers. Developer represents that to the best of its information and belief no officer or employee of the City is either directly or indirectly a party to or in any manner interested in this Development Agreement except as such interest may arise as a result of the lawful discharge of the responsibilities of such elected official or employee.

18.23 No Merger. The Parties intend that the terms and conditions of this Development Agreement shall survive any conveyance of real property and shall not be merged into any deed conveying real property.

18.24 Effective Date. The Effective Date of this Development Agreement shall be the date that this Development Agreement has been fully signed by the Mayor of the City.

18.25 Recording. This Development Agreement shall be recorded in the real property records of the City and County of Denver after execution by Developer and the City. Upon such recording, this Development Agreement shall run with the Property and any other portion of the Property subsequently acquired by Developer.

18.26 Examination of Records. Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers and records related to the Developer's performance pursuant to this Development Agreement, provision of any goods or services to the City, and any other transactions related to this Development Agreement. Developer shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under the Development Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Development Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require Developer to make disclosures in violation of state or federal privacy laws. Developer shall at all times comply with D.R.M.C. 20-276.

18.27 Findings. The City hereby finds and determines that execution of this Development Agreement is in the best interests of the public health, safety, and general welfare and the provisions of this Development Agreement are consistent with the Comprehensive Plan and development laws, regulations and policies of the City.

18.28 Further Assurances. Each Party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out this Development Agreement in order to provide and secure to the other Party the full and complete enjoyment of its rights and privileges under this Development Agreement.

18.29 Police Powers. Nothing in this Development Agreement shall impair or limit the City's exercise of its police powers.

18.30 Notices. Any notices, demands or other communications required or permitted to be given hereunder shall be in writing and shall be delivered personally, delivered by overnight courier service, or sent by certified mail, postage prepaid, return receipt requested, addressed to the Parties at the addresses set forth below, or at such other address as either Party may hereafter or from time to time designate by written notice to the other Party given in accordance herewith. Notice shall be considered given at the time it is personally delivered, the next business day following being placed with any reputable overnight courier service for next business day delivery, or, if mailed, on the third business day after such mailing.

If to the City:

Mayor
1437 Bannock Street, Room 350
Denver, Colorado 80202

With copies to:

Denver City Attorney
1437 Bannock Street, Room 353
Denver, Colorado 80202

Executive Director of DOTI
201 W. Colfax, Dept. 608
Denver, CO 80202

Chief Financial Officer
201 W. Colfax, Dept. 1010
Denver, CO 80202

Executive Director of HOST
201 W. Colfax, Dept. 1005
Denver, CO 80202

Executive Director of Parks and Recreation
201 W. Colfax, Dept. 601
Denver, CO 80202

Executive Director of CPD
201 W. Colfax, Dept. 205
Denver, CO 80202

Executive Director of DDPHE
101 W. Colfax Ave, Suite 800
Denver, CO 80202

If to Developer: JV Denargo LLC
c/o Golub & Company, LLC
625 North Michigan Avenue, Suite 2000
Chicago, Illinois 60611
Attention: Lee Golub

with copy to:

Brownstein Hyatt Farber Schreck
410 17th Street, Suite 2200
Denver, CO 80202
Attn: Caitlin Quander

If to District: Denargo Metropolitan District No. 1
c/o Special District Management Services, Inc.
141 Union Boulevard, Suite 150
Lakewood, Colorado 80228
Attn: Ann Finn

with copy to:

McGeady Becher, P.C.
450 E. 17th Avenue, Suite 400
Denver, CO 80203-1254
Attn: Paula Williams

19. **Additional City Required Provisions**.

19.1 Colorado Governmental Immunity Act. The Parties understand and agree that the City is relying upon, and has not waived, the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, C.R.S.§ 24-10-101, et seq.

19.2 No Authority To Bind City To Contracts. Developer lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the D.M.R.C.

19.3 Permits, Licenses, Taxes, Charges, And Penalties. Developer agrees to pay promptly all taxes, excises, license fees, and permit fees of whatever nature applicable to its operations or activities under this Development Agreement, and to take out and keep current all required licenses or permits (federal, state, or local) required for the conduct of

its business hereunder, and further agrees not to permit any taxes, excises, license or permit fees to become delinquent. Developer further agrees to pay promptly when due all bills, debts and obligations incurred by it in connection with its operations and the performance of this Development Agreement and not to permit the same to become delinquent. The City is not liable for the payment of taxes, late charges or penalties of any nature. Developer shall not allow any lien, mortgage, judgment or execution to be filed against City property.

19.4 Compliance with Minority/Women Owned Business Enterprise Requirements. Any public work conducted by Developer is subject to all applicable provisions of Divisions 1 and 3 of Article III, of Chapter 28, DRMC designated as Sections 28-31, 28-36, and 28-52 DRMC and referred to as the "M/WBE Ordinance". In accordance with the requirements of the M/WBE Ordinance, Developer is committed to, at a minimum, meet the participation goals established for any public work project utilizing properly certified M/WBE subcontractors and suppliers. Without limiting the general applicability of the foregoing Developer acknowledges its continuing duty, pursuant to Sections 28-72, 28-73 and 28-75 DRMC and the M/WBE Program, to meet and maintain throughout the duration of the Project for any public work its participation and compliance commitments and to ensure that all subcontractors subject to the M/WBE Ordinance or the M/WBE Program also maintain such commitments and compliance. Failure to comply with these requirements may result, at the discretion of the Director of the Division of Small Business Opportunity ("**DSBO**"), in the imposition of sanctions against Developer in accordance with Section 28-77, DRMC. Nothing contained in this Section or in the referenced City ordinance shall negate the City's right to prior approval of subcontractors or substitutes therefore.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the City has caused these presents to be executed in its corporate name and with its official seal hereunto affixed and attested by its duly authorized officials; and Developer has caused these presents to be executed by its duly authorized representative.

CITY AND COUNTY OF DENVER

By:_____

DATE: _____

ATTEST:

_____
Clerk

Approved as to Form:

_____
Attorney for the City and County of Denver

JV DENARGO LLC,
a Delaware limited liability company

By: _____
Name _____
Title: _____

STATE OF COLORADO)
)ss.
_____ COUNTY)

The foregoing instrument as acknowledged before me as of the __ day of _____, 2021 by _____, as _____ of JV Denargo LLC, a Delaware limited liability company.

WITNESS MY HAND AND
OFFICIAL SEAL

_____
Notary Public for the State of _____

My Commission Expires: _____

IN WITNESS WHEREOF, the District has caused these presents to be executed by its duly authorized representative only as to Sections 4, 7, 12, 13, 18, **Exhibit B**, and **Exhibit C**.

DENARGO MARKET METROPOLITAN DISTRICT NO. 1,
a quasi-municipal corporation and political subdivision of the State of Colorado

By: _____
Name _____
Title: _____

STATE OF COLORADO)
)ss.
_____ COUNTY)

The foregoing instrument as acknowledged before me as of the __ day of _____, 2021 by _____, as _____ of Denargo Market Metropolitan District No. 1, a quasi-municipal corporation and political subdivision.

WITNESS MY HAND AND
OFFICIAL SEAL

_____
Notary Public for the State of _____

My Commission Expires: _____

EXHIBIT A

Legal Description of the Property

LEGAL DESCRIPTION

A PARCEL OF LAND BEING ALL OF LOT 1, BLOCK 5, DENARGO MARKET SUBDIVISION FILING NO. 2 RECORDED AT RECEPTION NO. 2012049308 IN THE OFFICIAL RECORDS OF THE CITY AND COUNTY OF DENVER, COLORADO CLERK AND RECORDER'S OFFICE, LYING WITHIN THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE CITY & COUNTY OF DENVER, STATE OF COLORADO CONTAINING AN AREA OF 11.190 ACRES (487,424 SQUARE FEET) MORE OR LESS.

EXHIBIT ATTACHED AND MADE A PART HEREOF.

COLORADO LICENSED PROFESSIONAL LAND SURVEYOR NO. 33204
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.
300 E. MINERAL AVENUE, SUITE 1, LITTLETON, CO 80122
(303) 718-1898

LEGAL DESCRIPTION

A PARCEL OF LAND BEING ALL OF LOT 1, BLOCK 5, DENARGO MARKET SUBDIVISION FILING NO. 2 RECORDED AT RECEPTION NO. 2012049308 IN THE OFFICIAL RECORDS OF THE CITY AND COUNTY OF DENVER, COLORADO CLERK AND RECORDER'S OFFICE, LYING WITHIN THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE CITY & COUNTY OF DENVER, STATE OF COLORADO CONTAINING AN AREA OF 11.190 ACRES (487,424 SQUARE FEET) MORE OR LESS.

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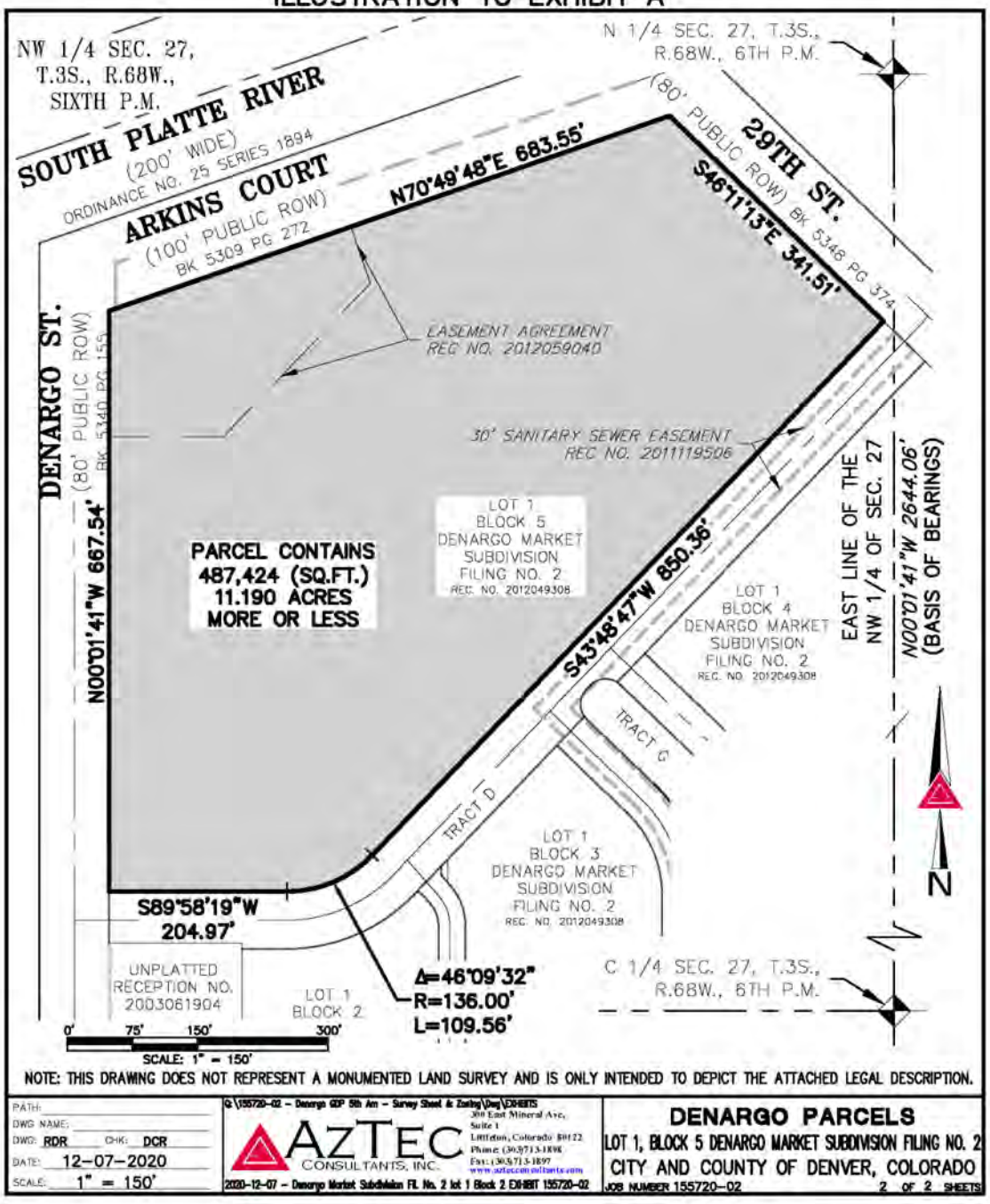
(303) 718-1898

ILLUSTRATION TO EXHIBIT A



NOTE: THIS DRAWING DOES NOT REPRESENT A MONUMENTED LAND SURVEY AND IS ONLY INTENDED TO DEPICT THE ATTACHED LEGAL DESCRIPTION.

PATH: Q:\155720-02 – Denargo GDP 5th Am – Survey Sheet & Zoning\Dwg\EXHIBITS
DWG NAME:
DWG: RDR CHK: DCR
DATE: 12-07-2020
SCALE: 1" = 150'

AZTEC CONSULTANTS, INC.
300 East Mineral Ave, Suite 1
Littleton, Colorado 80122
Phone: (303)713-1898
Fax: (303)713-1897
www.aztecconsultants.com

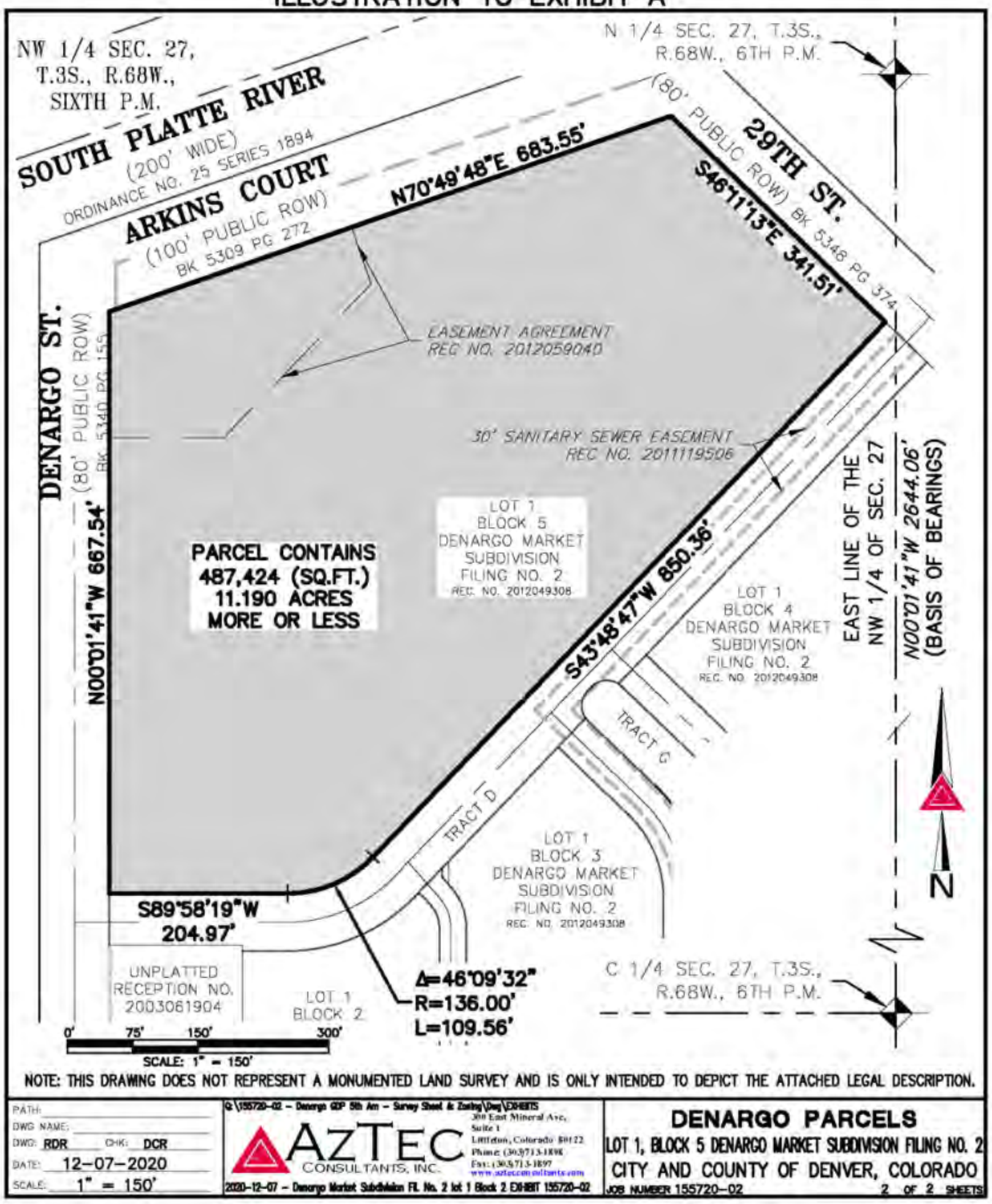
2020-12-07 – Denargo Market Subdivision Fil. No. 2 lot 1 Block 2 EXHIBIT 155720-02

DENARGO PARCELS

LOT 1, BLOCK 5 DENARGO MARKET SUBDIVISION FILING NO. 2
CITY AND COUNTY OF DENVER, COLORADO

JOB NUMBER 155720-02 2 OF 2 SHEETS

ILLUSTRATION TO EXHIBIT A



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2020-12-07 – Denargo Market Subdivision Fil. No. 2 lot 1 Block 2 EXHIBIT 155720-02

DENARGO PARCELS
LOT 1, BLOCK 5 DENARGO MARKET SUBDIVISION FILING NO. 2
CITY AND COUNTY OF DENVER, COLORADO
JOB NUMBER 155720-02 2 OF 2 SHEETS

LEGAL DESCRIPTION

A PARCEL OF LAND BEING ALL OF LOT 1, BLOCK 6, DENARGO MARKET SUBDIVISION FILING NO. 2 RECORDED AT RECEPTION NO. 2012049308 IN THE OFFICIAL RECORDS OF THE CITY AND COUNTY OF DENVER, COLORADO CLERK AND RECORDER'S OFFICE, LYING WITHIN THE WEST HALF OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE CITY & COUNTY OF DENVER, STATE OF COLORADO
CONTAINING AN AREA OF 0.537 ACRES (23,373 SQUARE FEET) MORE OR LESS.

EXHIBIT ATTACHED AND MADE A PART HEREOF.

COLORADO LICENSED PROFESSIONAL LAND SURVEYOR NO. 33204
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.
300 E. MINERAL AVENUE, SUITE 1, LITTLETON, CO 80122
(303) 718-1898

LEGAL DESCRIPTION

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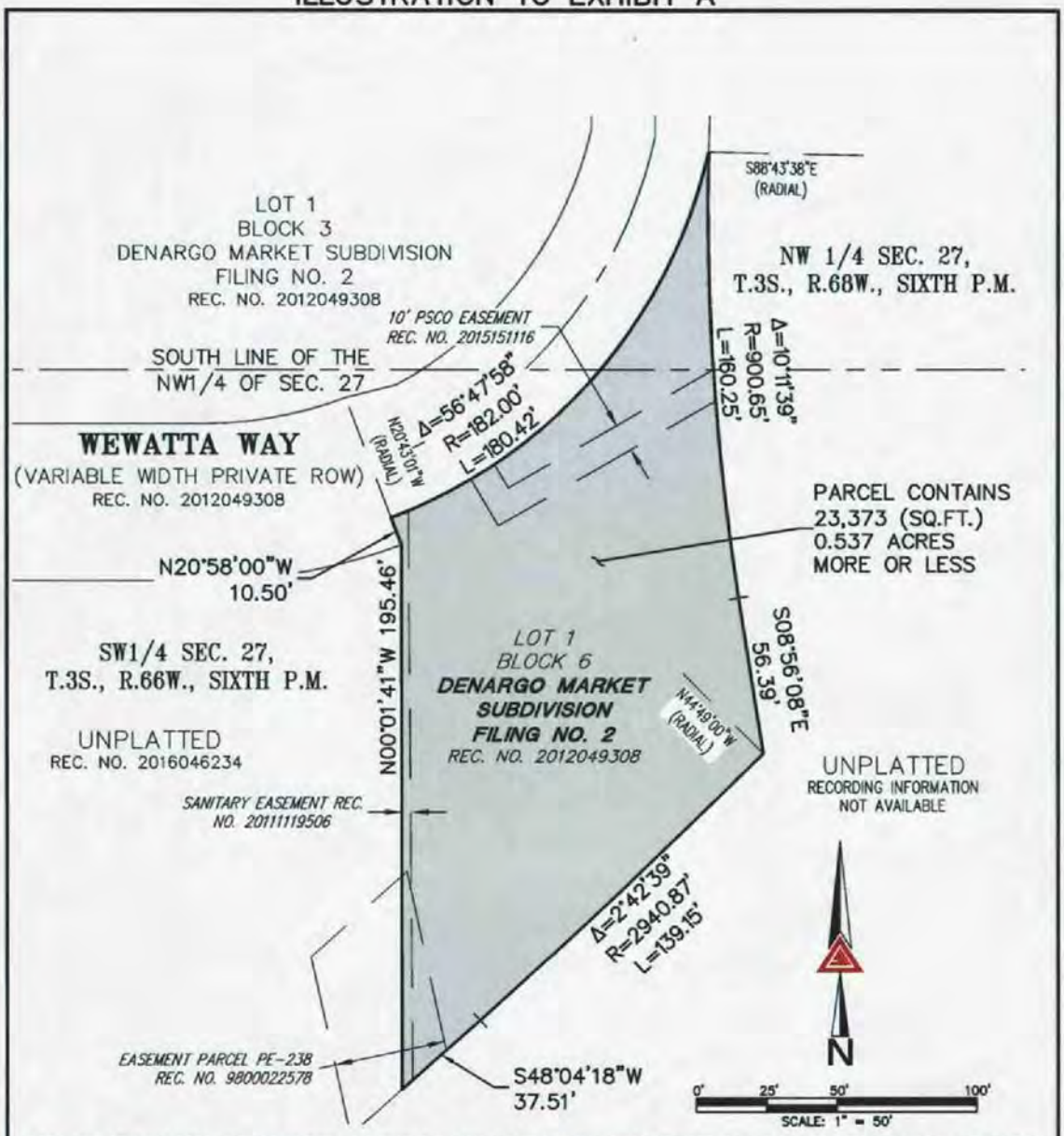

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DWG NAME:
DWG: RDR CHK: DCR
DATE: 08-14-2020
SCALE: 1" = 50'

Q:\155720-02 - Denargo GDP 5th Am - Survey Sheet & Zoning\Dwg\EXHIBITS

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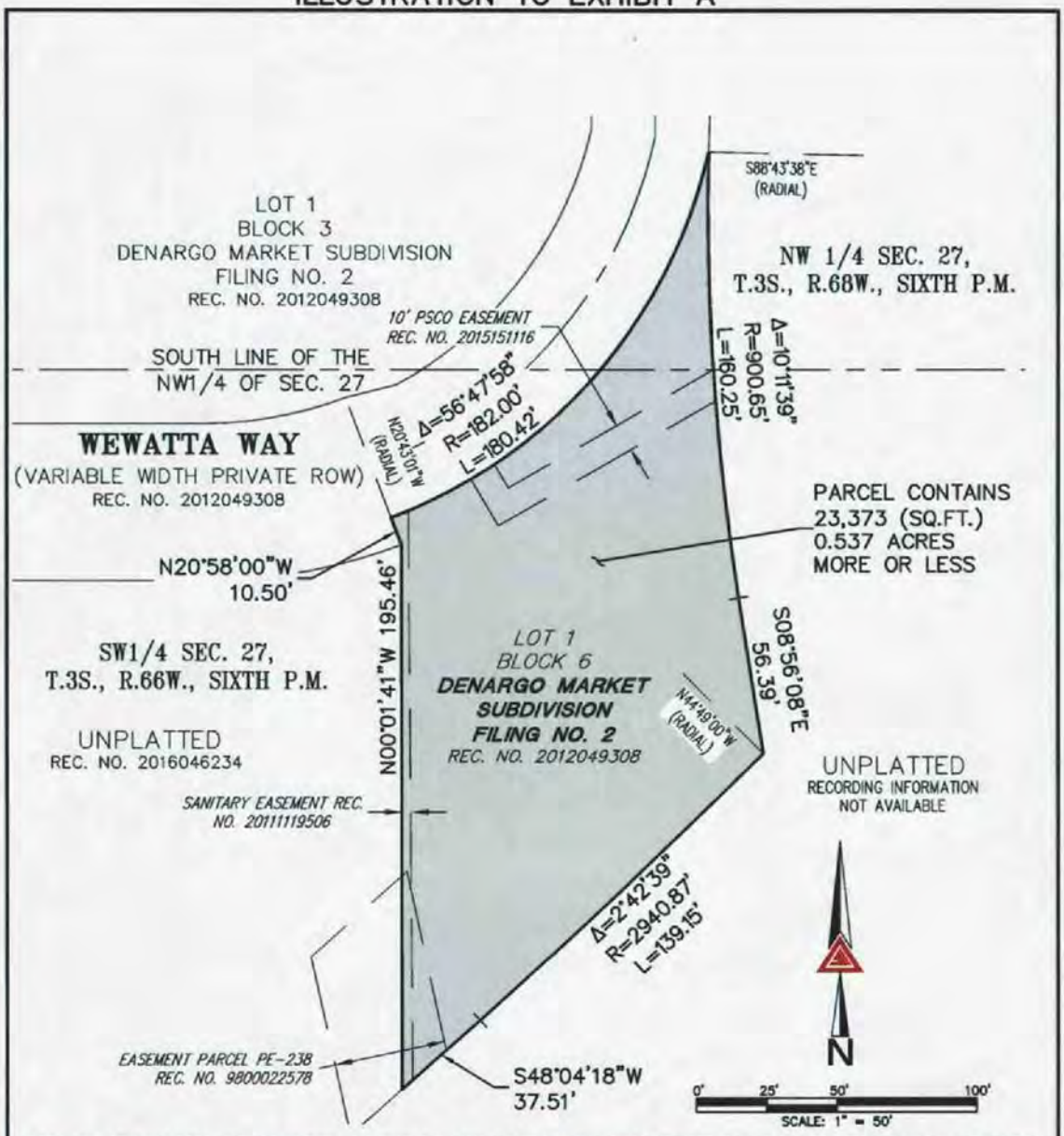
300 East Mineral Ave, Suite 1
Littleton, Colorado 80122
Phone: (303)713-1898
Fax: (303)713-1897
www.aztecconsultants.com

2020-08-17 - Denargo Market Amended legals LOT 1 BLOCK 6 155720-02

LOT 1, BLOCK 6
LOT 1, BLOCK 5 DENARGO MARKET SUBDIVISION FILING NO. 2
CITY AND COUNTY OF DENVER, COLORADO
JOB NUMBER 155720-02 2 OF 2 SHEETS

ILLUSTRATION TO EXHIBIT A



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Q:\155720-02 - Denargo GDP 5th Am - Survey Sheet & Zoning\Dwg\EXHIBITS

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2020-08-17 - Denargo Market Amended legals LOT 1 BLOCK 6 155720-02

LOT 1, BLOCK 6
LOT 1, BLOCK 5 DENARGO MARKET SUBDIVISION FILING NO. 2
CITY AND COUNTY OF DENVER, COLORADO
JOB NUMBER 155720-02 2 OF 2 SHEETS

EXHIBIT A
LEGAL DESCRIPTION
DISTRICT NO. 1

A PARCEL OF LAND BEING A PORTION OF TRACT F, DENARGO MARKET SUBDIVISION FILING NO. 1, A SUBDIVISION RECORDED UNDER RECEPTION NO. 2009018921 IN THE RECORDS OF THE CITY AND COUNTY OF DENVER, COLORADO, CLERK AND RECORDER'S OFFICE ON FEBRUARY 17, 2009, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, SAID CITY, COUNTY AND STATE, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF SAID TRACT F, WHENCE THE NORTHERLY BOUNDARY OF SAID TRACT F BEARS NORTH 89°58'19" EAST, A DISTANCE OF 150.21 FEET, WITH ALL BEARINGS HEREON RELATIVE THERETO;

THENCE ALONG SAID NORTHERLY BOUNDARY OF TRACT F, NORTH 89°58'19" EAST, A DISTANCE OF 13.43 FEET;

THENCE DEPARTING SAID NORTHERLY BOUNDARY, SOUTH 00°01'41" EAST, A DISTANCE OF 15.05 FEET TO THE SOUTHWESTERLY BOUNDARY OF SAID TRACT F;

THENCE ALONG SAID SOUTHWESTERLY BOUNDARY, NORTH 41°46'12" WEST, A DISTANCE OF 20.16 FEET TO THE **POINT OF BEGINNING.**

CONTAINING AN AREA OF 0.002 ACRES, (101 SQUARE FEET), MORE OR LESS.

EXHIBIT ATTACHED AND MADE A PART HEREOF.

DALE C. RUSH
COLORADO LICENSED PROFESSIONAL LAND SURVEYOR NO. 33204
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.

EXHIBIT A
LEGAL DESCRIPTION
DISTRICT NO. 1

A PARCEL OF LAND BEING A PORTION OF TRACT F, DENARGO MARKET SUBDIVISION FILING NO. 1, A SUBDIVISION RECORDED UNDER RECEPTION NO. 2009018921 IN THE RECORDS OF THE CITY AND COUNTY OF DENVER, COLORADO, CLERK AND RECORDER'S OFFICE ON FEBRUARY 17, 2009, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, SAID CITY, COUNTY AND STATE, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF SAID TRACT F, WHENCE THE NORTHERLY BOUNDARY OF SAID TRACT F BEARS NORTH 89°58'19" EAST, A DISTANCE OF 150.21 FEET, WITH ALL BEARINGS HEREON RELATIVE THERETO;

THENCE ALONG SAID NORTHERLY BOUNDARY OF TRACT F, NORTH 89°58'19" EAST, A DISTANCE OF 13.43 FEET;

THENCE DEPARTING SAID NORTHERLY BOUNDARY, SOUTH 00°01'41" EAST, A DISTANCE OF 15.05 FEET TO THE SOUTHWESTERLY BOUNDARY OF SAID TRACT F;

THENCE ALONG SAID SOUTHWESTERLY BOUNDARY, NORTH 41°46'12" WEST, A DISTANCE OF 20.16 FEET TO THE **POINT OF BEGINNING.**

CONTAINING AN AREA OF 0.002 ACRES, (101 SQUARE FEET), MORE OR LESS.

EXHIBIT ATTACHED AND MADE A PART HEREOF.

DALE C. RUSH
COLORADO LICENSED PROFESSIONAL LAND SURVEYOR NO. 33204
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.

EXHIBIT B

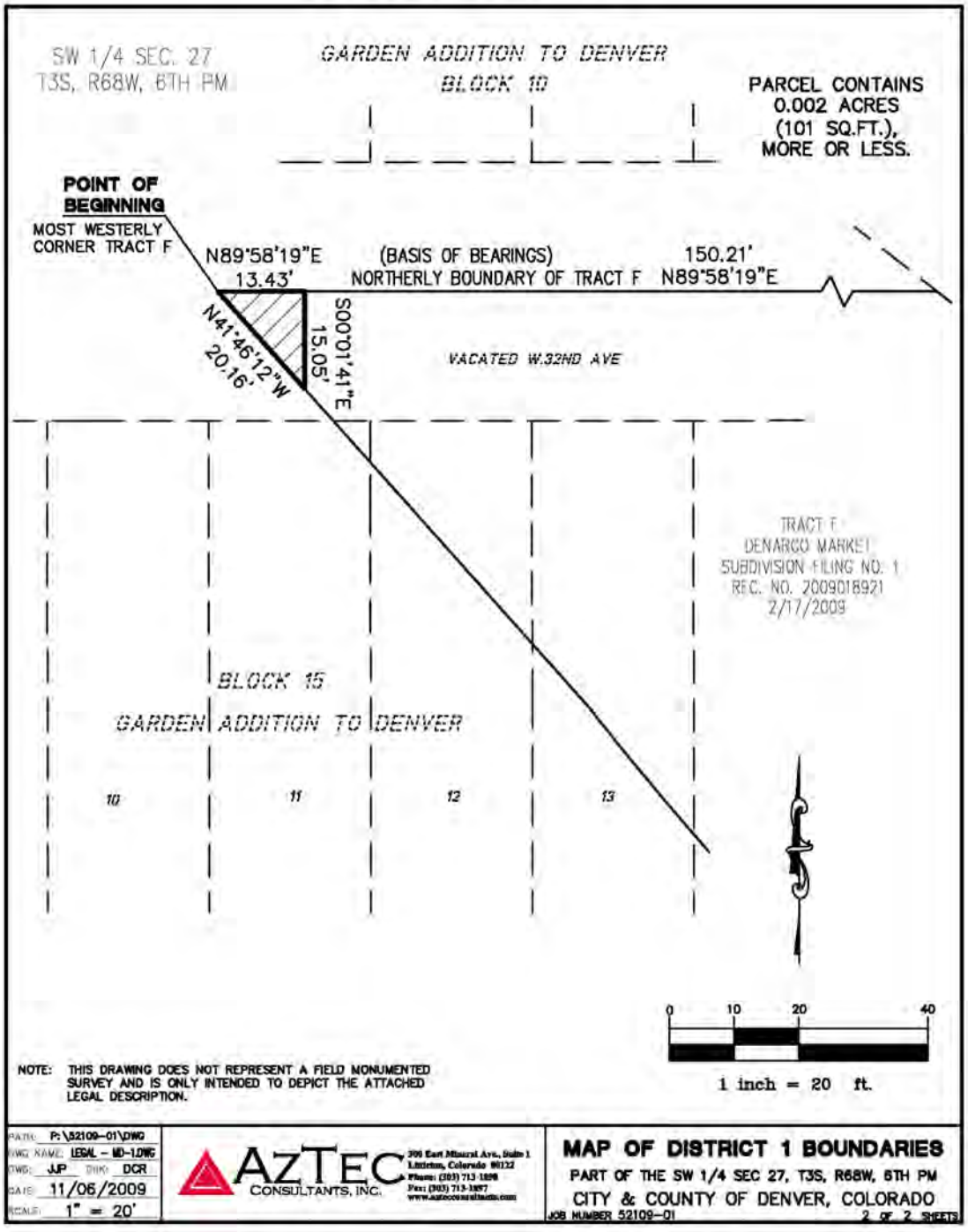
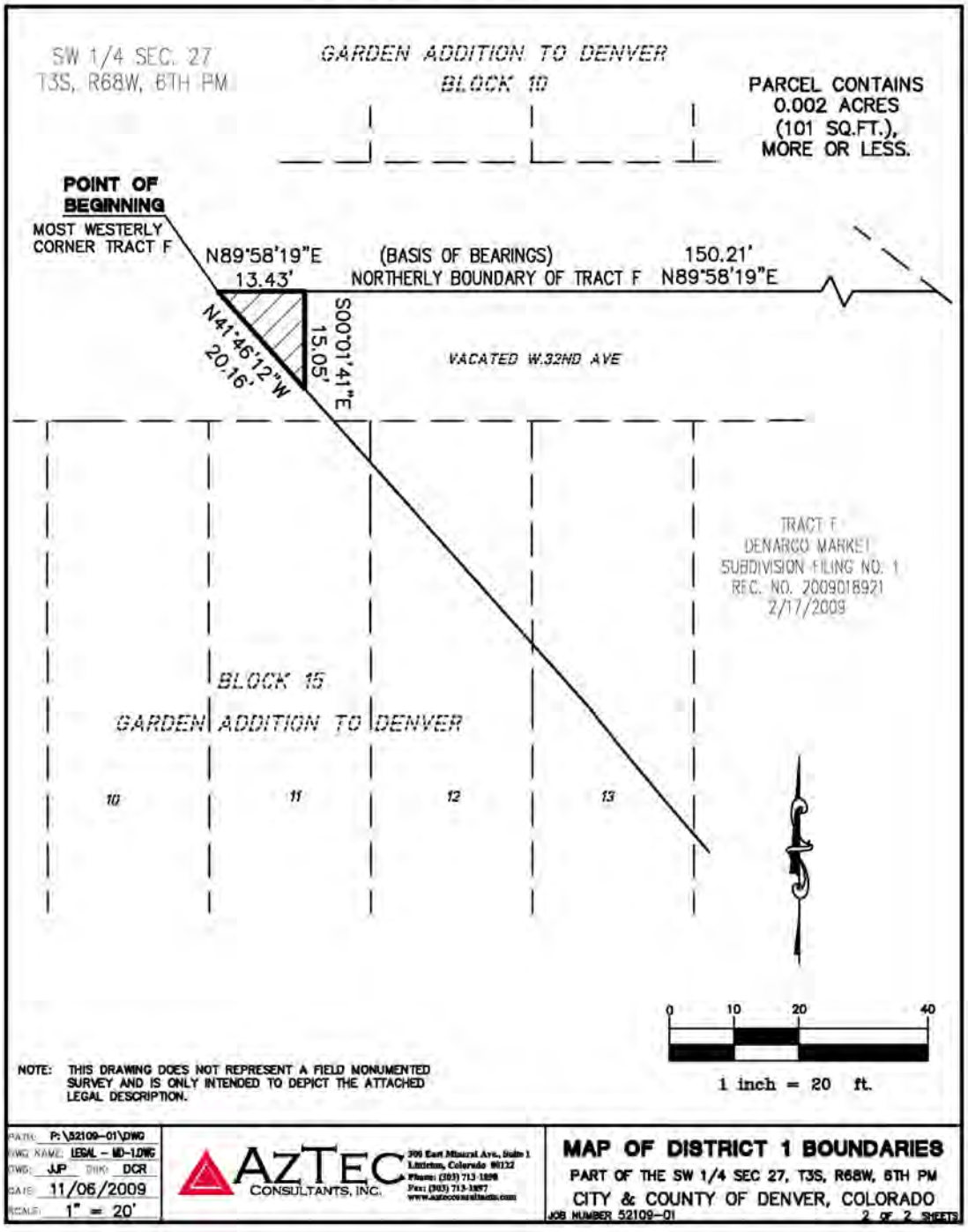

SW 1/4 SEC. 27
T3S, R68W, 6TH PM
GARDEN ADDITION TO DENVER
BLOCK 10
PARCEL CONTAINS
0.002 ACRES
(101 SQ.FT.),
MORE OR LESS.
POINT OF
BEGINNING
MOST WESTERLY
CORNER TRACT F
N89°58'19"E
13.43'
(BASIS OF BEARINGS)
NORTHERLY BOUNDARY OF TRACT F
150.21'
N89°58'19"E
N41°46'12"W
20.16'
S00°01'41"E
15.05'
VACATED W.32ND AVE
TRACT F
DENARCO MARKET
SUBDIVISION FILING NO. 1
REC. NO. 2009018921
2/17/2009
BLOCK 15
GARDEN ADDITION TO DENVER
10
11
12
13
0
10
20
40
1 inch = 20 ft.
NOTE: THIS DRAWING DOES NOT REPRESENT A FIELD MONUMENTED SURVEY AND IS ONLY INTENDED TO DEPICT THE ATTACHED LEGAL DESCRIPTION.
PATH: P:\52109-01\DWG
DWG NAME: LEGAL - MD-1.DWG
DWG: JJP CHK: DCR
DATE: 11/06/2009
SCALE: 1" = 20'
AZTEC CONSULTANTS, INC.
MAP OF DISTRICT 1 BOUNDARIES
PART OF THE SW 1/4 SEC 27, T3S, R68W, 6TH PM
CITY & COUNTY OF DENVER, COLORADO
JOB NUMBER 52109-01
2 OF 2 SHEETS

EXHIBIT B


SW 1/4 SEC. 27
T3S, R68W, 6TH PM
GARDEN ADDITION TO DENVER
BLOCK 10
PARCEL CONTAINS
0.002 ACRES
(101 SQ.FT.),
MORE OR LESS.
POINT OF
BEGINNING
MOST WESTERLY
CORNER TRACT F
N89°58'19"E
13.43'
(BASIS OF BEARINGS)
NORTHERLY BOUNDARY OF TRACT F
150.21'
N89°58'19"E
N41°46'12"W
20.16'
S00°01'41"E
15.05'
VACATED W.32ND AVE
TRACT F
DENARCO MARKET
SUBDIVISION FILING NO. 1
REC. NO. 2009018921
2/17/2009
BLOCK 15
GARDEN ADDITION TO DENVER
10
11
12
13
0
10
20
40
1 inch = 20 ft.
NOTE: THIS DRAWING DOES NOT REPRESENT A FIELD MONUMENTED SURVEY AND IS ONLY INTENDED TO DEPICT THE ATTACHED LEGAL DESCRIPTION.
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DWG NAME: LEGAL - MD-1.DWG
DWG: JJP CHK: DCR
DATE: 11/06/2009
SCALE: 1" = 20'
AZTEC CONSULTANTS, INC.
MAP OF DISTRICT 1 BOUNDARIES
PART OF THE SW 1/4 SEC 27, T3S, R68W, 6TH PM
CITY & COUNTY OF DENVER, COLORADO
JOB NUMBER 52109-01
2 OF 2 SHEETS

EXHIBIT C
LEGAL DESCRIPTION
DISTRICT NO. 2 BOUNDARIES

A PARCEL OF LAND BEING A PORTION OF TRACT F, DENARGO MARKET SUBDIVISION FILING NO. 1, A SUBDIVISION RECORDED UNDER RECEPTION NO. 2009018921 IN THE RECORDS OF THE CITY AND COUNTY OF DENVER, COLORADO, CLERK AND RECORDER'S OFFICE ON FEBRUARY 17, 2009, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, SAID CITY, COUNTY AND STATE, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST WESTERLY CORNER OF SAID TRACT F, WHENCE THE NORTHERLY BOUNDARY OF SAID TRACT F BEARS NORTH 89°58'19" EAST, A DISTANCE OF 150.21 FEET, WITH ALL BEARINGS HEREON RELATIVE THERETO;

THENCE ALONG SAID NORTHERLY BOUNDARY, NORTH 89°58'19" EAST, A DISTANCE OF 13.43 FEET TO THE **POINT OF BEGINNING;**

THENCE ALONG SAID NORTHERLY BOUNDARY, NORTH 89°58'19" EAST, A DISTANCE OF 132.74 FEET;

THENCE DEPARTING SAID NORTHERLY BOUNDARY, SOUTH 00°01'41" EAST, A DISTANCE OF 153.92 FEET TO THE SOUTHWESTERLY BOUNDARY OF SAID TRACT F AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 564.03 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH 38°48'07" EAST;

THENCE ALONG SAID SOUTHWESTERLY BOUNDARY AND NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°53'50" AN ARC LENGTH OF 126.96 FEET;

THENCE CONTINUING ALONG SAID SOUTHWESTERLY BOUNDARY AND NON-TANGENT TO SAID CURVE, NORTH 41°46'12" WEST, A DISTANCE OF 65.47 FEET;

THENCE DEPARTING SAID SOUTHWESTERLY BOUNDARY, NORTH 00°01'41" WEST, A DISTANCE OF 15.05 FEET TO THE **POINT OF BEGINNING.**

CONTAINING AN AREA OF 0.269 ACRES, (11,731 SQUARE FEET), MORE OR LESS.

EXHIBIT ATTACHED AND MADE A PART HEREOF.

DALE C. RUSH
COLORADO LICENSED PROFESSIONAL LAND SURVEYOR NO. 33204
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.

EXHIBIT C
LEGAL DESCRIPTION
DISTRICT NO. 2 BOUNDARIES

A PARCEL OF LAND BEING A PORTION OF TRACT F, DENARGO MARKET SUBDIVISION FILING NO. 1, A SUBDIVISION RECORDED UNDER RECEPTION NO. 2009018921 IN THE RECORDS OF THE CITY AND COUNTY OF DENVER, COLORADO, CLERK AND RECORDER'S OFFICE ON FEBRUARY 17, 2009, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, SAID CITY, COUNTY AND STATE, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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THENCE ALONG SAID NORTHERLY BOUNDARY, NORTH 89°58'19" EAST, A DISTANCE OF 13.43 FEET TO THE **POINT OF BEGINNING;**

THENCE ALONG SAID NORTHERLY BOUNDARY, NORTH 89°58'19" EAST, A DISTANCE OF 132.74 FEET;

THENCE DEPARTING SAID NORTHERLY BOUNDARY, SOUTH 00°01'41" EAST, A DISTANCE OF 153.92 FEET TO THE SOUTHWESTERLY BOUNDARY OF SAID TRACT F AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 564.03 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH 38°48'07" EAST;

THENCE ALONG SAID SOUTHWESTERLY BOUNDARY AND NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°53'50" AN ARC LENGTH OF 126.96 FEET;

THENCE CONTINUING ALONG SAID SOUTHWESTERLY BOUNDARY AND NON-TANGENT TO SAID CURVE, NORTH 41°46'12" WEST, A DISTANCE OF 65.47 FEET;

THENCE DEPARTING SAID SOUTHWESTERLY BOUNDARY, NORTH 00°01'41" WEST, A DISTANCE OF 15.05 FEET TO THE **POINT OF BEGINNING.**

CONTAINING AN AREA OF 0.269 ACRES, (11,731 SQUARE FEET), MORE OR LESS.

EXHIBIT ATTACHED AND MADE A PART HEREOF.

DALE C. RUSH
COLORADO LICENSED PROFESSIONAL LAND SURVEYOR NO. 33204
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.

EXHIBIT D

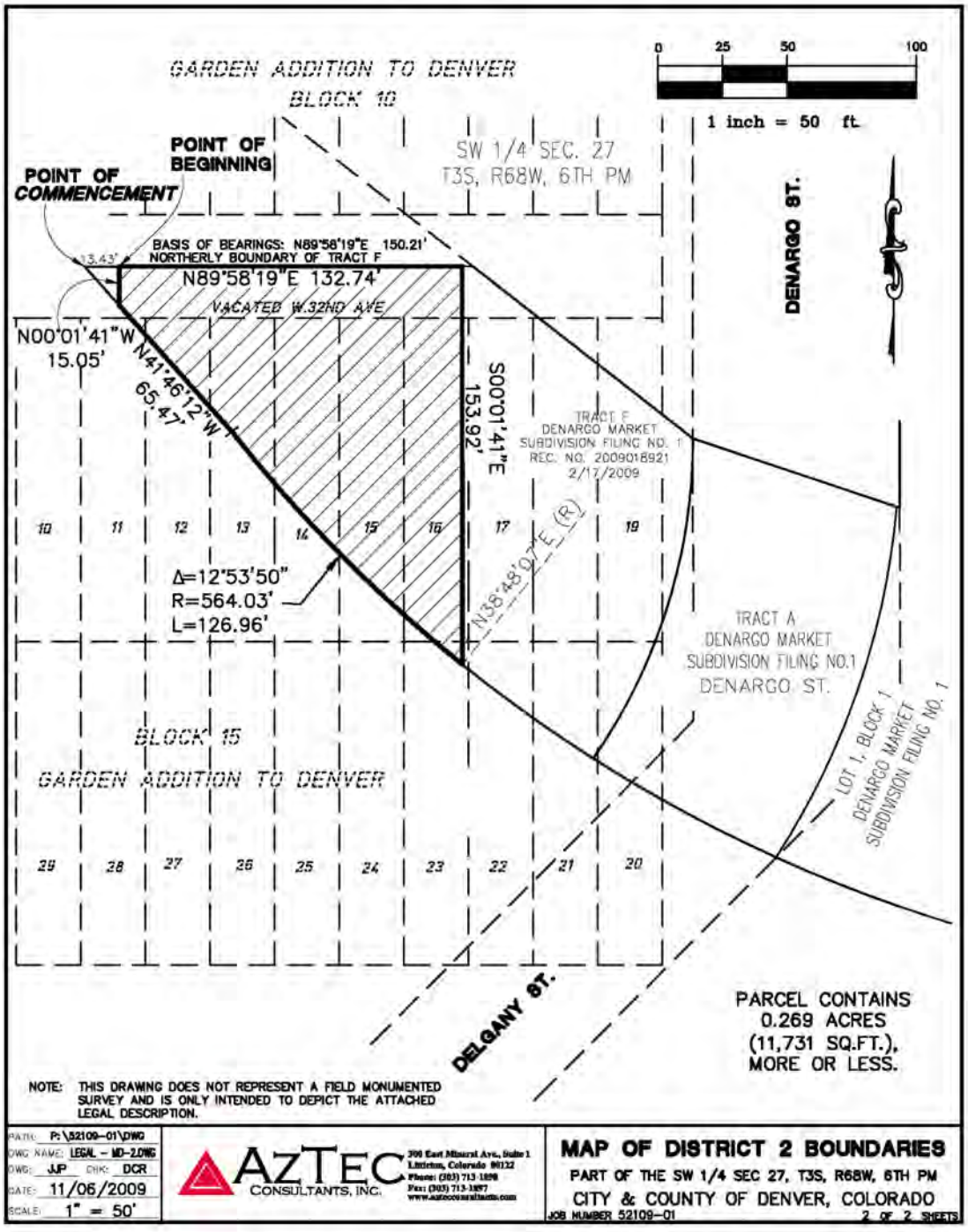
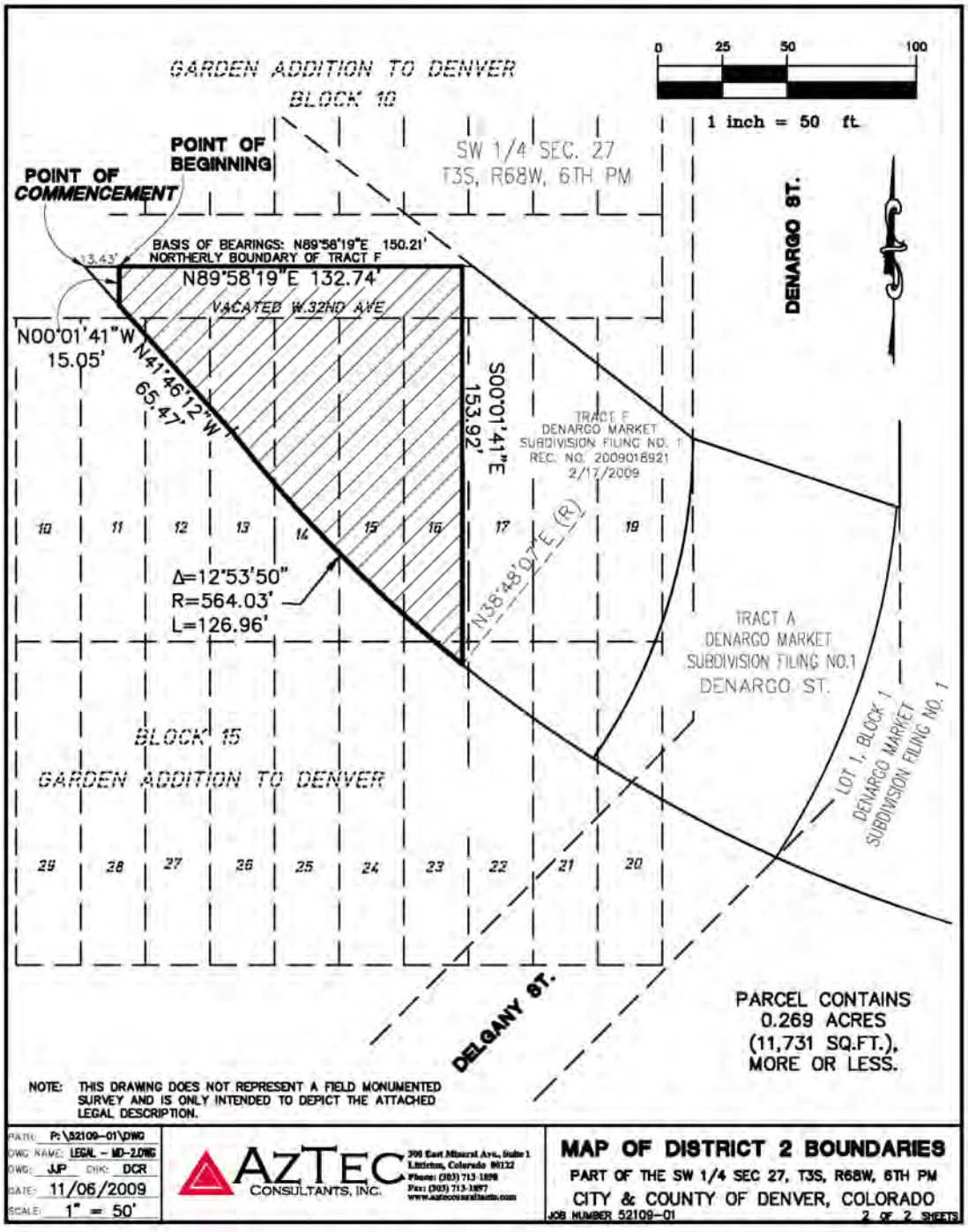

GARDEN ADDITION TO DENVER
BLOCK 10
0 25 50 100
1 inch = 50 ft.
POINT OF BEGINNING
POINT OF COMMENCEMENT
SW 1/4 SEC. 27
T3S, R68W, 6TH PM
DENARGO ST.
BASIS OF BEARINGS: N89°58'19"E 150.21'
NORTHERLY BOUNDARY OF TRACT F
13.43'
N89°58'19"E 132.74'
VACATED W.32ND AVE.
N00°01'41"W
15.05'
N41°46'12"W
65.47'
S00°01'41"E
153.92'
TRACT F
DENARGO MARKET
SUBDIVISION FILING NO. 1
REC. NO. 2009018921
2/17/2009
Δ=12°53'50"
R=564.03'
L=126.96'
N38°45'07"E (R)
TRACT A
DENARGO MARKET
SUBDIVISION FILING NO.1
DENARGO ST.
LOT 1, BLOCK 1
DENARGO MARKET
SUBDIVISION FILING NO. 1
BLOCK 15
GARDEN ADDITION TO DENVER
DELGANY ST.
PARCEL CONTAINS
0.269 ACRES
(11,731 SQ.FT.),
MORE OR LESS.
NOTE: THIS DRAWING DOES NOT REPRESENT A FIELD MONUMENTED SURVEY AND IS ONLY INTENDED TO DEPICT THE ATTACHED LEGAL DESCRIPTION.
PATH: P:\52109-01\DWG
DWG NAME: LEGAL - MD-2.DWG
DWG: JJP CHK: DCR
DATE: 11/06/2009
SCALE: 1" = 50'
AZTEC CONSULTANTS, INC.
300 East Mineral Ave., Suite 1
Littleton, Colorado 80122
Phone: (303) 713-1898
Fax: (303) 713-1897
www.aztecconsultants.com
MAP OF DISTRICT 2 BOUNDARIES
PART OF THE SW 1/4 SEC 27, T3S, R68W, 6TH PM
CITY & COUNTY OF DENVER, COLORADO
JOB NUMBER 52109-01
2 OF 2 SHEETS

EXHIBIT D


GARDEN ADDITION TO DENVER
BLOCK 10
0 25 50 100
1 inch = 50 ft.
POINT OF BEGINNING
POINT OF COMMENCEMENT
SW 1/4 SEC. 27
T3S, R68W, 6TH PM
DENARGO ST.
BASIS OF BEARINGS: N89°58'19"E 150.21'
NORTHERLY BOUNDARY OF TRACT F
13.43'
N89°58'19"E 132.74'
VACATED W.32ND AVE.
N00°01'41"W
15.05'
N41°46'12"W
65.47'
S00°01'41"E
153.92'
TRACT F
DENARGO MARKET
SUBDIVISION FILING NO. 1
REC. NO. 2009018921
2/17/2009
10 11 12 13 14 15 16 17 19
Δ=12°53'50"
R=564.03'
L=126.96'
N38°45'07"E (R)
TRACT A
DENARGO MARKET
SUBDIVISION FILING NO.1
DENARGO ST.
LOT 1, BLOCK 1
DENARGO MARKET
SUBDIVISION FILING NO. 1
BLOCK 15
GARDEN ADDITION TO DENVER
29 28 27 26 25 24 23 22 21 20
DELGANY ST.
PARCEL CONTAINS
0.269 ACRES
(11,731 SQ.FT.),
MORE OR LESS.
NOTE: THIS DRAWING DOES NOT REPRESENT A FIELD MONUMENTED SURVEY AND IS ONLY INTENDED TO DEPICT THE ATTACHED LEGAL DESCRIPTION.
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MAP OF DISTRICT 2 BOUNDARIES
PART OF THE SW 1/4 SEC 27, T3S, R68W, 6TH PM
CITY & COUNTY OF DENVER, COLORADO
JOB NUMBER 52109-01
2 OF 2 SHEETS

EXHIBIT E
LEGAL DESCRIPTION
DISTRICT NO. 3 BOUNDARIES

A PARCEL OF LAND BEING A PORTION OF TRACT F, DENARGO MARKET SUBDIVISION FILING NO. 1, A SUBDIVISION RECORDED UNDER RECEPTION NO. 2009018921 IN THE RECORDS OF THE CITY AND COUNTY OF DENVER, COLORADO, CLERK AND RECORDER'S OFFICE ON FEBRUARY 17, 2009, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, SAID CITY, COUNTY AND STATE, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST EASTERLY CORNER OF SAID TRACT F, WHENCE THE NORTHEASTERLY BOUNDARY OF SAID TRACT F BEARS NORTH 51°59'48" WEST, A DISTANCE OF 108.21 FEET, WITH ALL BEARINGS HEREON RELATIVE THERETO; SAID MOST EASTERLY CORNER ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 217.00 FEET, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 89°58'19" WEST;

THENCE ALONG THE EASTERLY BOUNDARY OF SAID TRACT F AND SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 34°43'06" AN ARC LENGTH OF 131.49 FEET TO THE MOST SOUTHERLY CORNER OF SAID TRACT F AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 564.03 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH 32°27'58" EAST;

THENCE ALONG THE SOUTHWESTERLY BOUNDARY OF SAID TRACT F, AND NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 06°20'09" AN ARC LENGTH OF 62.37 FEET;

THENCE DEPARTING SAID SOUTHWESTERLY BOUNDARY, NORTH 00°01'41" WEST, A DISTANCE OF 153.92 FEET TO THE NORTH BOUNDARY OF SAID TRACT F;

THENCE ALONG SAID NORTH BOUNDARY, NORTH 89°58'19" EAST, A DISTANCE OF 4.04 FEET;

THENCE ALONG THE NORTHEASTERLY BOUNDARY OF SAID TRACT F, SOUTH 51°59'48" EAST, A DISTANCE OF 108.21 FEET TO THE **POINT OF BEGINNING.**

CONTAINING AN AREA OF 0.269 ACRES, (11,731 SQUARE FEET), MORE OR LESS.

EXHIBIT ATTACHED AND MADE A PART HEREOF.

DALE C. RUSH
COLORADO LICENSED PROFESSIONAL LAND SURVEYOR NO. 33204
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.

EXHIBIT E
LEGAL DESCRIPTION
DISTRICT NO. 3 BOUNDARIES

A PARCEL OF LAND BEING A PORTION OF TRACT F, DENARGO MARKET SUBDIVISION FILING NO. 1, A SUBDIVISION RECORDED UNDER RECEPTION NO. 2009018921 IN THE RECORDS OF THE CITY AND COUNTY OF DENVER, COLORADO, CLERK AND RECORDER'S OFFICE ON FEBRUARY 17, 2009, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, SAID CITY, COUNTY AND STATE, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST EASTERLY CORNER OF SAID TRACT F, WHENCE THE NORTHEASTERLY BOUNDARY OF SAID TRACT F BEARS NORTH 51°59'48" WEST, A DISTANCE OF 108.21 FEET, WITH ALL BEARINGS HEREON RELATIVE THERETO; SAID MOST EASTERLY CORNER ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 217.00 FEET, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 89°58'19" WEST;

THENCE ALONG THE EASTERLY BOUNDARY OF SAID TRACT F AND SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 34°43'06" AN ARC LENGTH OF 131.49 FEET TO THE MOST SOUTHERLY CORNER OF SAID TRACT F AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 564.03 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH 32°27'58" EAST;

THENCE ALONG THE SOUTHWESTERLY BOUNDARY OF SAID TRACT F, AND NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 06°20'09" AN ARC LENGTH OF 62.37 FEET;

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THENCE ALONG SAID NORTH BOUNDARY, NORTH 89°58'19" EAST, A DISTANCE OF 4.04 FEET;

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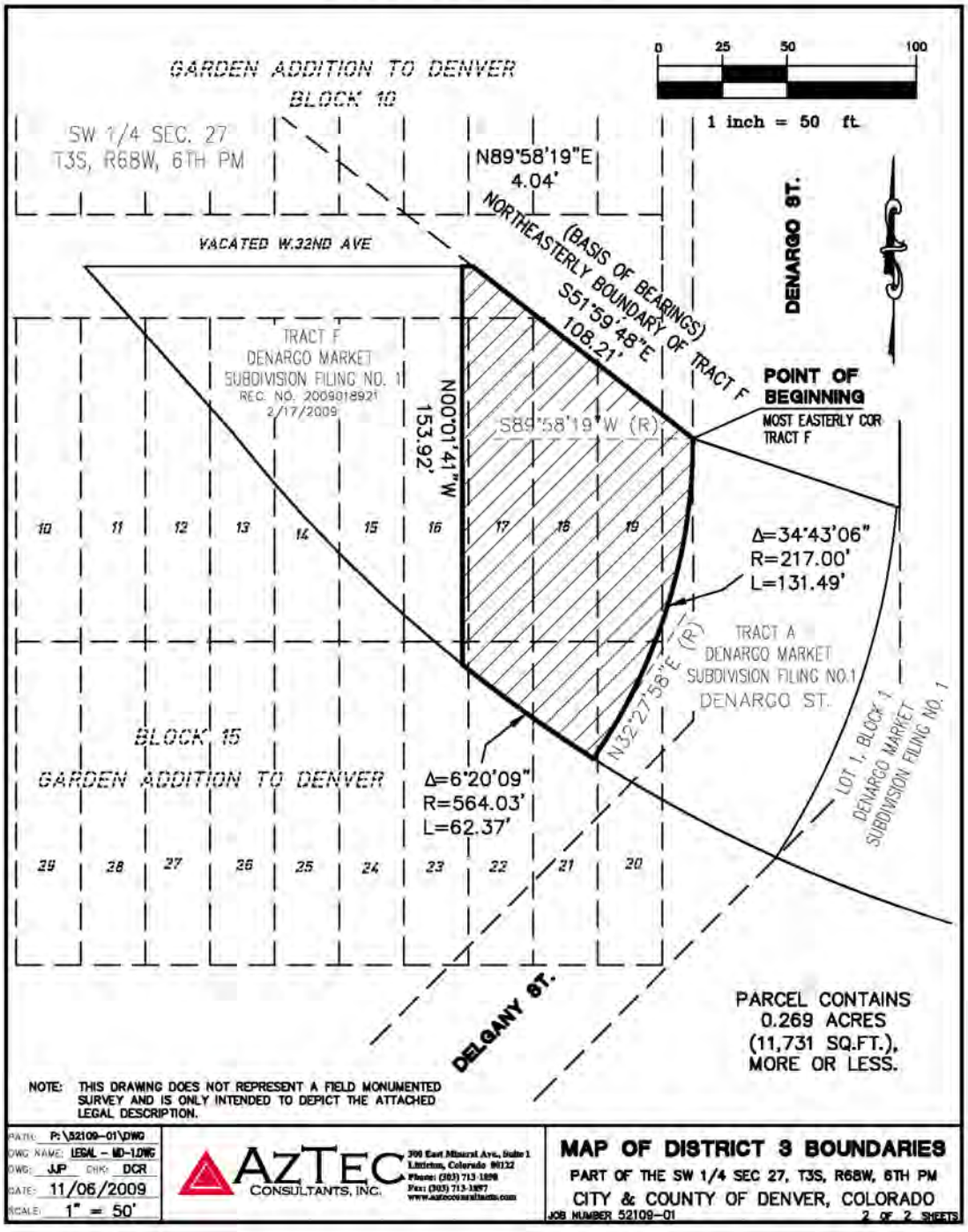
EXHIBIT F


GARDEN ADDITION TO DENVER
BLOCK 10
SW 1/4 SEC. 27
T3S, R68W, 6TH PM
N89°58'19"E
4.04'
VACATED W.32ND AVE
(BASIS OF BEARINGS)
NORTHEASTERLY BOUNDARY OF TRACT F
S51°59'48"E
108.21'
DENARGO ST.
TRACT F
DENARGO MARKET
SUBDIVISION FILING NO. 1
REC. NO. 2009018921
2/17/2009
N00°01'41"W
153.92'
S89°58'19"W (R)
POINT OF
BEGINNING
MOST EASTERLY COR
TRACT F
Δ=34°43'06"
R=217.00'
L=131.49'
TRACT A
DENARGO MARKET
SUBDIVISION FILING NO.1
DENARGO ST.
N32°27'58"E (R)
LOT 1, BLOCK 1
DENARGO MARKET
SUBDIVISION FILING NO. 1
BLOCK 15
GARDEN ADDITION TO DENVER
Δ=6°20'09"
R=564.03'
L=62.37'
DELGANY ST.
PARCEL CONTAINS
0.269 ACRES
(11,731 SQ.FT.),
MORE OR LESS.
0 25 50 100
1 inch = 50 ft.
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DATE: 11/06/2009
SCALE: 1" = 50'
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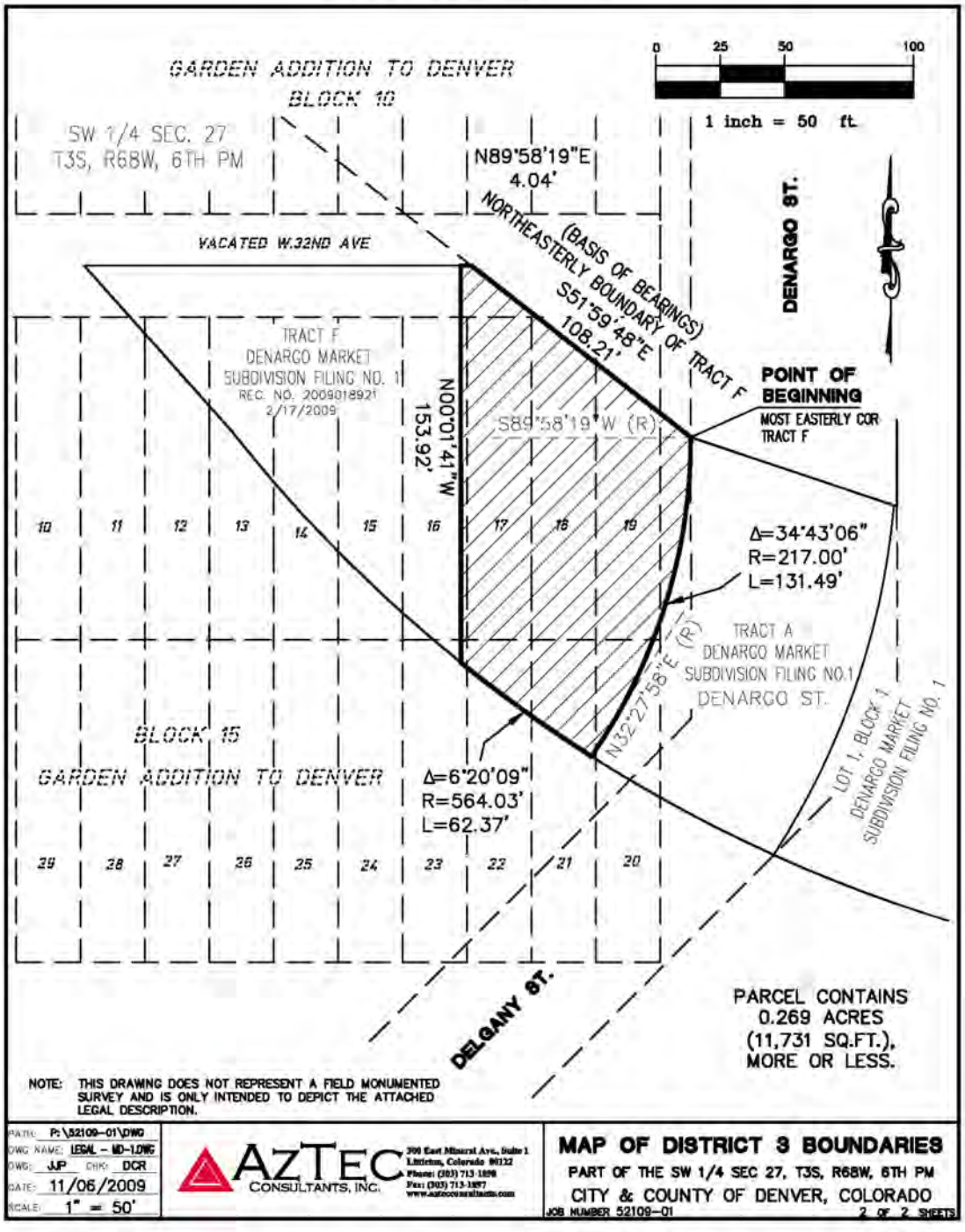
MAP OF DISTRICT 3 BOUNDARIES
PART OF THE SW 1/4 SEC 27, T3S, R68W, 6TH PM
CITY & COUNTY OF DENVER, COLORADO
JOB NUMBER 52109-01
2 OF 2 SHEETS

EXHIBIT F


GARDEN ADDITION TO DENVER
BLOCK 10
SW 1/4 SEC. 27
T3S, R68W, 6TH PM
N89°58'19"E
4.04'
VACATED W.32ND AVE
(BASIS OF BEARINGS)
NORTHEASTERLY BOUNDARY OF TRACT F
S51°59'48"E
108.21'
DENARGO ST.
TRACT F
DENARGO MARKET
SUBDIVISION FILING NO. 1
REC. NO. 2009018921
2/17/2009
N00°01'41"W
153.92'
S89°58'19"W (R)
POINT OF
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TRACT F
Δ=34°43'06"
R=217.00'
L=131.49'
TRACT A
DENARGO MARKET
SUBDIVISION FILING NO.1
DENARGO ST.
N32°27'58"E (R)
LOT 1, BLOCK 1
DENARGO MARKET
SUBDIVISION FILING NO. 1
BLOCK 15
GARDEN ADDITION TO DENVER
Δ=6°20'09"
R=564.03'
L=62.37'
DELGANY ST.
PARCEL CONTAINS
0.269 ACRES
(11,731 SQ.FT.),
MORE OR LESS.
0 25 50 100
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NOTE: THIS DRAWING DOES NOT REPRESENT A FIELD MONUMENTED SURVEY AND IS ONLY INTENDED TO DEPICT THE ATTACHED LEGAL DESCRIPTION.
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DATE: 11/06/2009
SCALE: 1" = 50'
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PART OF THE SW 1/4 SEC 27, T3S, R68W, 6TH PM
CITY & COUNTY OF DENVER, COLORADO
JOB NUMBER 52109-01
2 OF 2 SHEETS

EXHIBIT "A"
LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 27, WHENCE THE WEST QUARTER CORNER OF SAID SECTION 27 BEARS SOUTH 89°59'53" WEST, A DISTANCE OF 2,646.01 FEET, WITH ALL BEARINGS HEREIN BEING RELATIVE TO THIS LINE;

THENCE ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER, SOUTH 89°59'53" WEST, A DISTANCE OF 903.75 FEET TO THE EAST RIGHT-OF-WAY LINE OF DENARGO STREET;

THENCE ALONG SAID EAST RIGHT-OF-WAY LINE, NORTH 00°01'41" WEST, A DISTANCE OF 207.08 FEET TO THE NORTHWEST CORNER OF LOT 1, BLOCK 2, DENARGO MARKET SUBDIVISION FILING NO. 2, PER THE PLAT RECORDED AT RECEPTION NO. 2012049308 IN THE RECORDS OF THE CITY AND COUNTY OF DENVER CLERK AND RECORDER'S OFFICE, BEING THE **POINT OF BEGINNING;**

THENCE CONTINUING ALONG SAID EAST RIGHT-OF-WAY LINE, NORTH 00°01'41" WEST, A DISTANCE OF 200.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF DELGANY STREET AS DEDICATED BY SAID PLAT;

THENCE DEPARTING SAID EAST RIGHT-OF-WAY LINE AND ALONG SAID SOUTH RIGHT-OF-WAY LINE, NORTH 89°58'19" EAST, A DISTANCE OF 152.90 FEET;

THENCE ALONG A SOUTHERLY JOG IN THE SOUTH RIGHT-OF-WAY LINE OF SAID DELGANY STREET AND ALONG THAT CERTAIN WEST BOUNDARY OF SAID LOT 1, BLOCK 2 BEING COMMON WITH THE EAST BOUNDARY OF THE HEREIN DESCRIBED PARCEL, SOUTH 00°01'41" EAST, A DISTANCE OF 156.00 FEET;

THENCE DEPARTING SAID CERTAIN WEST BOUNDARY, SOUTH 04°00'45" WEST, A DISTANCE OF 44.11 FEET TO THAT CERTAIN NORTH BOUNDARY OF SAID LOT 1, BLOCK 2 BEING COMMON WITH THE SOUTH BOUNDARY OF THE HEREIN DESCRIBED PARCEL;

THENCE ALONG SAID CERTAIN NORTH BOUNDARY, SOUTH 89°58'19" WEST, A DISTANCE OF 149.79 FEET TO THE **POINT OF BEGINNING.**

CONTAINING AN AREA OF 0.700 ACRES (30,512 SQUARE FEET) MORE OR LESS.

EXHIBIT ATTACHED AND MADE A PART HEREOF.

COLORADO LICENSED PROFESSIONAL LAND SURVEYOR NO. 33204
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.
300 E. MINERAL AVENUE, SUITE 1, LITTLETON, CO 80122
(303) 718-1898

EXHIBIT "A"
LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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THENCE ALONG A SOUTHERLY JOG IN THE SOUTH RIGHT-OF-WAY LINE OF SAID DELGANY STREET AND ALONG THAT CERTAIN WEST BOUNDARY OF SAID LOT 1, BLOCK 2 BEING COMMON WITH THE EAST BOUNDARY OF THE HEREIN DESCRIBED PARCEL, SOUTH 00°01'41" EAST, A DISTANCE OF 156.00 FEET;

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THENCE ALONG SAID CERTAIN NORTH BOUNDARY, SOUTH 89°58'19" WEST, A DISTANCE OF 149.79 FEET TO THE **POINT OF BEGINNING.**

CONTAINING AN AREA OF 0.700 ACRES (30,512 SQUARE FEET) MORE OR LESS.

EXHIBIT ATTACHED AND MADE A PART HEREOF.

COLORADO LICENSED PROFESSIONAL LAND SURVEYOR NO. 33204
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.
300 E. MINERAL AVENUE, SUITE 1, LITTLETON, CO 80122
(303) 718-1898

ILLUSTRATION TO EXHIBIT A

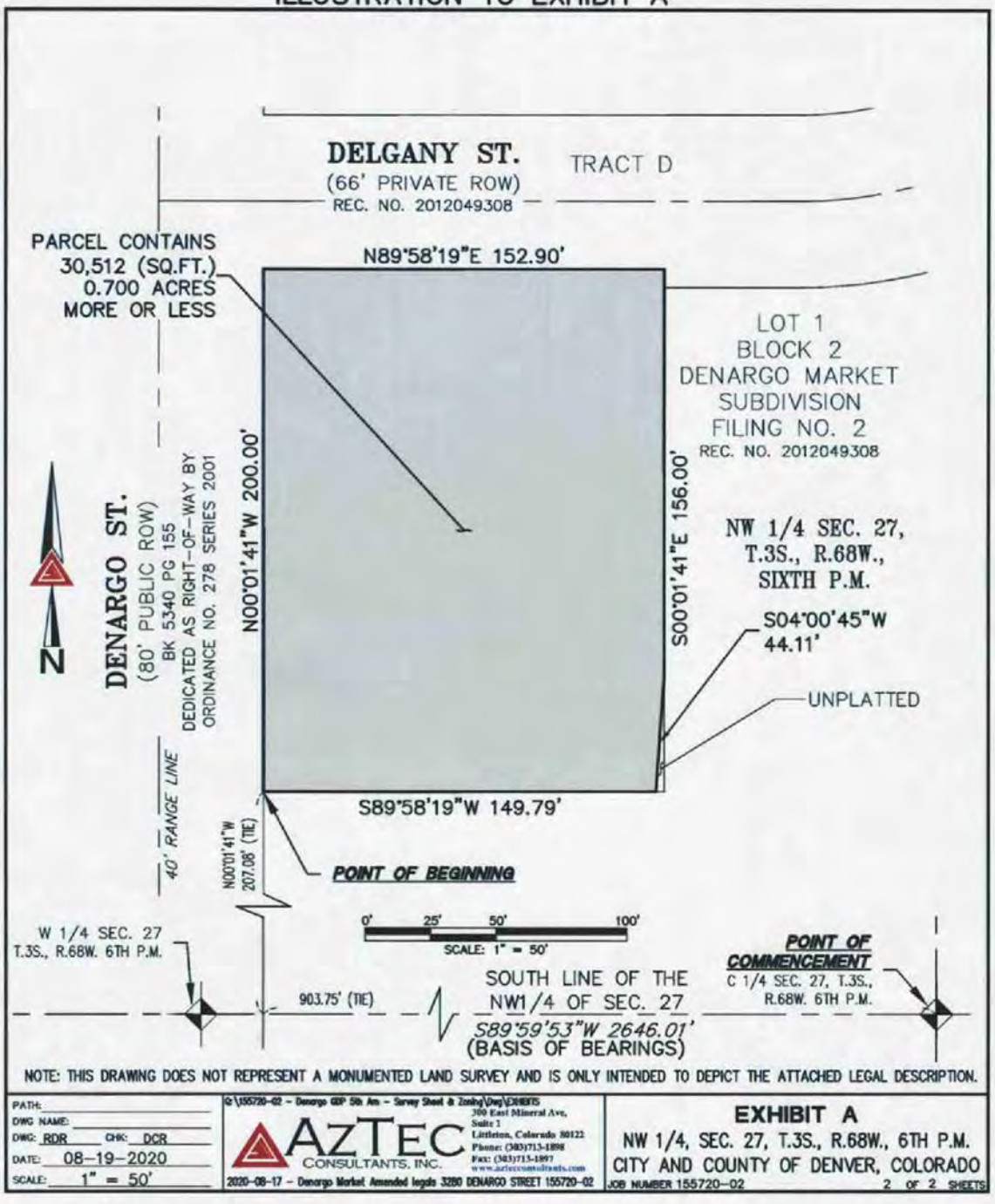

ILLUSTRATION TO EXHIBIT A

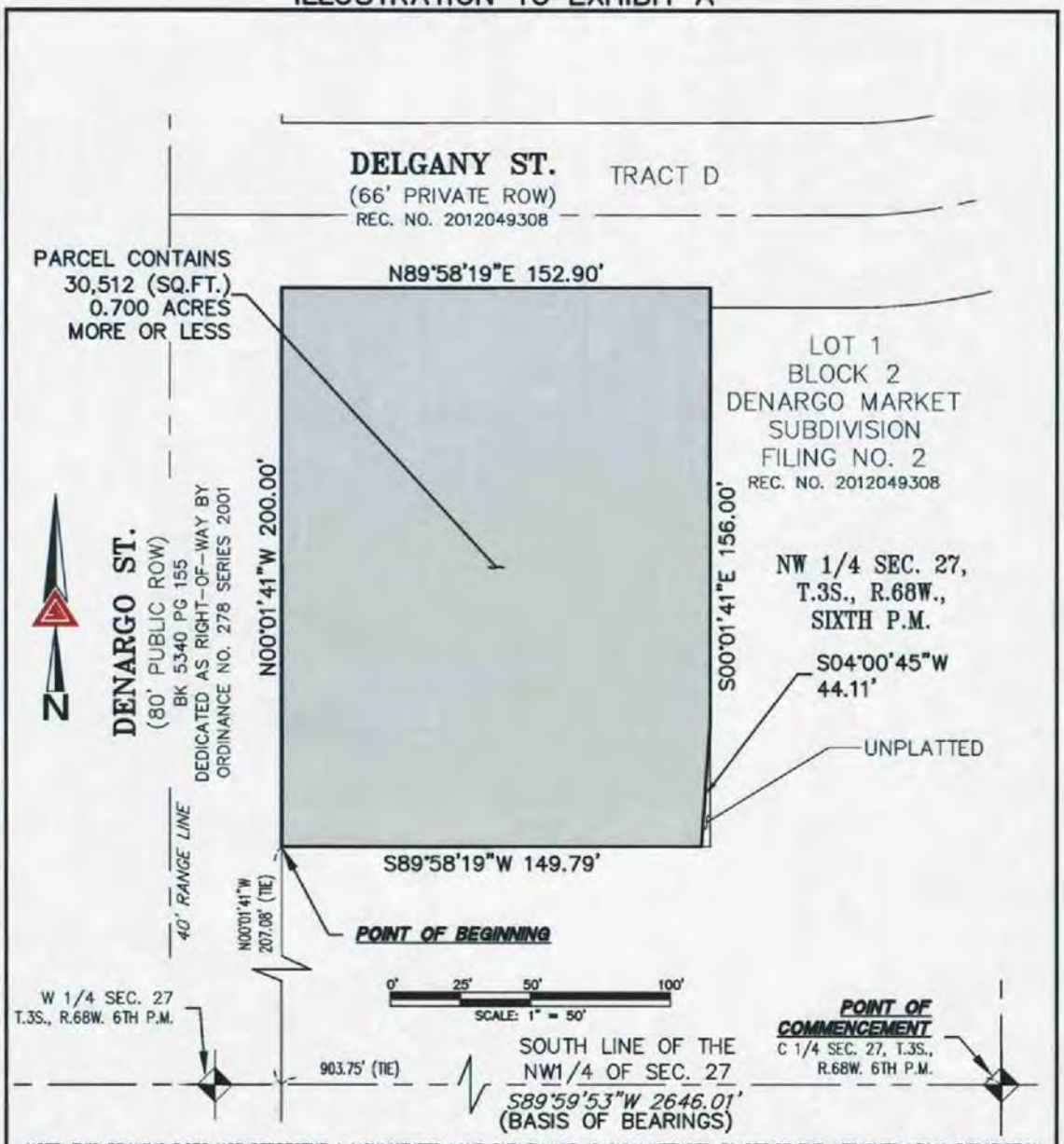

EXHIBIT B

Parks and Open Space

Parks and Open Space Development Agreement Reference Table

ID #	Park Name / Description	Notes	In GDP Boundary (Y or N)	Land Ownership[1]	O&M Responsibility	Open Space Area Calcs: Area (AC)	Open Space Area Calcs: GDP Park Area Contribution (AC)	Completion Trigger	Projected Phasing	Council Action
1	Riverfront Green and Riverfront Plaza	This is the riverfront urban green proposed to be at the center of civic life in the development. It will be a mix of softscape and hardscape and will have some underground stormwater detention.	Y	Metro District	Metro District	0.92	0.92	Completion of construction of one abutting building develpment parcel	Phase 1: est. 2022 - 2023	None
2	28th Street Linear Park	This is a narrow strip proposed to widen the walkway connection from Brighton to the riverfront by adding wider walkway with a double row of trees				0.10	0.10	Completion of construction of one abutting building develpment parcel	TBD	None
3	Brighton Blvd Open Space	This park along Brighton is already built and outside the ownership boundary but was suggested as a potential location for active recreation.				0.76	0.76	*[Existing]*	*[Existing]*	
4	Corner Park Southwest	This is the District's part of the Corner Park left from realignment of Arkins and Denargo. Intended to be a gateway into the development and include some vertical elements, public art, passive park uses and green infrastructure. The City plans to have a nonexclusive easement for this portion of the park.				0.02	0.02	Completion of construction of Platte River Loop	Phase 1: est. 2022 - 2023	Anticipated future Council action on DPR agreement
5	Corner Park North	This is the District's part of the Corner Park left from realignment of Arkins and Denargo. Intended to be a gateway into the development and include some vertical elements, a sculptural public art-and-children's play element, passive park uses and green infrastructure. The City plans to have a nonexclusive easement for this portion of the park.				0.01	0.01	Completion of construction of Platte River Loop.	Phase 1: est. 2022 - 2023	
6	Corner Park Southwest	This is the City's part of the Corner Park left from realignment of Arkins and Denargo. See Item ID #4 for design intent notes.	Y	City	Metro District	0.18	0.18	See #4	Phase 1: est. 2022 - 2023	
7	Corner Park North	This is the City's part of the Corner Park left from realignment of Arkins and Denargo. See Item ID #5 for design intent notes.				0.09	0.09	See #5	Phase 1: est. 2022 - 2023	
8	Corner Park North	This is the City's part of the Corner Park left from realignment of Arkins and Denargo that is outside of the GDP boundary. See Item ID #5 for design intent notes.	N			0.03	*[Not in GDP]*	See #5	Phase 1: est. 2022 - 2023	
9	Riverfront Open Space	Publicly-owned Riverfront Open Space. This is the active area on both public land and reclaimed right of way proposed to include a playground, dog park and community garden, including the Potential Open Space Addition.	Y	City	Metro District via O&M Agreement[2]	1.05	1.05	Construction to be completed within 5 years of the completion of construction of the #1 Riverfront Open Space	Phase 2: est. 2024 - 2026	Anticipated future Council action on DPR agreement
10	Riverfront Open Space	Land currently outside of GDP boundary and owned by City to be joined with City-owned land within the GDP boundary (#6) to create a contiguous public open space. (Acreage taken from City of Denver Property Map)	N			0.88	*[Not in GDP]*	See #6	Phase 2: est. 2024 - 2026	
11	RiNo Promenade Extension	This is the portion of the Arkins ROW proposed for an extension of the RiNo Promenade. This area exists outside of the GDP boundary and in current City-owned ROW.	N	City	City	0.22	*[Not in GDP]*	Completion of Platte River Loop.	Phase 1: est. 2022 - 2023	Anticipated future Council action on DPR agreement
					TOTAL	**4.26**	**3.13**			

Footnotes

1. Design of open space on City property to be coordinated with DPR and will meet minimum DPR standards. Additional City Department coordination may be necessary, including DOTI, Denver Water, etc.
2. DPR to provide maintenance consistent with DPR standards. Metro District may provide maintenance services above and beyond DPR standards via a future O&M agreement.

DOTI Development Agreement Reference Table

# ID #	Area Name / Description	Notes	In GDP Boundary (Y or N)	Land Ownership[1]	O&M Responsibility	Completion Trigger	Projected Phasing
12	Platte River Loop	This portion of the Platte River Loop will connect to the City-owned portion (#13) and will provide access to the AMLI property and the development parcel within Denaro. It will be designed as a Shared Street and abuts the SW Corner Park.	Y	Metro District	Metro District	Completion of construction of one abutting building develpment parcel	Phase 1: est. 2022 - 2023
13	Platte River Loop	City-owned portion of shared-street configuration of Platte River Loop; in current Denargo and Arkins ROW. A portion of the Platte River Loop will provide access to the AMLI property and the development parcel within Denargo.		City	Metro District via O&M Agreement[2]		
14	Platte River Loop	This portion of the Platte River Loop will connect to the City-owned portion (#13) and will provide access to the the development parcels within Denargo. It will be designed as a Shared Street and abuts the Northern Corner Park.		Metro District	Metro District		
15	29th Street	Bicycle Lane on the southern side of 29th Street, adjacent to the Denargo development parcel, between the new Denargo Street and Delgany Street.	N	City	City	Completion of construction of one abutting building develpment parcel	TBD

Footnotes	
1	Design of open space on City property to be coordinated with DOTI and will meet minimum DOTI standards. Additional City Department and Utility coordination may be necessary, including DPR, Denver Water, etc.
2	DPR to provide maintenance consistent with DPR standards. Metro District may provide maintenance services above and beyond DPR standards via a future O&M agreement.

Affordable Housing Agreement

# ID #	Area Name / Description	In GDP Boundary (Y or N)	Land Ownership	Projected Phasing
16	60% AMI Affordable Housing Project	Y	Developer	Phase 1: est. 2022 - 2023

Denargo Market: Development Agreement Reference Map

(#) Area Reference ID#

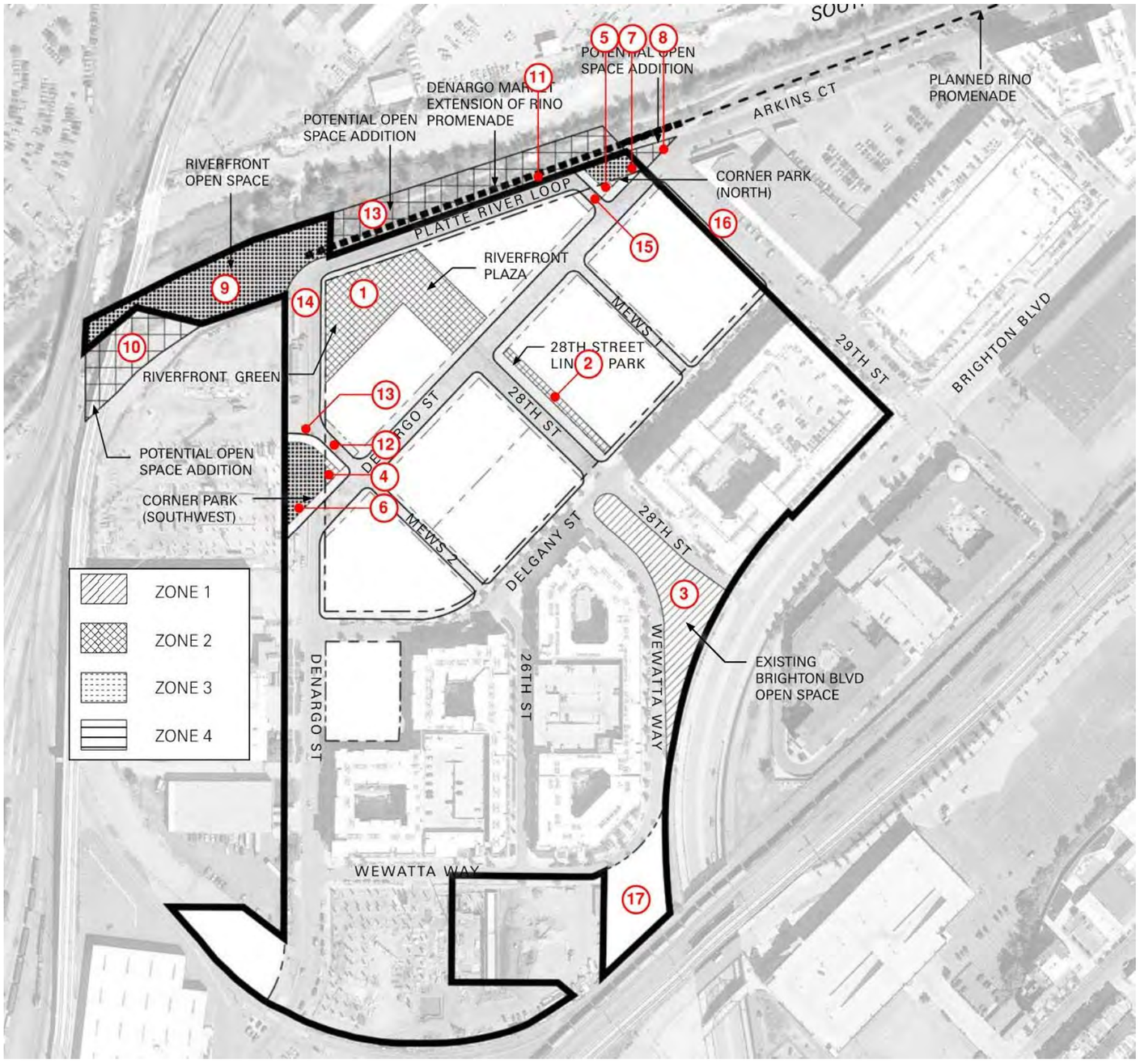

EXHIBIT C

Easement 13.2(ii)(B)(i)

FORM OF EXCLUSIVE PERMANENT RIGHT OF WAY EASEMENT TO DEPTH

(City Infrastructure on District-Owned Property)

THIS PERMANENT EASEMENT ("Easement") is granted this ___ day of _____, 20__, from _____, a _____ ("Grantor"), to the **City and County of Denver**, a Colorado municipal corporation and home rule city ("Grantee").

1. In consideration of the sum of TEN DOLLARS ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants and conveys unto Grantee an exclusive, perpetual easement in, on, over, or through the easement areas which are legally described and depicted in **Exhibit A**, attached hereto and incorporated herein by this reference, and which is limited in depth to the elevations shown on **Exhibit B**, attached hereto and incorporated herein (the "Easement Areas"), which real property is located in the City and County of Denver, State of Colorado, for the purpose of the use and maintenance, operation, repair, replacement, or reconstruction of a road, curb, gutter, sidewalk, landscaping, utilities, and all appurtenances to such road (the "Improvements") within the Easement Areas and the dedication and use of the Easement Areas as public right-of-way. The rights granted hereunder shall be subject to the supplemental requirements, attached hereto and incorporated herein as **Exhibit C**, and all applicable laws.

2. Except to the extent necessary to construct the Improvements, and as necessary to achieve the purposes of this Easement, and without limiting the extent that the Denver Revised Municipal Code requires adjacent property owners to maintain, repair, and replace improvements, Grantee shall cause the repair and/or restoration of any and all damage caused by Grantee, its agents, contractors, or subcontractors to the Easement Areas during construction or replacement of the Improvements by Grantee, or on behalf of Grantee.

3. All obligations of the Grantee are subject to prior appropriation of monies expressly made by City Council and paid into the Treasury of the City. Grantee shall have all rights, privileges, and benefits necessary or convenient for the full use and enjoyment of the Easement Areas, subject to the terms of this Easement. Grantee shall not access any other property of Grantor without the prior written consent of Grantor.

Grantor reserves for itself the right to use and enjoy the Easement Areas, subject to the rights herein granted. If allowed by, and if in full compliance with, the laws, rules, and regulations of the City and County of Denver, Colorado, and other entities having jurisdiction over the Easement Areas, the Easement Areas may be used for set-back, density, and open space purposes and for access to Grantor's remaining property. Grantor agrees not to otherwise build, create, construct, or permit to be built, created, or constructed, any obstruction, building, fence, or other structures over, under, on, or across the Easement Areas without prior written consent of Grantee's

Executive Director of the Department of Transportation and Infrastructure. Nothing herein shall impair Grantee's police powers.

Grantor further understands and agrees that with respect to the Easement Areas, all laws, ordinances, and regulations pertaining to streets, sidewalks, and public places shall apply so that the public use, and Grantor's and Grantee's obligations for repair, replacement, and maintenance of the Improvements and the Easement Areas, are consistent with the use and enjoyment of any dedicated public right-of-way in the City and County of Denver, Colorado.

The rights granted herein, and the terms, conditions, and provisions of this Easement, are a covenant running with the land and shall extend to, and be binding upon, the successors and assigns of Grantor and Grantee.

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Easement as of the date first hereinabove written.

GRANTOR:

_____

By:_____

Its:_____

STATE OF COLORADO)
) ss
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me on _____, 20__, by _____, _____ of _____, a _____.

Witness my hand and official seal.

My commission expires:_____

_____
Notary Public

GRANTEE:

CITY AND COUNTY OF DENVER,

A home rule City and Colorado Municipal Corporation

ATTEST

By: _____
_____,
Clerk and Recorder, Ex-Officio
Clerk of the City and County of Denver

By: _____
MAYOR

APPROVED AS TO FORM:
Denver City Attorney

By: _____
Assistant City Attorney

REGISTERED AND COUNTERSIGNED

By: _____
Manager of Finance

By:_____
Auditor

STATE OF _____)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____, 20___, by _____ as _____ of **City and County of Denver,** a home rule city and municipal corporation of the State of Colorado.

Witness my hand and official seal.

My commission expires:_____

_____
Notary Public

Exhibit A to Permanent Easement

Legal Descriptions and Depictions of the Easement Area

(See attached)

Exhibit B to Permanent Easement

Easement Depth Elevations

(See attached)

Exhibit C to Permanent Easement

Supplemental Requirements

Environmental Requirements.

"Environmental Laws" for purposes of this Agreement shall mean and include without limitation (i*)* the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984, as now or hereafter amended (42 U.S.C. § 6901, *et seq.*), (ii*)* the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, as now or hereafter amended (42 U.S.C. § 9601, *et seq.*), (iii*)* the Clean Water Act, as now or hereafter amended (33 U.S.C. § 1251, *et seq.*), (iv*)* the Toxic Substances Control Act of 1976, as now or hereafter amended (15 U.S.C. § 2601, *et seq.*), (v*)* the Clean Air Act, as now or hereafter amended (42 U.S.C. § 7401, *et seq.*), (vi*)* the Safe Drinking Water Act, (42 U.S.C. § 300f, *et seq.*), (vii*)* the Hazardous Materials Transportation Act, as now or hereafter amended (49 U.S. § 1802, *et seq.*), (viii*)* all regulations promulgated under any of the foregoing, (ix*)* any local or state law, statute, regulation or ordinance analogous to any of the foregoing, including, but not limited to, Colorado Revised Statutes, Title 25, Articles 15 and 18, as now or hereafter amended, and (x*)* any other federal, state, or local law (including any common law), statute, regulation, or ordinance regulating, prohibiting, or otherwise restricting the pollution, protection of the environment, or the use, storage, discharge, or disposal of Hazardous Materials. "Hazardous Materials" means any toxic substances or hazardous wastes, substance, product matter, material, waste, solid, liquid, gas, or pollutant, the generation, storage, disposal, handling, recycling, release, treatment, discharge, or emission of which is regulated, prohibited, or limited under any Environmental Law, and shall also include, without limitation: (i) gasoline, diesel, diesel fuel, fuel oil, motor oil, waste oil, and any other petroleum products or hydrocarbons, including any additives or other by-products associated therewith, (ii) asbestos and asbestos-containing materials in any form, and (iii) lead-based paint, radon, or polychlorinated biphenyls. The term "toxic substances" means and includes any materials present on the Property that are subject to regulation under the Toxic Substance Control Act ("TSCA"), 15 U.S.C. § 2601, *et seq.*, applicable state law, or any other applicable federal or state law now in force or later enacted relating to toxic substances. The term "toxic substances" includes, but is not limited to, asbestos, polychlorinated biphenyls (PCB's), and lead-based paints.

Grantee shall keep or cause the Easement Area to be kept free from Hazardous Materials, except (i*)* Existing Contamination (defined below), (ii*)* those Hazardous Materials approved to remain on the Easement Area in any no further action letter or determinations from the Colorado Department of Public Health and Environment or another governmental authority with jurisdiction over the Remediation Activities (defined below) and authority to issue such approvals or determinations for the Easement Areas, (iii*)* at concentrations in compliance with Environmental Laws, (iv*)* used and stored in the ordinary course of business and compliance with all Environmental Laws. "Remediation Activities" shall mean all actions as shall be necessary for the clean-up of any Hazardous Materials on, in, under, migrating from, or affecting any and all portions of the Easement Area in accordance with all applicable Environmental Laws for the intended use of the Easement Area, including, without limitation, all reporting,

planning, preparation of regulatory submittals, investigative, monitoring, removal, containment, and remedial actions.

Grantee shall expressly prohibit the use, generation, handling, storage, production, processing, and disposal of Hazardous Materials in the Easement Area (except those substances used in the ordinary course of its business and in compliance with all Environmental Laws), and, without limiting the generality of the foregoing, during the term of this Easement, shall not install or use any underground storage tanks, shall not install in the Improvements or permit to be installed in the Improvements, asbestos or any substance containing, asbestos, except in compliance with Environmental Laws.

In the case of the release, spill, discharge, leak, or disposal of Hazardous Materials as a result of the activities of Grantee or Grantee's employees, agents, contractors, or subcontractors ("Grantee Parties") at the Easement Areas, Grantee shall take all necessary actions required by applicable federal, state, and local law(s). Grantee shall cause the Grantee Parties (other than Grantee or its officers and employees) to reimburse Grantor for any penalties and all reasonable costs and expenses incurred by Grantor as a result of any such release or disposal by Grantee or the Grantee Parties. Grantee shall also cause the immediate notification of Grantor, in writing, of the release, spill, leak, discharge, or disturbance of Hazardous Materials, the control and response actions taken, and any responses, notifications, or actions taken by any federal, state, or local agency with regard to any such release, spill, or leak in violation of Environmental Law. Grantee shall make available to the Grantor, for inspection and copying, upon reasonable notice and at reasonable times, any or all of the documents and materials prepared pursuant to any requirement under this paragraph. If there is a requirement to file any notice or report of a release or threatened release of such Hazardous Materials at, on, under, or migrating from the Easement Area, Grantee shall cause copies of all results of such report or notice to be supplied to the Grantor.

At the Grantor's reasonable request, Grantee shall conduct testing and monitoring as is necessary to determine whether any Hazardous Materials have entered the soil, groundwater, or surface water on or under the Easement Area due to Grantee's or the Grantee Parties' use or occupation of the Easement Areas. Grantee shall provide copies of all results of such testing and monitoring to the Grantee's Executive Director of Public Health and Environment and Executive Director of of Transportation and Infrastructure, and Grantor.

Existing Contamination. Grantee and Grantee Parties shall not be liable for, and Grantor hereby releases claims against, Grantee and Grantee Parties arising out of (i*)* any environmental conditions existing on Grantor's property adjacent to the Easement Areas and in the property within and underlying the Easement Areas unless introduced or caused after the date of this Easement by Grantee or the Grantee Parties, (ii*)* any Existing Contamination within and under the Easement Areas, and (iii*)* ongoing obligations of Grantor with respect to Existing Contamination hereunder, except to the extent such claims arising out of (ii) or (iii) result from the negligence or willful misconduct of the Grantee or the Grantee Parties, or their violation of any obligations of the Grantee or the Grantee Parties under this Easement. "Existing Contamination" shall mean Hazardous Materials existing within or underlying the Easement Areas as of the date of this Easement.

Reservation of Claims. Except as otherwise set forth herein in relation to the Grantee and Grantee Parties, nothing in this Exhibit C or in this Easement shall be construed to release or limit any claims or causes of action Grantor may have against Grantee Parties, trespassers, or other third parties arising out of their use, occupancy, or activities in, on, or near the Easement Areas.

Insurance. Grantee shall require the Grantee Parties (other than the Grantee and its officers and employees) accessing the Easement Areas to secure insurance in types and amounts typically required by Grantee for similar parties performing similar activities in other locations.

Notices. All notices provided for in this Easement must be in writing and be personally delivered or mailed by registered or certified United States mail, postage prepaid, return-receipt requested at the addresses given below. Notices delivered personally are effective when delivered. Notices sent by certified or registered mail are effective upon receipt. The parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered; however, these substitutions will not become effective until actual receipt of written notification.

If to Grantee:

Executive Director
City and County of Denver
Department of Transportation and Infrastructure
201 West Colfax Avenue, Department 608
Denver, Colorado 80202

and

Executive Director
City and County of Denver
Department of Public Health and Environment
101 West Colfax Ave., Suite 800
Denver, Colorado 80202

and

Denver City Attorney's Office
201 W. Colfax Ave. Dept. 1207
Denver, Colorado 80202

If to Grantor:

[insert]

and

[insert]

Easement 13.2(ii)(B)(ii)(b)

FORM OF PERMANENT NON-EXCLUSIVE RIGHT OF WAY EASEMENT

(Utility Corridors for City Infrastructure in District-Owned Right-of-Way)

THIS PERMANENT EASEMENT ("Easement") is granted this ___ day of _____, 20__, from _____, a _____ ("Grantor"), to the **City and County of Denver**, a Colorado municipal corporation and home rule city ("Grantee").

4. In consideration of the sum of TEN DOLLARS ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants and conveys unto Grantee a non-exclusive, perpetual easement in, on, over, or through the Utility Corridor within the easement areas which are legally described and depicted in **Exhibit A**, attached hereto and incorporated herein by this reference, attached hereto and incorporated herein (the "Easement Areas"), which real property is located in the City and County of Denver, State of Colorado, for the purpose of the use and maintenance operation, repair, replacement, or reconstruction of utilities, and all appurtenances to such utilities within the Easement Areas ("Utilities"). For purposes of this Easement, "Utility Corridor" shall be defined to mean the full width of the Easement Area at depths less than eight (8) feet from finished grade. At depths greater than eight (8) feet from finished grade, "Utility Corridor" shall mean a trench that extends at least two (2) feet below the deepest utility and greater than or equal to the depth from finished grade to the bottom of the utility on either side of such utility lines or facilities in width all as shown in the elevation attached as **Exhibit B**. The rights granted hereunder shall be subject to the supplemental requirements, attached hereto and incorporated herein as **Exhibit C**, and all applicable laws.

5. Except as necessary to achieve the purposes of this Easement, and without limiting the extent that the Denver Revised Municipal Code requires adjacent property owners to maintain, repair, and replace improvements, Grantee shall cause the repair and/or restoration of any and all damage caused by Grantee, its agents, contractors, or subcontractors to the Easement Areas during operation, maintencne, use, reconstruction or replacement of the Utilities by Grantee, or on behalf of Grantee.

6. All obligations of the Grantee are subject to prior appropriation of monies expressly made by City Council and paid into the Treasury of the City. Grantee shall have all rights, privileges, and benefits necessary or convenient for the full use and enjoyment of the Easement Areas, subject to the terms of this Easement. Grantee shall not access any other property of Grantor without the prior written consent of Grantor.

Grantor reserves for itself the right to use and enjoy the Easement Areas, subject to the rights herein granted. Grantor agrees not to otherwise build, create, construct, or permit to be built, created, or constructed, any obstruction, building, fence, or other structures over, under, on, or across the Easement Areas except roadways and associated roadway infrastructure as approved by the Grantee ("Improvements") without prior written consent of Grantee's Executive Director of

the Department of Transportation and Infrastructure. Nothing herein shall impair Grantee's police powers.

The rights granted herein, and the terms, conditions, and provisions of this Easement, are a covenant running with the land and shall extend to, and be binding upon, the successors and assigns of Grantor and Grantee.

IN WITNESS WHEREOF, the parties have executed this Easement as of the date first hereinabove written.

GRANTOR:

_____

By:_____

Its:_____

STATE OF COLORADO)
) ss
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me on _____, 20__, by _____, _____ of _____, a _____.

Witness my hand and official seal.

My commission expires:_____

_____
Notary Public

GRANTEE:

CITY AND COUNTY OF DENVER,

A home rule City and Colorado Municipal Corporation

ATTEST

By: _____
,
Clerk and Recorder, Ex-Officio
Clerk of the City and County of Denver

By: _____
MAYOR

APPROVED AS TO FORM:
Denver City Attorney

By: _____
Assistant City Attorney

REGISTERED AND COUNTERSIGNED

By: _____
Manager of Finance

By:_____
Auditor

STATE OF _____)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____, 20___, by _____ as _____ of **City and County of Denver,** a home rule city and municipal corporation of the State of Colorado.

Witness my hand and official seal.

My commission expires:_____

_____
Notary Public

Exhibit A to Permanent Easement

Legal Descriptions and Depictions of the Easement Area

(See attached)

Exhibit B to Permanent Easement

Utility Corridor Elevation

(See attached)

Exhibit C to Permanent Easement

Supplemental Requirements

- Environmental Requirements.

"Environmental Laws" for purposes of this Agreement shall mean and include without limitation (i) the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984, as now or hereafter amended (42 U.S.C. § 6901, *et seq.*), (ii) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, as now or hereafter amended (42 U.S.C. § 9601, *et seq.*), (iii) the Clean Water Act, as now or hereafter amended (33 U.S.C. § 1251, *et seq.*), (iv) the Toxic Substances Control Act of 1976, as now or hereafter amended (15 U.S.C. § 2601, *et seq.*), (v) the Clean Air Act, as now or hereafter amended (42 U.S.C. § 7401, *et seq.*), (vi*)* the Safe Drinking Water Act, (42 U.S.C. § 300f, *et seq.*), (vii*)* the Hazardous Materials Transportation Act, as now or hereafter amended (49 U.S. § 1802, *et seq.*), (viii) all regulations promulgated under any of the foregoing, (ix) any local or state law, statute, regulation, covenant, or ordinance analogous to any of the foregoing, including, but not limited to, Colorado Revised Statutes, Title 25, Articles 15 and 18, as now or hereafter amended, and (x) any other federal, state, or local law (including any common law), statute, regulation, or ordinance regulating, prohibiting, or otherwise restricting the pollution, protection of the environment, or the use, storage, discharge, or disposal of Hazardous Materials. "Hazardous Materials" means any toxic substances or hazardous wastes, substance, product matter, material, waste, solid, liquid, gas, or pollutant, the generation, storage, disposal, handling, recycling, release, treatment, discharge, or emission of which is regulated, prohibited, or limited under any Environmental Law, and shall also include, without limitation: (i) gasoline, diesel, diesel fuel, fuel oil, motor oil, waste oil, and any other petroleum products or hydrocarbons, including any additives or other by-products associated therewith, (ii) asbestos and asbestos-containing materials in any form, and (iii) lead-based paint, radon, or polychlorinated biphenyls. The term "toxic substances" means and includes any materials present on the Property that are subject to regulation under the Toxic Substance Control Act ("TSCA"), 15 U.S.C. § 2601, *et seq.*, applicable state law, or any other applicable federal or state law. The term "toxic substances" includes, but is not limited to, asbestos, polychlorinated biphenyls (PCBs), and lead-based paints.

Grantee shall keep or cause the Easement Area to be kept free from Hazardous Materials, except (i) Existing Contamination (defined below), (ii) those Hazardous Materials approved to remain on the Easement Area in any no further action letter or determinations from the Colorado Department of Public Health and Environment or another governmental authority with jurisdiction over the Remediation Activities (defined below) and authority to issue such approvals or determinations for the Easement Areas, (iii) at concentrations in compliance with Environmental Laws, (iv) used and stored in the ordinary course of business and compliance with all Environmental Laws. "Remediation Activities" shall mean all actions as shall be necessary for the clean-up of any Hazardous Materials on, in, under, migrating from, or affecting any and all portions of the Easement Area in accordance with all applicable Environmental Laws for the intended use of the Easement Area, including, without limitation, all reporting, planning,

preparation of regulatory submittals, investigative, monitoring, removal, containment, and remedial actions.

Grantee shall expressly prohibit the use, generation, handling, storage, production, processing, and disposal of Hazardous Materials in the Easement Area (except those substances used in the ordinary course of its business and in compliance with all Environmental Laws), and, without limiting the generality of the foregoing, during the term of this Easement, shall not install or use any underground storage tanks, shall not install in the Improvements or permit to be installed in the Improvements, asbestos or any substance containing asbestos, except in compliance with Environmental Laws.

In the case of the release, spill, discharge, leak, or disposal of Hazardous Materials as a result of the activities of Grantee or Grantee's employees, agents, contractors, or subcontractors ("Grantee Parties") activities at the Easement Areas, Grantee shall take all necessary actions required by applicable federal, state, and local law(s). Grantee shall cause the Grantee Parties (other than Grantee or its officers and employees) to reimburse Grantor for any penalties and all reasonable costs and expenses, incurred by Grantor as a result of any such release or disposal by Grantee or the Grantee Parties. Grantee shall also cause the immediate notification of Grantor, in writing, of the release, spill, leak, discharge, or disturbance of Hazardous Materials, the control and response actions taken, and any responses, notifications, or actions taken by any federal, state, or local agency with regard to any such release, spill, or leak in violation of Environmental Law. Grantee shall make available to the Grantor, for inspection and copying, upon reasonable notice and at reasonable times, any or all of the documents and materials prepared pursuant to any requirement under this paragraph. If there is a requirement to file any notice or report of a release or threatened release of such Hazardous Materials at, on, under, or migrating from the Easement Area, Grantee shall cause copies of all results of such report or notice to be supplied to the Grantor.

At the Grantor's reasonable request, Grantee shall conduct testing and monitoring as is necessary to determine whether any Hazardous Materials have entered the soil, groundwater, or surface water on or under the Easement Area due to Grantee's or the Grantee Parties' use or occupation of the Easement Areas. Grantee shall provide copies of all results of such testing and monitoring to the Grantee's Executive Director of Public Health and Environment and Executive Director of the Department of Transportation and Infrastructure and Grantor.

Existing Contamination. Grantee and Grantee Parties shall not be liable for and Grantor hereby releases claims against Grantee and Grantee Parties arising out of (i) any environmental conditions existing on Grantor's property adjacent to the Easement Areas and in the property within and underlying the Easement Areas unless introduced or caused after the date of this Easement by Grantee or the Grantee Parties, (ii) any Existing Contamination within and under the Easement Areas, and (iii) ongoing obligations of Grantor with respect to Existing Contamination hereunder, except to the extent such claims arising out of (ii) or (iii) result from the negligence or willful misconduct of the Grantee or Grantee Parties', or their violation of any obligations of the Grantee or the Grantee Parites under this Easement. "Existing Contamination" shall mean Hazardous Materials existing within or underlying the Easement Areas as of the date of this Easement.

Reservation of Claims. Except as otherwise set forth herein in relation to the Grantee and Grantee Parties, nothing in this Exhibit C or in this Easement shall be construed to release or limit any claims or causes of action Grantor may have against Grantee Parties, trespassers or other third parties arising out of their use, occupancy, or activities in, on, or near the Easement Areas.

Insurance. Grantee shall require the Grantee Parties (other than the Grantee and its officers and employees) accessing the Easement Areas to secure insurance in types and amounts typically required by Grantee for similar parties performing similar activities in other locations.

Notices. All notices provided for in this Easement must be in writing and be personally delivered or mailed by registered or certified United States mail, postage prepaid, return-receipt requested at the addresses given below. Notices delivered personally are effective when delivered. Notices sent by certified or registered mail are effective upon receipt. The parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered; however, these substitutions will not become effective until actual receipt of written notification.

If to Grantee:

Executive Director
City and County of Denver
Department of Transportation and Infrastructure
201 West Colfax Avenue, Department 608
Denver, Colorado 80202

and

Executive Director
City and County of Denver
Department of Public Health and Environment
101 West Colfax Ave., Suite 800
Denver, Colorado 80202

and

Denver City Attorney's Office
201 W. Colfax Ave. Dept. 1207
Denver, Colorado 80202

If to Grantor:

[insert]

and

[insert]

Easement 7.3, 8.3(i)

Form of Public Accessibility Open Space Easement

After Recording Return to:

Denver City Attorney's Office
201 W. Colfax Avenue, Dept. 1207
Denver, CO 80202

PERMANENT NON-EXCLUSIVE EASEMENT FOR OPEN SPACE

This Permanent Easement for Open Space (this "Easement") is made this _____ day of _____, 20___, between _____ _____, a _____ ("Grantor") and the CITY AND COUNTY OF DENVER, a Colorado municipal corporation and a home rule city ("Grantee" or "City");

WITNESSETH:

That for and in consideration of the Open Space Requirements as set forth in the Development Agreement recorded within the City and County of Denver real property records on _____ at Reception No. _____ (the "Development Agreement") and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby agrees to the following:

Grantor hereby grants and conveys unto the Grantee for the benefit of the City and the general public a permanent non-exclusive easement upon, across and over the parcel(s) described below (collectively, the "Easement Area(s)") for the purpose of using such Easement Area(s) for publicly accessible and usable open space ("Open Space Easement") as required by the Development Agreement.

Nothing herein shall require the City to construct, reconstruct, maintain, service or repair any improvements in the Easement Area(s).

The permanent easement granted herein is located in the City and County of Denver, State of Colorado, and is upon, across, and over the land described as follows:

SEE EXHIBIT A
ATTACHED HERETO AND INCORPORATED HEREIN

The Grantor does hereby covenant with the Grantee that it is lawfully seized and possessed of the Property, and that it has a good and lawful right to grant this permanent Open Space Easement in the Property.

Grantor further covenants and agrees that, unless otherwise authorized by a Site Development Plan approved by the City, no building, structure, or other above or below ground obstruction that may interfere with the purposes for which this Easement is granted may be placed,

erected, installed or permitted upon the Easement Area(s). Grantor further agrees that in the event the terms of this Easement are violated, such violation shall immediately be corrected by the Grantor upon receipt of written notice from the City, or the City may itself elect to correct or eliminate such violation at the Grantor's expense. The Grantor shall promptly reimburse the City for any costs or expenses incurred by the City in enforcing the terms of this paragraph.

Notwithstanding the foregoing and the grant of the Open Space Easement to Grantee pursuant to this Easement, Grantor hereby reserves for the benefit of Grantor, and Grantor's employees, agents, contractors, subcontractors, successors, assigns, lessees, and licensees, access ("Temporary Construction Access") on, over, across and under the Easement Area(s) for the purpose of performing construction activities related to the development of the Easement Area(s) and adjacent parcels of Grantor's property, including, but not limited to, accessing the Easement Area(s) during construction, installing an access road and sidewalks within the Easement Area(s), installing fencing, barriers, and otherwise controlling or limiting entry to the Easement Area(s) by the public or Grantee, performing staging and other pre-construction activities in the Easement Area(s), and all uses reasonably associated with such construction activities; installing and relocating underground utility lines and related facilities within the Easement Area(s); installing storm sewer drains and related facilities within the Easement Area(s); and installing open space improvements within the Easement Area(s). The Temporary Construction Access automatically terminates without further action by Grantor or Grantee upon the issuance of a Certificate of Occupancy from the City for the vertical development contained in the Site Development Plan triggering the granting of this Open Space Easement by Grantor to Grantee pursuant to the Development Agreement.

Grantor further understands and agrees that with respect to the Property, all laws, ordinances, and regulations pertaining to streets, sidewalks, and public places shall apply so that the public use of the Easement Area(s) is consistent with the use and enjoyment of any dedicated public right-of-way.

The Grantor further grants to the Grantee the right of ingress to and egress over and across adjacent lands owned by Grantor by such route or routes as shall occasion the least practical damage and inconvenience to the Grantor, for the purpose of constructing, repairing, maintaining and operating the Easement Area(s) if deemed necessary by Grantee, provided any such activities shall be subject to the terms and conditions attached hereto as Exhibit B.

Each and every term, condition, or covenant herein is subject to and shall be construed in accordance with the provisions of Colorado law, any applicable State or federal law, the Charter of the City and County of Denver and the ordinances, regulations, and Executive Orders enacted and/or promulgated pursuant thereto. Such applicable law, together with the Charter, Revised Municipal Code and regulations of the City and County of Denver, as the same may be amended from time to time, is hereby expressly incorporated into this Agreement as if fully set out herein by this reference. Venue for any action arising hereunder shall be in the Denver District Court in the City and County of Denver, Colorado.

Except with respect to (i) hazardous materials, substances, or wastes introduced to the Easement Area(s) by Grantee or Grantee's employees, agents, contractors, or subcontractors ("Grantee Parties"); or (ii) Grantee's failure to observe the terms and conditions attached hereto as

Exhibit B, to the extent allowable by law, Grantor shall indemnify, defend and hold harmless the City from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses arising from the environmental condition of the Easement Area(s), including the existence of any hazardous material, substance or waste. The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto and all covenants herein shall apply to and run with the land.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Permanent Easement for Open Space on the date set forth below:

GRANTOR
INSERT NAME OF GRANTOR HERE,
[insert type of entity here]

By: _____
Name: _____
Title: _____

GRANTEE
INSERT NAME OF GRANTEE HERE,
[insert type of entity here]

By: _____
Name: _____
Title: _____

STATE OF _____)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me on the _____ day of _____, 20____, by _____, as _____ of _____.

WITNESS my hand and official seal.

_____
Notary Public

STATE OF _____)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me on the _____ day of _____, 20____, by _____, as _____ of _____.

WITNESS my hand and official seal.

_____
Notary Public

Exhibit A to
Permanent Easement for Open Space

Legal Description of Easement Area(s)

[TO BE INSERTED]

Exhibit B to Permanent Easement

Supplemental Requirements

1. Environmental Requirements.

a) "Environmental Laws" for purposes of this Agreement shall mean and include without limitation (i) the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984, as now or hereafter amended (42 U.S.C. § 6901, *et seq.*), (ii) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, as now or hereafter amended (42 U.S.C. § 9601, *et seq.*), (iii) the Clean Water Act, as now or hereafter amended (33 U.S.C. § 1251, *et seq.*), (iv) the Toxic Substances Control Act of 1976, as now or hereafter amended (15 U.S.C. § 2601, *et seq.*), (v) the Clean Air Act, as now or hereafter amended (42 U.S.C. § 7401, *et seq.*), (vi*)* the Safe Drinking Water Act, (42 U.S.C. § 300f, *et seq.*), (vii*)* the Hazardous Materials Transportation Act, as now or hereafter amended (49 U.S. § 1802, *et seq.*), (viii) all regulations promulgated under any of the foregoing, (ix) any local or state law, statute, regulation, covenant, or ordinance analogous to any of the foregoing, including, but not limited to, Colorado Revised Statutes, Title 25, Articles 15 and 18, as now or hereafter amended, and (x) any other federal, state, or local law (including any common law), statute, regulation, or ordinance regulating, prohibiting, or otherwise restricting the pollution, protection of the environment, or the use, storage, discharge, or disposal of Hazardous Materials. "Hazardous Materials" means any toxic substances or hazardous wastes, substance, product matter, material, waste, solid, liquid, gas, or pollutant, the generation, storage, disposal, handling, recycling, release, treatment, discharge, or emission of which is regulated, prohibited, or limited under any Environmental Law, and shall also include, without limitation: (i) gasoline, diesel, diesel fuel, fuel oil, motor oil, waste oil, and any other petroleum products or hydrocarbons, including any additives or other by-products associated therewith, (ii) asbestos and asbestos-containing materials in any form, and (iii) lead-based paint, radon, or polychlorinated biphenyls. The term "toxic substances" means and includes any materials present on the Property that are subject to regulation under the Toxic Substance Control Act ("TSCA"), 15 U.S.C. § 2601, *et seq.*, applicable state law, or any other applicable federal or state law. The term "toxic substances" includes, but is not limited to, asbestos, polychlorinated biphenyls (PCBs), and lead-based paints.

b) Grantee shall keep or cause the Easement Area to be kept free from Hazardous Materials, except (i) Existing Contamination (defined below), (ii) those Hazardous Materials approved to remain on the Easement Area in any no further action letter or determinations from the Colorado Department of Public Health and Environment or another governmental authority with jurisdiction over the Remediation Activities (defined below) and authority to issue such approvals or determinations for the Easement Areas, (iii) at concentrations in compliance with Environmental Laws, (iv) used and stored in the ordinary course of business and compliance with all Environmental Laws. "Remediation Activities" shall mean all actions as shall be necessary for the clean-up of any Hazardous Materials on, in, under, migrating from, or affecting any and all portions of the Easement Area in accordance with all applicable Environmental Laws for the intended use of the Easement Area, including, without limitation, all

reporting, planning, preparation of regulatory submittals, investigative, monitoring, removal, containment, and remedial actions.

c) Grantee shall expressly prohibit the use, generation, handling, storage, production, processing, and disposal of Hazardous Materials in the Easement Area (except those substances used in the ordinary course of its business and in compliance with all Environmental Laws), and, without limiting the generality of the foregoing, during the term of this Easement, shall not install or use any underground storage tanks, shall not install in the Improvements or permit to be installed in the Improvements, asbestos or any substance containing asbestos, except in compliance with Environmental Laws.

d) In the case of the release, spill, discharge, leak, or disposal of Hazardous Materials as a result of the activities of Grantee or Grantee's employees, agents, contractors, or subcontractors ("Grantee Parties") activities at the Easement Areas, Grantee shall take all necessary actions required by applicable federal, state, and local law(s). Grantee shall cause the Grantee Parties (other than Grantee or its officers and employees) to reimburse Grantor for any penalties and all reasonable costs and expenses, incurred by Grantor as a result of any such release or disposal by Grantee or the Grantee Parties. Grantee shall also cause the immediate notification of Grantor, in writing, of the release, spill, leak, discharge, or disturbance of Hazardous Materials, the control and response actions taken, and any responses, notifications, or actions taken by any federal, state, or local agency with regard to any such release, spill, or leak in violation of Environmental Law. Grantee shall make available to the Grantor, for inspection and copying, upon reasonable notice and at reasonable times, any or all of the documents and materials prepared pursuant to any requirement under this paragraph. If there is a requirement to file any notice or report of a release or threatened release of such Hazardous Materials at, on, under, or migrating from the Easement Area, Grantee shall cause copies of all results of such report or notice to be supplied to the Grantor.

e) At the Grantor's reasonable request, Grantee shall conduct testing and monitoring as is necessary to determine whether any Hazardous Materials have entered the soil, groundwater, or surface water on or under the Easement Area due to Grantee's or the Grantee Parties' use or occupation of the Easement Areas. Grantee shall provide copies of all results of such testing and monitoring to the Grantee's Executive Director of Public Health and Environment, and Executive Director of the Department of Transportation and Infrastructure, and Grantor.

f) Existing Contamination. Grantee and Grantee Parties shall not be liable for, and Grantor hereby releases claims against Grantee and Grantee Parties arising out of, (i) any environmental conditions existing on Grantor's property adjacent to the Easement Areas and in the property within and underlying the Easement Areas unless introduced or caused after the date of this Easement by Grantee or the Grantee Parties, (ii) any Existing Contamination within and under the Easement Areas, and (iii) ongoing obligations of Grantor with respect to Existing Contamination hereunder, except to the extent such claims arising out of (ii) or (iii) result from the negligence or willful misconduct of the Grantee or Grantee Parties', or their violation of any obligations of the Grantee or the Grantee Parties under this Easement. "Existing Contamination"

shall mean Hazardous Materials existing within or underlying the Easement Areas as of the date of this Easement.

2. Reservation of Claims. Except as otherwise set forth herein in relation to the Grantee and Grantee Parties, nothing in this Exhibit C or in this Easement shall be construed to release or limit any claims or causes of action Grantor may have against Grantee Parties, trespassers or other third parties arising out of their use, occupancy, or activities in, on, or near the Easement Areas.

3. Insurance. Grantee shall require the Grantee Parties (other than the Grantee and its officers and employees) accessing the Easement Areas to secure insurance in types and amounts typically required by Grantee for similar parties performing similar activities in other locations.

4. Notices. All notices provided for in this Easement must be in writing and be personally delivered or mailed by registered or certified United States mail, postage prepaid, return-receipt requested at the addresses given below. Notices delivered personally are effective when delivered. Notices sent by certified or registered mail are effective upon receipt. The parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered; however, these substitutions will not become effective until actual receipt of written notification.

If to Grantee:

Executive Director
City and County of Denver
Department of Transportation and Infrastructure
201 West Colfax Avenue, Department 608
Denver, Colorado 80202

and

Executive Director
City and County of Denver
Department of Public Health and Environment
101 West Colfax Ave., Suite 800
Denver, Colorado 80202

and

Denver City Attorney's Office
201 W. Colfax Ave. Dept. 1207
Denver, Colorado 80202

If to Grantor:

[insert]

and

[insert]

Easement 13.2(ii)(C)

PERMANENT NON-EXCLUSIVE EASEMENT
FOR DISTRICT-OWNED INFRASTRUCTURE

(District Owned Utilities in District Property)

This Permanent Non-Exclusive Easement ("Easement"), made and given as of _____, 2017, by _____, a _____ ("Grantor") to and for the benefit of the CITY AND COUNTY OF DENVER, a home rule city and municipal corporation of the State of Colorado ("City" or "Grantee")

For good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, the Grantor agrees as follows:

7. Grantor is the owner of the property legally described in Exhibit A attached hereto and incorporated herein (the "Property").

8. Grantor is constructing certain roads and surface and subsurface utility facilities within the Property (collectively the "Facilities").

9. Grantor will be responsible for causing the maintenance, repair, and service of such Facilities to ensure conformance with all applicable plans and standards approved by the City.

10. Grantor hereby grants and conveys a permanent non-exclusive easement to the City under, in, upon, across and over the Property ("Easement Area"), for the purpose of maintaining, repairing, and servicing the Facilities if required as set forth herein, together with any and all rights of ingress and egress, necessary or convenient to the City to accomplish such purposes.

11. The Grantor shall pay for and be responsible for all costs to construct, reconstruct, repair, service, and maintain the Property, the Easement Area and all Facilities within the Easement Area to ensure conformance with all applicable plans and standards relating to the Facilities approved by the City. The City shall not be responsible for any construction, repairs, maintenance, cleaning, snow removal, or any other services on the Property, within the Easement Area or of the Facilities.

12. If, in the sole opinion of the City's Executive Director of the Department of Transportation and Infrastructure, the Facilities are not properly maintained, constructed, repaired, or serviced by Grantor, the City shall give notice to the Grantor and if maintenance, construction, repairs, servicing, or corrections are not made within the time designated in such notice, the City is authorized, but not required, to make or have made maintenance, construction, repairs, servicing or corrections. If the City performs such maintenance, construction, repair, servicing or correction, the City shall charge and collect the cost thereof from the Grantor. However, in cases of emergency, as solely determined by the City's Executive Director of the Department of Transportation and Infrastructure, the City may choose to make immediate maintenance, servicing, repairs or corrections and to collect the cost thereof from the Grantor without notice.

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

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

9. This Easement shall be recorded in the City and County of Denver real property records.

10. Notices required hereunder shall be in writing and shall be personally delivered or mailed by registered and certified United States mail, postage prepaid, return receipt requested to the following address, or at such other addresses that may be specified in writing:

If to City: Executive Director of Department of Transporation and Infrastructure
201 W. Colfax, Department 608
Denver, CO 80202

If to Grantor: [insert]

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

12. This Easement or any portion thereof shall automatically terminate upon dedication of that portion of such Easement Area to and acceptance by the City and County of Denver as public

right-of-way. Any portion of the Easement Area not so dedicated as public right-of-way shall remain in full force and effect.

IN WITNESS WHEREOF, the Grantor has executed this Easement as of the day and year first above written.

GRANTOR:

_____

By:_____
Its:_____

STATE OF COLORADO)
) ss
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me on _____, 20__, by _____, as _____ of _____, a _____.

Witness my hand and official seal.

My commission expires:_____

_____
Notary Public

EXHIBIT A

Easement 13.2(ii)(B)(iv)

PUBLIC ACCESS EASEMENT
FOR DISTRICT-OWNED RIGHT OF WAY

THIS PUBLIC ACCESS EASEMENT ("Easement") is made as of the date set forth below by and _____, a _____ ("Grantor") for the benefit of the **CITY AND COUNTY OF DENVER**, a Colorado municipal corporation and home rule city ("Grantee").

For and in consideration of the sum of TEN DOLLARS ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby sell, convey, transfer, and deliver to Grantee and its successors and assigns a permanent non-exclusive public access easement to have and to hold the perpetual right to enter upon and across the lands located in the City and County of Denver and described on **Exhibit A**, ("Easement Area"), attached hereto and incorporated herein by this reference, for the purpose of vehicular and pedestrian ingress and egress by the general public and Grantee.

Grantor hereby covenants that it is lawfully seized and possessed of the Easement Area, and that it has good and lawful right to grant this Easement.

Every term and covenant of this Easement is subject to and is to be construed in accordance with the provisions of Colorado law, any applicable State or federal law, the Charter of the City and County of Denver and the ordinances, regulations, and Executive Orders enacted or promulgated pursuant thereto ("Laws"). The Laws, as the same may be amended from time to time, are hereby incorporated into this Easement as if fully set out herein by this reference. Venue for any action arising under the Easement is in the Denver District Court for the City and County of Denver, Colorado.

The provisions of the Easement inure to the benefit of and bind the successors and assigns of the Grantor and Grantee. All covenants and other obligations set forth in this Easement shall apply to and run with the land.

This Easement or any portion thereof shall automatically terminate upon dedication of that portion of such Easement Area to and acceptance by the City and County of Denver as public right-of-way. Any portion of the Easement not so dedicated as public right-of-way shall remain in full force and effect.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and official seals on this _____ day of _____, _____.

GRANTOR:

_____

By:_____
Its:_____

STATE OF COLORADO)
) ss
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me on _____, 20__, by _____ of _____, a _____.

Witness my hand and official seal.

My commission expires:_____

_____
Notary Public

EXHIBIT A

Legal Description

EXHIBIT D

Transportation Demand Management Plan

APPENDIX E: TRANSPORTATION DEMAND MANAGEMENT PLAN

APPENDIX E: TRANSPORTATION DEMAND MANAGEMENT PLAN

DENARGO MARKET TRANSPORTATION DEMAND MANAGEMENT PLAN (TDMP)

The following is a set of expected components for a TDMP but is not meant to be prescriptive regarding content. The development should address the categories enumerated here but is free to specify how they are addressed in ways that best and most cost-effectively fit the goals and program of the project. By way of suggestion, the following includes an extensive list of TDM features, measures, and strategies from which the development may choose to implement as part of the TDMP. This list, however, is not exclusive, and the development is free to propose alternative or additional approaches to TDM.

Development Identity and Characteristics: Development is known as Denargo Market. Development is located at 29th Street and Arkins Court. Development consists of the following uses and intensities office, residential, and retail.

TDMP Preamble: This TDMP is a site-specific plan that identifies specific transportation demand management features, measures, and strategies that shall be implemented with the design and ongoing management of the development. These features, measures, and strategies are designed to a) encourage and facilitate residents, visitors, tenants, and employees to reduce single-occupant vehicle (SOV) trips, especially during peak traffic hours; and b) maximize the use of alternative modes of transportation, such as transit, micro-transit, shuttles, car-pooling, car-share, bicycling, bike-share, scooters, and walking.

It is recognized that, in addition to site-specific features, measures, and strategies, the success of TDM is heavily impacted by broad neighborhood-level characteristics: proximity and access to a high-frequency and broadly distributed transit system; proximity and access to a comprehensive alternative mode infrastructure system, such as a bike lane network; the density of surrounding development that includes a broad mix of uses; and the extent of a safe and complete pedestrian network, and traffic calming.

These neighborhood-level characteristics may also be included as factors in calculating the development's SOV trip-generation and the impact of its site-specific TDM features, measures, and strategies. Together with high-density, mixed-use, mode-rich neighborhood characteristics, the achievement of this TDMP's mode-shift and SOV trip-reduction goals will contribute broad public benefits:

•Reducing demand, maintenance, and upgrade costs for roadway and parking infrastructure;

•Freeing development resources for more productive spaces and amenities;

•Maximizing the public value of investments in transit and multi-modal infrastructure;

•Supporting the economy through greater commute flexibility and access to jobs, housing, and community assets;

•Protecting the environment by reducing emissions of greenhouse gases and other pollutants.

•Promoting public health by improving air quality and promoting physical activity.

TDMP Calculated Impacts: It is anticipated that the successful implementation of this TDMP will result in an estimated 23%-25% reduction in the SOV trips generated by this development. The conventional ITE calculation of the SOV trips generated by this project is 25,198, but it is calculated that

DENARGO MARKET TRANSPORTATION DEMAND MANAGEMENT PLAN (TDMP)

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approximately 19,302 SOV trips will be generated when this TDMP is fully and successfully implemented. 23% of this calculated SOV trip reduction is reflected in the traffic memo or traffic impact study submitted as part of the Site Development Plan Process for this development.

TDMP Implementation, Phasing, Compliance, & Verification: In addition to identifying specific TDM features, measures, and programs the development shall implement, the TDMP shall also specify the implementation plan for these activities, and their phasing, if any.

The TDMP shall also specify a compliance and verification program for ensuring that the enumerated TDM activities in this TDMP, and the calculated SOV trip-reductions, are achieved and sustained over time.

TDMP Specific Features, Measures, & Strategies:

Transit / Micro-Transit / Shuttle:

- The development shall **promote and provide information** on RTD routes and services and provide information on the most direct and mode-friendly pedestrian and bicycle routes to train and bus stations.
- The development shall explore and/or **promote** a shuttle service for tenants and/or employees.
- "Transportation information" screens will most likely be provided.

Parking / Car-pooling / Car-share

- Parking shall be market value priced with no subsidies
- Social media platforms or other tools shall be used by property management for education, promotion, and coordination of ride sharing and carpooling among tenants and/or employees.

Bicycling / Bike-share / Scooters

- The property management team shall promote bicycling among tenants and/or employees provide information and maps regarding commuting and recreational bicycle facilities and routes.
- A bicycle maintenance and repair station shall be included among the development's amenities.
- Public bike parking spaces shall be placed in visible and convenient locations to promote and encourage bicycling to the development by visitors.
- The development shall sponsor or **support the placement of** a B-Cycle station on or nearby the development property.
- The development shall subsidize and/or promote B-Cycle membership for tenants and/or employees.
- The development shall construct or invest in the following offsite improvements to the neighborhood bicycle infrastructure:
  - The Developer or Metro-District will fund the construction two protected bicycle lanes on Denargo Street extending from the railroad spurs on the southern boundary of the GDP to the northern boundary of the GDP at the 29th Street intersection. All bicycle infrastructure improvements within the private property boundary will be maintained by the Metro

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District. The Developer or Metro-District will fund the construction of two protected bicycle lanes on 29th Street from the Arkins Ct intersection to the Delgany Street intersection.

- The Developer or Metro-District will fund the construction and/or maintenance of a new bicycle and pedestrian access ramp on the northwest tip of the site as agreed to in the Development Agreement and Maintenance Agreement with the City of Denver and the Denver Parks Department.

Walking

- The Developer or Metro-District will fund the construction and maintenance of all rights-of-way within the private property boundary.
- The Platte River Loop located within public right-of-way will be constructed and maintained per the Development Agreement and Maintenance Agreement between the Developer and the City of Denver.

- The proposed streets will be designed to meet DOTI criteria as well as the requirements set forth in the Denargo Market Design Standards and Guidelines (DSGs).

- The Denargo Market DSGs provide criteria for human-scale design features in the public realm as well as lighting, landscaping, and street furniture.

The development shall construct or invest in the following off-site improvements to the neighborhood pedestrian infrastructure:

- Within the private property boundary, the Developer or Metro-District will fund the construction and maintenance of the proposed street and open space networks. Throughout the development open spaces are linked by direct pedestrian paths with 28th Street serving as the primary pedestrian route.

- The 28th Street Linear park extends northwest along 28th Street from Delgany Street. It will function as a pedestrian promenade through the center of the development to link the existing Brighton Boulevard open space with the future Riverfront Plaza and Riverfront Open Space. The 28th Street Linear Park will feature shade trees, planting zones, pedestrian-scale lighting, seating, and/or public art to create a park environment for pedestrians.

- The Developer will also invest in the future Platte River Loop, a shared street in existing Denargo Street and Arkins Court rights-of-way. The design intent of this street includes enhanced materials such as scored and stained concrete to create an aesthetic unique to Denargo Market. The proposed street section also includes a curbless design to create a seamless transition from the Riverfront open space and the South Platte River open space. An extension of the RiNo Promenade will be included in the Platte River Loop and the Developer will invest in the construction and maintenance as agreed to in the Development Agreement and Maintenance Agreement with the City of Denver. The Developer will continue to collaborate with the Denver Parks Department for the final design of the RiNo Promenade to ensure it meets City of Denver criteria.

- The development shall promote restaurants, shopping, and other amenities within walking distance for tenants.

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EXHIBIT E

Affordable Housing Agreement

AGREEMENT TO BUILD AFFORDABLE UNITS

THIS AGREEMENT TO BUILD AFFORDABLE UNITS("Agreement") serves as **Exhibit E** to the Denargo Market Development Agreement (the "Development Agreement") by and between the City and County of Denver, a Colorado municipal corporation and home rule city ("City"), JV DENARGO LLC, a Delaware limited liability limited partnership ("Developer"), and DENARGO MARKET METROPOLITAN DISTRICT NO. 1, a Colorado quasi-municipal corporation and political subdivision (together with its permitted assigns, the "District").

R E C I T A L S:

A. Developer is the owner of certain property commonly referred to as Denargo Market (the "Property") that is legally described on **Exhibit A** to the Development Agreement.

B. In connection with the proposed rezoning and development of the Property and in satisfaction of linkage fee requirements set forth in Chapter 27 of the Denver Revised Municipal Code ("DRMC"), the Developer has agreed to construct certain affordable housing on the Property, as described herein.

NOW, THEREFORE, in consideration of the foregoing, the parties agree as follows:

1. Developer agrees that no less than 15% of all residential units constructed on the Property will, for a period of sixty (60) years, be income-restricted units ("IRUs"). The IRUs will include the following affordability level restrictions and unit sizes:

(a) No less than 30% of all IRUs will be two or more bedrooms.

(b) Rental IRUs will be restricted to 80% of the Area Median Income based on the most recently published Area Median Income by the City, of which 25% of the total Rental IRUs will be restricted to either 60% of the Area Median Income or an average of 60% Area Median Income if utilizing income averaging.

(c) All residential units constructed on the parcel at 2700 Wewatta (referred to herein as Parcel 11) of the Property shall be IRUs restricted to 60% of the Area Median Income, or an average of 60% Area Median Income if utilizing income averaging. Parcel 11 shall contain no less than 40 IRUs. Parcel 11 IRUs will qualify towards meeting the 25% of total Rental IRUs requirement in Section 1(b).

(c) For-Sale IRUs will be restricted to 100% of the Area Median Income, with 30% of the total For-Sale IRUs being restricted to 80% of the Area Median Income.

(d) IRUs not located on Parcel 11 shall be reasonably distributed with market rate units throughout all phases of the residential portions of the development and shall be of similar construction, type and finish as the market rate units.

2. Developer shall realize the development of Parcel 11 through one or more of the following means:

(a) Sale of Parcel 11 at Developer's cost, donation, or such other price as deemed acceptable by Developer to a qualified affordable housing developer with knowledge and expertise in developing, owning and operating affordable housing; or

(b) Developer may enter into a long-term ground lease with a qualified affordable housing developer as a means to reduce the upfront cost of land and maintain long-term affordability; or

(c) Developer may enter into a joint venture with a qualified affordable housing developer.

3. Developer agrees to construct and market the IRUs concurrently with or prior to any market rate dwelling units on the Property. As the phasing of the development occurs, the total number of IRUs constructed at any one time shall be no less than 15% of the overall number of units constructed, with all required IRUs being completed by full buildout. Meeting the 25% of the total Rental IRUs serving 60% of Area Median Income or below is not required to be met on a pro rata basis, but must be achieved by the time Developer has completed construction and obtained certificates of occupancy for 60% of the residential portions of the Site. Meeting the 30% of For-Sale IRUs serving 80% of Area Median Income or below is required to be met on a pro rata basis with other for-sale market rate dwelling units on the Subject Property.

4. Except as amended in this Agreement, Developer will comply with the requirements of the Rules and Regulations promulgated under the City's Affordable Housing Permanent Funds Ordinance adopted pursuant to Article V, Chapter 27 of the DRMC, including offering the IRUs for sale or rent in accordance with these Rules and Regulations.

5. If a portion of the Property is developed as rental, the parties agree that prior to and as a condition of the issuance of the first building permit on the applicable portion of the Property for any building that contains IRUs, Developer will record a Covenant in a substantially similar form to the Covenant attached as **Exhibit A** to this Agreement, which will run with the land and encumber the building on the applicable portion of the Property for a period of not less than sixty (60) years in order to ensure that certain rent limitations, occupancy limitations and administrative requirements for the IRUs are met.

AND/OR

If a portion of the Subject Property is developed as for-sale, the parties agree that prior to the recordation of a condominium declaration (for multifamily developments) or final subdivision

plat for any building on the applicable portion of the Property that contains IRUs, Developer will record a Covenant in a substantially similar form to the Covenant attached as **Exhibit A** to this Agreement, which will run with the land and encumber the building on the applicable portion of the Property for a period of not less than sixty (60) years in order to ensure that certain sale price limitations, occupancy limitations and administrative requirements for the IRUs are met.

6. Prior to the approval of each site development plan for any phase of construction on the Property that includes residential housing, Developer will provide a compliance plan to the Department of Housing Stability ("HOST") and Community Planning and Development ("CPD") for each department's review and approval. The compliance plan will demonstrate how that phase of construction contributes to the requirements of this Agreement. In accordance with Section 3 hereof, buildings containing only market rate dwelling units are allowed in the development of the Property, so long as the milestones established above are being met. HOST and CPD must approve each compliance plan before approving any site development plan.

7. Any exceptions to assessment and payment of linkage fees or applicable incentive requirements provided as a result of this Agreement shall apply only to residential development within the Property. Assessment of linkage fees and applicable incentive overlay requirements shall apply to all non-residential development as if this Agreement did not exist.

8. Except for development on Parcel 11 which is eligible for City subsidy, the numbers and types of IRUs designated above presume that the projects on the Property will not receive any subsidization from the City to support development of such IRUs. The parties acknowledge that if any such subsidy is received from the City, additional affordability requirements will likely be imposed in addition to those set forth herein.

9. The parties agree to execute such additional documents as may be necessary or required to effectuate the intent and purpose of this Agreement.

10. The approval of the rezoning of the Property is a condition precedent to Developer's obligations under this Agreement. Should the Denver City Council fail to approve the rezoning within one hundred eighty (180) days after the date of this Agreement, or should the approved rezoning ultimately be overturned on appeal, then this Agreement is automatically void without further action of the City or the Developer and shall no longer burden title to the Property, unless the Developer and City extend this 180 day period in writing. If this condition precedent is not met, and if requested by Developer, the City will execute and record all necessary documents to evidence that this Agreement was deemed void.

11. This Agreement shall be binding on and inure to the benefit of the parties and their respective successors and assigns.

EXHIBIT A
FORM COVENANT

NOTICE OF VOIDABLE TITLE TRANSFER AND MASTER COVENANT FOR THE OCCUPANCY AND RESALE OF FOR SALE UNITS

_____
[project name]

THIS NOTICE OF VOIDABLE TITLE TRANSFER AND MASTER COVENANT FOR THE OCCUPANCY AND RESALE OF UNITS at _____, (the "Covenant") is
[project name]
made and entered into this _____ day of _____, 20____, by _____ (the
[developer entity]
"Declarant"), and enforceable by the CITY AND COUNTY OF DENVER, COLORADO, or its designee (the "City").

WITNESSETH:

WHEREAS, Declarant owns the real property legally described as follows:

[INSERT LEGAL LOT DESCRIPTIONS]

OR

[Condominium Unit Nos. __[INSERT INCOME RESTRICTED UNIT NUMBERS]__ in _____, according to the Condominium Declaration for _____ recorded under Reception No. _____
and the Condominium Map of _____]

OR

[Townhome units located at [INSERT STREET ADDRESS] and identified by Assessor's Parcel Numbers _____]

(each such unit being referred to herein as a "IRU", and two or more of such units being referred to herein as "IRUs").

WHEREAS, Declarant has entered into that certain [AGREEMENT] dated _____ and recorded under Reception No. _____ in the real estate records of the City and County of Denver, Colorado (the "Agreement").

WHEREAS, Declarant desires to satisfy the conditions of the Agreement by selling the IRUs at affordable prices to households meeting certain income requirements, restricting the use

and occupancy of the IRUs, restricting the price for future sales, and imposing income requirements for future purchasers of the IRUs, all as set forth herein;

WHEREAS, Declarant acknowledges and agrees that the covenants set forth herein shall run with the land and shall bind each IRU and all future owners of (and other parties with an interest in title to) such IRU until the Final Sale thereof;

WHEREAS, upon the Final Sale of each IRU, such IRU shall be released from the provisions of this Covenant;

NOW, THEREFORE, for consideration hereby acknowledged by Declarant, Declarant hereby represents, covenants and declares as follows:

1. Definitions. The following terms shall have the following meanings when used in this Covenant:

(a) "AHDF Rules" means the Affordable Housing Permanent Funds Ordinance Administrative Rules and Regulations adopted by the City, as they pertain to build alternative for-sale units. Such AHDF Rules shall be applicable to the IRUs, Owner, and Declarant and its successors in interest as if the IRUs were "Build Alternative For-Sale Units," as such term is defined therein.

(b) "AMI" or "adjusted median income" or "median income" or "area median income" means the median income for the Denver metropolitan area, adjusted for household size as calculated by HUD.

(c) "Covenant Period" means, for each IRU, a period of _____ (__) years, commencing on the date of building permit issuance of such IRU.

(d) "Director" means the Executive Director of HOST or his or her designee.

(e) "Eligible Household" means a household that holds a valid verification of eligibility from HOST (as described in Section 4 below) that entitles the household to buy an IRU. To be eligible to purchase an IRU at Initial Sale or resale, households must be earning no more than eighty percent (80%) of the AMI at the time of execution of a contract for purchase of an IRU and meet all other requirements set forth in the AHDF Rules.

(f) "Final Sale" means, with respect to each IRU, the first resale of such IRU occurring after the end of the Covenant Period in compliance with the terms and restrictions set forth herein. If the IRU is not resold within the period beginning on the expiration date of the Covenant Period and ending on the ten (10) year anniversary of such date, the Final Sale of such IRU shall be deemed to have occurred on such ten (10) year anniversary.

(g) "HOST" means the City and County of Denver's Department of Housing Stability or any successor agency which is assigned responsibility for the City's Affordable Housing Permanent Funds Program.

(h) "HUD" means the U.S. Department of Housing and Urban Development.

(i) "Initial Sale" means the first sale of an IRU by Declarant;

(j) "Maximum Gross Income" means the pre-tax income from all acceptable income sources as defined in the HUD Technical Guide for Determining Income;

(k) "Maximum Sale Price" means the maximum amount for which an IRU may be sold by Declarant, as set forth in Section 3(a) below or sold by a subsequent Owner, as set forth in Section 7 below.

(l) "Memorandum of Acceptance" shall have the meaning set forth in paragraph 5 below.

(m) "Owner" means any Eligible Household that purchases an IRU from the Declarant and any subsequent buyer, devisee, transferee, grantee or owner of, or holder of title to, any IRU, provided that if the City shall for any reason take title to the IRU, it shall not be considered an "Owner" for purposes of this Covenant.

(n) "Purchase Money First Lien Holder" means the lender who advances funds to an Eligible Household for the purchase an IRU and who is a holder of a purchase money first priority deed of trust against the IRU. The Purchase Money First Lien Holder shall be deemed to include assigns of the first lien holder but shall not include lenders who re-finance an IRU.

(o) "Transfer" means any sale, assignment or transfer that is voluntary, involuntary or by operation of law (whether by deed, contract of sale, gift, devise, trustee's sale, deed in lieu of foreclosure, or otherwise) of any interest in an IRU, including, but not limited to a fee simple interest, a joint tenancy interest, a tenancy in common, a life estate, or any interest evidenced by a land contract by which possession of an IRU is transferred and the Owner obtains title.

2. Property Subject to Covenant. Declarant and each subsequent Owner of any IRU, and every party with an interest in title to any IRU hereby covenants and agrees that their IRU will be used, occupied and Transferred strictly in conformance with the provisions of this Covenant, the AGREEMENT for so long as this Covenant remains in force and effect with respect to such IRU.

3. Initial Sale. The Initial Sale of each IRU by Declarant shall be subject to the following restrictions:

(a) The Initial Sale of each IRU shall be at a price no greater than _____ and No/100 Dollars ($_____).

(b) No less than thirty (30) days prior to the proposed offering of any IRU, Declarant shall provide written notice to HOST containing the information required by the AHDF Rules. Within ten (10) days after receipt of such notice, HOST shall notify Declarant whether the notice is adequate or materially deficient. If the notice is deemed to be deficient, the offering cannot proceed until the deficiency has been cured and approved by HOST. If the notice is deemed adequate or if HOST does not make a determination with in such ten (10) day period, Declarant may proceed with the offering.

(c) Declarant shall make a good faith effort, as described in the AHDF Rules, to market each IRU for sale to households that are expected to qualify as Eligible Households and use the IRU as their own primary residence.

(d) If, during Declarant's marketing of the IRUs, more than one offer is received for a particular IRU, the Declarant shall use a fair selection process to select among the prospective purchasers.

(e) The Declarant shall not close on any sale of any IRU without first obtaining a verification of eligibility issued by HOST for the buyer as set forth in Section 4 below. A copy of each verification shall be furnished by HOST and maintained on file by HOST.

(f) Upon closing of the Initial Sale of each IRU, the purchase contract, Memorandum of Acceptance, appraisal (if necessary), the warranty deed and a copy of the HUD-1 Settlement Sheet (or similar documentation), and any other documentation deemed necessary by HOST shall be filed with HOST to verify the sale of the IRU.

4. Eligible Household Verification.

(a) Within five (5) days after the date of full execution of a purchase and sale contract for any IRU, the seller shall ensure that the purchaser completes and submits to HOST a request for income verification (on the form provided by the City), which shall constitute a request for determination that the purchaser meets all requirements to be deemed an Eligible Household and that the purchase price does not exceed the Maximum Sale Price.

(b) Within ten (10) business days after receipt of the income verification request, the City shall verify the potential purchaser's household income based on the potential purchaser's Maximum Gross Income and the AHDF Rules and either (i) issue a verification, signed by the City, stating that the purchaser is an Eligible Household and that the purchase price does not exceed the Maximum Sale Price (the "Verification"); or (ii) deliver notice to the selling Owner and purchaser specifying the reasons that a Verification cannot be issued. Failure by the City to make its determination and deliver a Verification or non-issuance notice within the ten (10) business day period described above shall be deemed an approval of the purchaser and the purchase price, and the City shall thereafter issue a Verification with respect to the transaction immediately upon request by the selling Owner or the purchaser.

5. Memorandum of Acceptance. Each Owner shall execute and record a Memorandum of Acceptance in substantially the form attached hereto as Exhibit B (completed with the appropriate information relating to the IRU and such Owner) in the real property records of the City and County of Denver, Colorado concurrently with the recordation of such Owner's deed to his or her IRU. Such Memorandum of Acceptance shall state that the conveyed property is an IRU and is subject to the restrictions contained in this Covenant.

Upon any sale or resale of the IRU, a Memorandum of Acceptance shall be recorded with the Clerk and Recorder of the City and County of Denver concurrently with the deed for the IRU. If the Memorandum of Acceptance is not so recorded, then the transfer shall be voidable at the option of the City.

6. Use and Occupancy.

(a) Purchasers of an IRU shall occupy the IRU within thirty (30) days after closing of their purchase thereof.

(b) At all times during the Covenant Period the IRU Owner shall occupy the IRU as the Owner's sole, exclusive and permanent place of residence. A permanent residence

shall mean the home or place in which one's habitation is fixed and to which one, whenever one is absent, has a present intention of returning after a departure or absence therefrom, regardless of the duration of the absence. In determining what is a permanent residence, the City may consider the following circumstances relating to the Owner: business pursuits, employment, income sources, residence for income or other tax purposes, age, marital status, residence of parents, spouse and children, if any, location of personal and real property, and motor vehicle registration. Temporary exceptions allowing the Owner of an IRU to rent out the IRU (subject to the limitations set forth in the AHDF Rules) may only be granted by HOST as permitted by and justified under the AHDF Rules. Under no circumstances shall an IRU be used as a short-term rental, as defined by Article III, Chapter 33 of the Denver Revised Municipal Code.

(c) If an IRU Owner dies, at least one person taking title by will or by operation of law, whether eligible or not, either shall occupy the IRU as his, her, or their primary residence during the Covenant Period, or shall sell the IRU as provided herein. In no event shall the death of an IRU Owner affect the operation of the Covenant or the AHDF Rules

7. IRU Resale.

(a) If, at any time during the Covenant Period, an Owner desires to sell their IRU, the Owner shall, at least ten (10) days prior to offering such IRU for sale, complete and submit to HOST a Maximum Resale Request (on the form provided by the City). Such form shall include the date on which the Owner will be ready to begin the marketing to Eligible Households.

(b) HOST's determination of Maximum Sale Price for the IRU shall be based on the affordable sale price for a unit of similar size, as published by HOST annually in accordance with the AHDF Rules.

(c) The Owner may not list the IRU for sale prior to receipt of HOST's written determination of the Maximum Sale Price. After receiving such determination from the City, the selling Owner may list the IRU for sale to potential Eligible Households at or below such Maximum Sale Price. THE MAXIMUM SALE PRICE IS ONLY AN UPPER LIMIT ON THE RESALE PRICE FOR THE IRU, AND NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION, WARRANTY OR GUARANTEE BY THE CITY OR DECLARANT THAT UPON RESALE THE OWNER SHALL OBTAIN THE MAXIMUM SALE PRICE. DEPENDING UPON THE CONDITION OF THE UNIT AND CONDITIONS AFFECTING THE REAL ESTATE MARKET, THE OWNER MAY OBTAIN LESS THAN THE MAXIMUM SALE PRICE FOR THE IRU UPON RESALE.

(d) The Owner shall make a good faith effort to market the IRU in accordance with the requirements set forth in the AHDF Rules to purchasers that are expected to qualify as Eligible Households.

(e) The Owner may only enter into a contract for the sale of the IRU with a purchaser who is reasonably expected to qualify as an Eligible Household.

(f) The Owner may enter into a contract for the sale of the IRU upon such terms and conditions as the selling Owner shall deem acceptable, provided, however, that the following conditions apply:

(i) the purchase price shall not exceed the Maximum Sale Price;

(ii) the selling Owner must believe in good faith that the purchaser will be verified by HOST as an Eligible Household; and

(iii) the contract must state as a contingency that the purchaser will submit an income verification request in accordance with Section 4 above and that the selling Owner's obligations under the contract are expressly contingent upon the City's determination (by issuance of the Verification described in Section 4) that the purchaser is an Eligible Household and that the purchase price does not exceed the Maximum Sale Price. All earnest money must be returned in the event that the contingencies above are not met.

(g) The verification procedure described above in Section 4 shall apply to each resale of any IRU.

(h) Upon the transfer of the IRU, the purchaser must sign and record a Memorandum of Acceptance as described above in Section 5.

(h) The Director may waive the restrictions on the resale prices for IRUs if the Director finds that the restrictions conflict with regulations of federal or state housing programs and thus prevent Eligible Households from buying dwelling units under the IRU program. Any waiver shall be in writing, shall reference the recorded covenant, and shall be recorded in the records of the Clerk and Recorder for the City and County of Denver, Colorado.

8. Remedies in the Event of Breach.

(a) In the event that HOST has reasonable cause to believe that an Owner is violating the provisions of this Covenant, an authorized representative of HOST may seek permission to enter the IRU, if necessary to determine compliance.

(b) In the event the City becomes aware of an alleged violation of this Covenant, the City or HOST shall send a notice of such alleged violation to the Owner detailing the nature thereof and allowing the Owner fifteen (15) days to cure such default or request a hearing before the City using the linkage fee appeals process described in the AHDF Rules, with the Director serving as the designated official in the stead of the Director of CPD. If no hearing is requested and the violation is not cured within the fifteen (15) day period, the Owner shall be considered in violation of this Covenant. If a hearing is held before the City, the decision of the City based on the record of such hearing shall be final for the purpose of determining if a violation has occurred.

(c) There is hereby reserved to the City, HOST and the Director the right to enforce this Covenant, including any and all remedies provided pursuant to the Denver Revised Municipal Code.

(d) Any Owner who violates the occupancy provisions of Section 6(b) above may be required by the Director to occupy such IRU as Owner's domicile, offer the IRU for resale to an Eligible Household, and/or turn over to the City all rents received without a City exception.

(e) Subject to the limitations set forth in Section 8(f) below, in the event the IRU is Transferred in a manner that is not in full compliance with the terms and conditions of this Covenant, such Transfer shall be wholly null and void and shall confer no title whatsoever upon the purported transferee. Each and every Transfer of the IRU, for all purposes, shall be deemed to include and incorporate by this reference the covenants herein contained, regardless of reference

therein to this Covenant.

(f) Notwithstanding anything in this Covenant to the contrary, in the event that the IRU is encumbered by a deed of trust from a Purchase Money First Lien Holder and such deed of trust is insured by HUD, the City's remedies shall specifically not include remedies prohibited by HUD, such as: (i) voiding a conveyance, including a lease, by the Owner; (ii) terminating the Owner's interest in the IRU; or (iii) subjecting the Owner to contractual liability including damages, specific performance or injunctive relief, other than requiring repayment at a reasonable rate of interest any amount paid for an IRU above the Maximum Sale Price.

9. Seniority of Covenant. This Covenant is senior to all instruments securing permanent financing, except as otherwise permitted herein.

10. Release of Covenant in Foreclosure.

(a) In the event that Owner receives a notice of default or notice of foreclosure from the Purchase Money First Lien Holder, the Owner shall send a copy of said notice to HOST within seven (7) days of receipt.

(b) In the event of (i) a foreclosure action being brought by the Purchase Money First Lien Holder, or (ii) the request for the Purchase Money First Lien Holder to accept title to the IRU by deed in lieu of foreclosure, the Owner shall give a copy of any notice of intent to foreclose or request for deed in lieu to HOST within ten (10) days of receipt of such notice or request. Notice to HOST shall be to the address of HOST as provided in this Covenant with a copy to the City Attorney's Office. In the event that the Purchase Money First Lien Holder takes title to the IRU pursuant to a deed in lieu of foreclosure, the Owner shall give notice to HOST with a copy to the City Attorney's Office upon the vesting of title to the IRU in Purchase Money First Lien Holder.

(c) As to any IRU encumbered by a HUD-insured mortgage, this Covenant shall automatically and permanently terminate upon foreclosure of a deed of trust or acceptance of a deed in lieu of foreclosure by a Purchase Money First Lien Holder or assignment to HUD of a purchase money first priority deed of trust encumbering such IRU. In the event of foreclosure or the acceptance of a deed in lieu of foreclosure by any other Purchase Money First Lien Holder on an IRU, the mortgagee may request the release of this Covenant with respect to that particular IRU and the Director is authorized to execute such a release if warranted by the circumstances.

(d) In a cash funded purchase following foreclosure, any and all liens or deeds filed against the property in exchange for the cash portion of the purchase shall be subordinate to the covenant placed on the unit pursuant to the requirements of these rules and regulations. Such liens or deeds will not qualify the holder as a holder of a first deed of trust, nor a purchase money first lien holder, nor under the covenant, nor under the City's Housing Funds Ordinance Administrative Rules and Regulations.

11. Limitation on Equity Mortgages. During the Covenant Period, Owner shall not cause or allow any second mortgage, refinance mortgage, or equity mortgage greater than the then-current Maximum Sale Price to be placed on or recorded against the IRU. Any action in contravention of this provision shall be void and may subject the Owner to criminal and civil fraud penalties.

12. Covenant Running with Land; Duration of Covenant. The terms of this Covenant

and the provisions of the AHDF Rules shall apply to the IRUs and run with the land as a burden thereof until Final Sale, and shall be specifically enforceable by the City and its successors and assigns, as applicable, by any appropriate legal action including but not limited to specific performance, injunction, reversion or eviction of non-complying Owners and/or occupants.

13. Final IRU Sale.

(a) Assuming no previous termination due to foreclosure, this Covenant shall terminate, expire and be of no further force and effect with respect to an IRU on the date of Final Sale.

(b) If an Owner desires to sell their IRU within ten (10) years after the end of the Covenant Period, such proposed sale shall be subject to the following requirements:

(i) Right of HOST to Purchase. No less than thirty (30) days before offering the IRU for Final Sale, the Owner shall notify HOST of the proposed offering and the date on which the Owner will be ready to offer the property for sale. The notice shall affirm that the property will be offered at fair market value with no extraordinary terms of sale and that it is being offered as a single property for sale. The notice shall set forth the proposed sale price, number of bedrooms, unit size by square feet, and a description of the amenities offered in the IRU.

Within thirty (30) days of HOST's receipt of the notice described above, HOST shall provide written notice to the Owner of the City's or its designee's intent to purchase the IRU. If the City opts to purchase the IRU, it shall complete such purchase within sixty (60) days after the date on which the notice of intent to purchase was received by the Owner. If the City does not so notify the Owner or if the purchase of the property does not close within such sixty (60) day period, the Owner may proceed to sell the IRU to any third party purchaser.

(c) Upon a finding that any and all amounts due to the City and all other provisions of this Covenant have been satisfied, the Director shall release this Covenant.

14. Notices. Any notice, consent or approval which is required or permitted to be given hereunder shall be given by mailing the same, certified mail, return receipt requested, properly addressed and with posting fully prepaid, to any address provided herein or to any subsequent mailing address of the party as long as prior written notice of the change of address has been given to the other parties to this Covenant.

Said notices, consents and approvals shall be sent to the parties hereto at the following addresses unless otherwise notified in writing:

To Declarant: _____
[Development Entity]

_____
[Street Address]

_____
[City, State and Zip Code]

To the City: Department of Housing Stability
City and County of Denver

201 W. Colfax Avenue, Dept.615
Denver, Colorado 80202

Copy to: City Attorney's Office
City and County of Denver
201 W. Colfax Avenue, Dept. 1207
Denver, Colorado 80202

To Owner: To be determined pursuant to the Memorandum of Acceptance (as shown on Exhibit B) recorded with respect to each Transfer of an IRU.

15. Exhibits. All exhibits attached hereto are incorporated herein and by this reference made a part hereof.

16. Severability. Whenever possible, each provision of this Covenant and any other related document shall be interpreted in such a manner as to be valid under applicable law; but if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions of such documents.

17. Conflict or Inconsistency. In the event of any conflict or inconsistency between the terms of this Covenant and the terms and provisions of the AHDF Rules, as such are in effect on the date of this Covenant, the AHDF Rules shall prevail.

18. Choice of Law. This Covenant and each and every related document are to be governed and construed in accordance with the law of the State of Colorado.

19. Successors. Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors and assigns of the parties.

20. Section Headings. Paragraph or section headings within this Covenant are inserted solely for convenience of reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

21. Waiver. No claim of waiver, consent or acquiescence with respect to any provision of this Covenant shall be valid against any party hereto except on the basis of a written instrument executed by the parties to this Covenant. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

22. Gender and Number. Whenever the context so requires herein, the neuter gender shall include any or all genders and vice versa and the use of the singular shall include the plural and vice versa.

23. Personal Liability. Owner shall be personally liable for any of the transactions contemplated herein.

24. Further Actions. The parties to this Covenant agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Covenant or any restriction or document relating hereto or entered into in connection herewith.

25. Modifications. The parties to this Covenant agree that any modifications of this

Covenant shall be effective only when made by writings signed by both parties and recorded with the Clerk and Recorder of the City and County of Denver, Colorado.

26. Owner and Successors. It is understood that a person or persons shall be deemed an Owner hereunder only during the period of his, her or their ownership interest in the IRU and shall be obligated hereunder for the full and complete performance and observance of all covenants, conditions and restrictions contained herein during such period.

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ACCEPTANCE BY DECLARANT

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

DECLARANT: _____, a _____
[Development Entity] [State]

_____.
[Type of business organization]

By: _____

Name: _____

Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of_____ _____, 20__, by _____ as _____ of _____, a _____
[Development Entity] [State]

_____.
[Type of business organization]

Witness my hand and official seal.
My commission expires:_____.

_____
Notary Public

ACCEPTANCE BY THE CITY AND COUNTY OF DENVER

The foregoing Notice of Voidable Title Transfer and Master Covenant for the Occupancy and Resale of Units _____, and its terms
[Project Name]
are hereby accepted by the City and County of Denver, Colorado.

CITY AND COUNTY OF DENVER, COLORADO

By: _____

Name: _____

Title: _____

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____ as _____ of the City and County of Denver, Colorado.

Witness my hand and official seal.
My commission expires:_____.

_____
Notary Public

EXHIBIT A – Legal Description
EXHIBIT B - Memorandum of Acceptance

EXHIBIT A
Legal Description

UNIT _____, _____ [*INSERT NAME OF PROJECT*], County of _____, State of Colorado, according to the Map thereof recorded on _____, 20__, at Reception No. _____, and the Declaration recorded on _____, 20__, at Reception No. _____, in the records of the Clerk and Recorder of the County of _____, Colorado,

also known by street and number as: _____

EXHIBIT B

MEMORANDUM OF ACCEPTANCE
OF
NOTICE OF VOIDABLE TITLE TRANSFER AND MASTER COVENANT
FOR THE OCCUPANCY AND RESALE OF UNITS FOR

_____
[Project Name]

WHEREAS, _____, the Buyer, purchased
[Buyer Name]

_____, on the date of _____from
[Property Address]

_____ Seller. The maximum resale price [is
(Seller Name)

/is deemed to be] $_____ as of _____, 201__.
[purchase price amount]

WHEREAS, the Seller of the IRU is requiring as a prerequisite to the sale transactions, that the Buyer acknowledge and agree to the terms, conditions and restrictions found in that certain instrument entitled "Notice of Voidable Title Transfer and Master Covenant for The Occupancy and Resale of Units _____", recorded on
[Project Name]

_____, 20_____, under Reception No. _____, in the real property records of the City and County of Denver, Colorado (the "Master Covenant").

NOW, THEREFORE, as an inducement to the Seller to sell the Unit, the Buyer:

1. Acknowledges that Buyer has carefully read the entire Affordable Housing Covenant ("Covenant"), that applies to the property and has had the opportunity to consult with legal and financial counsel concerning the Covenant and fully understands the terms, conditions, provisions, and restrictions contained in the Covenant.

2. Acknowledges the Covenant **voids title passage** if a transfer is attempted which is non-compliant with the affordability restrictions in the Covenant. The failure to transfer for a restricted price and to an eligible household under the Covenant means title is not transferred (void) and the buyer has no title or ownership of the property.

3. Acknowledges that, before selling this affordable home in the future, it is mandatory that approval is obtained **in writing** from the City and County of Denver, Office of Economic Development, 201 West Colfax Ave., Dept. 204, Denver, Colorado 80202.

4. Acknowledges that the terms of the Covenant restrict the resale price and profits may be required to be shared after the termination of this Covenant. Maximum resale price and profit share information are available only from the City and County of Denver.

5. Acknowledges that the terms of the Covenant restrict purchasers to households earning no more than 80% of Area Median Income ("AMI"). Allowable income maximums are available only from the City and County of Denver.

6. Acknowledges that the City and County of Denver may recover as financial penalty all amounts overpaid to the seller and require the purchaser to sell the property for the affordable price to an eligible household. The City's recovery of a penalty does not limit any action a buyer or other injured party may have to recover their damages from the seller.

7. Acknowledges that the terms of the Covenant prohibit rentals except in limited circumstances. Exceptions to rental require the written approval of the City and County of Denver.

8. Acknowledges that the City and County of Denver may recover as financial penalty all rents paid for and require the purchaser to sell the property for the affordable price to an eligible household. The City's recovery of a penalty does not limit any action a tenant or other injured party may have to recover their damages from the landlord.

9. Notice to Buyer, pursuant to Subsection _____ of the [Master] Covenant, should be sent to:

_____

_____

10. In addition to the above, the City and County of Denver may seek any remedy allowed to it for violations of Article V, Chapter 27, Denver Revised Municipal Code (including any adopted rules and regulations) or the Covenant.

11. Directs that this memorandum be placed of record in the real estate records of the City and County of Denver, Colorado and a copy provided to Denver Community Planning and Development Agency.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this instrument of the day and year first above written.

BUYER(S):

By: _____
Name: _____

STATE OF)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, by _____
_____.

Witness my hand and official seal.

_____
Notary Public

My commission expires:_____

Please return **originally signed** document to HOST for recordation.

Office of Economic Development
201 W. Colfax Ave., Dept. 204
Denver, CO 80202

WHEN RECORDED MAIL TO:

Department of Housing Stability
Attention: _____
201 W. Colfax Ave., Dept. 615
Denver, CO 80202

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

RENTAL AND OCCUPANCY COVENANT

THIS RENTAL AND OCCUPANCY COVENANT is made this ____ day of _____, 20____, by _____, a _____ ("Owner"), and enforceable by the City and County of Denver, Colorado ("City").

RECITALS:

WHEREAS, Owner is the owner of the following described real property in the City and County of Denver, State of Colorado (the "Subject Property"):

[fill in]

WHEREAS, pursuant to the provisions of the Affordable Housing Dedicated Fund Ordinance as set forth in Article V of Chapter 27 of the Denver Revised Municipal Code (the "AHDF Ordinance") and the Affordable Housing Permanent Funds Ordinance Administrative Rules and Regulations ("AHDF Rules"), and as an alternative to payment of the Linkage Fee (as defined in the AHDF Ordinance), Owner has agreed that certain units within the Subject Property will be built as Income Restricted Units as defined in the [AGREEMENT] (as defined below), and this Covenant);

WHEREAS, in order to document its plan for construction of the Income Restricted Units, the Owner entered into that certain [AGREEMENT] ("Agreement") with the City and County of Denver, Colorado (the "City") dated _____ and recorded under Reception No. _____ in the real estate records of the City and County of Denver; and

WHEREAS, Owner has now agreed to record a covenant to run with title to the Subject Property to ensure that certain rental and occupancy limitations, and administrative requirements for the Income Restricted Units are met and to assign to the City the right to enforce compliance with this Covenant.

NOW THEREFORE, the following are established as covenants running with the Subject Property:

1. **Definitions**.

i. "Adjusted Median Income" (AMI) means the area median income, adjusted for household size, for the Denver metropolitan area as determined by the U.S. Department of Housing and Urban Development.

ii. Income Restricted Units ("IRUs") means those _____ rental housing units located within the Subject Property as are designated from time to time by Owner. Income Restricted Units must be restricted as to the rent charged and tenants allowed pursuant to the Covenant.

iii. "Compliance Report" means the report, the form of which is attached to this Covenant as Exhibit A, that Owner shall prepare and provide to the City pursuant to and at the times specified in Section 5.

iv. "Eligible Household" means a natural person who, at the time of entering into the lease for a IRU or a renewal of such lease, verifies to Owner on the Income Verification that the total gross income earned by such person is _____ percent (__%) or less of the of AMI for the tenant's household size.

v. "Income Verification" means the form attached to this Covenant as Exhibit B.

vi. "Initial Leasing Period" means the period commencing on the first date a certificate of occupancy is issued for any building within the Subject Property that contains IRUs and ending on the date when all IRUs have been fully leased.

2. **Amount of Income Restricted Units**. Owner shall provide no less than () IRUs on the Subject Property.

3. **Rent Limitations**. IRUs shall have the same rent limitations as Build Alternative Units as defined in the AHDF Ordinance and AHDF Rules. The City and County of Denver's Department of Housing Stability ("HOST"), or any successor agency which is assigned responsibility for the City's AHDF Ordinance, will post a table showing maximum allowable rents for Build Alternative Units each year on its website, based upon an Eligible Household applying no more than thirty percent (30%) of its monthly gross income from all sources to a rental payment. Any tenant association fees shall be included in the rent calculation. The

maximum rent shall deduct utility allowance costs which are published periodically by HUD or CHFA.

4. **Occupancy/Income Limitations**. The IRUs shall be occupied by Eligible Households. Owner shall have responsibility to assure that a household or individual is an Eligible Household under the requirements of the AHDF Ordinance, AHDF Rules, and the Covenant before executing a lease contract, and shall complete an Income Verification for each Eligible Household. Owner shall also offer the IRUs to Eligible Households through a fair and equitable system and use good-faith efforts to enter into leases with and marketing to Eligible Households.

5. **Compliance and Reporting.**

i. During the Initial Leasing Period, Owner shall submit a Compliance Report by the tenth (10^{th}) day of each calendar quarter indicating how many IRUs were made available and leased during the preceding calendar quarter, and a copy of an Income Verification completed by each Eligible Household that entered into a lease during the Initial Leasing Period.

ii. All IRUs shall be made available to Eligible Households no later than the end of the calendar month in which the certificate of occupancy is issued for the building on the Subject Property containing IRUs.

iii. Owner shall demonstrate continued compliance with this Covenant after the Initial Leasing Period by submitting to the City a Compliance Report on a semi-annual basis during the Term. Each such Compliance Report shall be accompanied by copies of Income Verifications for any Eligible Household that entered into a new lease or lease renewal during that half year.

iv. The Income Verifications for each Eligible Household shall be maintained by Owner at the management office at the Subject Property or such other place where Owner's books and records are kept in the Denver metropolitan area for so long as the Eligible Household occupies an IRU.

v. Upon reasonable notice and during the normal business hours maintained by Owner at the management office at the Subject Property or such other place where the requested books and records are kept in the Denver metropolitan area, Owner shall permit any duly authorized representative of the City to inspect any

books or records of Owner pertaining to the project at the Subject Property containing IRUs which reasonably relate to Owner's compliance with the terms and conditions of this Covenant.

vi. Owner acknowledges that the City may, at its election, hire a compliance agent, to monitor Owner's compliance with this Covenant. In such an event, Owner shall be authorized to rely upon any written representation made by the compliance agent on behalf of the City.

6. **Termination of Lease**. The form of lease to be used by Owner in renting any IRUs to Eligible Households shall also provide for termination of the lease and consent by such tenant to immediate eviction if such tenant subleases the IRU, attempts to sublease the IRU, or provide the IRU as a short term rental as defined by Article III, Chapter 33 of the Denver Revised Municipal Code.

7. **Term**. This Covenant shall encumber the Subject Property for a period of _____ (____) years from the date of recording hereof and shall not be amended or modified without the express written consent of the City and County of Denver.

8. **Run with the Land**. The Covenant shall run with the Subject Property and shall be binding on all persons having or acquiring an interest in title to the Subject Property, all upon terms, provisions, and conditions set forth in this Covenant.

9. **Seniority of Covenant**. The Covenant is senior to all instruments securing permanent financing.

10. **Survivability**. If any provision of this Covenant shall be held by a court of proper jurisdiction to be invalid, illegal or unenforceable, the remaining provisions shall survive and their validity, legality or unenforceability shall not in any way be affected or impaired thereby.

11. **Enforcement**. This Covenant may be enforced by the City and County of Denver, or the Executive Director of HOST.

12. **Memorandum of Acceptance**. Upon any sale of the Subject Property, Owner shall require the grantee of the Subject Property to execute a Memorandum of Acceptance, and

shall deliver a copy of such Memorandum of Acceptance to the Executive Director of HOST not less than thirty (30) days after such sale is consummated.

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IN WITNESS WHEREOF, Owner has caused this Covenant to be executed on the date first written above.

OWNER: _____,

a _____ _____

By: _____

Name: _____

Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of_____ _____, 20__, by _____ as _____ of _____, a _____ _____.

Witness my hand and official seal.
My commission expires:_____.

_____
Notary Public

ACCEPTANCE BY THE CITY AND COUNTY OF DENVER

The foregoing Rental and Occupancy Covenant, and its terms are hereby accepted by the City and County of Denver, Colorado.

CITY AND COUNTY OF DENVER, COLORADO

By:_____
Name:_____
Title:_____

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this _____ day of _____, 20___, by _____ as _____ of the City and County of Denver, Colorado.

Witness my hand and official seal.
My commission expires:_____.

_____
Notary Public

EXHIBIT A

COMPLIANCE REPORT

DENVER
OFFICE OF ECONOMIC DEVELOPMENT

DEPARTMENT OF HOUSING STABILITY
Rental Restriction Compliance Report

201 W. Colfax Ave. #204
Denver, CO 80202
Phone: 720/913-1999
www.denvergov.org/housing

Project: _____ **Address:** _____

Build Alternative recordation # _____ **Total Number of Units:** _____ **Total Number of Rent Restricted Units:** _____

Unit #	O or V*	IV or RV**	Tenant Name	# of Occupants	Lease Dates		Unit Sq. Ft	# Bedrooms	Allowable % Rent & Income	Rent Amount	Total Income ***	Additional Fees		Does rent include utilities? Please list each utility, include amount charged + whether included in rent
					Begin	End						Description	Amount	

* O = Occupied **OR** V = Vacant ** IV = Initial Income Verification **OR** RV = Re-income Verification *** = must match income verification/eligibility form

CERTIFICATION

I, _____ being a duly authorized agent or employee of _____ state that I have completed all information fully and truthfully for each household occupying an affordable restricted unit.

Completed by: _____ _____ _____
Printed Name *Signature* *Date*

Note: Each unit indicated above should be accompanied by the required Income Verification & Eligibility Form and associated income documentation.

EXHIBIT B

INCOME VERIFICATION

DENVER
ECONOMIC DEVELOPMENT & OPPORTUNITY

Income verification should tie to the period of the property's lease/renewal

INCOME VERIFICATION & ELIGIBILITY FORM

Return completed application to:
Department of Housing Stability
Attn: Affordable Housing Program Coordinator
201 W. Colfax Avenue - Dept. 204 Denver, CO 80202
E-Mail: housingcompliance@denvergov.org

Project Information:

Name of Project: _____

Project Address: _____

Contact: _____

Telephone: _____

E-Mail: _____

Household Information:

Provide information for each household member who will be living in the home INCLUDING anyone who will be on the property title or lease and denote such.

Name (list applicant first)	Relationship to Applicant	Age	Date of Birth	Days per year child resides with you	✓ If Employed
					☐ Employed
					☐ Employed
					☐ Employed
			Total number of members in household:		

Projected Annual Income:

Regular Income	Name:	Name:	Name:	Name:	Name:	Total
Wages/Salaries						
How often paid?						
Benefits/Pensions						
How often paid?						
Public Assistance						
How often paid?						
Child Support						
How often paid?						
Alimony						
How often paid?						
Awards:						
How often paid?						
Misc Income: _____						
How often paid?						
Total Anticipated Income:						

Income verification should tie to the period of the property's lease/renewal

INCOME VERIFICATION & ELIGIBILITY FORM

Return completed application to:

Department of Housing Stability
Attn: Affordable Housing Program Coordinator
201 W. Colfax Avenue - Dept. 204 Denver, CO 80202
E-Mail: housingcompliance@denvergov.org

EQUAL OPPORTUNITY: There will be no discrimination against an applicant on the basis of race, age, sex, marital status, sexual orientation, national origin, religion, handicap, or source of income. If you need special accommodations to enable you to apply for, or access to the Income Verification Process, please contact us at 720-913-1800.

Exhibit F

City and County of Denver Standard Materials Management Plan

DENVER
PUBLIC HEALTH & ENVIRONMENT

ACCREDITED HEALTH DEPARTMENT · PHAB Advancing public health performance · PUBLIC HEALTH ACCREDITATION BOARD

TO: City and County of Denver Department Executive Directors

FROM: Bob McDonald, Executive Director

DATE: November 13, 2019

SUBJECT: City and County of Denver Standard Materials Management Plan

The Denver Department of Public Health & Environment has prepared the attached City and County of Denver (CCD) Standard Materials Management Plan (MMP) to provide general guidance to CCD contractors for the management of contaminated environmental media encountered during soil disturbing activities at CCD-owned properties, easements, and properties planned for acquisition. The general purpose of an MMP is to provide procedures for the identification and handling of known or potentially contaminated material that may require special handling and disposal.

The primary goals of implementing this MMP are to (a) minimize worker exposure to potentially contaminated material, (b) minimize the potential of releases to the environment, and (c) facilitate appropriate reuse and disposal of materials generated during soil disturbing activities.

While certain conditions may require preparation and implementation of a site-specific MMP, most CCD projects will benefit from time and cost savings associated with not having to acquire site-specific MMPs. In addition to cost and time savings, implementation of this MMP also offers additional benefits to CCD including a standardized approach to materials management and ensuring compliance with environmental regulations.

Please feel free to reach out to Zachery Clayton or myself with any questions, comments or concerns.

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City and County of Denver
Standard Materials Management Plan

Prepared by the Denver Department of Public Health & Environment
Environmental Quality Division

November 13, 2019

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List Acronyms

Acronym	Definition
ACM	Asbestos-Containing Materials
APEN	Air Pollution Emissions Notice
AST	Above-ground Storage Tank
AQCC	Air Quality Control Commission
BMP	Best Management Practice
CABI	Certified Asbestos Building Inspector
CCD	City and County of Denver
CCR	Colorado Code of Regulations
CDPHE	Colorado Department of Public Health and Environment
CFR	Code of Federal Regulations
C&D	Construction & Debris
CGI	Combustible gas indicator
CWRSL	Composite Worker Regional Screening Level
DADS	Denver-Arapahoe Disposal Site
DDPHE	Denver Department of Public Health and Environment
DOT	Department of Transportation
EP	Environmental Professional
EPA	United States Environmental Protection Agency
ESA	Environmental Site Assessment
FID	Flame Ionization Detector
HASP	Health and Safety Plan
HAZWOPER	Hazardous Waste Operations and Emergency Response
HSO	Health and Safety Officer
HUF	Historical Urban Fill
LEL	Lower Explosive Limit
MMP	Materials Management Plan
NPL	National Priority List
OSHA	Occupational Safety and Health Administration
PAH	Polycyclic Aromatic Hydrocarbons
PCB	Polychlorinated biphenyl
PCS	Petroleum Contaminated Soil

Acronym	Definition
PO	Purchase order
PID	Photoionization Detector
PM	Project Manager
PPE	Personal Protective Equipment
RACS	Regulated Asbestos Contaminated Soil
REC	Recognized Environmental Condition
RCRA	Resource Conservation and Recovery Act
ROW	Right-of-Way
RRSL	Residential Regional Screening Level
RSL	Regional Screening Levels
SAP	Sampling and Analysis Plan
SOP	Standard Operating Procedure
SWMP	Stormwater Management Plan
TCLP	Toxicity Characteristic Leaching Procedure
TSDF	Treatment, Storage, and Disposal Facility
UST	Underground Storage Tank
VCUP	Voluntary Cleanup and Redevelopment Program
VOC	Volatile Organic Compound
WM	Waste Management
mg/kg	Milligrams per Kilogram
mg/L	Milligrams per Liter

1.0 PURPOSE and APPLICABILITY

This Materials Management Plan (MMP) provides general guidance to City and County of Denver (CCD) contractors (the "Contractor") for the management of contaminated environmental media encountered during soil disturbing activities at CCD-owned properties, easements, and properties planned for acquisition. The primary goals of implementing this MMP are to (a) minimize worker exposure to potentially contaminated material, (b) minimize the potential of releases to the environment, and (c) facilitate appropriate reuse and disposal of materials generated during soil disturbing activities.

This MMP serves as guidance and is not intended to substitute or supersede environmental regulations or applicable permits. If any discrepancy is noted between this MMP and applicable regulations, the regulations will take precedence. It is the responsibility of the Contractor to follow all appropriate regulations, obtain the proper permits, and utilize field personnel trained to identify potential contamination. Implementation of this MMP is optional but, if implemented, must be completed by an Environmental Professional (EP) that meets the qualifications outlined in Section 4.

Prior to implementation of this MMP, a Phase I environmental site assessment (ESA), or similar, shall be completed to determine whether potential recognized environmental conditions (RECs) exist and whether implementation of this MMP is sufficient to appropriately manage identified RECs. If contamination is suspected based on environmental assessments, visual/ olfactory observation, and/or field tests, soil and debris must be characterized for proper disposal or reuse.

If offsite reuse of soil is anticipated, this MMP shall be implemented in conjunction with Denver's Guidance for Reuse of Soil on City Projects. If debris is encountered, Denver's Regulated Asbestos-Contaminated Soil (RACS) Standard Operating Procedure (SOP) should be implemented to comply with solid waste regulations.

2.0 EXCLUSIONS FROM THIS MMP

This MMP does not apply to the following:

- Soil that will not be disturbed by construction activities and will remain in place.
- Sites that are subject to state or federal environmental regulatory programs, such as, but not limited to, the Resource Conservation and Recovery Act (RCRA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Colorado's Voluntary Cleanup and Redevelopment Program (VCUP), and Colorado's petroleum storage tank programs.
- Hazardous materials associated with onsite activities during project construction, such as the waste generated on-site during construction; management of construction materials brought onsite; or onsite handling, storage, and/or disposal of hazardous materials.
- Management of the following materials:
  - Groundwater;
  - Asbestos containing material (ACM) in structures;
  - Regulated Asbestos Contaminated Soils (RACS);
  - Above ground storage tanks (ASTs);
  - Underground storage tanks (USTs);
  - Hazardous materials;
  - Radioactive materials;
  - Biological waste,
  - Historical, prehistorical and archaeological resources, or
  - Structure or infrastructure materials including buildings, roads, and bridges.

As needed, please contact DDPHE for guidance regarding management of materials excluded from this MMP.

3.0 CONTACT INFORMATION

If unexpected, unknown/unidentified USTs, drums, odorous soil, stained soil, asbestos-cement pipe, building debris or waste materials are encountered during soil disturbing activities, the Contractor shall immediately stop work in the area of discovery and shall immediately notify the CCD PM. Denver's Department of Public Health and Environment (DDPHE) shall also be immediately notified of the discovery by either the CCD PM, Contractor, or an EP.

This MMP should be supplemented with additional project specific contact information, such as:

Organization	Contact Information
DDPHE	(720) 460-1706
CCD PM	TBD
Contractor	TBD
EP	TBD

4.0 ENVIRONMENTAL PROFESSIONAL QUALIFICATIONS

The project team, either via CCD or its Contractor, will hire an environmental firm to have an independent and appropriately trained EP onsite to implement this MMP during soil disturbing activities. The EP shall also be onsite to evaluate imported materials.

Per this MMP an EP is defined as follows:

1. A person who possesses sufficient specific education, training, and experience necessary to exercise professional judgement to develop opinions and conclusions regarding conditions indicative of releases or threatened releases on, at, in, or to a property, sufficient to meet objectives and performance factors.
2. Such a person must:
   (i) Hold a current Professional Engineer's or Professional Geologist's license or registration from a state, tribe, or U.S. territory (or Commonwealth of Puerto Rico) and have the equivalent of three (3) years of full-time relevant experience; or
   (ii) Be licensed or certified by the federal government, a state, tribe, or U.S. territory (or the Commonwealth of Puerto Rico) to perform environmental inquiries and have the equivalent of three (3) years of full-time relevant experience; or
   (iii) Have a Baccalaureate or higher degree from an accredited institution of higher education in a discipline of engineering or science and the equivalent of five (5) years of full-time relevant experience; or
   (iv) Have the equivalent of ten (10) years of full-time relevant experience.
3. An EP should remain current in his or her field through participation in continuing education or other activities.
4. The definition of an EP provided above does not preempt state professional licensing or registration requirements such as those for a professional geologist, engineer, or site remediation professional.

Before commencing work, a person should determine the applicability of state professional licensing or registration laws to the activities to be undertaken as part of the inquiry.

5. A person who does not qualify as an EP under the foregoing definition may assist in the conduct of all appropriate inquiries in accordance with this part if such a person is under the supervision or responsible charge of a person meeting the definition of an environmental professional provided above when conducting such activities.

Relevant experience, as used in the definition of EP in this section, means participation in the performance of all appropriate inquiry investigations, environmental site assessments, or other site investigations that may include environmental analyses, investigations, and remediation which involve the understanding of surface and subsurface environmental conditions and the processes used to evaluate these conditions and for which professional judgement was used to develop opinions regarding conditions indicative of releases or threatened releases to the subject property.

Additionally, the EP shall have the following training:

- Occupational Safety and Health Administration (OSHA) 40-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) training and current 8-hour annual refresher; and
- Two-hour asbestos in soil awareness training, at a minimum.

5.0 RESPONSIBILITIES

The following sections detail the responsibilities of the applicable parties that will be associated with implementation of this MMP.

5.1 DDPHE Responsibilities

As Denver's nationally accredited local public health agency, DDPHE is dedicated to advancing Denver's environmental and public health goals. DDPHE provides oversight of environmentally contaminated site cleanup, works to ensure the sites are investigated and cleaned up to protect the health of residents and the environment, and ensures that the cleanup activities comply with applicable regulations.

During preliminary planning of a CCD project, early coordination with DDPHE is strongly encouraged to determine the potential to encounter contaminated environmental media.

During planning and implementation of this MMP, DDPHE will provide overall environmental-related oversight of the work completed by the EP. For soil reuse, disposal and import of fill material, DDPHE is responsible for promptly informing sampling frequency and analysis requirements based on site-specific contaminants of concern and land uses.

5.2 Environmental Professional Responsibilities

- Be onsite when work is conducted within areas of known, suspected, and/or encountered contamination. Be on-call when work is conducted outside of those areas.
- Perform field screening in adherence to this MMP.
- Complete and maintain daily field notes.
- Track tickets and manifests for material hauled offsite for either reuse or disposal.
- Ensure adherence to this MMP.

- Notify DDPHE immediately of any unexpected unknown/unidentified environmental conditions.
- If appropriate for the project, the EP shall also be a Certified Asbestos Building Inspector (CABI) trained and certified in accordance with Air Quality Control Commission Regulation No. 8, (5 CCR 1001-10, Part B) with 40 verifiable hours of on the job asbestos in soils experience on a minimum of three different asbestos soils projects.

5.3 Contractor Responsibilities

- Adhere to this MMP.
- Provide all necessary equipment and personnel (i.e. health and safety officer (HSO), foreman, laborers, etc.) to implement this MMP.
- Coordinate with the EP, DDPHE, and the CCD PM prior to beginning work to review known or suspected site-specific environmental concerns and MMP requirements.
- Coordinate two-hour asbestos awareness training to all employees that may conduct earth-disturbing activities.
- Ensure that its subcontractors adhere to this MMP.
- Ensure that proper procedures for reuse and disposal are followed. This includes ensuring that If the suspect material a) has not been previously characterized during the environmental investigation, or b) appears different from the previously characterized material, then suspect material that has been disturbed is tested and if it does not meet applicable regulatory standards, then it is disposed in accordance with local, state and federal regulations.
- Ensure that non-salvageable, nonhazardous solid waste is disposed at the DADS landfill as coordinated with DDPHE who may have disposal profiles and manifests in place.
- Ensure that waste material is not disposed onsite, in storm drains, sanitary sewers, streams, or other waterways.

6.0 HEALTH AND SAFETY PLANS

Due to the potential to encounter suspect materials, there is a possibility for increased risk to the health of workers during soil disturbing activities. Therefore, the Contractor must develop a project-specific Health and Safety Plan (HASP) in accordance with 29 Code of Federal Regulations (CFR) 1910 (Occupational Safety and Health Standards) and 29 CFR 1926 (Safety and Health Regulations for Construction). The HASP should be reviewed by a certified industrial hygienist prior to implementation.

The Contractor may share its HASP with its subcontractors or require each subcontractor to prepare their own plan. The Contractor will be required to employ the proper personnel, monitoring equipment, and personal protective equipment (PPE) to provide a safe working environment for its employees, consultants, and subcontractors.

7.0 DUST

The Contractor will take reasonable measures to prevent particulate matter from becoming airborne and to prevent the visible discharge of fugitive particulate emissions beyond the property boundary on which the emissions originate. The Contractor shall provide equipment and personnel for dust control sufficient to prevent dust nuisance on and about the Project area. Blowing dust and airborne particulates shall be controlled by wetting or other means, if approved by the EP and the CCD PM. Dust control agents shall be applied in accordance with manufacturer's recommendations. The measures taken must be effective in the control of

fugitive emissions at all times in the Project area, including periods of inactivity such as evenings, weekends, and holidays as well as any other periods of inactivity.

The Contractor must also comply with the requirements put forth in the City and County of Denver Revised Municipal Code, Chapter 4 Air Pollution Control, Article III Stationary Sources, Section 4-25. Fugitive Particulate Emissions, administered by DDPHE. Requirements are as follows:

No person shall allow or cause: (1) any materials to be handled, transported, or stored; (2) a building, including its appurtenances, or a construction haul road to be used, constructed, altered, repaired or demolished; or (3) any unenclosed activity, including demolition, excavation, backfilling, grading, clearing of land, construction or sandblasting without taking all reasonable measures as DDPHE requires to prevent particulate matter from becoming airborne. All persons shall take reasonable measures to prevent the visible discharge of fugitive particulate emissions beyond the lot line of the property on which the emissions originate.

Additionally, the Contractor will determine if the minimum requirements for an Air Pollution Emissions Notice (APEN) in accordance with 5 CCR 1001 – Air Quality Control Commission are met and obtain the permit if required. Such requirements may include whether the project site is less than 25 contiguous acres and whether site work will be less than 6 months in duration.

8.0 POTENTIAL ENVIRONMENTAL CONTAMINANTS

Common urban contaminants that may be encountered during soil disturbing activities include, but are not limited to, petroleum constituents, metals, solvents, poly-chlorinated biphenyls (PCBs), historical urban fill and associated gases, and asbestos. The following are several common urban contaminants which require special management and disposal:

8.1 Regulated Asbestos Contaminated Soil (RACS)

RACS must be managed in compliance with the Colorado Department of Public Health and Environment (CDPHE) Regulations Pertaining to Solid Waste Sites and Facilities (6 CCR 1007-2, Part 1), 5.5 - Management of Regulated Asbestos Contaminated Soils (CSWR §5.5).

DDPHE has prepared a CDPHE-approved RACS Standard Operating Procedure for CCD to ensure compliance with CSWR §5.5 and to provide procedures for identification, safe handling, transport, and disposal of Non-RACS or RACS that may be encountered during soil-disturbing activities. Provisions of CSWR §5.5, not specifically referenced within this standard operating procedure, must be followed; therefore, any Contractor working on CCD projects must be familiar with both the standard operating procedure and CSWR §5.5. In the event of any disparity between the two, CSWR §5.5 will supersede provisions included within this document.

RACS means soil, ash or debris (plus six inches in all directions of surrounding soil or other matrix material) containing:

- Friable ACM as determined in the field by a CABI through a RACS determination; Previously non-friable ACM(s) that have been rendered friable as determined in the field by a CABI(s) through a RACS determination.
- Non-friable ACM(s) that have a high probability of releasing fibers based on the forces expected to act upon the material during soil disturbance as determined in the field by a CABI(s) through a RACS determination; deteriorated non-friable ACM(s) that are in poor condition resulting in a high probability to release fibers due to weathering, historical mechanical impact, fire damage (by evidence of ACM within an ash layer) or other factors as determined in the field by a CABI(s) through a RACS determination.
- The following broken, resized, or damaged ACM(s) are predetermined to be RACS:
    - Asbestos cement materials

- Plaster
- Brittle caulking, glazing and sealants
- Powdery Concrete Masonry Unit sealant
- Powdery floor leveling compound
- Drywall/wallboard and associated joint compound material
- Firebrick
- Other material as determined by the Department, at the request of the owner or person disturbing debris, to have a high probability to release fibers.

- Soil or ash known to contain non-visible asbestos based on documented evidence.

If debris is encountered, a RACS determination must be made in the field by a CABI, of the friability of (ACM and the probability of non-friable ACM to release fibers based on the condition of the material and the forces that are expected to act on it during disturbance. Determinations of friability shall be based on the requirements for such determinations set forth in Air Quality Control Commission (AQCC) Regulation No. 8 (5 CCR 1001-10, Part B). Determinations of the probability for non-friable ACM to release fibers during disturbance shall be based on the following:

1) The condition of the material prior to disturbance, based on observations of weathering, the integrity of the material, historical mechanical impact, or fire damage;

2) The potential for the material to be broken, resized or damaged during planned disturbance;

3) The material shall be considered RACS if the planned disturbance includes any of the following:

a. Augers

b. Rotary style trenchers

c. Driving on ACM lying on the surface (vehicles or equipment)

d. Blasting or other detonation

e. Intentional burning

f. Other types of direct mechanical impact which are:

i. In direct contact with ACM or result in observation of ACM after disturbance, and

ii. Causing damage to the ACM

Oversight and documentation of potential RACS and non-RACS shall be conducted by a CABI who meets the training requirements of Section 5.5.3(D) of the Regulation Pertaining to Solid Waste Sites and Facilities (6 CCR 1007-2, Part I). The CABI shall have a minimum of forty (40) verifiable hours of on the job asbestos in soils experience on a minimum of three (3) different asbestos in soils projects, conducted under either AQCC Regulation No. 8 or Section 5.5. The CABI shall be independent of the Contractor and/or abatement contractor unless the CABI and the Contractor or abatement contractor are both direct employees of the property owner. However, the Contractor or abatement contractor may hire a subcontractor CABI, but the CABI shall not be a direct employee of the Contractor or abatement contractor.

8.2 Historical Urban Fill (HUF)

HUF can contain a wide variety of debris and waste material including, but not limited to, solid waste, RACS, and soils with elevated polycyclic aromatic hydrocarbons (PAH), PCB and heavy metal concentrations. The generation and transmission of gases, such as methane, are specific health and safety concerns associated with HUF. The primary health and safety concerns of methane are the risks of oxygen depletion and explosion. Field

screening procedures and monitoring requirements for methane and other combustible gases shall be described in the site-specific HASP.

8.3 Petroleum Contaminated Soil

Petroleum contaminated soil (PCS) has been in contact with or otherwise impacted by petroleum constituents. PCS is an environmental concern associated with ASTs and USTs, fuel storage and dispensing facilities, automotive service and mechanical repair facilities, and various industrial operations. PCS may be identified by the visual presence of oil or oil staining, petroleum odor, and laboratory analysis.

8.4 Polycyclic Aromatic Hydrocarbon (PAH) Contaminated Soil

PAHs are a class of chemicals that occur in coal, crude oil and gasoline. They are ubiquitous in urban environments and are produced when incombustible components deposit during burning operations with coal, oil, gas, and other organic matter.

8.5 Solvent Contaminated Soil

Chlorinated and non-chlorinated solvent soil may be encountered during soil disturbing activities. Broad categories of solvent products include paint thinners, mineral spirits, degreasers, dry cleaning chemicals, etc. Solvents may also be mixed in with used oil.

8.6 Metals/Pesticides/Herbicides Contaminated Soil

Metals are naturally occurring in soil throughout Colorado but can also be anthropogenic from ore processing and various other industrial processes. Pesticides and herbicides may be present from agricultural land uses and lawn care application.

8.7 Polychlorinated biphenyls (PCB) Contaminated Soil

PCBs are a group of man-made organic chemicals consisting of carbon, hydrogen, and chlorine atoms. PCBs were domestically manufactured from 1929 until manufacturing was banned in 1979. PCBs were used in hundreds of industrial and commercial applications including, but not limited to:

- Electrical, heat transfer, and hydraulic equipment
- Plasticizers in paints, plastics, and rubber products
- Pigments, dyes, and carbonless copy paper
- Other industrial applications
- Coal-based fill

One of the more common uses of PCBs is an additive to oil found in electrical transformers, motors, and hydraulic systems.

8.8 Radioactive Materials

Few CCD projects have the potential to encounter radioactive materials during project activities. The occurrence of low-level radioactive materials within the Denver Metro area is primarily a result of radium processing activities which occurred along the South Platte River Valley in the early 1900s. Radioactive materials are regulated by a multitude of agencies including the U.S. Environmental Protection Agency (EPA), the U.S. Food and Drug Administration, the U.S. Nuclear Regulatory Commission, the U.S. Department of Energy, and state governments. In Colorado, most radioactive material related activities are overseen by CDPHE's Radiation Program within the Hazardous Materials and Waste Management Division.

As indicated in Section 2.0, this MMP shall not be utilized for the management of radioactive materials. If radioactive materials are identified or suspected in a project area, DDPHE shall be contacted to determine appropriate actions.

9.0 FIELD SCREENING OF DISTURBED SOIL

Environmentally impacted soil encountered during soil disturbing activities shall be identified and appropriately managed. Potentially impacted soil will be identified based on visual and olfactory observation and use of field screening instruments.

During soil disturbing activities, the EP will continuously evaluate soil for the presence of potential impacts, specifically for:

- Debris: Visual evidence of man-made fill, particularly soil that contains debris such as concrete, brick, lumber, and other building materials, etc. Any soil that contains evidence of debris must be screened further by a CABI.
- Staining: Visual evidence of discoloration or staining in soil that contains an abundance of substances that are not indicative of native soils in the area. This includes the presence of coal fines.
- Odor: Olfactory (smell) evidence of impacts, such as noticeable petroleum or solvent odors.

Soil where visual or olfactory impacts are observed must be screened with field instrumentation by the EP to determine suitability as onsite backfill, offsite reuse, or disposal. The utmost care should be taken to segregate potentially impacted soil. Refer to Section 10 for more information on stock piling.

Field instruments will be utilized on an as-needed basis, particularly if petroleum- or solvent-impacted soil is suspected. A photoionization detector (PID) or flame ionization detector (FID) may be used in the field to screen for non-specific volatile organic compounds (VOCs). If HUF is encountered, a combustible gas indicator (CGI) may be used to measure the percent Lower Explosive Limit (LEL) and an oxygen meter may be used to measure oxygen levels. Screening procedures associated with HUF shall be described in site-specific HASPs.

If debris or impacts are encountered, stop work in the area; work may continue in other areas of the project site while the discovery is resolved.

10.0 GENERAL STOCKPILING GUIDANCE

If disturbed soil containing debris, stains, or odor is encountered, it must be segregated and temporarily stockpiled on impermeable plastic sheeting and evaluated by the EP. Unless previously characterized, soil samples will be collected for laboratory analysis and the stockpile will be covered pending receipt and review of laboratory results. A waste profile and manifest will be obtained following receipt of laboratory data for subsequent disposal.

Appropriate stormwater best-management practices (BMPs) must be applied to the stockpiles of potentially impacted material to prevent contact with underlying clean soil and stormwater runoff, erosion, and particulate matter from becoming airborne. In accordance with the CCD Fugitive Particulate Emissions Ordinance (Section 7.0), all reasonable measures are required to prevent particulate matter from stockpiles from becoming airborne.

Stockpiles of potentially impacted soil will be limited to a maximum of 500 cubic yards each. All other soil must be handled in accordance with the project's Stormwater Management Plan (SWMP). This general stockpiling requirement does not apply if RACS is suspected or confirmed to be present. The accumulation of RACS cannot exist for more than 10 calendar days without the approval of a RACS Storage Plan by CDPHE.

11.0 SOIL COMPARISON CRITERIA

If debris is encountered, a RACS determination must be made in the field by a CABI. If chemical contamination is suspected based on field screening and has not been previously characterized, soil shall be characterized to determine eligibility as onsite backfill or disposal. EPA Regional Screening Levels (RSLs) and other state/federal guidance will be used for comparison to help determine appropriate soil disposition. In addition to the Denver's Guidance for Reuse of Soil on City Projects, the following guidance is applicable for evaluating soil conditions for varying exposure scenarios:

- **EPA Residential Regional Screening Levels (RRSLs)** –The RRSLs apply to properties with recreational uses (e.g., parks and open space) and residential uses (single-family, multi-family, mixed-use with residential component). Soils that meet RRSLs are considered appropriate for reuse without restriction.

- **EPA Composite Worker RSLs (CWRSLs)** – The CWRSLs apply to properties such as right of ways (e.g., roads, sidewalks, bike paths), utilities corridors (e.g., stormwater, wastewater, water), or CCD-owned facilities (e.g., maintenance garages, office buildings, safety buildings). Soil with concentrations that exceed the EPA CWRSLs will be removed from the Site and disposed at DADS.

- **CDPHE Risk-Based Screening Level for Arsenic** – In Colorado, arsenic occurs naturally, and often at concentrations greater than the RRSLs. The CDPHE has state-specific guidance related to evaluating arsenic concentrations in soil. The guidance was developed using a database of over 2,700 samples from 44 counties in Colorado. Soil samples were obtained from locations with varied land uses including native grasslands, agricultural fields, urban mixed land uses and mining. Background arsenic concentrations for urban mixed use soil samples ranged from 6 to 19 milligrams per kilogram (mg/kg) and the average of all land uses was 11 mg/kg. Based on these results, the CDPHE adopted a policy that if arsenic concentrations are lower than 11 mg/kg and releases of arsenic could not have occurred at the site, the CDPHE will require no further action to address arsenic in soil.

- **Hazardous Waste** – A material can be defined as hazardous based on definition (i.e., EPA listed wastes) or based on characteristics such as corrosivity, ignitable, reactivity, or toxicity characteristics. A material may be defined as hazardous if any of the following criteria are met:
    - The material contains a listed hazardous waste.
    - The pH is less than or equal to 2.0 or greater than or equal to 12.5; this material would be considered corrosive.
    - The flashpoint is less than 140 degrees Fahrenheit; this material would be considered ignitable.
    - The material is reactive.
    - Toxicity Characteristic Leaching Procedure (TCLP) results exceed the hazardous waste threshold.

- **20 Times Rule** - Waste Management, the operator of DADS, accepts solid material where concentrations as determined by the total analysis are less than 20 times the EPA Toxicity Maximum Concentrations of Contaminants; this is referred to as the "20 Times Rule". As an example, the regulatory level for lead provided by the EPA Toxicity Maximum Concentrations of Contaminants is 5.0 milligrams per liter (mg/L) when analyzed by TCLP. The Waste Management acceptable limit, when analyzed by totals analysis, would then be less than 100 mg/kg, using the 20 Times Rule. If concentrations of any contaminant exceed the 20 Times Rule by totals analysis, then analysis for TCLP is required. If the TCLP results exceed the toxicity characteristic maximum concentration, then the material would require disposal at a hazardous waste disposal facility in accordance with CDPHE requirements.

Soil that is visibly free from stains, odors and debris and meets the EPA RRSLs will be considered suitable for unrestricted backfill and reuse. Note that all soil evaluation and disposition of soil must be confirmed and approved by DDPHE before disposal and offsite reuse.

12.0 MANAGEMENT OF DISTURBED SOIL

The following sections describe management protocols to determine if disturbed soil is appropriate for onsite use as backfill or for offsite reuse.

12.1 Onsite Backfill of Disturbed Soil

Laboratory analysis is not required for disturbed soil which shall remain onsite unless field screening identifies potential environmental impacts or debris. Disturbed soil with suspected or observed contamination or debris should be segregated and be adequately characterized. DDPHE should be promptly contacted to determine project-specific protocols and an appropriate sampling and analysis plan based on site-specific environmental concerns and land uses.

12.2 Offsite Reuse of Disturbed Soil

If excess soil will be generated for offsite reuse, then DDPHE shall be contacted and DDPHE's Guidance for Reuse of Soil on City Projects shall be implemented; soil sampling and appropriate laboratory analysis will be required. Disturbed soil that contains stains, odors, or debris, regardless of analytical results, shall not be reused offsite. This reuse guidance applies to excess soil generated from a CCD-owned property that is intended to be exported to another CCD property or to a third-party owned property. The reuse guidance does not apply when soil remains on a CCD project site. Soil sampling will be required for all offsite reuse and determining the soil disposition early in the project planning process is in the best interest of the project since a) the sampling parameters differ depending on planned soil disposition and b) 3rd party reuse will require a contract with that party.

13.0 DISPOSAL OF DISTURBED SOIL

The Contractor shall direct non-recyclable, non-hazardous wastes from CCD-owned or controlled property or facilities to the DADS landfill, operated by Waste Management (WM), for disposal, following the procedural guidance as required by CCD Executive Order 115. Laboratory analytical results will be required prior to DADS acceptance for soil and possibly other materials. Please coordinate with DDPHE to determine the appropriate sampling plan and timing required for soil disposal.

If sample analysis indicates that the soil is designated as hazardous waste, the soil will be containerized immediately in a lined roll-off box or drum (for small amounts), labeled, and staged at a designated onsite storage area pending off-Site disposal at a hazardous waste disposal facility. Waste manifests must be completed for the material prior to transportation to the disposal facility in accordance with state and federal regulations. Once identified as hazardous waste, this material may not be stored on-Site longer than 90 days and must be removed as soon as practicable. The Contractor, pending DDPHE approval, must coordinate disposal of any encountered hazardous waste via a licensed hazardous waste disposal Contractor and treatment, storage, and disposal facility (TSDF). The Deer Trail Landfill operated by Clean Harbors Environmental in Deer Trail, Colorado is the only facility currently within Colorado licensed to accept hazardous waste. The next closest licensed hazardous waste disposal facilities are located in Nebraska, Utah and Texas. Manifestation and transportation of these waste materials on public highways, streets, or roadways will be in accordance with 49 CFR and any applicable Department of Transportation regulations.

13.1 DADS Account Information

As determined by the CCD PM, DADS accounts may be setup by the CCD PM or the Contractor. If the project is established as a CCD account, then WM tracks the volume of material disposed against the dollar amount of the Purchase Order (PO). Once the PO amount is 50% depleted, WM will make contact to verify the remaining volume of material pending disposal. This may require adding funds to the PO or creating a new PO dependent upon purchasing guidelines. WM will make contact again when the PO is 75% depleted to verify the remaining volume of material pending disposal. WM may require confirmation that funds are available. WM will reject loads of material once the PO amount has been depleted.

13.2 Disposal Ticket Books

WM requires ticket books for disposal of non-contaminated material such as yard waste, construction & demolition debris (C&D), and clean soil at the DADS landfill. Ticket books are not required for disposal of municipal solid waste (i.e. standard trash managed by Public Works-Solid Waste).

Requests for ticket books will be preceded by a requirement of a profile. Laboratory analytical results will be required for disposal of clean soil, but not yard waste or C&D. Additional required information includes a WM PO, account number, and the anticipated volume of material. Ticket books will be issued following WM approval of the profile.

13.3 Disposal Manifests

Waste manifests are a regulatory requirement for transportation and disposal of contaminated material. As indicated in Section 2.0, this MMP shall not be utilized to manage or dispose of hazardous waste. Therefore, manifests obtained under this MMP will be for non-hazardous waste. Non-hazardous waste is classified as any solid waste, special waste or seepage that is not considered hazardous, biomedical or radioactive.

Manifests are project and waste specific per regulations and cannot be used for other project sites. Each type of contaminated soil (e.g. petroleum, asbestos, etc.) requires its specific manifest; they are not interchangeable. Since several types of contamination may be present, several types of manifest could be required for a single project or site.

It shall be the responsibility of the EP to ensure that appropriate manifests are used and are properly completed with accurate (to the extent practical) estimates of quantities of impacted soil to be disposed. It shall be the responsibility of the Contractor to verify that the hauling subcontractor(s) meet all U.S. Department of Transportation (DOT) regulations and that the disposal facility receives the appropriate manifest documents. It is the responsibility of the disposal facility to return the original manifests to the generator for retention.

Requests for manifests will be preceded by a requirement of a profile. Laboratory analytical results will be needed to obtain manifests. Additionally, a WM PO and account number along with the anticipated volume of material will be required. Manifest will be issued following WM approval of the profile.

13.4 Disposal Profiles

As indicated, a profile must be submitted and approved by WM before ticket books and manifests can be issued. Please note, it could take up to several weeks to obtain an approved profile. The following information is required to obtain a profile:

- Contact information (CCD PM or Contractor)
- Billing information/PO information
- Material types and volume
- Process generating the waste
- Laboratory analytical data

14.0 IMPORTED SOIL

Any fill material or soil to be moved to and placed on CCD-owned property or placed on real property to be transferred to CCD must be free of contamination (observed or previously documented) and be acceptable for unrestricted residential use (meets EPA Residential RSLs). Imported material that contains stains, odors or debris regardless of analytical results shall not be imported to CCD-owned property.

If the source of imported material is a quarry, then a letter from the quarry shall be submitted to CCD specifying the type of material to be imported. For material to be imported to CCD-owned property from a source other than a quarry, DDPHE's Guidance for Reuse of Soil on City Projects shall be implemented. To comply with this guidance, submittal of appropriate environmental information will be required, such as a Phase I Environmental Assessment (ESA) and sampling protocol. If available, a Phase II ESA or similar should also be submitted to DDPHE.

For material to be imported to a site, the soil must be adequately characterized by sampling at least every 500 cubic yards to be excavated (or alternative frequency as determined by DDPHE) and analyze those soil samples for, at a minimum:

- Volatile organic constituents;
- Semi-volatile organic constituents;
- Total petroleum hydrocarbons;
- Pesticides;
- Herbicides;
- PCBs and;
- Arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver.

DDPHE may adjust the frequency and analysis requirements at its discretion. When possible, representative samples should be collected at the fill source area, while the potential fill material is still in place and analyzed prior to removal from the source area.

Should contaminants exceeding acceptance criteria be identified in the imported fill material, that material will be deemed unacceptable and the Contractor will be responsible for removing the material from the CCD-owned property and disposing of it in accordance with applicable regulations. New fill material will need to be obtained, sampled and analyzed. This work will be the sole burden of the Contractor. The cost of complying with these requirements, including hauling, testing, and corrective action by the Contractor, will not be paid for separately, and shall be included in the project work. Therefore, it is best that all sampling and analyses of imported fill be reviewed by DDPHE prior to delivery to the site to ensure the soil is free of contamination, and to eliminate unnecessary transportation charges for unacceptable fill material.

15.0 REPORTING

Upon project completion, the EP will prepare a summary report detailing the work performed at the project specifically related to the implementation of this MMP. The report will include the following:

- Detailed documentation of the on- or off-site soil disposition;
- Maps showing sample locations, location of wastes discovered, and any other important features identified during the implementation of this MMP;
- Field Screening and analytical data;
- Summary and copies of analytical results/reports;
- Summary of material quantities that were managed and the procedures used;

- Location and manner of soil use (e.g., embankment fill, surface soil, etc.,) including any cover materials (soil, asphalt, etc.);
- Representative site photographs showing soil reuse areas;
- A reference to the proximity to groundwater;
- Waste profiles and waste manifests for all solid waste, soil, water or other material transported off-site for disposal;
- Any other documentation detailing important features related to this project (e.g., daily field reports); and
- If RACS and/or Non-RACS is encountered during construction, documentation and reporting in accordance with the CDPHE-approved RACS Standard Operating Procedure for the CCD, CDPHE Section 5.5 and Regulation 8.

EXHIBIT G

Vested Rights

The purpose of this **Exhibit G** is to set forth the applicable components of the C-MX and DO-7 zone district and overlay district that are considered part of the Vested Rights, including the Denver Zoning Code Section 7.4.4 District Specific Uses, collectively the "Zoning Components." The Zoning Components do not address all development standards and requirements within the C-MX zone district or DO-7 overlay district, so when silent, the current zoning code provisions will apply. In the event of a conflict between the Zoning Components and the then current zoning provisions, the Zoning Components will control subject to Section 15 of the Development Agreement.

Mixed Use C-MX Zone District Components

General Building Intent and Form

- **Specific Intent**
  - **A. Mixed Use – 8 (C-MX-8)**
    C-MX-8 applies to areas or intersections served primarily by arterial streets where a building scale of 2 to 8 stories is desired.
  - **B. Mixed Use – 12 (C-MX-12)**
    C-MX-12 applies to areas or intersections served primarily by major arterial streets where a building scale of 3 to 12 stories is desired.
  - **C. Mixed Use – 16 (C-MX-16)**
    C-MX-16 applies to areas or intersections served primarily by major arterial streets where a building scale of 3 to 16 stories is desired.
  - **D. Mixed Use – 20 (C-MX-20)**
    C-MX-20 applies to areas or intersections served primarily by major arterial streets where a building scale of 3 to 20 stories is desired.

- **Height**

	C-MX-8	C-MX-12	C-MX-16	C-MX-20
Stories (max)	8	12	16	20
Feet (max)	110'	150'	200'	250'

- **Setbacks**

	C-MX-8	C-MX-12	C-MX-16	C-MX-20
Primary	0'	0'	0'	0'
Side Street (min)	0'	0'	0'	0'
Side Interior (min)	0'	0'	0'	0'

- **Building Form Uses**

C-MX-8,-12,-16,-20: All permitted Primary Uses shall be allowed within this building form per Section 7.4.4 District Specific Uses.

River North Design Overlay District (DO-7) Components

General Building Intent and Form

- **Incremental Mass Reduction by Zone Lot Size/ Width**

	≤ 18,750 Sq. Ft / ≤ 150'	> 18,750 Sq. Ft / > 150'
Incremental Mass Reduction for Stories 3 - 5	na	10%
Incremental Mass Reduction for Stories 6 - 8	na	15%
Incremental Mass Reduction for Stories 9 - 12	na	20%
Incremental Mass Reduction for Stories 13 - 16	na	30%
Alternative to Incremental Mass Reduction	na	See Section 9.4.5.11.G.3

- **9.4.5.11.G.3 Incremental Mass Reduction Alternative for Provision of Private Open Space**

A. Where the minimum percentage of the gross area of a Zone Lot set forth in i-ii below is provided as Private Open Space meeting the rules of measurement set forth in Section 13.1.6.1.B, all Structures on the Zone Lot are not required to meet Incremental Mass Reduction standards.
   i. Structures that are up to 150 feet or 12 stories in height (excluding permitted height exceptions): 10% Private Open Space
   ii. Structures that are greater than 150 feet or 12 stories in height (excluding permitted height exceptions): 15% Private Open Space

Denargo Market Amended and Restated General Development Plan Components

- **Open Space Area and Ownership**

Area	Existing/ Constructed	City Owned (AC)	Metro District Owned (AC)	Total (AC)
Riverfront Open Space	No	1.05		1.05
Riverfront Green & Plaza	No		0.92	0.92
Corner Park (North)	No	0.11	0.01	0.12
Corner Park (Southwest)	No	0.19	0.03	0.22
28th Street Linear Park	No		0.10	0.10
Brighton Blvd Open Space (Not in Ownership Boundary)	Yes		0.76	0.76
TOTAL OPEN SPACE	na	1.35	1.82	3.17
TOTAL OPEN SPACE IN OWNERSHIP BOUNDARY			1.06	1.06

Section 7.4.4 District Specific Uses

KEY: * = Need Not be Enclosed P = Permitted Use without Limitations L = Permitted Use with Limitations NP = Not Permitted Use ZP = Zoning Permit Review ZPCIM = Subject to Zoning Permit Review with Community Information Meeting ZPIN = Subject to Zoning Permit Review with Informational Notice ZPSE = Subject to Zoning Permit with Special Exception Review When no ZP, ZPIN, ZPCIM, ZPSE listed = No Zoning Permit required

USE CATEGORY	SPECIFIC USE TYPE • Vehicle Parking Reqmt: # spaces per unit of measurement • Bicycle Parking Reqmt : # spaces per unit of measurement (% Required Spaces in Enclosed Facility /% Required Spaces in Fixed Facility)	C-MX-3 C-MX-5 C-MX-8 C-MX-12 C-MX-16 C-MX-20
RESIDENTIAL PRIMARY USE CLASSIFICATION		
Household Living	Dwelling, Single Unit No Parking Requirements	L-ZP
	Dwelling, Two Unit • Vehicle - CCN districts only:1/unit • Vehicle: 0.75/unit • Bicycle: No requirement	L-ZP
	Dwelling, Multi-Unit • Vehicle - CCN districts only:1/unit • Vehicle: 0.75/unit • Bicycle: 1/ 2 units (80/20)	L-ZP
	Dwelling, Live / Work • Vehicle - CCN districts only:1/unit • Vehicle: 0.75/unit • Bicycle: 1/ 2 units (80/20)	L-ZP
Residential Care	Residential Care, Type 1 • Vehicle: .25/1,000 sf GFA • Bicycle: No requirement	L/L-ZP
	Residential Care, Type 2 • Vehicle: .25/1,000 sf GFA • Bicycle: No requirement	L-ZP
	Residential Care, Type 3 • Vehicle: .25/1,000 sf GFA • Bicycle: No requirement	L-ZPCIM
	Residential Care, Type 4 • Vehicle: .25/1,000 sf GFA • Bicycle: No requirement	L-ZPCIM
Congregate Living	All Types • Vehicle: .5/1,000 sf GFA • Bicycle: 1/20,000 sf GFA	P-ZP
CIVIC, PUBLIC & INSTITUTIONAL PRIMARY USE CLASSIFICATION		
Basic Utilities	Utility, Major Impact* • Vehicle: .5 / 1,000 sf GFA • Bicycle: No requirement	L-ZPSE
	Utility, Minor Impact* • Vehicle: .5 / 1,000 sf GFA • Bicycle: No requirement	L-ZP

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Community/ Public Services	Community Center • Vehicle: No requirement • Bicycle: 1/10,000 sf GFA (0/100)	L-ZP
	Day Care Center • Vehicle: 1/ 1,000 sf GFA • Bicycle: 1/ 10,000 sf GFA (0/100)	P-ZP
	Postal Facility, Neighborhood • Vehicle - CCN districts only: 2.5/1,000 sf GFA • Vehicle: 1.25/ 1,000 sf GFA • Bicycle: 1/7,500 sf GFA (20/80)	P-ZP
Community/ Public Services	Postal Processing Center • Vehicle: 1/ 1,000 sf GFA • Bicycle: 1/7,500 sf GFA(20/80)	P-ZP
	Public Safety Facility • Vehicle: 1/ 1,000 sf GFA • Bicycle: 1/ 10,000 sf GFA (0/100)	P-ZP
	Hospital	NP
	Correctional Institution	NP
Cultural/Special Purpose/Public Parks & Open Space	Cemetery*	NP
	Library • Vehicle: 1/ 1,000 sf GFA • Bicycle: 1/ 10,000 sf GFA (0/100)	P-ZP
	Museum • Vehicle: 1/ 1,000 sf GFA • Bicycle: 1/ 10,000 sf GFA (0/100)	P-ZP
	City Park*	NP
	Open Space - Conservation* • No Parking Requirements	P-ZP
Education	Elementary or Secondary School • Vehicle: 1/1,000 sf GFA • Bicycle: 1/10,000 sf GFA (0/100)	L-ZP
	University or College • Vehicle: 1/ 1,000 sf GFA • Bicycle: 1/ 10,000 sf GFA (0/100)	L-ZP
	Vocational or Professional School • Vehicle: 1/ 1,000 sf GFA • Bicycle: 1/ 10,000 sf GFA (0/100)	L-ZP
Public and Religious Assembly	All Types • Vehicle: No requirement • Bicycle: 1/10,000 sf GFA (0/100)	P-ZP
COMMERCIAL SALES, SERVICES, & REPAIR PRIMARY USE CLASSIFICATION		
Adult Business	All Types	NP

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Arts, Recreation & Entertainment	Arts, Recreation and Entertainment Services, Indoor • Vehicle - Artist Studio: 0.3/1000 sf GFA • Vehicle - CCN districts only: 2.5/1,000 sf GFA • Vehicle - All Others: 1.25/ 1,000 sf GFA • Bicycle: 1/7,500 sf GFA (20/80)	P-ZP
	Arts, Recreation and Entertainment Services, Outdoor* • Vehicle - CCN districts only: 2.5/1,000 sf GFA • Vehicle: 1.25/ 1,000 sf GFA • Bicycle: 1/7,500 sf GFA(20/80)	L-ZPSE
	Event Space with Alternate Parking and Loading* • Vehicle: No requirement • Bicycle: No requirement	NP
	Sports and/or Entertainment Arena or Stadium*	NP
Nonresidential Uses in Existing Business Structures In Residential Zones (All Uses Shall Be Parked According to the Parking Requirement Stated in this Use Table for the Specific Nonresidential Use)		Not Applicable
Parking of Vehicles	Parking, Garage • No Parking Requirements	P-ZP
	Parking, Surface*	NP
Eating & Drinking Establishments	All Types • Vehicle - MS only: 2/ 1,000 sf GFA • Vehicle: 2.5/ 1,000 sf GFA • Bicycle: 1/1,500 sf GFA (0/100)	P-ZP
Lodging Accommodations	Bed and Breakfast Lodging • Vehicle: 0.875/guest room or unit • Bicycle: 1/ 7,500 sf GFA (60/40)	P-ZP
	Lodging Accommodations, All Others • Vehicle: 0.5/ guest room or unit • Bicycle: 1/ 7,500 sf GFA (60/40)	P-ZP
Office	Dental / Medical Office or Clinic • Vehicle - CCN districts only: 2/1,000 sf GFA • Vehicle: 1.25/ 1,000 sf GFA • Bicycle: 1/7,500 sf GFA (60/40)	L-ZP
	Office, All Others • Vehicle - CCN districts only: 2/1,000 sf GFA • Vehicle: 1.25/ 1,000 sf GFA • Bicycle: 1/7,500 sf GFA (60/40)	P-ZP

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USE CATEGORY	SPECIFIC USE TYPE •Vehicle Parking Reqmt: # spaces per unit of measurement •Bicycle Parking Reqmt : # spaces per unit of measurement (% Required Spaces in Enclosed Facility /% Required Spaces in Fixed Facility)	C-MX-3 C-MX-5 C-MX-8 C-MX-12 C-MX-16 C-MX-20
Retail Sales, Service & Repair (Not Including Vehicle or Equipment Sales, Service & Repair)	Animal Sales and Services, Household Pets Only •Vehicle - CCN districts only: 2.5/1,000 sf GFA •Vehicle: 1.25/ 1,000 sf GFA •Bicycle: 1/7,500 sf GFA(20/80)	L-ZP
	Animal Sales and Services, All Others	NP
	Food Sales or Market •Vehicle - CCN districts only: 2.5/1,000 sf GFA •Vehicle: 1.25/ 1,000 sf GFA •Bicycle: 1/7,500 sf GFA (20/80)	P-ZP
	Pawn Shop	NP
	Retail Sales, Service & Repair -- Outdoor*	NP
	Retail Sales, Service & Repair - Firearms Sales •Vehicle: 1.25/ 1,000 sf GFA •Bicycle: 1/7,500 sf GFA(20/80)	NP
	Retail Sales, Service & Repair, All Others •Vehicle - CCN districts only: 2.5/1,000 sf GFA •Vehicle: 1.25/ 1,000 sf GFA •Bicycle: 1/7,500 sf GFA (20/80)	P-ZP
Vehicle / Equipment Sales, Rentals, Service & Repair	Automobile Emissions Inspection Facility	NP
	Automobile Services, Light •Vehicle: .5/ 1,000 sf GFA •Bicycle: No requirement	L-ZP
	Automobile Services, Heavy •Vehicle: .5/ 1,000 sf GFA •Bicycle: No requirement	NP
	Automobile / Motorcycle / Light Truck Sales, Rentals, Leasing; Pawn Lot or Vehicle Auctioneer* •Vehicle: .5/ 1,000 sf GFA •Bicycle: No requirement	L-ZP
	Heavy Vehicle/ Equipment Sales, Rentals & Service*	NP

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INDUSTRIAL, MANUFACTURING & WHOLESALE PRIMARY USE CLASSIFICATION		
Communications and Information	Antennas Not Attached to a Tower* • No Parking Requirements	L-ZP
	Communication Services • Vehicle: .5/ 1,000 sf GFA • Bicycle: No requirement	C-MX-3: L-ZP/ZPSE All Others: P-ZP
	Telecommunications Towers* • No Parking Requirements	L-ZP/ZPIN/ ZPSE
	Telecommunications Tower - Alternative Structure* • No Parking Requirements	L-ZP/ZPIN
	Telecommunication Facilities -- All Others* • No Parking Requirements	L-ZPIN
Industrial Services	Contractors, Special Trade - General • Vehicle: .5/ 1,000 sf GFA • Bicycle: No requirement	L-ZP
	Contractors, Special Trade - Heavy/ Contractor Yard*	NP
	Food Preparation and Sales, Commercial • Vehicle: .5 / 1,000 sf GFA • Bicycle: No requirement	L-ZP
	Laboratory, Research, Development and Technological Services • Vehicle: .5 / 1,000 sf GFA • Bicycle: No requirement	L-ZP
	Service/Repair, Commercial • Vehicle: .5 / 1,000 sf GFA • Bicycle: No requirement	L-ZP
Manufacturing and Production	Manufacturing, Fabrication & Assembly -- Custom • Vehicle: .5 / 1,000 sf GFA • Bicycle: No requirement	L-ZP
	Manufacturing, Fabrication & Assembly -- General	NP
	Manufacturing, Fabrication & Assembly -- Heavy	NP
Mining & Extraction and Energy Producing Systems	Oil, Gas -- Production, Drilling*	NP
	Sand or Gravel Quarry*	NP
	Wind Energy Conversion Systems* • No Parking Requirements	L-ZPIN/ ZPSE

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Transportation Facilities	Airport*	NP
	Helipad, Helistop, Heliport* • No Parking Requirements	L-ZP
	Railroad Facilities*	NP
	Railway Right-of-Way* • No Parking Requirements	P-ZP
	Terminal, Station or Service Facility for Passenger Transit System • Vehicle: .5/ 1,000 sf GFA • Bicycle: No requirement	P-ZP
	Terminal, Freight, Air Courier Services	NP
Waste Related Services	Automobile Parts Recycling Business*	NP
	Junkyard*	NP
	Recycling Center	NP
	Recycling Collection Station	NP
	Recycling Plant, Scrap Processor	NP
	Solid Waste Facility	NP
Wholesale, Storage, Warehouse & Distribution	Automobile Towing Service Storage Yard*	NP
	Mini-storage Facility • Vehicle: 0.1/ 1,000 sf GFA • Bicycle: No requirement	L-ZP
	Vehicle Storage, Commercial*	NP
	Wholesale Trade or Storage, General	NP
	Wholesale Trade or Storage, Light • Vehicle: .5 / 1,000 sf GFA • Bicycle: No requirement	L-ZP/ZPIN/ ZPSE
AGRICULTURE PRIMARY USE CLASSIFICATION		
Agriculture	Aquaculture*	NP
	Garden, Urban* • Vehicle: .5/ 1,000 sf GFA • Bicycle: No requirement	L-ZP
	Husbandry, Animal*	NP
	Husbandry, Plant*	NP
	Plant Nursery • Vehicle: .5/ 1,000 sf GFA • Bicycle: No requirement	L-ZP

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ACCESSORY TO PRIMARY RESIDENTIAL USES USE CLASSIFICATION		
Accessory to Primary Residential Uses (Parking is Not Required for Accessory Uses Unless Specifically Stated in this Table or in an Applicable Use Limitation)	Unlisted Accessory Uses	L
	Accessory Dwelling Unit	L-ZP
	Domestic Employee	L
	Garden*	L
	Keeping of Household Animals*	L/L-ZPIN
	Keeping and Off-Street Parking of Vehicles, Motorcycles, Trailers & Recreational Vehicles*	L
	Kennel or Exercise Run*	L
	Limited Commercial Sales, Services Accessory to Multi-Unit Dwelling Use	Not Applicable
	Outdoor Storage, Residential*	L
	Second Kitchen Accessory to Single Unit Dwelling Use	NP
	Short-term Rental	L
	Vehicle Storage, Repair and Maintenance*	L
	Wind Energy Conversion Systems*	Not Applicable
	Yard and/or Garage Sales*	L
HOME OCCUPATIONS ACCESSORY TO PRIMARY RESIDENTIAL USE CLASSIFICATION		
Home Occupations (Parking is Not Required for Home Occupations Unless Specifically Stated in this Table or in an Applicable Use Limitations)	Child Care Home, Large	L-ZPIN
	All Other Types	L-ZP
	Unlisted Home Occupations	L-ZPIN

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ACCESSORY TO PRIMARY NONRESIDENTIAL USES USE CLASSIFICATION		
Accessory to Primary Nonresidential Uses (Parking is Not Required for Accessory Uses Unless Specifically Stated in this Table or in an Applicable Use Limitation)	Unlisted Accessory Uses	L
	Amusement Devices Accessory to Eating/Drinking Establishments, College/ University and Theater Uses	L-ZP
	Automobile Rental Services Accessory to Certain Retail Uses*	Not Applicable - See Permitted Primary Uses
	Book or gift store; media recording and production facilities accessory to public libraries, museums, places of religious assembly, colleges or universities	Not Applicable
	Car Wash Bay Accessory to Automobile Services or Hotel Uses	NP
	College accessory to a Place for Religious Assembly	Not Applicable
	Conference Facilities Accessory to Hotel Use	L
	Drive Through Facility Accessory to Eating/Drinking Establishments and to Retail Sales,Service, and Repair Uses*	L-ZP
	Emergency Vehicle Access Point	NP
	Garden*	L
	Keeping of Animals	L/L-ZP/ L-ZPIN
	Nonresidential Uses in Existing Business Structures In Residential Zones - Accessory Uses	Not Applicable
	Occasional Sales, Services Accessory to Places of Religious Assembly*	L
	Outdoor Eating and Serving Area Accessory to Eating/Drinking Establishment Use*	L-ZP/ZPSE
	Outdoor Entertainment Accessory to an Eating/Drinking Establishment Use*	L-ZPIN/ ZPSE
	Outdoor Retail Sale and Display*	L-ZP
	Outdoor Storage, General*	NP
	Outdoor Storage, Limited*	L
	Rental or Sales of Adult Material Accessory to a Permitted Bookstore Retail Sales Use	L

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TEMPORARY USE CLASSIFICATION		
Temporary Uses (Parking is Not Required for Temporary Uses Unless Specifically Stated in this Table or in an Applicable Use Limitations)	Unlisted Temporary Uses	L
	Ambulance Service - Temporary	Not Applicable
	Amusement / Entertainment - Temporary*	NP
	Bazaar, Carnival, Circus or Special Event*	L-ZP
	Building or yard for construction materials*	L-ZP
	Concrete, Asphalt, and Rock Crushing Facility*	L-ZP
	Fence for Demolition or Construction Work	L-ZP
	Health Care Center	P-ZP
	Noncommercial Concrete Batching Plant*	L-ZP
	Outdoor Retail Sales - Pedestrian / Transit Mall*	NP
	Outdoor Retail Sales*	L-ZP
	Outdoor Sales, Seasonal*	L-ZP
	Parking Lot Designated for a Special Event*	L-ZP
	Retail Food Establishment, Mobile*	L-ZP
	Temporary Construction Office	L-ZP
	Temporary Office - Real Estate Sales	L-ZP
	Temporary Tiny Home Villages	L-ZPCIM
	Tent for Religious Services	NP

RESOLUTION 2021-04-01

RESOLUTION OF THE BOARD OF DIRECTORS OF DENARGO MARKET METROPOLITAN DISTRICT NO. 1

ADOPTING AMENDED AND RESTATED RULES AND REGULATIONS FOR CONSTRUCTION ACTIVITY

WHEREAS, Denargo Market Metropolitan District No. 1 (the "**District**") is a quasi-municipal corporation and political subdivision of the State of Colorado and operates pursuant to its Service Plan approved by the City and County of Denver, on March 8, 2010 (the "**Service Plan**"); and

WHEREAS, pursuant to Section 32-1-1001(1)(m), C.R.S., the District has the power to adopt, amend and enforce bylaws and rules and regulations not in conflict with the constitution and laws of this state for carrying on the business, objects, and affairs of the board and of the special district; and

WHEREAS, the District has financed, and owns and maintains, certain public improvements, including, but not limited to, roadways, sidewalks, lighting, landscaping, and irrigation systems within the District's service area (collectively, the "**District Property**"), the location of which facilities are generally depicted on **Exhibit A** attached hereto and incorporated herein by this reference; and

WHEREAS, attendant to its duties and obligations for the District Property, the District wishes to adopt rules and regulations to govern construction activity that impacts District Property; and

WHEREAS, the Board previously adopted Resolution No. 2015-10-01 Regarding Rules and Regulations for Construction Activity ("**Resolution No. 2015-10-01**"); and

WHEREAS, the Board has determined certain revisions should be made to the Rules and Regulations for Construction Activity.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE DENARGO MARKET METROPOLITAN DISTRICT NO. 1 OF THE CITY AND COUNTY OF DENVER, COLORADO:

1. The Board hereby determines that it is in the best interests of the District and members of the public using the District Property to exercise the authority granted under the Service Plan to adopt the Amended and Restated Rules and Regulations for Construction Activity attached hereto as **Exhibit B** and incorporated herein by this reference.

2. The District reserves the right, from time to time, to modify, amend or replace the Rules and Regulations.

3. Judicial invalidation of any of the provisions of this Resolution or of any paragraph, sentence, clause, phrase, or word hereof, or the application thereof in any given circumstance shall not affect the validity of the remainder of this Resolution.

SIGNATURE PAGE TO RESOLUTION ADOPTING AMENDED AND RESTATED RULES AND REGULATIONS FOR CONSTRUCTION ACTIVITY

APPROVED AND ADOPTED this 13th day of April, 2021.

DENARGO MARKET METROPOLITAN DISTRICT NO. 1

By: _____
President

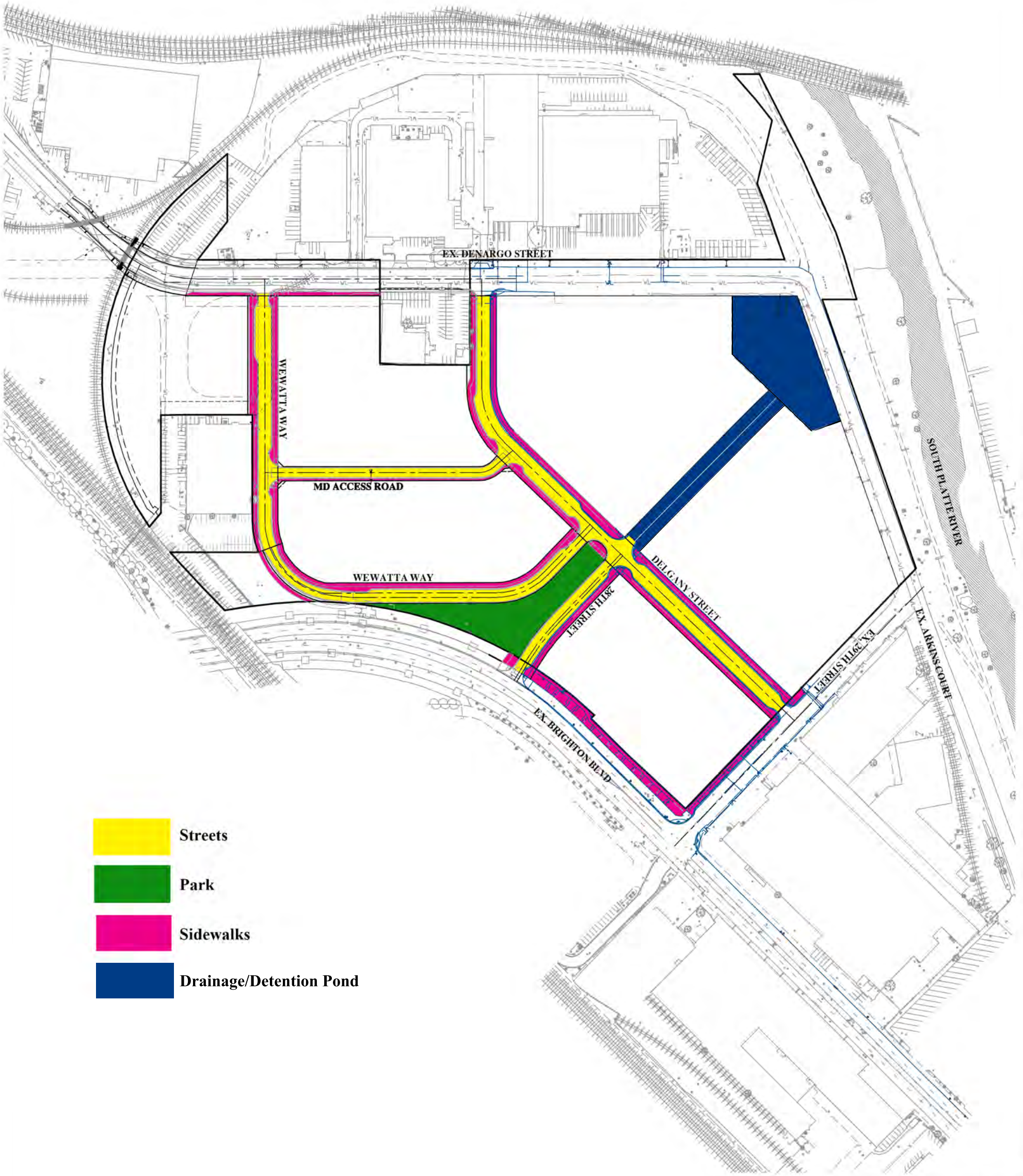
Attest:

_____
Secretary

EXHIBIT A

District Property

ATTACHMENT A

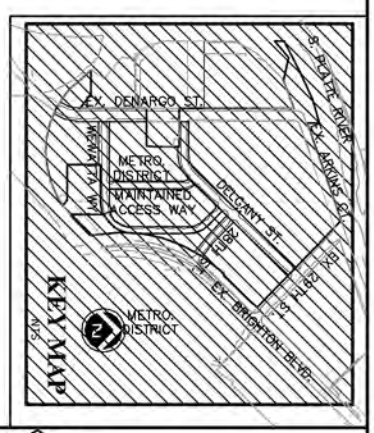


Streets

Park

Sidewalks

Drainage/Detention Pond



Know what's below. Call before you dig. Call 811 or visit call811.com for more information

To request marking of underground facilities

It is the contractor's responsibility to contact UNCC a minimum of 2 days prior to the start of construction operations. J3 Engineering Consultants, Inc claims no responsibility for the underground facilities depicted in this plan set.

(IN FEET)
1 inch = 100 ft.

Project Number:	07200101
Designed By:	BEC
Drawn By:	SCD
Checked By:	JAM
Sheet Number:	

COLORADO REGISTERED JASON A. MONFORTON 35773 12-29-2011 PROFESSIONAL ENGINEER

No	Date	Description

Denargo Market Metropolitan District

141 Union Blvd.
Suite 150
Lakewood, CO 80228
Tel: (303) 987-0835
FAX: (303) 987-2032

DENARGO MARKET METROPOLITAN DISTRICT NO. 1

OVERALL ROAD MAP

J3 ENGINEERING CONSULTANTS
Contact: Jason A. Monforton, PE
3151 S. Vaughn Way, Suite 680 ~ Aurora, CO 80014-3517
(303) 368-5601 ~ FAX: (303) 368-5603
Email: Jmonforton@J3Engineering.net

EXHIBIT B

Amended and Restated Rules and Regulations for Construction Activity

DENARGO MARKET METROPOLITAN DISTRICT NO. 1
AMENDED AND RESTATED RULES AND REGULATIONS
FOR CONSTRUCTION ACTIVITY

ARTICLE 1. GENERAL

1.1 Applicability and Purpose. These Rules and Regulations for Construction Activity shall apply to any construction activity that impacts any District Property and are enacted to provide funds necessary for the costs of administration, management, restoration or reconstruction of District Property impacted or damaged by construction activity, to reduce the damage to District Property, and to protect the integrity of the District's road and irrigation systems, landscaping and other public facilities. To achieve this purpose, it is necessary to establish permit procedures and to fix and collect fees and charges.

1.2 Definitions. Unless the context indicates otherwise, the meaning of the terms used in these Rules and Regulations shall be as follows:

(a) City means the City and County of Denver, Colorado.

(b) Construction Activity Permit means permit issued by the District authorizing a Contractor to undertake construction work that will impact District Property as more fully described in Sections 2.1 and 2.5.

(c) Contractor means a contractor that is properly licensed and bonded for the proposed work as detailed in Chapter 49, Article XVII, of the City's Revised Municipal Code.

(d) Construction Parking Plan means the Permittee's plan for parking of construction vehicles and contractor and employee vehicles during the term of the Permitted Project, which shall provide for primarily off-street parking thereof.

(e) Damage Deposit means a deposit, or letter of credit or other security in lieu thereof reasonably acceptable to the District, made at the time of issuance of a Construction Activity Permit in the amount of hundred percent (100%) of the total estimated replacement cost of all District Property impacted by the Permitted Project as more fully described in Section 2.6.

(f) District means Denargo Market Metropolitan District No. 1.

(g) District Property means any real or personal property within the District's service area that is owned, operated, and/or maintained by the District, including, but not limited to, roadways, signage, lighting, sidewalks, landscaping, irrigation systems, or any portion thereof, as generally depicted on Exhibit A attached hereto and incorporated herein by this reference, as may be amended.

(h) Parking Rules and Regulations means the District's Parking Rules and Regulations, as may be amended from time to time, governing use of the District's roadways including parking restrictions.

(i) Permit Fee means a fee charged by the District to issue a Construction Activity Permit, as more fully described in Section 2.5.

(j) Permitted Project means a construction project for which a valid Construction Activity Permit has been issued by the District.

(k) Permittee means the property owner to whom a Construction Activity Permit is issued.

1.3 Use of District Property.

(a) Except as otherwise authorized in these Rules and Regulations, no Permittee shall construct or place any structure, building or fencing, whether temporary or permanent, or plant or locate any trees, on any part of the District Property without having first obtained the prior written consent of the District, which consent shall not be unreasonably withheld or delayed if the proposed improvements will not materially interfere with the District Property. Any structure, building or fencing, whether temporary or permanent, or any trees situated on District Property without such prior written consent may be removed by the District without liability for damages arising therefrom. Except as authorized herein, no Permittee shall take any action or locate any improvements or landscaping features which would materially impair the functions of the District Property.

(b) Upon completion of any activities subject to a Construction Activity Permit which disturb District Property, the Permittee shall promptly, but in no event later than thirty (30) days (or such longer period as may be approved by the District in its discretion), restore or commence restoration (and diligently prosecute to completion) of the District Property at its sole cost and expense, to the condition it was in immediately prior to such disturbance, except as otherwise provided herein or as necessarily modified to accommodate any approved facilities or improvements associated with the Permitted Project.

(c) Except in the event of emergency, the Permittee shall provide written notice to the District at least seventy-two (72) hours prior to the full or partial closure of any District Property, including, but not limited to, streets and sidewalks, which notice shall specify the scope and duration of the anticipated closure as well as traffic control and safety measures during the closure.

ARTICLE 2. CONSTRUCTION ACTIVITY PERMIT

2.1 Application for Permit. Any Contractor or property owner intending to design, plan, construct, reconstruct, or remodel any improvements that will impact any portion of the District Property shall file a written application for a Construction Activity Permit with the District prior to commencing any construction. The application shall include the following:

(a) A general description of the work proposed to be done, together with its location, and any plans and specifications for the proposed work, including an anticipated schedule for completion of construction;

(b) List of required permits and licenses required by all governmental entities with jurisdiction over the work constituting the Permitted Project;

(c) Evidence of the Contractor's license and bonding as required by the City;

(d) Description of insurance to be maintained through the duration of the Permitted Project complying with the minimum City standards for the type of work undertaken as part of the Permitted Project;

(e) Description of any anticipated encumbrances on the District Property during the construction of the Permitted Project;

(f) Description of the Construction Parking Plan, including the estimated number of construction vehicles and contractor and employee vehicles anticipated to be accessing the construction area;

(g) Contact information for the Permittee and Contractor; and

(h) A statement of the estimated costs of the horizontal site work that will be subject to the Damage Deposit, which costs shall be borne by the Permittee.

2.2 Construction Standards. Except as otherwise specified herein, all work on District Property, including, but not limited to, replacement of or repairs to existing facilities such as sidewalks, driveways, and curb and gutter as well as excavation work shall be conducted in accordance with the applicable provisions of the Charter of the City, City ordinances, rules and regulations of the City, and rules and regulations of the District in effect at the time of construction as well as any state and federal laws. The District acknowledged that the District-owned and maintained roadways described on Exhibit A have not been constructed in accordance with all City ordinances and rules and regulations and as a result have not been dedicated to the City. Notwithstanding any provisions of subsections 2.5(j) and (k) herein to the contrary, to the extent a Construction Activity Permit requires repairs to a District-owned roadway, such roadway shall be reconstructed or repaired to the standards specified in the original plans and specifications prepared by J3 Engineering, a copy of which plans and specifications shall be made available upon request to the District Manager.

2.3 Site Inspection. Prior to commencement of construction activity requiring a Construction Activity Permit, and as a condition of receipt of a Construction Activity Permit, the District shall schedule a site inspection with the Contractor to establish baseline conditions for the Permitted Project, review the Construction Parking Plan, and discuss any terms for mitigation of any impact to District Property.

2.4 Construction Parking Plan. In acknowledgment of the limited parking available on the District's roadways, which parking is inadequate for residents, property owners and visitors within the District and is regulated by the Parking Rules and Regulations, and in the interest of minimizing damage to District Property, a Construction Parking Plan describing the Permittee's overall construction parking plan and identifying off-street construction parking shall be required as a condition of each Construction Activity Permit.

2.5 Construction Activity Permit. Upon receipt of the application described in Section 2.1, the District Manager shall have thirty (30) days to review the application and approve the issuance of a Construction Activity Permit, which issuance shall be made subject to the following conditions:

(a) Payment of a non-refundable Permit Fee in the amount of $10,000.00 to cover the District's administrative and inspection costs for the Permitted Project;

(b) Payment to the District of any fee identified in the most current City and County of Denver Department of Public Works "Fee Schedules" for equivalent work;

(c) Delivery of the Damage Deposit, as more fully described below in Section 2.6;

(d) That all costs incident to the work shall be borne solely by the Permittee;

(e) That the work shall be done only by a Contractor appropriately licensed to perform that particular type of work;

(f) That the Permittee, in performance of the work, observe and comply with the provisions of the Charter of the City, City ordinances, and rules and regulations of the City and the District in effect at the time of construction and any state and federal laws which, in any manner, limit, control or apply thereto, and that all permits and licenses required in the prosecution of the work will be obtained and paid for by the Permittee;

(g) That the Permittee obtain and comply with all permits or licenses required by all jurisdictional entities to undertake and complete the Permitted Project;

(h) That the Permittee and its agents, employees and consultants observe and comply with the Construction Parking Plan;

(i) That the Construction Activity Permit shall be effective for thirty (30) days after issuance or other time period specified in the Construction Activity Permit. If work has not begun within such specified time, a new Construction Activity Permit must be secured;

(j) Any other site-specific terms and conditions deemed to be necessary by the District, in its reasonable discretion, following review of the plans and specifications and the site inspection;

(k) That in the event a Permittee intends to cut and/or excavate any portion of a District-owned roadway, and except as specified in Section 2.2 herein, the Permittee shall also be subject to the then-current City Rules and Regulations Governing Street Cuts and Roadway Excavation Specifications, which are incorporated herein by reference and attached hereto as Exhibit B, and as more fully set forth in Chapter 49, Article VIII, of the City's Revised Municipal Code, as it may be amended (the "City Rules and Regulations Governing Street Cuts and Roadway Excavation"); and

(l) That in the event a Permittee intends to construct any curbs, gutters, sidewalks, detached sidewalks, driveways, or pave any portion of a District-owned roadway, and except as specified in Section 2.2. herein, the Permittee shall also be subject to the then-current City Rules and Regulations for the Construction of Curbs, Gutters, Sidewalks, Driveways, Street Paving, and Other Public Right-of-Way Improvements, which are incorporated herein by reference and attached hereto as Exhibit C, and as more fully set forth in Chapter 49, Article VI, of the City's Revised Municipal Code, as it may be amended (the "City Rules and Regulations for the Construction of Curbs, Gutters, Sidewalks, Driveways, Street Paving, and Other Public Right-of-Way Improvements," and together with the City Rules and Regulations Governing Street Cuts and Roadway Excavation, the "City Rules and Regulations").

2.6 Damage Deposit. In addition to the Permit Fee, a refundable Damage Deposit (or a letter of credit or other security in lieu thereof reasonably acceptable to the District) in the amount of hundred percent (100%) of the total estimated replacement cost of all District Property impacted by the Permitted Project shall be due at the time of issuance of a Construction Activity Permit. Upon completion of the Permitted Project, an authorized representative of the District shall inspect any areas of District Property that may have been affected by the Permitted Project. If no damage to District Property is found, then the District will either return the full amount of the Damage Deposit to the Permittee or release the letter of credit or other security delivered in lieu thereof. If there has been damage to District Property, then the District shall provide written notice to Permittee of such damage. Permittee shall promptly, but in no event later than thirty (30) days (or such longer period as may be approved the District in its discretion), repair or commence repair (and diligently prosecute to completion) of any damage to District Property identified by the District. In the event Permittee fails to repair damage to District Property in such timeframe, the District may use the Damage Deposit (or draw upon the letter of credit or other security delivered in lieu thereof) to pay for any repairs needed and shall return any funds remaining once the repairs have been completed to the Permittee. The Permittee shall be liable to the District for any repair costs that exceed the amount of the Damage Deposit (or the letter of credit or other security delivered in lieu thereof).

2.7 Right of Inspection. The District shall have a right to inspect at all times any construction activity that impacts District Property to ensure that no District Property has been damaged or is likely to be damaged by the Permitted Project. Authorized representatives of the District shall be allowed reasonable access at all reasonable hours to any construction site to ensure compliance with these Rules and Regulations. All such access shall be at the sole risk of the District, and the District's authorized representative shall be required to follow all on-site safety policies and procedures of the Permittee and its contractors. If the District determines that the work is not being performed in accordance with these Rules and Regulations, the District shall have the right to order the work to cease until there is satisfactory evidence that the work conforms to these Rules and Regulations.

2.8 Site Maintenance. The Permittee shall remove all rubbish and debris promptly as the work progresses, leaving the site and adjoining property in neat condition. Rubbish and debris will not be permitted to be piled in or on District Property.

2.9 Mechanic's and Materialmen's Liens. As a condition of Construction Activity Permit issuance, the Permittee shall covenant and agree not to suffer or permit any lien of

mechanics or materialmen or others to be placed against the District Property with respect to work or services claimed to have been performed for, or materials claimed to have been furnished to the Permittee. If any lien arises because of the Permittee's construction, repair, restoration or maintenance work associated with the Permitted Project, the Permittee shall immediately take all steps to remove the lien, including, if necessary, the immediate posting of appropriate collateral or bond to remove the lien.

2.10 Warranty. The Permittee shall guarantee any work located on District Property, or which the District will have any obligation to maintain, for a period of three (3) years after completion against defective workmanship and materials and shall keep the same in good order and repair. The determination of the necessity during such guarantee period for the Permittee to repair or replace any portion of the work that impacts District Property thereof shall rest entirely with the District, whose decision upon the matter shall be final and obligatory upon the Permittee.

2.11 Violations.

(a) Generally. If, upon inspection, the District determines that a violation of these Rules and Regulations (a "Violation") has occurred, the District shall give the Permittee written notice of the Violation (the "Notice of Violation"), including a specific description of the Violation and require the Permittee to take such action as necessary to remedy the Violation within a time period that shall not exceed ten (10) business days unless an alternate time period is specified in writing by the District. In the event the Permittee fails to take action to remedy the Violation within the time period specified, the District may pursue any one or more of the following remedies without further notice to Permittee: (a) levy fines, as described herein, upon the Permittee for each Violation or the continuance of a single Violation; (b) cause the Violation to be cured and charge the cost thereof to the Permittee; (c) revoke the Permittee's Construction Activity Permit and withhold additional Construction Activity Permits until assurance is received that the Construction Activity Permit terms and conditions will be complied with and that non-compliant work will be replaced satisfactorily; and (d) file a perpetual lien on the Permittee's property, which lien may be foreclosed in the same manner as provided by the laws of Colorado for the foreclosure of mechanics' liens.

(b) Fines. Following issuance of the Notice of Violation and failure by the Permittee to remedy the violation as provided in subsection (a) above, the District may also impose the following fines for each violation or the continuance of a single Violation:

(i) First Notice of Violation = $100

(ii) Second Notice of Violation = $250

(iii) Third Notice of Violation = $500

(iv) Continuing Violation = Cost to Correct the Violation. The cost for the District to remedy the violation will be billed to the Permittee.

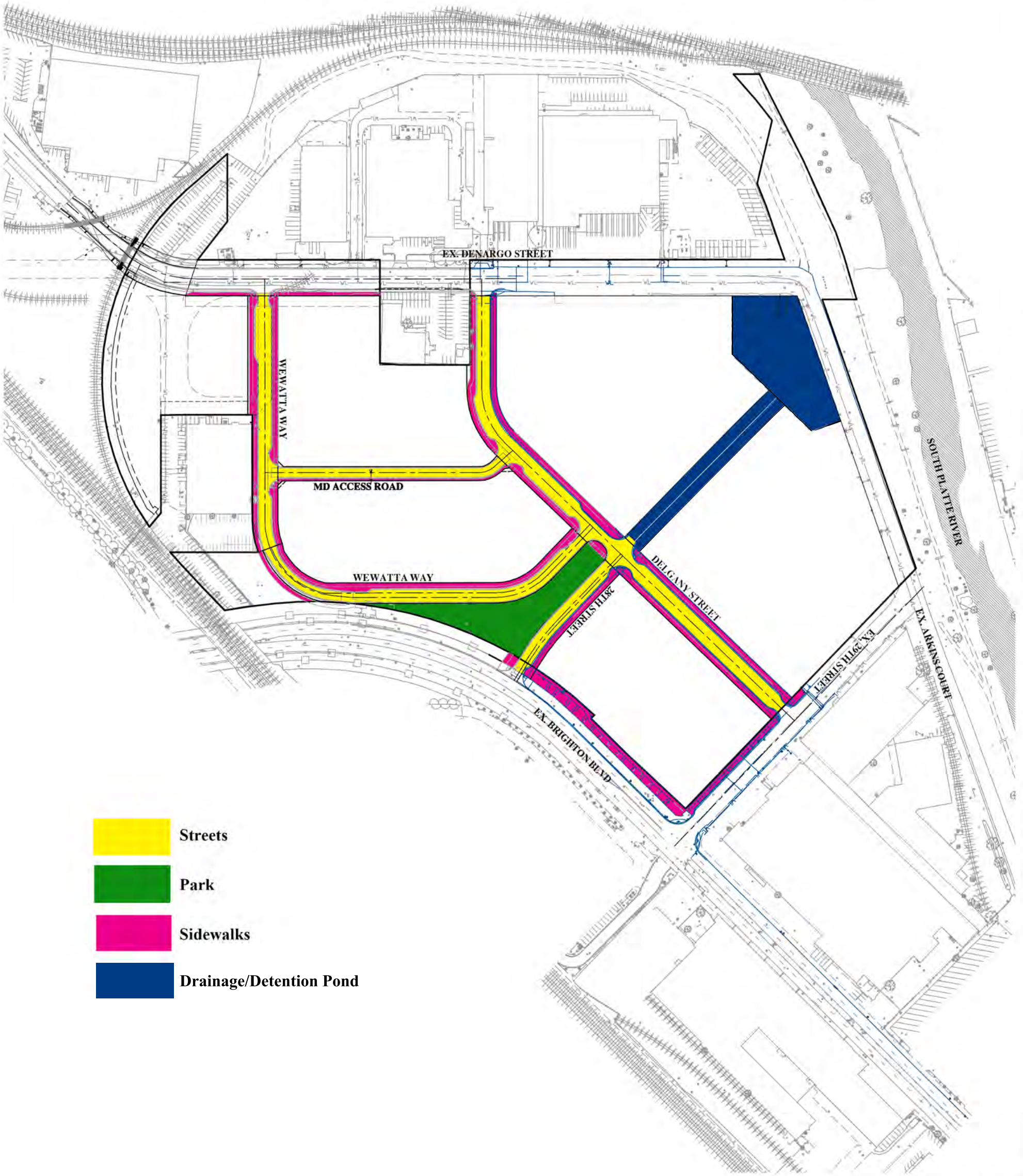
ARTICLE 3. ADDITIONAL PROVISIONS

3.1 Questions Regarding Rules and Regulations. Any questions as to the applicability of the City Rules and Regulations shall be directed to the District in writing for interpretation. The District shall review and respond promptly to any questions submitted by the Permittee.

3.2 Conflicts. In the event of any conflict between these Rules and Regulations and the City Rules and Regulations, the more specific regulations shall control.

EXHIBIT A

ATTACHMENT A



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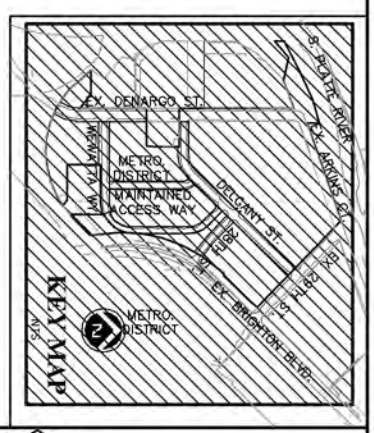

Know what's below. Call before you dig. Call 811 or visit call811.com for more information

To request marking of underground facilities

It is the contractor's responsibility to contact UNCC a minimum of 2 days prior to the start of construction operations. J3 Engineering Consultants, Inc claims no responsibility for the underground facilities depicted in this plan set.

(IN FEET)
1 inch = 100 ft.

Project Number:	07200101
Designed By:	BEC
Drawn By:	SCD
Checked By:	JAM
Sheet Number:	

COLORADO REGISTERED JASON A. MONFORTON 35773 12-29-2011 PROFESSIONAL ENGINEER

No	Date	Description

Denargo Market Metropolitan District

141 Union Blvd.
Suite 150
Lakewood, CO 80228
Tel: (303) 987-0835
FAX: (303) 987-2032

DENARGO MARKET METROPOLITAN DISTRICT NO. 1

OVERALL ROAD MAP

J3 ENGINEERING CONSULTANTS
Contact: Jason A. Monforton, PE
3151 S. Vaughn Way, Suite 680 ~ Aurora, CO 80014-3517
(303) 368-5601 ~ FAX: (303) 368-5603
Email: Jmonforton@J3Engineering.net

EXHIBIT B

ARTICLE VIII. - STREET CUTS

Footnotes:
*--- (**4**) ---*
***Editor's note—** Ord. No. 492-91, § 1, adopted July 1, 1991, amended this article in its entirety, in effect repealing former art. VIII, relative to excavations, divs. 1—3, §§ 49-191—49-198, 49-206—49-211, and 49-221—49-223, and enacting new provisions in lieu thereof as art. VIII, §§ 49-191—49-208. Formerly, such sections derived from §§ 333.1—333.9 and 333.11—333.13 of the city's 1950 Code.*
***Cross reference—** Excavations generally, Ch. 19; duties of police department concerning excavation in streets, § 42-23.*

Sec. 49-191. - Purpose.

This article is enacted to provide funds necessary for the costs of administration, management, operation and maintenance, planning and engineering, construction, reconstruction of street cuts, and to protect the integrity of the road system. To achieve this purpose, it is necessary to establish permit procedures and to fix and collect fees and charges.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-192. - Definitions.

As used in this article and the rules and regulations of the manager of transportation and infrastructure, the following words shall have the meanings given to them in this section except where the context clearly indicates and requires a different meaning. The words "shall" and "must" are to be construed as mandatory and not directory.

(a) *Manager* shall mean the manager of transportation and infrastructure or his or her designee.

(b) *Entire expense* shall mean the total cost of replacing the paving or surfacing material, and the base or subbase, including the long-term costs of repair directly caused by the street cut. This total cost includes the loss of the surface life of the pavement on a long-term basis.

(c) *Street cut* shall mean a cut made in the ground or pavement of any city street, alley or other right-of-way, including excavation, backfill and paving.

(d) *Licensed contractor* shall mean:

(1) Any general contractor who is licensed as detailed in sections 49-596 and 49-598 by excise and license under the authority of the manager to do work in and on the street right-of-way; or

(2) Any sewer contractor who is licensed as detailed in section 49-616 and 49-618 by excise and license under the authority of the manager to do work in and on the street right-of-way; or

(3) Any paving contractor who is licensed as detailed in sections 49-626 and 49-628 by excise and license under the authority of the manager to do work in and on the street right-of-way.

(e) *Code* shall mean any part of the Denver Revised Municipal Code (specifically article VIII of chapter 49) dealing with street cuts.

(f) *Franchisee* shall mean a public utility exercising rights granted by franchise from the city to use and occupy streets, alleys, viaducts, bridges, roads, lanes, public ways, and other public places for the

construction, maintenance and operation of its facilities.

(g) *Radium street* shall mean any street which is included in Operable Unit VII, Denver Radium Streets, of the Denver Radium Superfund Site, and designated by the United States Environmental Protection Agency in the Record of Decision, dated March 24, 1986, and Explanation of Significant Differences, dated October 9, 1992, or other streets, alleys and public rights-of-way designated by the manager based on United States Environmental Protection Agency studies.

(Ord. No. 492-91, § 1, 7-1-91; Ord. No. 549-96, § 2, 7-1-96; Ord. No. 39-20, § 107, 2-3-20)

Sec. 49-193. - Permit required.

(a) It shall be unlawful for any person, firm or corporation, including the city, to disturb the ground or pavement in any public right-of-way including any streets or alleys within the city without first obtaining a written permit therefor from the manager.

(b) The applicant for a permit, other than the city and franchisee, shall be licensed under this article to perform street cuts. All applicants, before the issuance of the permit, shall submit the following to the manager:

(1) An application for a street cut permit on forms furnished by the city;

(2) Evidence that the applicant is not delinquent in payments due the city on prior work;

(3) Evidence of all permits or licenses required to do the proposed work, if licenses or permits are required under the laws of the state or ordinances of the city;

(4) A satisfactory plan of work showing protection of the subject property and adjacent properties when a transportation and infrastructure safety representative determines such protection is necessary;

(5) A plan for the protection of shade and ornamental trees and the restoration of turf when the city forester determines that damage may occur to such trees or turf;

(6) Evidence that all orders issued by the department to correct deficiencies under previous permits issued under this article have been satisfied;

(7) Payment of a permit fee under section 49-197;

(8) A health and safety plan designed to assure protection of workers and the public, if a street cut is to be performed in a radium street.

(c) The permit shall specify the period of time when the work shall be performed, and if the work is not completed within the period specified a new permit shall be obtained.

(d) No permit issued under the provisions hereof shall be for more than one (1) excavation project.

(e) Emergencies. Excavations may be started by a person authorized to perform street cuts prior to issuance of a permit when necessary for preservation of life or property, provided that the person, firm or corporation making such excavation shall apply to the manager for a permit on the first working day after such excavation is commenced. Even in emergency situations, notice shall be given immediately to the street closure section and the street maintenance section of the department of transportation and infrastructure.

(f) A street cut permit shall not be required for sidewalk, driveway, curb cuts, curb and gutter, curb ramps or cross-pan construction. All other applicable permits shall be required.

(Ord. No. 492-91, § 1, 7-1-91; Ord. No. 549-96, § 3, 7-1-96; Ord. No. 39-20, § 108, 2-3-20)

Sec. 49-194. - Exhibition.

Street cut permits issued under this article shall be available at the work site for inspection while the work is in progress.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-195. - Warranteeing street cuts.

(a) As a condition for the issuance of the permit, the permittee shall warrant against any defects due to faulty materials or workmanship and that there will be no subsidence of the excavation for three (3) years following the final inspection and acceptance by the manager. If subsidence occurs within three (3) years, the manager shall notify the permittee and repairs and repaving shall be commenced within fourteen (14) days unless the area of the subsidence is a hazard to the health, safety or welfare of the public in which case the manager shall order the permittee to immediately repair the subsidence. In the event that the permittee fails or refuses to make repairs as ordered, the manager shall cause the repairs to be made, and all costs, including administrative costs, shall be paid by the permittee within ten (10) days of the billing of costs. In addition to costs, interest in the same amount as for delinquent ad valorem taxes shall be collected. Any person failing to pay the costs billed under this section shall be barred from performing any work in the public right-of-way until all costs, including interest, are paid.

(b) For the purpose of this article, date of completion is the date upon which permanent pavement resurfacing is finished and accepted by the manager.

(Ord. No. 492-91, § 1, 7-1-91; Ord. No. 505-00, § 1, 6-26-00)

Sec. 49-196. - Records.

The manager shall keep a record of all applications made for street cut permits and of the permits so issued.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-197. - Permit fee.

(a) An administrative and inspection fee, as defined in the manager's rules and regulations, shall be payable for any street cut permit anywhere within the city right-of-way. Such fee shall be based on the administrative costs of permitting, inspecting and regulating the permit system.

(b) The administrative fee for excavation or improvement permits shall be doubled if work is commenced prior to obtaining a permit. Paying double fees does not waive other penalties. This subsection shall not apply to emergency excavations as defined in section 49-193(e).

(c) An additional administrative fee for excavation and improvement permits in a radium street shall be assessed by the manager based on the city's costs associated with the regulation, oversight, management and disposal of radium contaminated material; provided, however, that this additional fee shall not be assessed for radium street cuts that disturb less than two hundred (200) cubic feet of radium

contaminated material or in cases in which the person performing the street cut lawfully disposes of all radium contaminated material disturbed at a properly sited and lawfully permitted radioactive waste disposal facility located outside a major metropolitan area.

(Ord. No. 492-91, § 1, 7-1-91; Ord. No. 549-96, § 4, 7-1-96)

Sec. 49-198. - Paved streets and alleys.

(a) If the city has agreed to permanently resurface a street cut as detailed in section 49-198(c), no permit to make a street cut in any paved or hard topped street or alley shall be issued unless the applicant shall have first deposited with the manager a sum of money to be fixed by the manager, sufficient to cover the entire expense of replacing the paving or surface material.

(b) If the amount deposited is insufficient, the excavator shall pay to the manager the deficiency within ten (10) days after notice.

(c) Placement of temporary pavement by the permittee, using material approved by the city engineer, is required immediately after completion of backfilling. Permanent resurfacing shall be completed within fourteen (14) working days after completion of backfilling of each city block. Failure to complete resurfacing in a timely manner shall be a violation of this provision, and the city may correct all deficiencies at the permittee's expense.

(d) If it is necessary for the city to correct the deficiencies, the manager shall send the permittee an itemized statement of all charges for labor and materials furnished by the street maintenance division. Charges shall first be taken from the permittee's deposit. Any amount due over and above the deposit shall be paid in full within thirty (30) days of the date of such statement. Interest on past due amounts shall be collected in an amount equal to that charged for delinquent ad valorem taxes. The permittee shall also be prohibited from performing work in any city right-of-way until the costs including interest are paid.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-199. - Excavator's license.

It shall be unlawful for any person other than the city or a franchisee to engage in the business of performing excavations on public property without first having obtained an excavation license from the director of excise and licenses.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-200. - Requirements for obtaining an excavation license and suspension or revocation of license.

(a) In addition to the requirements of chapter 32 of the Denver Revised Municipal Code, applicants for excavation licenses shall meet one (1) or more of the following additional requirements:

(1) Provide proof of being a licensed contractor;

(2) Provide proof of being a registered engineer; or

(3) Provide proof, as outlined in the manager's rules and regulations, to the manager of the competence of the applicant to conduct excavation work in the public right-of-way.

(b) The applicant for a license, except an applicant with a paving contractor license under division 5 of article XV chapter 49, shall furnish a bond by some reliable surety company approved by the manager in the sum of fi thousand dollars ($50,000.00), which bond shall be conditioned on compliance with all requirements, specifi and instructions of the manager and all of the requirements of the Code and ordinances of the city pertainir street cuts, including the payment of all fees, penalties or cost of repairs.

(c) The applicant for a license shall provide a certificate of insurance naming the city as an additional insured affording the following coverage:

General Liability

Coverage	Minimum limits of liability
Commercial General Liability (coverage at least as broad as that provided by ISO form CG0001 1/96 or equivalent)	Each Occurrence: $1,000,000
	General aggregate limit: $2,000,000
	Products-completed operations aggregate limit: $2,000,000
	Personal and advertising injury: $1,000,000
	Fire damage (any one fire): $50,000

This insurance shall include coverage for collapse and underground (CU) hazard, explosions (X) coverage, and contractual liability.

Automobile Liability

Coverage	Minimum limits of liability
Business automobile liability (coverage at least as broad as ISO form CA 0001 12/93)	Combined single limit: $1,000,000

This insurance shall include coverage for owned, nonowned and hired vehicles. The manager may accept satisfactory evidence of self-insurance in lieu of the above coverage. The above-referenced certificate shall show the insurance will not be canceled without thirty (30) days written notice to the manager.

(d) Suspension or revocation of license. The manager may suspend or revoke a license when the licensee commits one (1) or more of the following acts or omissions:

(1) Fails to comply with the responsibilities as outlined in the *Roadway Excavation Specifications* and/or the provisions as outlined in article VIII, chapter 49 of the Denver Revised Municipal Code.

(2) Conspires with any person to permit a license to be used by another person.

(3) Willfully violates or disregards any of the provisions of the Code.

(4) Creates, as a result of work performed, an unsafe condition.

(5) Fails to obey orders in a timely fashion.

(6) Fails to obey a stop work order.

(e) Procedure for revocation or suspension of license. When any of the acts or omissions outlined in

subsection (d) above are committed by a license holder, and the manager deems that the license shall be suspended or revoked, the action shall be as follows:

(1) The department shall notify the licensee in writing by certified mail or personal service at least seven (7) days prior to suspension or revocation.

(2) Upon receipt of the notice, the licensee may request a hearing to show cause why the license should not be suspended or revoked. This request shall be in writing to the department within thirty (30) days after the notice is mailed.

(3) If a hearing is requested by the licensee, the manager shall set a time, date and place, and so notify the licensee. Suspension or revocation of the license shall be stayed until after the hearing.

(4) When a hearing is conducted, the licensee, the department and other interested parties may attend. Upon completion of the hearing, the manager shall take all evidence available as a result of the department's investigation and all evidence presented at the hearing under advisement, and shall notify the licensee in writing of the findings and decision, including length of suspension or revocation if any, by certified mail or personal service.

(f) Emergency suspension. If the manager finds that cause exists for emergency suspension or revocation of a license, he may enter an order for the immediate suspension of the license, pending further investigation. The licensee may, upon notice of the suspension, request an immediate hearing before the manager. The suspension or revocation is not stayed while the hearing is pending.

(g) Time of suspension or revocation. Time of suspension may be up to one (1) year. Time of revocation may be from one (1) year to five (5) years.

(h) Delegation of authority. The manager may appoint a qualified member of the department to sit in his stead as hearing officer to conduct the hearing. Final decision shall be rendered by the manager.

(i) Appeal rights. Any person who disputes a license suspension or revocation, suspension or revocation of a street cut permit, or any other actions of the city pursuant to this article, may appeal the decision as outlined in section 56-106 of the Denver Revised Municipal Code. The appeal shall stay all orders pending the decision on the appeal, unless an emergency suspension as outlined in section 49-200(f). The permittee shall be responsible for all costs of corrections as required as a result of the appeal.

(j) Appeal. An appeal of a decision rendered under section 56-106 of the Revised Municipal Code shall be in accordance with Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(Ord. No. 492-91, § 1, 7-1-91; Ord. No. 505-00, § 2, 6-26-00)

Sec. 49-201. - Fees.

For application and license fees for contractors' licenses, refer to section 32-73.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-202. - Excavation and backfill of street cuts.

(a) All street cuts performed in city rights-of-way shall be done in conformity with the rules and regulations of the manager which shall provide for the proper care and protection of the streets, alleys, sidewalks

and other public places of the city and persons and property either on the public right-of-way or adjacent thereto.

(b) Excavations and backfills shall be made in accordance with the plans and specifications furnished by the applicant which:

(1) Are prepared in accordance with accepted engineering standards;

(2) Are adapted to the particular conditions of travel, load requirements, terrain, subsoil, moisture, etc., where the excavation backfill is to be performed; and

(3) Are approved by the manager.

(c) Where a permit has been issued, or where an excavation has been done under subsection 49-193(e), the excavator shall notify the manager of the time and date of the backfilling of the excavations will commence. In the event the manager determines that the permittee is not using acceptable backfill materials or acceptable backfilling procedures, he/she may order the suspension of all work at the site. The manager may require the permittee to furnish a soil test by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics in order to determine whether the backfill for the excavation was adequately compacted. All expense of such tests shall be borne by the permittee, and surface repair shall not commence until the manager is satisfied that the backfill has been restored to a density condition meeting the requirements of the rules and regulations adopted by the manager.

(d) The permittee shall repair any damage caused by the work performed under this article including, but not limited to, reestablishing any grass or sprinkler system damaged as a result of work performed by the permittee in accordance with specifications adopted by the manager. Where existing topsoil is deemed of insufficient quality, the manager may require the top six (6) inches be replaced with new topsoil.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-203. - Traffic safety.

(a) It shall be unlawful, for purposes of making a street cut, to stop up or obstruct more than one (1) block and one (1) intersection at the same time on any street, or to keep the same blocked up for more than two (2) days after the repaving is finished without the permission of the manager and the issuance of a street occupancy permit as required in section 54-652.

(b) It shall be unlawful for any person to dig or cause to be dug any hole, drain, ditch or any other excavation in any street, alley, sidewalk or other public place in the city without providing sufficient lights during the nighttime. To prevent persons, animals and vehicles from sustaining injury or damage, such lights shall be placed with a suitable barricade or temporary fence around the hole, drain, ditch or other excavation.

(c) During the daytime, the barricade shall be maintained, but warning lights are not required.

(d) Every street cut shall further be protected at all times by traffic safety devices as prescribed by the *Uniform Manual of Traffic Control Devices* in order to minimize the disruption of the flow of traffic in the vicinity of the excavation.

(e) It shall be unlawful to damage, displace, remove or interfere with any barricade, warning light or any other traffic safety device which is lawfully placed around or about any street, alley, sidewalk or other excavation or construction work in the city.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-204. - Obstruction of construction operations.

It shall be unlawful to hinder or obstruct any paving operations or excavations conducted in conformance with the provisions of this article.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-205. - Disclaimer.

The granting of a permit or the monitoring of operations conducted under any permit shall not make the manager responsible for construction means, methods, techniques, sequences, procedures or permittee's failure to perform the work in accordance with the standards and specifications set forth in the *Uniform Manual of Traffic Control Devices,* nor shall any approval granted by any city official make any such official responsible for any personal injury or property damage occurring as a result of the permittee's operation.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-206. - Liability for damages.

Any person who shall undertake work pursuant to a permit issued under provisions of this article, or work under contracts with the city, shall be answerable for any damage occasioned to persons, animals or property by reason of carelessness or negligence connected with such work, and shall be subject to civil penalties as set forth in sections 56-106 and 56-107 and indemnity; and shall defend the city from all claims arising from work performed on the public right-of-way under this article.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-207. - Moratorium.

(a) No street cuts shall be allowed in any public street or alley for a period of three (3) years from the completion of street resurfacing and/or reconstruction without written approval from the manager. Written approvals will be issued only after submittal and approval of a plan outlining the course of remediation. Street cuts required due to emergency situations shall require submittal of a plan within forty-eight (48) hours from the time of the cut for the approval of the manager, outlining the course of remediation. Remediation will consist of a curb to curb profile and overlay, a centerline to curb profile and overlay or a lane line to curb profile and overlay whichever is necessary in order not to decrease the life expectancy of the street surface.

(b) Street cuts performed during the months of December, January and February shall be limited in quantity and extent. Due to problems associated with permanent patching during adverse winter conditions, street cuts shall be performed only under conditions which will provide adequate time for permanent patching to be completed using material approved by the city engineer. The manager shall be notified in advance of all work occurring during these winter months.

(Ord. No. 492-91, § 1, 7-1-91; Ord. No. 505-00, § 3, 6-26-00)

Sec. 49-208. - Information on pipes and other structures.

It shall be the duty of every person to furnish on request to the manager information regarding the horizontal location in any street, alley, sidewalk or other public place of the city of any pipe or other structure installed, maintained or utilized by such person.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-209—49-245. - Reserved.

EXHIBIT C

ARTICLE VI. - SIDEWALKS, CURBS, GUTTERS AND DRIVEWAYS

DIVISION 1. - GENERALLY

Secs. 49-101—49-110. - Reserved.

DIVISION 2. - CONSTRUCTION, RECONSTRUCTION AND REPAIR

> *Footnotes:*
> *--- (**2**) ---*
> ***Charter reference—** Local public improvements, § A2.4 et seq.*

Sec. 49-111. - Permit for sidewalk, driveway or curb cut construction.

(a) No person shall construct, reconstruct or repair sidewalks, driveways, curbs, gutters or curb cuts on the public right-of-way without first obtaining a permit to do so from the manager of transportation and infrastructure.

(b) The fee for a permit under this section shall be set by the manager of transportation and infrastructure, which fee schedule shall be posted for public inspection in the office of the city engineer.

(c) Where sidewalk, driveway or curb cut are constructed or reconstructed simultaneously, only one (1) permit and fee shall be required.

(d) The permit shall specify the work to be done, and any violation of the terms of such permit shall render the same null and void.

(Code 1950, §§ 320.1, 320.3, 321.1; Ord. No. 39-20, § 88, 2-3-20)

Sec. 49-112. - Construction materials.

All sidewalks constructed on the public right-of-way in the city shall be constructed of the size, in the location and according to the specifications as contained in the rules and regulations pertaining to sidewalk construction as promulgated by the manager of transportation and infrastructure under authority of this section.

(Code 1950, § 320.2; Ord. No. 39-20, § 89, 2-3-20)

Sec. 49-113. - Location.

All sidewalks hereafter constructed or reconstructed shall be located to conform with the rules and regulations promulgated by the manager of transportation and infrastructure under the authority of this division and of the Charter.

(Code 1950, § 320.5; Ord. No. 39-20, § 90, 2-3-20)

Sec. 49-114. - Extension beyond prescribed limits or conversion to private use of sidewalks.

(a) On all streets where courts or open spaces are permitted for the planting of trees or grass plots, the same shall be kept level and to grade and free of any obstruction, fence, railing, bench, hedge or bush, unless objects are used to define tree planting spaces, water quality or green infrastructure facilities, bike rack areas, or other acceptable amenities to ensure safe use of the public right-of-way.

(b) When trees are located within a concrete sidewalk area, all planting spaces shall be designed in a manner as deemed necessary for the public safety by the manager of transportation and infrastructure in consultation with the city forester.

(c) No person shall construct or reconstruct a loading platform upon city property without first obtaining a permit to do so from the manager of transportation and infrastructure.

(Code 1950, § 320.4; Ord. No. 1017-17, § 8, 10-16-2017; Ord. No. 39-20, § 91, 2-3-20)

Sec. 49-115. - Grade.

All sidewalks and curbstones shall be laid and set to the established grade, which shall be furnished by the city engineer.

(Code 1950, § 321.3)

Sec. 49-116. - Construction order.

(a) The manager of transportation and infrastructure may order the construction or reconstruction of sidewalks otherwise than in local improvement districts whenever in the manager's opinion it shall be proper because sufficient sidewalks have been laid in the vicinity to make it reasonable that intervening areas should be provided with sidewalks, or existing sidewalks should be reconstructed.

(b) In all such cases, the manager of transportation and infrastructure shall notify the owner or agent in charge of the premises to construct or reconstruct such sidewalks within thirty (30) days from the date of the service of the notice in accordance with plans and specifications to be determined upon by the manager and stated in the notice. Such notice shall be in writing and served in person upon the owner or agent in charge of the premises, if found within the city, and if not, it

may be served by registered or certified United States mail, addressed to the owner and deliverable to addressee only, with return receipt requested, or by publication for ten (10) days in some daily newspaper published in the city.

(c) It shall be unlawful for any owner to fail, neglect or refuse to comply with the requirements of any such notice within the time therein specified.

(Code 1950, § 321.7; Ord. No. 39-20, § 92, 2-3-20)

Sec. 49-117. - Order to reconstruct due to nonconformity to grade.

(a) If any sidewalks or curbs hereafter constructed or reconstructed are not laid upon substantially the official grades, it shall be the duty of the person laying the same upon notice from the city engineer, so to alter and reconstruct the same as to conform to the official lines and curbs.

(b) Failure within five (5) days after such notice to comply with the notice and the requirements of this division shall be an offense, and each day's neglect and refusal to comply with the terms of such notice shall constitute a separate offense.

(Code 1950, § 321.4)

Sec. 49-118. - Change of the grade of a sidewalk.

Whenever there has been a change in the official grade of any sidewalk, the manager of transportation and infrastructure may cause to be served upon the owner or agent in charge of the premises abutting upon such sidewalk a notice as set forth in section 49-120(b) to construct or reconstruct such sidewalk upon the official grade.

(Code 1950, § 321.5; Ord. No. 450-84, § 1, 8-27-84; Ord. No. 39-20, § 93, 2-3-20)

Sec. 49-119. - Sidewalk repairs on hazardous walks.

When the manager of transportation and infrastructure determines that a sidewalk's condition is such that it presents a hazard to members of the public, then a notice to repair the sidewalk, as set forth in section 49-120(b), shall be sent to the owner or agent in charge of the abutting property.

(Code 1950, § 321.6; Ord. No. 450-84, § 2, 8-27-84; Ord. No. 39-20, § 94, 2-3-20)

Sec. 49-120. - Contents and service of notice.

(a) Service of the notice provided for in section 49-118 and 49-119 shall be made either by serving such notice on the person or entity named in the notice, or by sending such notice by first class mail, to the residence or place of business of the person or entity named in the notice, and by

posting such notice in a conspicuous place on the property abutting the hazardous sidewalk. If the notice is served on other than the owner of the property adjacent to the sidewalk, a copy of the notice shall be mailed to the owner at the address contained in the assessor's record.

(b) Any notice issued under sections 49-118 and 49-119 shall contain:

(1) A description of the construction, reconstruction, or repairs required;

(2) A statement of the condition of the sidewalk that constitutes the hazard;

(3) A statement advising of the right to an administrative hearing to appeal the notice, if requested within thirty (30) days, pursuant to section 56-106(b) of the Revised Municipal Code;

(4) A requirement that compliance shall be made within forty-five (45) days from the date of issuance of the notice, [and such notice] shall also indicate that failure to make the repairs within forty-five (45) days shall be unlawful, and that failure to comply with the notice may result in the work being done by the city at the expenses of the party to whom the notice was issued.

(Code 1950, § 321.8; Ord. No. 450-84, § 3[1], 8-27-84; Ord. No. 811-88, § 1, 12-27-88)

Sec. 49-121. - Access and ease of movement for handicapped persons.

The manager of transportation and infrastructure shall require that all new streets and any existing streets which are reconstructed shall provide for the safe and convenient movement of handicapped persons, including those in wheelchairs, across all curbs at all crosswalks and at all intersection corners.

(Ord. No. 298-83, § 1, 5-23-83; Ord. No. 39-20, § 95, 2-3-20)

Cross reference— Rights and duties of persons with mobility handicaps who operate wheelchairs, § 54-547.

Sec. 49-122. - City may construct, reconstruct, or repair a sidewalk.

If a person or entity to whom notice is directed pursuant to section 49-118 or 49-119 fails to comply within the time specified in the notice, the manager of transportation and infrastructure or his designated representative may, in his discretion, order the construction, reconstruction, or repair of the sidewalk by or on behalf of the city, and the procedures outlined in division 3 of this article VI for collection of costs and expenses thereof shall apply in addition to the penalties provided by this Code.

(Ord. No. 811-88, § 2, 12-27-88; Ord. No. 39-20, § 96, 2-3-20)

Secs. 49-123—49-130. - Reserved.

DIVISION 3. - LIEN FOR REPAIRS

Sec. 49-131. - Recovery of cost and expenses.

(a) When work has been performed pursuant to section 49-122, the manager of transportation and infrastructure or his designated representative shall bill any or all owners, occupants, lessees or holders of legal or equitable interest of or in the property known to the manager of transportation and infrastructure or his designated representative for the costs and expenses as determined by the manager of transportation and infrastructure or his designated representative.

(b) If the owner, occupant, lessee or holder of legal or equitable interest of or in the property shall fail within thirty (30) days after billing to pay the costs and expenses of work by the city, a lien may be assessed against the property. The manager of transportation and infrastructure, to initiate such lien, shall certify a statement thereof to the manager of finance, who shall record a notice of such lien with the clerk and recorder. The manager of finance shall assess and charge the same against the property involved, and collect the same due, plus interest thereon, in the manner as are delinquent real property taxes. If the lien remains unsatisfied, the manager of finance shall sell the property involved in the manner prescribed for sales of property for delinquent property taxes. The lien created hereby shall be superior and prior to all other liens, regardless of their dates of recordation, except liens for general taxes and special assessments. In addition to the remedies set forth herein, an action or other process provided by law may be maintained by the city to recover or collect any amounts, including interest, owing under this provision.

(c) The liens created hereby shall be superior and prior to other liens, regardless of date, except liens for general and special taxes.

(Code 1950, §§ 322.1, 322.3; Ord. No. 450-84, § 3[2], 8-27-84; Ord. No. 811-88, § 3, 12-27-88; Ord. No. 464-98, § 5, 7-6-98; Ord. No. 775-07, § 79, 12-26-07; Ord. No. 39-20, § 97, 2-3-20)

Sec. 49-132. - Discharge of work certificate; sale; redemption.

(a) The certificate issued in section 49-131 upon being sold to the manager of finance shall thereupon receipt for the same and enter upon a roll to be kept for the purpose the date of issue, name of the holder, description of the property affected thereby, and the amount of the principal sum due thereon.

(b) Redemption of the certificate by payment to the manager of finance of the principal amount and accrued interest by any person having a legal or equitable interest in the abutting property shall, upon recordation of a release of lien given therefor by the manager of finance, effect satisfaction of the debt and release of the lien based thereon.

(Code 1950, §§ 322.2, 322.4; Ord. No. 450-84, § 4, 8-27-84; Ord. No. 775-07, § 80, 12-26-07)

Sec. 49-133. - Redemption of certificate; extinguishment of lien.

Any sidewalk certificate issued under the provisions of section 49-131 may be taken up, redeemed and paid, in the following manner:

(1) The manager of finance is hereby authorized and directed to receive from the owner of any property, against which any such sidewalk certificate is a lien, or from the agent, assignee or attorney of any such owner, or from any person having a legal or equitable claim in or to such property, at any time before the foreclosure of the lien created by any such sidewalk certificate, the amount and interest due upon any such sidewalk certificate, and hold the amount for the owner of such certificate, and pay over the same to the owner of such certificate, upon the presentation of the same for cancellation.

(2) The manager of finance, upon receipt of the amount, shall issue to the person making such payment, a redemption certificate, in the usual form.

(3) Upon payment as aforesaid, and the receipt of such certificate of redemption, the interest upon the sidewalk certificate shall cease, and the lien created thereby shall be deemed cancelled, extinguished, and for naught held from the date of the recording of the certificate of redemption, in the office of the city clerk.

(Code 1950, § 322.5; Ord. No. 775-07, § 81, 12-26-07)

Sec. 49-134. - Manager of transportation and infrastructure furnishes manager of finance list of certificates.

It shall be the duty of the manager of transportation and infrastructure to furnish to the manager of finance, from time to time, a list of all outstanding sidewalk certificates, showing date of issue thereof, description of property affected thereby, to whom issued, and the amount for which the same was issued.

(Code 1950, § 322.6; Ord. No. 775-07, § 82, 12-26-07; Ord. No. 39-20, § 98, 2-3-20)

Secs. 49-135—49-140. - Reserved.

DIVISION 4. - CURB CUTS

Sec. 49-141. - Necessity.

The manager of transportation and infrastructure is hereby authorized to determine the necessity for the location and width of curb cuts, taking into consideration the location of the property affected; the extent of vehicular and pedestrian traffic along the same; the demand and the necessity for parking spaces; the means of ingress and egress to and from the property; and generally the health, safety and welfare of the public.

(Code 1950, § 325.1; Ord. No. 39-20, § 99, 2-3-20)

Sec. 49-142. - When manager may require alteration of curb.

Where the use, convenience and necessity of the public require, the manager of transportation and infrastructure is hereby authorized to order the owners or agents of the property adjacent to which curb cuts are maintained to repair, alter, construct or reconstruct, or close or replace the curb or to change the width and location thereof, and is further authorized to make such rules and regulations in respect thereof as the manager deems fit and proper under the circumstances.

(Code 1950, § 325.2; Ord. No. 39-20, § 100, 2-3-20)

Sec. 49-143. - Notification for curb alteration.

(a) In all cases under section 49-142, the manager of transportation and infrastructure shall notify the owner or agent of the property to repair, alter, construct or reconstruct, or close or replace the curb, or to change the width or location thereof in accordance with the rules and regulations, plans and specifications of the manager within thirty (30) days from the date of the notice.

(b) Such notice shall be in writing and served:

(1) By delivering the notice to the owner personally or by leaving the same at the owner's residence, office or place of business, with some member of the owner's family over fifteen (15) years of age; or

(2) By mailing such notices by registered mail to such owner at the last known address; or

(3) If the owner is unknown, by posting the notice in some conspicuous place on the premises for five (5) consecutive days.

(Code 1950, § 325.3; Ord. No. 39-20, § 101, 2-3-20)

Sec. 49-144. - Failure to comply with notice; work by city.

(a) It shall be unlawful for any owner to fail, neglect or refuse to comply with the requirements of notice under this division within the time therein specified.

(b) Whenever the owner shall be in default or shall fail to comply with the notice of the manager of transportation and infrastructure, the manager is hereby authorized to have the necessary work performed and to recover the cost of the same as provided in section 49-131.

(Code 1950, § 325.4; Ord. No. 464-98, § 6, 7-6-98; Ord. No. 39-20, § 102, 2-3-20)

Secs. 49-145—49-160. - Reserved.