

AMENDED AND RESTATED
EXCHANGE AGREEMENT

(North Fire Station Swap – Filing 13 / 44 - Stapleton)

THIS AMENDED AND RESTATED EXCHANGE AGREEMENT (“Agreement”) is made as of the Effective date (defined in Section 8.6 below), between the **CITY AND COUNTY OF DENVER**, a home rule city and a municipal corporation of the State of Colorado, whose address is 1437 Bannock Street, Denver, CO 80202, (“City”), and **FC STAPLETON II, LLC**, a Colorado limited liability company, whose address is 7351 E. 29th Avenue, Denver, Colorado 80238 (“Forest City”, with the City, collectively referred to as “Parties” and each individually as a “Party”).

WHEREAS, on December 15, 2009 Forest City conveyed to the City a parcel of real property for the construction of a fire station, which conveyance is described on that deed recorded on December 17, 2009 at Reception No. 2009162923 and on Exhibit A attached hereto and incorporated herein; and

WHEREAS, the Parties have agreed that a different parcel of real property, described on Exhibit B attached hereto and incorporated herein, is better suited for the construction of said fire station; and

WHEREAS, the Parties desire to exchange parcels of real property in accordance with the terms and conditions of this Agreement; and

WHEREAS, City and Forest City entered into that Exchange Agreement dated October 6, 2014 and approved by Ordinance 0531, Series of 2014 and found in City Clerk File No. 2014119332 (the “Original Agreement”); and

WHEREAS, City and Forest City now wish to modify the terms of the Original Agreement to reflect that the exchange of the 2009 Parcel and the 2014 Parcel (as defined herein) as described in the Original Agreement may occur at separate closings rather than simultaneously, and if so, then to provide for the Purchase Price of the 2009 Parcel to be placed into escrow until the earlier of the conveyance of the 2014 Parcel or December 31, 2018.

NOW THEREFORE, for the Purchase Price, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged the City and Forest City agree as follows:

I. EXCHANGE PROVISIONS

1.1. Agreement of Conveyance Exchange.

(i) 2009 Parcel. The City shall convey to Forest City for no monetary consideration and upon the terms and conditions hereinafter set forth, an approximately 1.5 acre parcel of land which is generally bounded by Central Park Boulevard on the west, 51st Avenue on the north and Beeler Street on the east and more particularly described in Exhibit A attached hereto and incorporated herein, together with (a) all non-City utility easements, and non-City rights-of-way and vacated streets and alleys appurtenant to the parcel; (b) all buildings, fixtures and improvements on the parcel, if any; and (c) all of the City's right, title and interest in and to all utility taps, licenses, permits, contract rights, warranties and guarantees specifically relating to the parcel (collectively the "2009 Parcel").

(ii) 2014 Parcel. In consideration of the same, Forest City shall convey to the City for no monetary consideration and upon the terms and conditions hereinafter set forth, that certain approximately 1.5 acre parcel of land which is generally bounded by Central Park Boulevard on the west, 50th Avenue on the north and Beeler Street on the east and more particularly described in Exhibit B attached hereto and incorporated herein, together with (x) all easements, rights-of-way and vacated roads, streets and alleys appurtenant to the parcel; (y) all buildings, fixtures and improvements on the parcel, if any; and (z) all of Forest City's right, title and interest in and to all utility taps, licenses, permits, contract rights, warranties and guarantees specifically relating to the parcel (collectively the "2014 Parcel").

(iii) Legal Descriptions. The respective legal descriptions of the 2009 Parcel attached as Exhibit A and the 2014 Parcel attached as Exhibit B may be modified to conform to the Final Survey (as hereinafter defined) approved by the City's Surveyor prior to Closing.

1.2. **Purchase Price.** Except as specifically otherwise provided herein, the exchange of the 2009 Parcel and the 2014 Parcel shall be done at no purchase price for either parcel, and the consideration for each Party's conveyance of its respective parcel shall be its receipt of the other parcel from the other Party.

1.3. **Non-Simultaneous Exchange**. The Parties anticipate that Forest City may wish to acquire the 2009 Parcel prior to the time that the 2014 Parcel is available for acquisition by Forest City and subsequent conveyance to the City.

(a) In this event, the term “Closing” as defined in Section 1.4 shall refer to the execution and delivery of the 2009 Parcel Deed by the City, and Forest City’s acquisition of the 2009 Parcel shall occur in the following manner:

(i) Forest City shall proceed with its review of the 2009 Parcel Title Commitment as set forth in Section 2.1(b), its review of the City’s disclosures as set forth in Section 2.4(b), its inspections as set forth in Section 2.6, and shall provide any notices of defect to the City as set forth in Sections 3.3 and 3.4. The City shall respond as set forth in the applicable Section.

(ii) The Parties shall mutually agree upon a Closing Date for the transfer of the 2009 Parcel to Forest City as set forth in Section 1.4(i). The Parties shall then proceed with the conveyance of the 2009 Parcel from the City to Forest City as set forth in Sections 1.4(ii), 1.4(iii), 1.4(v), and 1.4(vi). Additionally, Forest City shall pay a Purchase Price of \$50,451.16 which Purchase Price shall be held in escrow by the Title Company. The Purchase Price shall be held in escrow until the earliest of: (a) the conveyance of the 2014 Parcel from Forest City to the City of Denver, or (b) December 31, 2018. In the event that the conveyance of the 2014 Parcel from Forest City to the City occurs first, then at the close of escrow of such conveyance, the Purchase Price shall be released from escrow and paid directly to Forest City. In the event that December 31, 2018 occurs first, then the Purchase Price shall be released from escrow and paid directly to the City.

(iii) All of the representations by the City set forth in Section 5.2, all of the waivers and acknowledgements set forth in Section 6.1(b) by Forest City, and all of the releases set forth in Section 6.2(b) shall apply to the respective Party regarding the 2009 Parcel.

(iv) Following the Closing of the 2009 Parcel, the City shall cause the Title Company to issue the 2009 Parcel Title Policy as set forth in Section 2.1(b).

(b) In the event that Forest City has acquired the 2009 Parcel and the 2014 Parcel remains unavailable for acquisition by Forest City until December 31, 2018, then this Agreement shall terminate and be of no further force and effect with respect to the 2014 Parcel, and the Purchase Price for the 2009 Parcel shall be released from escrow and paid directly to the City of Denver.

(c) In the event that Forest City has acquired the 2014 Parcel prior to December 31, 2018, then the conveyance of the 2014 Parcel to the City shall proceed. In this event, the term "Closing" as defined in Section 1.4 shall refer to the execution and delivery of the 2014 Parcel Deed by Forest City, and the City's acquisition of the 2014 Parcel shall occur in the following manner:

(i) The City shall proceed with its review of the 2014 Parcel Title Commitment as set forth in Section 2.1(a), its review of Forest City's disclosures as set forth in Section 2.4(a), its inspections as set forth in Section 2.5, and shall provide any notices of defect to Forest City as set forth in Sections 3.1 and 3.2. Forest City shall respond as set forth in the applicable Section.

(ii) The Parties shall mutually agree upon a Closing Date for the transfer of the 2014 Parcel to the City as set forth in Section 1.4(i). The Parties shall then proceed with the conveyance of the 2014 Parcel from Forest City to the City as set forth in Sections 1.4(ii), 1.4(iii), 1.4(iv), and 1.4(vi). The Purchase Price shall be released from escrow and paid directly to Forest City.

(iii) All of the representations by Forest City set forth in Section 5.1, all of the waivers and acknowledgements set forth in Section 6.1(a) by the City, and all of the releases set forth in Section 6.2(a) shall apply to the respective Party regarding the 2014 Parcel.

(iv) Following the Closing of the 2014 Parcel, Forest City shall cause the Title Company to issue the 2014 Parcel Title Policy as set forth in Section 2.1(a).

1.4. **Closing Prerequisites.** Notwithstanding anything herein to the contrary, the City expressly acknowledges that Forest City does not currently own or have a right to sell or convey the 2014 Parcel, that Forest City's right to purchase the 2014 Parcel is governed by the terms of the Master Lease and Disposition Agreement by and between the City and County of Denver and

the Stapleton Development Corporation, dated July 21, 1998, as amended (the “MLD”) and the Amended and Restated Purchase Agreement by and between the Stapleton Development Corporation and Forest City Enterprises, Inc., dated February 15, 2000, as amended (the “Purchase Agreement”) (the MLD and the Purchase Agreement are collectively referred to herein as the “Stapleton Acquisition Agreements”). The City further expressly acknowledges that Forest City shall not be required to acquire the 2014 Parcel under the Stapleton Acquisition Agreements until Forest City has determined, in its sole discretion, that the environmental and title condition of the 2014 Parcel are acceptable to Forest City pursuant to the Stapleton Acquisition Agreements. Closing hereunder is conditioned upon the following conditions precedent (“Closing Prerequisites”) being satisfied on or prior to Closing, to the City’s reasonable satisfaction, and to Forest City’s reasonable satisfaction with respect to items (i) and (ii):

(i) acquisition of the 2014 Parcel by Forest City on or prior to the Closing Date;

(ii) City’s and Forest City’s approval of a Final Survey setting forth the size of the 2014 Parcel; and

(iii) City electing to proceed to Closing pursuant to Article III below.

(iv) Except to the extent that either Party has the right to extend the time for performance pursuant to the Agreement, if for any reason at any time prior to Closing the Closing Prerequisites are not satisfied or waived by the City, the Agreement may be terminated by the City; and if for any reason at any time prior to the Closing Date the Closing Prerequisites set forth in items (i) and (ii) are not satisfied or waived by Forest City, the Agreement may be terminated by Forest City. Upon such termination, each Party shall thereupon be relieved of all further obligations and liabilities under this Agreement, except as otherwise provided herein.

1.5. **Closing; Prorations; Closing Fees; Deed and Title Policy.**

(i) Closing. “Closing” shall mean execution and delivery of a Special Warranty Deed for the 2014 Parcel by Forest City to the City subject only to the respective Permitted Exceptions as described below and for the 2009 Parcel execution and delivery of a Quitclaim Deed by the City to Forest City. Unless

extended as provided for in this Agreement, the date of the Closing shall be within twenty (20) days after the City's Election Period (or, if applicable, the Extended Election Period) (as defined in Article III), and completion of the Closing Prerequisites, or such other date as the Director of Division of Real Estate for the City ("Director") and Forest City may agree ("Closing Date"). The Closing shall be held at a time designated by Forest City on the Closing Date at the offices of Forest City or at such other place as Forest City and the Director may mutually agree.

(ii) Closing Fees. Reasonable closing fees and expenses of the Title Company shall be paid equally by Forest City and the City, including recording costs if any.

(iii) Prorations. Taxes, if any, for the period prior to Closing for the 2014 Parcel shall be prorated as of the Closing Date and paid by Forest City. The Parties acknowledge that there are no taxes anticipated to be due on the 2009 Parcel, as it is owned by the City and exempt from property taxes. All utilities and other fees and charges relating to the 2009 Parcel for the period prior to Closing shall be prorated as of the Closing Date and paid by the City. All utilities and other fees and charges relating to the 2014 Parcel for the period prior to Closing shall be prorated as of the Closing Date and paid by Forest City.

(iv) 2014 Parcel Deed. At Closing, Forest City shall execute a transferable and recordable Special Warranty Deed (the "2014 Parcel Deed") conveying title to the 2014 Parcel in fee simple to the City, subject only to Permitted Exceptions, which Permitted Exceptions may include all restrictions, reservations and covenants including any restrictions on aircraft operations or aircraft flight operation and restrictions on drilling or placement of water wells contained in that Bargain and Sale Deed to Forest City in connection with its acquisition of the 2014 Parcel. Forest City shall submit the form of 2014 Parcel Deed to the City for approval at least ten (10) days prior to the Closing Date.

(v) 2009 Parcel Deed. At Closing, the City shall execute a transferable and recordable Quitclaim Deed (the "2009 Parcel Deed") conveying title to the 2009 Parcel in fee simple to Forest City. The City shall submit the

form of 2009 Parcel Deed to Forest City for approval at least ten (10) days prior to the Closing Date.

(vi) Title Policy. The Parties shall execute and deliver at Closing such other instruments as may be reasonably required by the Title Company to issue the Title Policy (as hereinafter defined). The cost of the Title Policy for both the 2009 Parcel and the 2014 Parcel shall be paid by Forest City. The City shall be solely responsible for the payment of the premiums for any endorsements requested by the City with respect to the 2014 Parcel. Forest City shall be solely responsible for the payment the premiums for any endorsements requested by Forest City with respect to the 2009 Parcel.

II. TITLE, SURVEY AND PHYSICAL INSPECTION

2.1. Title Commitment and Title Disclosures

(a) 2014 Parcel. No later than twenty (20) days after the Effective Date, as defined in Article 8.6 of this Agreement, Forest City shall provide to the City a title insurance commitment for the 2014 Parcel (“2014 Parcel Title Commitment”) and, if requested by the City, all documents referred to therein, by First American Title Company (“Title Company”) in which the Title Company commits, that upon delivery and recordation of the Deed, it will issue its 2006 ALTA Owners Policy of Title Insurance subject only to the Permitted Exceptions (as hereinafter defined) (“2014 Parcel Title Policy”). The Title Commitment shall provide that the standard printed exceptions normally deleted to provide “extended coverage” shall be deleted by the Title Company. Not later than twenty (20) days after the Effective Date of this Agreement, Forest City shall also disclose any title exceptions, contracts, leases, surveys, easements, liens and other title matters not shown in the public records relating to the 2014 Parcel in Forest City’s possession or of which Forest City has actual knowledge, whether or not such exceptions are recorded (“2014 Parcel Title Disclosure”). Forest City shall update its 2014 Parcel Title Disclosure up to the Closing.

(b) 2009 Parcel. No later than twenty (20) days after the Effective Date, as defined in Article 8.6 of this Agreement, the City shall provide to Forest City a title insurance commitment for the 2009 Parcel (“2009 Parcel Title Commitment”) and, if requested by Forest City City, all documents referred to therein, by the Title Company in

which the Title Company commits, that upon delivery and recordation of the Deed, it will issue its 2006 ALTA Owners Policy of Title Insurance (“2009 Parcel Title Policy”). The 2009 Parcel Title Commitment shall provide that the standard printed exceptions normally deleted to provide “extended coverage” shall be deleted by the Title Company. Not later than twenty (20) days after the Effective Date of this Agreement, the Director shall also disclose any title exceptions, contracts, leases, surveys, easements, liens and other title matters not shown in the public records relating to the 2009 Parcel in the City’s possession or of which the Director has actual knowledge, whether or not such exceptions are recorded (“2009 Parcel Title Disclosure”). The City shall update its 2009 Parcel Title Disclosure up to the Closing.

2.2. **2014 Parcel Permitted Exceptions.** “Permitted Exceptions” shall mean (a) real property taxes and assessments for the year of the Closing, prorated to, and paid at, Closing and subsequent years; (b) building, zoning and other applicable ordinances and regulations, except as otherwise provided for herein; (c) any easements, reservations or other matters affecting title provided for in this Agreement or any covenants entered into by Forest City as to the 2014 Parcel, including the restrictions, reservations or covenants in the Deed provided for in Section 1.5(iv); and (d) any easements, rights of way, reservations, exceptions or other matters which are identified in the title commitment, in the Title Disclosure, or on the 2014 Parcel Survey and which are accepted, waived or deemed waived by the City pursuant to Article III.

2.3. **Survey.** At its expense, Forest City shall provide the City with a copy of the ALTA/ACSM survey of the 2014 Parcel obtained in connection with its acquisition of the Property from SDC (“2014 Parcel Survey”) within twenty (20) days after the Effective Date. The 2014 Parcel Survey shall reflect and verify the correct legal description, courses and distances of boundary lines, acreage and square footage of the 2014 Parcel, the location of all improvements and fences, and of all easements, rights of way, ditches, and other matters, whether of record or apparent, affecting the 2014 Parcel and shall show any portion of the 2014 Parcel within the 100-year flood plain. The City shall review and comment on the 2014 Parcel Survey during the Inspection Period. Forest City shall make any corrections during the Cure Period. The 2014 Parcel Survey as corrected shall be reviewed, and if acceptable, approved by the City (“2014 Parcel Final Survey”). The legal description of the 2014 Parcel contained in the 2014 Parcel Final Survey shall be used in the 2014 Parcel Deed.

2.4. **Seller's Disclosure.**

(a) **2014 Parcel.** In addition to the Title Disclosure, within twenty (20) days after the Effective Date and continually through Closing, Forest City shall deliver to the City: (i) copies of all property tax bills, aerial photos, appraisals, and any other documentation in Forest City's possession related to the 2014 Parcel; and (ii) all environmental information related to the 2014 Parcel in Forest City's possession, or of which Forest City has actual knowledge, all of which shall be provided without representation or warranty of any kind by Forest City.

(b) **2009 Parcel.** In addition to the Title Disclosure, within twenty (20) days after the Effective Date and continually through Closing, the City shall deliver to Forest City: (i) copies of all property tax bills, aerial photos, appraisals, and any other documentation in the Director's possession related to the 2009 Parcel; and (ii) all environmental information related to the 2009 Parcel in the Director's possession, or of which the Director has actual knowledge, all of which shall be provided without representation or warranty of any kind by the City.

2.5. **Inspections and Inspection Period for 2014 Parcel.** The City shall have until 5:00 p.m. on the date that is eighty (80) days after the date of the Effective Date to investigate and evaluate the 2014 Parcel, and to conduct such tests and investigations as it desires ("Inspection Period"). At such time as Forest City has acquired and owns the 2014 Parcel, then Forest City shall grant access to the 2014 Parcel for the City's due diligence purposes, provided that the City causes its contractor or consultant to execute and provide to Forest City the Access Permit attached as Exhibit C attached hereto and made a part hereof (the "Forest City Property Access Permit"). If Forest City does not yet own the 2014 Parcel, the City shall be responsible for obtaining access for inspection purposes. If City's access to the 2014 Parcel is not available as of the Effective Date, Forest City shall provide the City with written notification of the date when access will be available and the Inspection Period shall be extended for the number of days until access is available as set forth in such notice. Such right of investigation shall include, without limitation, the right to have made at City's expense, any studies and inspections, including environmental inspections and testing, of the 2014 Parcel as City may deem necessary or appropriate. If requested, the City shall provide copies of the results of any testing, investigations or inspection reports to Forest City. The Parties agree to provide a reasonable

level of cooperation with any such investigations, inspections, or studies made by or at City's direction so long as such cooperation is at no expense to Forest City. In pursuing any inspection of the 2014 Parcel, each Party shall proceed at its own risk. If Closing does not occur within fifty (50) days after the end of the Inspection Period, the City shall have the right to reinspect the 2014 Parcel and object to any new matters affecting the 2014 Parcel arising since the date of the expiration of the Inspection Period including any new title encumbrance not previously disclosed to City in the Title Commitment ("New Objectionable Matter") for an additional period of ten (10) days ("Extended Inspection Period").

2.6. **Inspections and Inspection Period for 2009 Parcel.** Forest City shall have until 5:00 p.m. on the date that is eighty (80) days after the date of the Effective Date to investigate and evaluate the 2009 Parcel, and to conduct such tests and investigations as it desires ("Inspection Period"). The City shall grant access to the 2009 Parcel for Forest City's due diligence purposes, provided that Forest City either executes or causes its contractor or consultant to execute and provide to the City the Access Permit attached as Exhibit D attached hereto and made a part hereof (the "City Property Access Permit") Such right of investigation shall include, without limitation, the right to have made at Forest City's expense, any studies and inspections, including environmental inspections and testing, of the 2009 Parcel as Forest City may deem necessary or appropriate. If requested, Forest City shall provide copies of the results of any testing, investigations or inspection reports to the City. The Parties agree to provide a reasonable level of cooperation with any such investigations, inspections, or studies made by or at Forest City's direction so long as such cooperation is at no expense to the City. In pursuing any inspection of the 2009 Parcel, each Party shall proceed at its own risk. If Closing does not occur within fifty (50) days after the end of the Inspection Period, Forest City shall have the right to reinspect the 2009 Parcel and object to any new matters affecting the 2009 Parcel arising since the date of the expiration of the Inspection Period including any new title encumbrance not previously disclosed to Forest City in the Title Commitment ("New Objectionable Matter") for an additional period of ten (10) days ("Extended Inspection Period").

III. NOTICE OF DEFECT; CURE; CITY ELECTION

3.1. **City Notice of Defect on 2014 Parcel.** If, on or before the expiration of the Inspection Period, the Director gives Forest City written notice setting forth the City's dissatisfaction with the 2014 Parcel or any characteristic thereof, for any reason or no reason,

including, without limitation, any matter disclosed in the Title Commitment, Title Disclosure or otherwise relating to title, any matters disclosed by the Final Survey or otherwise relating to survey matters, physical condition, environmental condition, acquisition, ownership, development, usage, operation, marketability and/or economic viability (“Notice of Defect”), then Forest City may, in its sole discretion, cure such defects within twenty (20) days of receipt of such Notice of Defect (“Cure Period”). If Forest City fails to cure or elects not to cure within the Cure Period, the City, at its sole option, may, within ten (10) days after the end of the Cure Period (“Election Period”): (i) terminate this Agreement, and both Parties shall be relieved from any further liability hereunder except as otherwise expressly provided for in this Agreement; (ii) extend Closing to allow Forest City time to cure; or (iii) waive such defects in writing signed by the Director of the Division of Real Estate and proceed to Closing. If no Notice of Defect is given or if the City has elected to proceed to Closing by the end of the Election Period, then the City shall be deemed to have waived any defect and the Agreement shall remain in full force and effect.

3.2. **City Notice of New Objectionable Matter on 2014 Parcel.** If, on or before the expiration of the Extended Inspection Period, the Director gives Forest City a written Notice of Defect regarding a New Objectionable Matter, then Forest City may, in its sole discretion, cure such defects within twenty (20) days of receipt of such Notice of Defect (“Extended Cure Period”). If Forest City fails to cure or elects not to cure within the Extended Cure Period, the City, at its sole option, may, within ten (10) days after the end of the Extended Cure Period (“Extended Election Period”): (i) terminate this Agreement, and both Parties shall be relieved from any further liability hereunder except as otherwise expressly provided for in this Agreement; (ii) extend Closing to allow Forest City time to cure such New Objectionable Matter; or (iii) waive such defects in writing signed by the Director of Division of Real Estate and proceed to Closing. If no Notice of Defect is given or if the City has elected to proceed to Closing by the end of the Extended Election Period, then the City shall be deemed to have waived any defect and the Agreement shall remain in full force and effect.

3.3. **Forest City Notice of Defect on 2009 Parcel.** If, on or before the expiration of the Inspection Period, Forest City gives the City through the Director written notice setting forth Forest City’s dissatisfaction with the 2009 Parcel or any characteristic thereof, for any reason or no reason, including, without limitation, any matter disclosed in the 2009 Parcel Title

Commitment, 2009 Parcel Title Disclosure or otherwise relating to title, any matters disclosed by the Final Survey or otherwise relating to survey matters, physical condition, environmental condition, acquisition, ownership, development, usage, operation, marketability and/or economic viability (“Notice of Defect”), then the City may, in its sole discretion, cure such defects within twenty (20) days of receipt of such Notice of Defect (“Cure Period”). If the City fails to cure or elects not to cure within the Cure Period, Forest City, at its sole option, may, within ten (10) days after the end of the Cure Period (“Election Period”): (i) terminate this Agreement, and both Parties shall be relieved from any further liability hereunder except as otherwise expressly provided for in this Agreement; (ii) extend Closing to allow the City time to cure; or (iii) waive such defects in writing and proceed to Closing. If no Notice of Defect is given or if Forest City has elected to proceed to Closing by the end of the Election Period, then Forest City shall be deemed to have waived any defect and the Agreement shall remain in full force and effect.

3.4. **Forest City Notice of New Objectionable Matter on 2009 Parcel.** If, on or before the expiration of the Extended Inspection Period, Forest City gives the City through the Director a written Notice of Defect regarding a New Objectionable Matter, then the City may, in its sole discretion, cure such defects within twenty (20) days of receipt of such Notice of Defect (“Extended Cure Period”). If the City fails to cure or elects not to cure within the Extended Cure Period, Forest City, at its sole option, may, within ten (10) days after the end of the Extended Cure Period (“Extended Election Period”): (i) terminate this Agreement, and both Parties shall be relieved from any further liability hereunder except as otherwise expressly provided for in this Agreement; (ii) extend Closing to allow the City time to cure such New Objectionable Matter; or (iii) waive such defects in writing and proceed to Closing. If no Notice of Defect is given or if Forest City has elected to proceed to Closing by the end of the Extended Election Period, then Forest City shall be deemed to have waived any defect and the Agreement shall remain in full force and effect.

IV. USE OF SITE

4.1. **Title 32 Districts.** The Parties acknowledge that infrastructure improvements for the Stapleton site will be financed through taxes, systems development fees, and similar charges that are paid by property owners at Stapleton. Two special districts have been created, and the taxes which will be levied by the taxing districts shall be in addition to taxes which would normally be assessed by the City and County of Denver against the 2009 Parcel and, upon the

acquisition from Stapleton Development Corporation by Forest City, the 2014 Parcel. The Parties hereby expressly agree that they each (a) shall not object to the inclusion of either the 2009 Parcel or the 2014 Parcel in any such district, provided that any such additional taxes shall not exceed 54.888 mills as may be adjusted pursuant to the Districts' Service Plans; and (b) if necessary, shall execute such documents as are customarily executed by property owners who have consented to the inclusion of their property in such districts. The Parties acknowledge that the 2009 Parcel and the 2014 Parcel are tax exempt during such time as the City owns such respective Parcel.

4.2. **Infrastructure.** All required infrastructure for the 2014 Parcel has been completed and accepted by the City.

4.3. **Condemnation of the 2014 Parcel.** If any authority having the right of eminent domain shall at any time prior to Closing commence negotiations with Forest City or commence legal action against Forest City for the damaging, taking or acquiring of all or any part of the 2014 Parcel, either temporarily or permanently, in any condemnation proceeding or by exercise of the right of eminent domain, Forest City shall immediately give notice of the same to the City. Upon the occurrence of any of the foregoing events, the City shall have the right to terminate this Agreement by giving written notice thereof to Forest City on or before Closing, in which event the City shall be released of all other obligations hereunder. The risk of condemnation or eminent domain shall be borne by Forest City until the Closing.

4.4. **Casualty Damage.**

(a) **2014 Parcel.** In the event that any improvements located on the 2014 Parcel should be damaged by any casualty prior to the Closing, (a) the City may elect to terminate this Agreement, or (b) the City may accept title to the 2014 Parcel without any modification to the consideration set forth in 1.2 hereof in which event, at Closing, any insurance proceeds or rights to insurance proceeds available to Forest City and applicable to the 2014 Parcel shall be assigned to the City and the City shall take title to the 2014 Parcel in its damaged condition. The City shall give written notice of its election within ten (10) days of the occurrence of any casualty.

(b) **2009 Parcel.** In the event that any improvements located on the 2009 Parcel should be damaged by any casualty prior to the Closing, (a) Forest City may elect to terminate this Agreement, or (b) Forest City may accept title to the 2009 Parcel

without any modification to the consideration set forth in 1.2 hereof in which event, at Closing, any insurance proceeds or rights to insurance proceeds available to the City and applicable to the 2009 Parcel shall be assigned to Forest City and Forest City shall take title to the 2009 Parcel in its damaged condition. Forest City shall give written notice of its election within ten (10) days of the occurrence of any casualty.

V. REPRESENTATIONS AND WARRANTIES

5.1. **By Forest City.** As set forth in Article VI below, the 2014 Parcel is being conveyed in its “AS-IS” condition except as specifically set forth herein or in the Deed. Forest City represents and warrants to the City that: (i) it has the requisite power and authority to sell the 2014 Parcel upon the terms set forth in this Agreement; (ii) the execution, delivery and performance of this Agreement by Forest City has been duly and validly authorized by all necessary action and proceedings, and no further action or authorization is necessary on the part of any other person or entity; (iii) this Agreement and the other documents executed by Forest City in connection herewith are the legal, valid and binding obligations of Forest City as seller, enforceable in accordance with their respective terms; and (iv) neither the execution and delivery of this Agreement by Forest City, nor performance of any of its obligations hereunder, nor consummation of the transactions contemplated hereby, conflict with, result in a breach of, or constitute a default under, the terms and conditions of the organizational documents pursuant to which Forest City was organized, or any mortgage, deed of trust, agreement or other document to which Forest City is a party. Forest City represents to the City that subject to all the terms hereof: (i) it has the requisite power and authority to purchase the 2009 Parcel upon the terms set forth in this Agreement; (ii) the execution, delivery and performance of this Agreement by Forest City has been duly and validly authorized by all necessary action and proceedings, and no further action or authorization is necessary on the part of any other person or entity; and (iii) this Agreement and the other documents executed by Forest City in connection herewith are the legal, valid and binding obligations of Forest City as purchaser with respect to the 2009 Parcel, enforceable in accordance with their respective terms.

5.2. **By the City.** As set forth in Article VI below, the 2009 Parcel is being conveyed in its “AS-IS” condition except as specifically set forth herein or in the Deed. The City represents to Forest City that, to the best of the Director’s knowledge: (i) it has the requisite power and authority to sell the 2009 Parcel upon the terms set forth in this Agreement; (ii) the

execution, delivery and performance of this Agreement by the City has been duly and validly authorized by all necessary action and proceedings, and no further action or authorization is necessary on the part of any other person or entity; (iii) this Agreement and the other documents executed by the City in connection herewith are the legal, valid and binding obligations of the City as seller, enforceable in accordance with their respective terms; and (iv) neither the execution and delivery of this Agreement by the City, nor performance of any of its obligations hereunder, nor consummation of the transactions contemplated hereby, conflict with, result in a breach of, or constitute a default under, the terms and conditions of the organizational documents pursuant to which the City was organized, or any mortgage, deed of trust, agreement or other document to which the City is a party. City represents to Forest City that to the best of the Director's knowledge, and subject to all the terms hereof: (i) it has the requisite power and authority to purchase the 2014 Parcel upon the terms set forth in this Agreement; (ii) the execution, delivery and performance of this Agreement by the City has been duly and validly authorized by all necessary action and proceedings, and no further action or authorization is necessary on the part of any other person or entity; and (iii) this Agreement and the other documents executed by the City in connection herewith are the legal, valid and binding obligations of the City as purchaser, enforceable in accordance with their respective terms.

VI. WAIVER AND RELEASE

6.1. Acknowledgments.

(a) As to 2014 Parcel. Each Party acknowledges that, except as provided herein and in the 2014 Parcel Deed to be delivered at Closing, neither Forest City nor anyone acting for or on behalf of Forest City has made any representation, statement, warranty, or promise to City concerning: (a) the physical aspects and condition of the 2014 Parcel; (b) the feasibility, desirability, or convertibility of the 2014 Parcel into any particular use; (c) whether the condition of the 2014 Parcel is in compliance with Environmental Laws; (d) any restrictions related to development of the 2014 Parcel; (e) the applicability of any governmental requirements; (f) the suitability of the 2014 Parcel for any purpose whatsoever; (g) the presence in, on, under, or about the 2014 Parcel of any Hazardous Materials or any other condition of the 2014 Parcel which is actionable under any Environmental Laws; (h) compliance of the 2014 Parcel or any operation thereon with the laws, rules, regulations or ordinances of any applicable governmental body; or

(i) the presence or absence of, or the potential adverse health, economic or other effects arising from, any magnetic, electrical or electromagnetic fields or other conditions caused by or emanating from any power lines, telephone lines, cables or other facilities, or any related devices or appurtenances, upon or in the vicinity of the 2014 Parcel. Each Party acknowledges that, in entering into this Agreement, the City intends to rely on its own investigations and review of the 2014 Parcel and has not relied on any representation, statement, or warranty of Forest City, or anyone acting for or on behalf of Forest City, other than as expressly contained in this Agreement and in the 2014 Parcel Deed, and that all matters concerning the 2014 Parcel are to be independently verified by the City. The City acknowledges that it is purchasing the 2014 Parcel in an AS-IS, WHERE-IS physical condition and state of repair, WITH ALL FAULTS; and that the City, as purchaser of the Parcel, does hereby waive, and Forest City does hereby disclaim, all warranties of any type or kind whatsoever with respect to the 2014 Parcel (except as contained in the 2014 Parcel Deed, this Agreement or the Stapleton Acquisition Agreements), express or implied, direct or indirect, oral or written, including, by way of description, but not limitation, those of fitness for a particular purpose, tenantability, habitability, and use. City hereby acknowledges that it has physically inspected the 2014 Parcel and has actual knowledge of the condition thereof, including without limitation, the existence of the overhead power poles and lines, if any, located on or in the vicinity thereof. City agrees that Forest City shall not be responsible or liable to City, as purchaser, for any defects, errors or omissions, or on account of any other conditions affecting the 2014 Parcel except as contained in this Agreement, the Stapleton Acquisition Agreements, or the 2014 Parcel Deed. The terms of Articles V and VI shall survive Closing and the passage of title.

(b) As to 2009 Parcel. Each Party acknowledges that, except as provided herein and in the 2009 Parcel Deed to be delivered at Closing, neither the City nor anyone acting for or on behalf of the City has made any representation, statement, warranty, or promise to Forest City concerning: (a) the physical aspects and condition of the 2009 Parcel; (b) the feasibility, desirability, or convertibility of the 2009 Parcel into any particular use; (c) whether the condition of the 2009 Parcel is in compliance with Environmental Laws; (d) any restrictions related to development of the 2009 Parcel; (e) the

applicability of any governmental requirements; (f) the suitability of the 2009 Parcel for any purpose whatsoever; (g) the presence in, on, under, or about the 2009 Parcel of any Hazardous Materials or any other condition of the 2009 Parcel which is actionable under any Environmental Laws; (h) compliance of the 2009 Parcel or any operation thereon with the laws, rules, regulations or ordinances of any applicable governmental body; or (i) the presence or absence of, or the potential adverse health, economic or other effects arising from, any magnetic, electrical or electromagnetic fields or other conditions caused by or emanating from any power lines, telephone lines, cables or other facilities, or any related devices or appurtenances, upon or in the vicinity of the 2009 Parcel. Each Party acknowledges that, in entering into this Agreement, Forest City intends to rely on its own investigations and review of the 2009 Parcel and has not relied on any representation, statement, or warranty of the City, or anyone acting for or on behalf of the City, other than as expressly contained in this Agreement and in the 2009 Parcel Deed, and that all matters concerning the 2009 Parcel are to be independently verified by Forest City. Forest City acknowledges that it is purchasing the 2009 Parcel in an AS-IS, WHERE-IS physical condition and state of repair, WITH ALL FAULTS; and that Forest City, as purchaser of the 2009 Parcel, does hereby waive, and the City does hereby disclaim, all warranties of any type or kind whatsoever with respect to the 2009 Parcel (except as contained in the 2009 Parcel Deed, this Agreement or the Stapleton Acquisition Agreements), express or implied, direct or indirect, oral or written, including, by way of description, but not limitation, those of fitness for a particular purpose, tenantability, habitability, and use. Forest City hereby acknowledges that it has physically inspected the 2009 Parcel and has actual knowledge of the condition thereof, including without limitation, the existence of the overhead power poles and lines, if any, located on or in the vicinity thereof. Forest City agrees that the City shall not be responsible or liable to Forest City, as purchaser, for any defects, errors or omissions, or on account of any other conditions affecting the 2009 Parcel except as contained in this Agreement, the Stapleton Acquisition Agreements, or the 2009 Parcel Deed. The terms of Articles V and VI shall survive Closing and the passage of title.

(c) Definitions in this Section VI. As used herein, "Hazardous Materials" shall mean, collectively, any chemical, material, substance or waste which is or hereafter

becomes defined or included in the definitions of "hazardous substances," "hazardous materials," "hazardous wastes," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollutant" or "contaminant," or words of similar import, under any Environmental Law, and any other chemical, material, substance, or waste, exposure to, disposal of, or the release of which is now or hereafter prohibited, limited or regulated by any governmental or regulatory authority or otherwise poses an unacceptable risk to human health or the environment. As used herein, "Environmental Laws" shall mean all applicable local, state and federal environmental rules, regulations, statutes, laws and orders, as amended from time to time, including, but not limited to, all such rules, regulations, statutes, laws and orders regarding the storage, use, and disposal of Hazardous Materials and regarding releases or threatened releases of Hazardous Materials to the environment.

6.2. **Release.** Each party agrees that it shall not be responsible or liable to the other, as purchaser of its respective Parcel, for any defects, errors or omissions, or on account of any other conditions affecting its respectively acquired Parcel because each party is acquiring its respective Parcel AS-IS, WHERE-IS, and WITH ALL FAULTS except as specifically set forth in the 2009 Deed or 2014 Deed as applicable, this Agreement or the Stapleton Acquisition Agreements.

(a) Except as specifically set forth in the 2014 Deed, this Agreement or the Stapleton Acquisition Agreement, the City and County of Denver, in its capacity as purchaser hereunder only, and Forest City or anyone claiming by, through or under either of them, hereby fully release each other and their respective managers, members, partners, employees, officers, directors, shareholders, affiliates, representatives, consultants and agents from and each irrevocably waives its right to maintain any and all claims and causes of action that it or they may now have or hereafter acquire against each other and their respective managers, members, partners, employees, officers, directors, shareholders, affiliates, representatives, consultants and agents for any cost, loss, liability, damage, expense, demand, action or cause of action arising from or related to any defects, errors, omissions or other conditions affecting the 2014 Parcel, except City does not release Forest City from any claim or cause of action which arises after City's acquisition thereof as a result of any actions by Forest City, at or under the 2014 Parcel. Except as specifically set forth in the Stapleton Acquisition Agreements, the City and County of Denver in its

capacity as purchaser hereunder only hereby waives any Environmental Claim which it now has or in the future may have against Forest City, provided however, such waiver shall not apply to any Environmental Claim affecting or relating to the 2014 Parcel conveyed by Forest City or which arises after City's acquisition thereof as a result of any actions by Forest City, at or under the 2014 Parcel. The foregoing release and waiver shall be given full force and effect according to each of its express terms and provisions, including, by not limited to, those relating to unknown and suspected claims, damages and causes of action. Nothing in this Section shall alter, amend or void any of Forest City's waivers or releases to the City and County of Denver as prior owner of the 2014 Parcel, as such waivers and releases relate to the 2014 Parcel except as specifically set forth in the 2014 Parcel Deed, this Agreement or the Stapleton Acquisition Agreements. The terms of the disclaimers, waivers and releases set forth in this Section shall survive the Closing and delivery of the 2014 Parcel Deed.

(b) Except as specifically set forth in the 2009 Deed, this Agreement or the Stapleton Acquisition Agreement, Forest City, in its capacity as purchaser hereunder, and the City in its capacity as Seller only, or anyone claiming by, through or under either of them in such capacities, hereby fully release each other and their respective managers, members, partners, employees, officers, directors, shareholders, affiliates, representatives, consultants and agents from and each irrevocably waives its right to maintain any and all claims and causes of action that it or they may now have or hereafter acquire against each other and their respective managers, members, partners, employees, officers, directors, shareholders, affiliates, representatives, consultants and agents for any cost, loss, liability, damage, expense, demand, action or cause of action arising from or related to any defects, errors, omissions or other conditions affecting the 2009 Parcel, except Forest City does not release the City from any claim or cause of action which arises after Forest City's acquisition thereof as a result of any actions by the City, at or under the 2009 Parcel since the City's acquisition of the same in December of 2009. Except as specifically set forth in the Stapleton Acquisition Agreements, Forest City in its capacity as purchaser hereunder hereby waives any Environmental Claim which it now has or in the future may have against the City, provided however, such waiver shall not apply to any Environmental Claim affecting or relating to the Parcel conveyed by the City or which

arises after Forest City's acquisition thereof as a result of any actions by the City, at or under the 2009 Parcel since the City's acquisition of the same in December of 2009. The foregoing release and waiver shall be given full force and effect according to each of its express terms and provisions, including, by not limited to, those relating to unknown and suspected claims, damages and causes of action. Nothing in this Section shall alter, amend or void any of Forest City's waivers or releases to the City and County of Denver by and through its Department of Aviation as prior owner of the 2009 Parcel, as such waivers and releases relate to the 2009 Parcel except as specifically set forth in the Deed, this Agreement or the Stapleton Acquisition Agreements. The terms of the disclaimers, waivers and releases set forth in this Section shall survive the Closing and delivery of the 2009 Parcel Deed.

(c) As used herein, "Environmental Claim" shall mean any and all administrative, regulatory or judicial actions, suits, demands, demand letters, directives, claims, liens, investigations, proceedings or notices of noncompliance or violation, whether written or oral, by any person, organization, or agency alleging potential liability, including without limitation, potential liability for enforcement, investigatory costs, cleanup costs, governmental response costs, removal costs, remedial costs, natural resources damages, property damages, including diminution of the market value of the property or any part thereof, personal injuries or penalties arising out of, based on or resulting from the presence or release into the environment of any Hazardous Materials at any location or resulting from circumstances forming the basis of any violation or alleged violation of any Environmental Laws and any and all claims by any person, organization or agency seeking damages, contribution, indemnification, costs, recovery, compensation or injunctive relief resulting from the presence or release of any Hazardous Materials.

VII. DEFAULTS AND REMEDIES

If one Party is in default under this Agreement, the non-defaulting Party may elect as its sole and exclusive remedy either to (a) treat this Agreement as canceled, in which case all payments and things of value delivered by defaulting Party shall be forfeited by the defaulting Party and both Parties shall be released from further liabilities hereunder, or (b) treat this Agreement as being in full force and effect and the non-defaulting Party shall have the right to specific performance, but not damages. Further, any Purchase Price for the 2009 Parcel which is

held in escrow pursuant to Section I(1.3)(a)(ii) hereof shall be paid to the non-defaulting Party. In order to effect the release of the escrow, the non-defaulting Party shall provide not less than 7 business days prior written notice executed by such non-defaulting Party and delivered to the defaulting party and the escrow agent (the "Release Request"), requesting the release of the Purchase Price. If within 3 business days of the delivery of the Release Request, the defaulting Party delivers to the non-defaulting Party and escrow agent a written notice that it disputes the non-defaulting Party's request to release the Purchase Price, escrow agent shall retain the Purchase Price until it receives written instructions executed by both Parties as to the disposition and disbursement of the Purchase Price, or until ordered by final court order, decree or judgment, which has not been appealed, to deliver the Purchase Price to a particular Party, in which event the Purchase Price shall be delivered in accordance with such notice, instruction, order, decree or judgment. Notwithstanding anything else contained in this Agreement, in the event that the Purchase Price is placed into escrow, then this Agreement shall not terminate and shall remain in full force and effect until the Purchase Price has been released from escrow.

VIII. MISCELLANEOUS

8.1. **Assignment.** Neither Party shall assign this Agreement, except with the prior written consent of the other Party, which consent may not be unreasonably withheld. For the City, consent shall be by the Director.

8.2. **Notices.** Any notice required or intended to be given to either Party under the terms of this Agreement shall be in writing and shall be deemed to have been duly given on the date delivered personally; deposited in the United States mail, marked certified or registered, return receipt requested, with postage prepaid; or deposited, postage prepaid, with an overnight express mail courier, proof of delivery requested; and in each instance addressed to the Party as set forth in this Section, or at such other address as the Party may hereafter designate by Notice to the other Party as set forth in this Section.

If to City: Mayor
City and County of Denver
1437 Bannock Street, Room 350
Denver, Colorado 80202

with copies to: Division of Real Estate
City and County of Denver
201 W. Colfax, Dept. 904
Denver, Colorado 80202

Denver Fire Chief
745 W. Colfax Avenue
Denver, CO 80247

Denver City Attorney
Attn: Karen Aviles
201 W. Colfax, Dept. 1207
Denver, Colorado 80202

If to Forest City: FC Stapleton II, LLC
7351 E. 29th Avenue
Denver, CO 80238
Attn: James Chrisman

with a copy to: Forest City Stapleton, Inc.
7351 E. 29th Avenue
Denver, CO 80238
Attn: Assistant General Counsel

8.3. **Amendments and Extension of Time.** No amendment or modification of this Agreement shall be valid or binding unless made in writing and executed by the Parties hereto. Closing may be extended as mutually agreed to in writing signed by both Forest City and Director. No City Council approval of such amendment shall be necessary unless required by City Charter.

8.4. **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 Charter and Ordinances of the City and County of Denver, and regulations enacted pursuant thereto. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement as if fully set out herein by this reference. This Agreement is made, shall be deemed to be made, and shall be construed in accordance with the laws of the State of Colorado. Venue for any action arising under this Agreement or any amendment or renewal shall be in the City and County of Denver, Colorado.

8.5. **Section Headings.** Section headings or captions contained in this Agreement are for the purpose of convenient reference only and are not to be construed as a part of the Agreement.

8.6. **Agreement Binding/Effective Date.** This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns. This Agreement shall not take effect until its final approval by City Council, and until signed by all appropriate City officials. The effective date shall be the date on the City's signature page (the "Effective Date").

8.7. **Execution of Counterparts.** This Agreement may be executed in two or more counterparts, all of which when taken together will be one original document.

8.8. **Time of Performance.** If the time for performance of any obligation to act under this Agreement, or the last day for performances of any obligations or acts under this Agreement, falls on a Saturday, Sunday or legal holiday, then the time for performance shall be extended to 5:00 p.m. of the next regular business day.

8.9. **IRS Reporting Requirements.** For the purpose of complying with any information reporting requirements or other rules and regulations of the Internal Revenue Service that are or may become applicable as a result of or in connection with the transaction contemplated by this Agreement, including, but not limited to, any requirements set forth in proposed Income Tax Regulations §1.6045.4 and any final or successor version thereof (collectively the "IRS Reporting Requirements"), the Parties hereby designate and appoint the Title Company to act as the "Reporting Person" (as that term is defined in the IRS Reporting Requirements) to be responsible for complying with any IRS Reporting Requirements. Without limiting the responsibility and obligations of the Title Company and Reporting Person, the Parties hereby agree to comply with any provisions of the IRS Reporting Requirements that are not identified therein as the responsibility of the Reporting Person, including, but not limited to, the requirement that the Parties each retain an original counterpart of this Agreement for at least four years following the calendar year of Closing.

8.10. **Entire Agreement.** There are and were not verbal or written representations, warranties, understandings, stipulations, agreements, or promises pertaining to the subject matter of this Agreement made by either Party or any agent, employee, or other representative of either

Party or by any broker or other person representing or purporting to represent either Party, not incorporated in writing in this Agreement or the Stapleton Acquisition Agreements.

8.11. **Recording.** This Agreement may be recorded with the Clerk and Recorder for the City and County of Denver.

8.12. **Brokers.** Each Party hereby represents to the other Party that it has acted as the sole contact and without the assistance of any broker or other third party.

8.13. **Authority to Execute.** Forest City represents that the persons who have affixed their signature hereto have all necessary and sufficient authority to bind Forest City.

8.14. **Cooperation of the Parties.** In the event that any third party brings an action against either Party regarding the validity or operation of this Agreement, the Parties shall cooperate with the other in any such litigation.

8.15. **When Rights and Remedies Not Waived.** In no event shall any performance hereunder constitute or be construed to be a waiver by any Party or 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 or 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 the Agreement shall be deemed or taken to be a waiver of any other default or breach.

8.16. **Parties' Liabilities.** Each Party shall be responsible for any and all suits, demands, costs, or actions proximately resulting from its own individual acts or omissions.

8.17. **Third-Party Beneficiary.** The Parties intend that this Agreement shall create no third party beneficiary interest except for an assignment pursuant to this 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 Agreement.

8.18. **Reasonableness of Consent or Approval.** Whenever under this 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.

8.19. **No Personal Liability.** No elected official, director, officer, agent, personal representative or employee of either Party shall be charged personally or held contractually liable

by or to the other Party under any term or provision of this Agreement or because of any breach thereof or because of its or their execution, approval or attempted execution of this Agreement.

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

8.21. **No Discrimination in Employment.** In connection with the performance of work under this 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, marital status, or physical or mental disability; and further agrees to insert the foregoing provision in all contracts entered into in conjunction with this Agreement.

8.22. **Merger.** The Parties intend that the terms of this Agreement shall survive Closing and shall not be merged into the Deed.

8.23. **Appropriation.** All obligations of the City under and pursuant to this Agreement are subject to prior appropriation of monies expressly made by the City Council for the purposes of this Agreement and paid into the Treasury of the City.

8.24. **Right to Inspect Books.** In addition to all rights the City has under C.R.S. 24-72-201, Forest City agrees that the City, the City's Auditor and any authorized representative of the City shall have the right, at all reasonable times and after reasonable notice, to examine all books and records with respect to this Agreement.

8.25. **Electronic Signatures and Electronic Records.** The parties consent to the use of electronic signatures by the City. This Agreement any other documents requiring a signature may be signed electronically by the City in the manner specified by the City. The parties agree not to deny the legal effect or enforceability of this 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 Agreement in the form of an electronic record, a paper copy of electronic documents, or a paper copy of a document bearing an electronic signature, on the grounds that it is an electronic record or an electronic signature or that it is not in its original form or is not an original.

[Signature pages follow]

Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



FC STAPLETON II, LLC, a Colorado Limited Liability Company

By: Stapleton Land, LLC, a Colorado limited liability company, its Sole Member

By: Forest City Stapleton Land, Inc., a Colorado corporation, its Administrative Member


By: 
Name: John S. Dehigh
Title: President



Exhibit A

Legal Description of the 2009 Parcel

Vigil Land Consultants

SURVEYORS

480 Yuma Street ■ Denver, Colorado 80204
Off: (303) 436-9233 ■ Fax: (303) 436-9235

Date 08-13-09

Job No. 08091

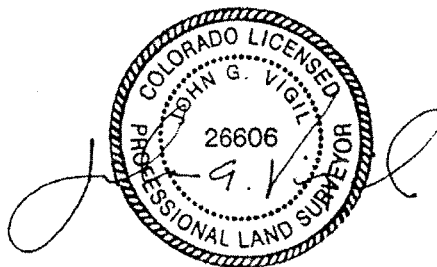
LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, BEING A PORTION OF LOT 1, BLOCK 1, STAPLETON FILING NO. 13 AS RECORDED AT RECEPTION NO. 2004204799, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 15, WHENCE THE CENTER SECTION THEREOF BEARS N89°28'34"E, A DISTANCE OF 2626.04 FEET; THENCE S73°39'12"E, A DISTANCE OF 683.14 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 1, BLOCK 1, BEING THE POINT OF BEGINNING; THENCE ALONG SAID NORTHERLY LINE AND THE EASTERLY LINE OF SAID LOT 1, BLOCK 1 THE FOLLOWING THREE (3) COURSES:

1. N90°00'00"E, A DISTANCE OF 273.01 FEET TO A POINT OF CURVE;
2. ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 90°00'00", A RADIUS OF 16.00 FEET, AN ARC LENGTH OF 25.13 FEET AND A CHORD BEARING S45°00'00"E, A DISTANCE OF 22.63 FEET TO A POINT OF TANGENT;
3. S00°00'00"E, ALONG SAID TANGENT, A DISTANCE OF 199.00 FEET; THENCE N90°00'00"W, A DISTANCE OF 304.00 FEET; THENCE N00°00'00"E, A DISTANCE OF 204.60 FEET TO A POINT ON A CURVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 69°30'32", A RADIUS OF 16.00 FEET, AN ARC LENGTH OF 19.41 FEET AND A CHORD BEARING N55°14'44"E, A DISTANCE OF 18.24 FEET TO THE POINT OF BEGINNING. CONTAINING 65,263 SQUARE FEET OR 1.498 ACRES MORE OR LESS.

JOHN G. VIGIL, PLS NO. 26606



Vigil Land Consultants

SURVEYORS

480 Yuma Street ■ Denver, Colorado 80204
 Off: (303) 436-9233 ■ Fax: (303) 436-9235

Date 08-13-09

Job No. 08091

ATTACHMENT TO LEGAL DESCRIPTION - NOT A SURVEY

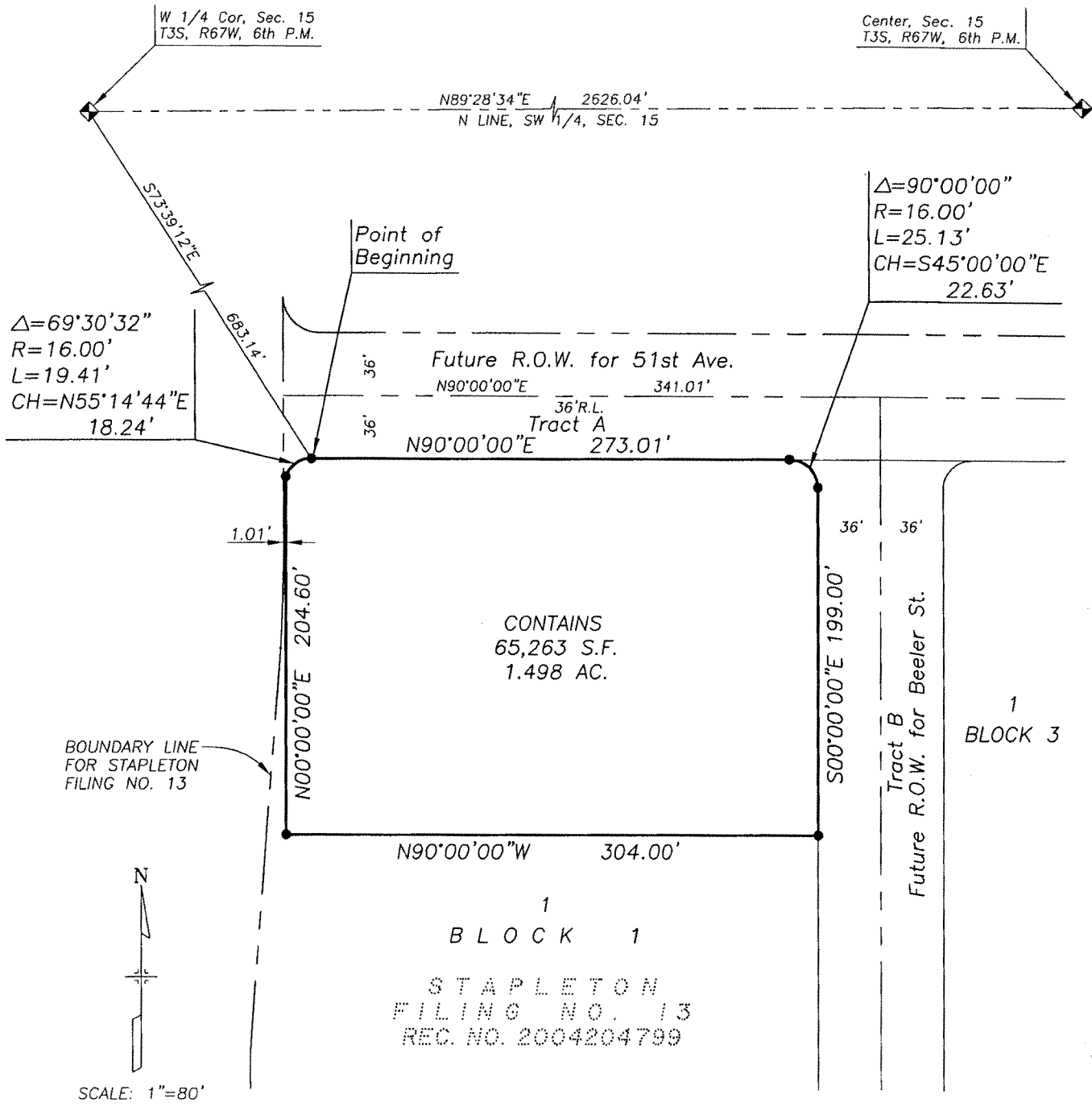


Exhibit B

Legal Description of the 2014 Parcel

**Overall Parcel
Description**

A part of Lot 1, Block 2, Stapleton Filing No. 13, as recorded at Reception Number 2004204799 in the Clerk and Recorder's Office of the City and County of Denver, located in a part of the Southwest Quarter of Section 15, Township 3 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado, more particularly described as follows:

COMMENCING at the West Quarter Corner of said Section 15;
thence South 40°21'54" East a distance of 1458.39 feet to the southeast corner of Tract C, Future R.O.W. for 50th Ave. of said Stapleton Filing No. 13 and the **POINT OF BEGINNING**;

thence South 00°00'00" East, along the easterly line of said Lot 1, a distance of 199.18 feet to a point that is 251.18 feet southerly of the Range Line in said Tract C, Future R.O.W. for 50th Ave.;

thence North 90°00'00" West, parallel with said Range Line in Tract C, Future R.O.W. for 50th Ave., a distance of 304.00 feet to the easterly line of Stapleton Filing No. 42, as recorded at Reception Number 2013117926 in said Clerk and Recorder's Office;

thence North 00°00'00" East, along said easterly line of Stapleton Filing No. 42, a distance of 211.51 feet to a point that is 39.67 feet southerly of said Range Line in Tract C, Future R.O.W. for 50th Ave.;

thence North 70°01'02" East a distance of 10.73 feet to the southerly line of said Tract C, Future R.O.W. for 50th Ave. that is 10.09 feet easterly of said easterly line of Stapleton Filing No. 42;

thence along said southerly line of Tract C, Future R.O.W. for 50th Ave. the following two (2) courses;

1. North 90°00'00" East, along said southerly line of Tract C, Future R.O.W. for 50th Ave., a distance of 277.91 feet to a point of curve;
2. along the arc of a curve to the right having a radius of 16.00 feet, a central angle of 90°00'00", an arc length of 25.13 feet and whose chord bears South 45°00'00" East a distance of 22.63 feet to the **POINT OF BEGINNING**.

Containing 65,340 square feet or 1.500 acres, more or less.

OK
Z.
3/19/14

BASIS OF BEARING: Bearings are based on the west line of the Southwest Quarter of Section 15, Township 3 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado, bearing North 00°24'43" West based on NAD 83/92 Colorado Central Zone State Plane Coordinates. The West Quarter corner of said Section 15 is a found 3-1/4" aluminum cap stamped: URS CORP PLS 20683 and the Southwest corner of said Section 15 is a found 3-1/4" aluminum cap stamped: ZBS INC PLS 11434.


A. David Johnson, P.E. 20683
For and on behalf of URS Corporation
8181 E. North
Denver, CO 80231
ph 303.740.2647

OK
E.
3/19/14

EXHIBIT-A

POINT OF COMMENCEMENT
 West 1/4 corner of Section 15
 Found 3-1/4" Aluminum Cap
 Stamped: URS CORP PLS 20683

1

Stapleton
 Filing No. 42
 Reception
 Number
 2013117926

S40°21'54"E

1458.39'

Tract C
 Future R.O.W. for
 50th Ave

36' R.L. N90°00'00"E 361.00'

36'

36'

39.67'

36'

10.09'

36'

N70°01'02"E
 10.73'

N90°00'00"E

277.91'

Southerly Line of Parcel D
 Reception Number
 2014019875

2

POINT OF BEGINNING
 Southeast Corner of
 Tract C Future R.O.W.
 for 50th Ave.
 Stapleton Filing No. 13

R=16.00'

Δ=90°00'00"

L=25.13'

CHB=S45°00'00"E

CHD=22.63'

Stapleton Filing No. 13
 Reception Number
 2004204799

Area
 65,340 sq.ft.±
 or 1.500 acres±

Future R.O.W. for Centra Park Blvd.
 Part J BASIS OF BEARINGS
 West line of the Southwest 1/4 of Section 15
 N00°24'43"W 2654.78'

N00°00'00"E
 211.51'

Easterly line of
 Stapleton Filing No. 42
 Reception Number
 2013117926

Easterly Line of
 Reception Number
 2013054940

304.00'

N90°00'00"W

199.18'

S00°00'00"E

Tract B Future R.O.W. for Beeler St

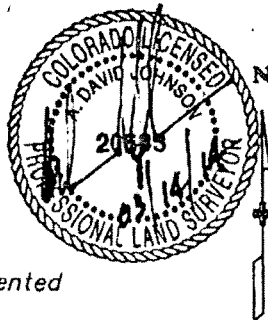
Southwest corner of Section 15
 Found 3-1/4" Aluminum Cap
 Stamped: ZBS INC PLS 11434

OK E. 3/19/14



SCALE 1"=50'

This exhibit does not represent a monumented survey. It is intended only to depict the attached legal description.



Revised 3/10/14: Added calls to Overall Parcel Description

URS

8181 E. TUFTS AVE.
 DENVER, CO 80237
 303-740-2600,
 303-694-3946 FAX

EXHIBIT ACCOMPANYING DESCRIPTION
OVERALL PARCEL

DENVER		COLORADO	
Scale:	Drawn by: EBV	Sheet No. 1	Drawing Name:
1"=50'	Checked by: ADJ	of 1 Sheet(s)	

Exhibit C
Form of Forest City Property Access Permit

THIRTY (30) DAY REVOCABLE AND NONEXCLUSIVE ACCESS PERMIT

1. **ACCESS.** _____, and its officers, directors, employees, representatives, agents and contractors (hereinafter referred to collectively as Permittee), is hereby permitted access onto those portions of real property as shown on **Exhibit A** (the "Access Property") owned by FC Stapleton II, LLC (the "Owner") necessary to perform the work described in **Exhibit A**. The access granted herein is nonexclusive and is completely revocable by the Owner at any time at the Owner's sole discretion. The Permittee agrees that all such activities conducted by Permittee shall be performed in accordance with the terms and conditions set forth herein.
2. **PERMIT FEE.** There is no permit fee associated with this Permit.
3. **OWNER'S EXCLUSIVE RIGHT.** Owner shall have the exclusive right to control, monitor and establish procedures applicable to Permittee's access to the Access Property. Owner shall have the right to revoke or modify this Permit at any time.
4. **SPECIAL CONDITIONS OF ACCESS.** Permittee agrees to the following terms of access specifically applicable to the work to be performed by Permittee at the Owner's property under this Permit, in addition to all other general terms and conditions set forth herein.
 - a. The scope of work under this Permit, schedule including dates of the work, a map depicting the location of the work to be performed attached as **Exhibit A**, and Owner's access rules are attached as **Exhibit B** and incorporated herein. If Permittee's activities on the Access Property disturbs in any way the condition of the Owner's property, Permittee shall, upon completion of the activities, restore the Owner's property to a condition similar to that which existed prior to the commencement of any activities by Permittee, its agents or contractors under this Permit.
 - b. Any well installed on the Access Property shall be finished at or below ground surface and shall be locked at all times, except as needed to perform the investigation and remediation activities contemplated herein. No well shall be abandoned without prior consultation with the Owner. Permittee agrees to relocate any and all monitoring wells it may install on the Access Property upon request to do so by the Owner, in the Owner's sole discretion. All soil borings and wells shall be plugged and closed in accordance with regulations and guidelines adopted by the Colorado State Engineer, and in accordance with all applicable state, federal and local laws, on or before the expiration date of this Permit or any subsequent extension or renewal thereof.

- c. Permittee shall furnish copies of all final analytical results to the Owner within five business days of receipt by Permittee. Permittee shall also furnish to the Owner copies of all data, results, drawings, permits, well construction/completion forms and drawings, well permits and sample collection chain of custody documents within five business days of receipt of same by Permittee.
- d. Permittee shall take all necessary precautions to avoid the occurrence of cross-contamination among wells or across hydrologic units resulting from Permittee's access and work under this Permit. Permittee agrees to be solely responsible for all damages arising in relation to any such cross-contamination caused by Permittee.
- e. Permittee shall develop and implement an appropriate Site Health and Safety Plan and shall conduct all aspects of work performed on Access Property in accordance with all applicable laws, regulations and ordinances including without limitation all U.S. EPA and OSHA requirements and guidelines for hazardous waste sites, and shall utilize OSHA trained and certified hazardous waste site workers and managers as appropriate.
- f. Permittee agrees to assume all liability for, and legal title to, all waste materials generated by Permittee in the course of Permittee's work on the Access Property under this Permit. Permittee shall use best efforts to minimize the volume of wastes generated during its work on the Access Property, and shall properly, handle, containerize, manage and dispose of all such wastes. Permittee shall not take any action with respect to such wastes that may cause any alteration in the chemical, physical or biologic nature or characteristics of the wastes while the wastes are on the Access Property. Permittee shall remove all wastes generated as a result of its work from the Access Property on or before the expiration date of this Permit or any subsequent extension or renewal thereof.
- g. Access of people and equipment to the Access Property shall be in accordance with instructions received from the Owner's representative. The Permittee shall notify Charlie Nicola, 7351 E. 29th Avenue, Denver, CO 80238, Fax No. 720-941-2801 and Katy Dunn, 7351 E. 29th Avenue, Denver, CO 80238, Fax No. 303-996-5959, in writing at least 48 hours prior to the start of any routine scheduled activities. This written notice requirement shall be waived in the event of any emergency situation requiring immediate access, such as equipment failure, power failure, required maintenance activities, and security concerns. In the event of such an emergency, Permittee will provide verbal notice to Mr. Nicola and Ms. Dunn at (303) 382-1800 and then follow up with written notice to Mr. Nicola and Ms. Dunn within 48 hours of such emergency. The Owner will provide necessary instructions regarding access logistics within a reasonable time after Permittee gives such written notice. Permittee shall afford an opportunity to the Owner's designated contractor to collect duplicate samples and measurements at the time of access.

- h. Permittee shall not damage, destroy or harm the Owner's property or any improvements thereon, including utilities located upon the Access Property. Permittee agrees to be solely responsible for locating underground and overhead utilities, and for all damages resulting from any contact with or destruction of such utilities.
- i. Permittee shall provide and obtain all notices, permits, licenses, or approvals required by any governmental or quasi-governmental entity prior to commencing activities on the Access Property. Any required manifest, license or permit shall be issued in Permittee's name. Any activity conducted by Permittee, its agents or contractors pursuant to the terms of this Access Permit shall be deemed to be taken only on Permittee's behalf and not as agent for any other party.
- j. Permittee shall be solely responsible for locating all overhead, above ground and underground utilities, including without limitation electrical, sewer, water and other utilities. The Owner shall make information available to Permittee regarding any subsurface structures, pipelines or cables that the Owner has knowledge of, but the Owner is not under a duty to inspect for the presence of such structures, pipelines or cables. Permittee shall take all necessary precautions to avoid damage to, or injury from, such utilities. Permittee agrees to be solely responsible for any such damage to, or injury from, any such utilities on the Owner's property which result from the activities conducted by Permittee as specified herein.
- k. All new sampling locations (i.e., surface soil sample locations, soil borings, direct-push borings, monitoring wells, etc.) will be professionally surveyed for horizontal and vertical control. Survey tie-points will be supplied by the Owner to ensure compatibility of the new data with the existing data in the Stapleton database.
- l. Potentially contaminated soil cuttings and groundwater generated as part of this program will be stored on-site in separate 55-gallon drums until laboratory results are received. A sample of the contents of each drum will be submitted for laboratory analysis for constituents of concern. If laboratory results indicate that contaminants are present at concentration below their respective Stapleton Numeric Criteria (SNC), the material will be released to the ground. If one or more contaminants are detected above their respective SNC, the materials will be disposed off-site at an appropriate licensed waste disposal facility. Used disposable bailers, PVC casing, tubing, personal protective equipment and other waste materials will be removed from the site and disposed as ordinary trash at a licensed disposal facility.
- m. The Permittee agrees to notify Ms. Dunn at (303) 382-1800 and the Owner's Materials Management Coordinator, Paul Casey of Casey Resources, at 303-916-0794, immediately if during the course of the work pursuant to this Access Permit it encounters any Existing Contamination that is visible, odorous, or otherwise

recognizable. If Paul Casey is unavailable, contact Chad Coker of Matrix Environmental Services at 719-464-1004. Forest City Stapleton, Inc. may, upon notification and at its discretion, perform at its cost all reasonable and appropriate sampling and analyses of such Existing Contamination. The Permittee shall proceed with the work at another location until the Owner has completed testing and/or remediation, if any, of the area in question or otherwise authorized Permittee to continue the work. "Existing Contamination" shall include without limitation "hazardous substances" as defined under the Comprehensive Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; "solid waste" as defined under the Solid Waste Disposal Act, 42 U.S.C. § 6901 et seq. and its implementing regulations and correlative Colorado laws (excluding non-hazardous buried debris to be removed under Exhibit B hereto); petroleum or refined petroleum products and their constituents; waste oils; natural gas; radioactive source material; and de-icing chemicals, existing on the Stapleton Site prior to commencing the work under this permit.

- n. Permittee shall notify the Owner if, during the course of its activities conducted pursuant to this Permit, it discovers what it believes to be conditions that must be reported to local, state and federal agencies. This notification by the Permittee to the Owner must be made before a report is made to any local, state or federal agency. The notification to the Owner must detail Permittee's findings, the reasons why Permittee believes it has a duty to report to the subject agency and information on when it plans to submit its report to the agency. To properly notify the Owner, Permittee must notify Katy Dunn, FC Stapleton II, LLC, 7351 E. 29th Avenue, Denver, CO 80238, Phone Number: (303) 382-1800, Facsimile Number: (303) 996-5959 at least twelve (12) hours in advance of its report to any agency.
5. **COSTS.** All costs and expenses of the activities conducted by Permittee under this Access Permit, and of all work related thereto conducted by, through or under Permittee, shall be at the sole cost and expense of Permittee.
6. **INDEMNIFICATION.** Permittee agrees to indemnify, save and keep the Owner, its officers, employees and agents, harmless from any and all claims, damages, liability, losses, actions, suits or judgments whatsoever which may be presented, sustained, brought or claimed against the Owner or any of its officers, employees and agents, which arise out of, directly or indirectly, Permittee's operations in connection herewith, any work performed by Permittee, Permittee's contractors and subcontractors or occupancy of any portion of the Owner's property; this obligation shall include, without limitation, such claims, damages, liability, losses, actions, suits or judgments whatsoever which may be presented, sustained, brought or claimed against the Owner or any of its officers, employees and agents relating to environmental conditions at the Property. Nothing contained in this Section 6 shall require an indemnity by the City and County of Denver.
7. **COMPLIANCE WITH LAWS.** The Permittee and all persons performing work by, through or under Permittee shall, while it is performing work under this Permit, observe

and comply with any applicable provisions of ordinances, rules and regulations of the City and County of Denver, and all Colorado and federal laws which in any manner limit, control or apply to the work performed by the Permittee, its authorized agents or contractors. Permittee shall obtain, at its sole cost, all necessary permits for any work to be performed on the Access Property under this Permit. Permittee agrees to pay any and all fines, assessments and fees related to its work under this Permit.

8. **LIENS.** Permittee agrees to promptly pay when due all bills, debts and obligations incurred by it in connection with its activities on the Access Property hereunder and not to permit the same to become delinquent and to suffer no lien, mortgage, judgment or execution to be filed against the Access Property or improvements thereon.
9. **INSURANCE.** Permittee further agrees to secure, at its own expense, and to keep in force at all times, the following insurance:

- a. **COMPREHENSIVE GENERAL LIABILITY.** A comprehensive general liability insurance policy written on an occurrence basis and including coverage for premises/operations, products, contractual, independent contractors, broad form property damage, personal liability, and fire legal liability, in the amount and form specified in **Exhibit C**, attached hereto and incorporated herein by reference.

This policy and all contractor or subcontractor policies shall cover the obligations assumed by Permittee hereunder and shall name and endorse Owner as an additional insured. This policy shall be at least as broad as ISO CG 0001 (10/93) and shall include defense costs for additional insureds outside the limits of insurance. This policy shall not contain any care, custody or control exclusions, or any exclusion for bodily injury to or sickness, disease, or death of any employee of Permittee or of its contractors which would conflict with or in any way impair coverage under the contractual liability endorsement.

- b. **BUSINESS AUTO LIABILITY INSURANCE.** A business auto and delivery vehicle liability insurance policy which includes coverage for owned, non-owned and hired vehicles in the amount specified in **Exhibit C**, in a combined single limit for damage or bodily injury, including wrongful death, as well as claims for property damage, which may arise from the ownership, use, or maintenance of owned or non-owned vehicles, including rented vehicles, and including their use on or off the Access Property.
- c. **WORKERS' COMPENSATION INSURANCE.** Permittee shall maintain at all times adequate worker's compensation insurance (including occupational disease hazards) with an authorized insurance company, or through the Colorado State Compensation Insurance Fund or through an

authorized self-insurance plan approved by the State of Colorado, insuring the payment of compensation to all its employees.

- d. **ENVIRONMENTAL IMPAIRMENT / POLLUTION LIABILITY COVERAGE.** Permittee, or one of its contractors, must maintain coverage for environmental impairment and pollution liability in the amount specified in **Exhibit C.** The full limit of coverage must be dedicated to apply to this project or location and the Owner, its officers, officials and employees must be named as additional insured. Coverage shall include sudden and gradual impairments and liabilities as well as accidental.

IF the City and County of Denver is the Permittee hereunder, Owner acknowledges that the City is self-insured and no further insurance is required.

10. **TERM.** This Permit shall commence upon execution and terminate thirty (30) days thereafter, unless extended in writing by Owner.
11. **NOTICES.** All notices required to be given to the City or Permittee hereunder shall be in writing and sent by certified mail, return receipt requested, to:

Owner: John S. Lehigh
FC Stapleton II, LLC
7351 E. 29th Avenue
Denver, CO 80238
Fax: (303) 996-5950

With copy to: Assistant General Counsel
Forest City Stapleton, Inc.
7351 E. 29th Avenue
Denver, CO 80238
Fax: (303) 996-5959

Permittee:

Either party hereto may designate in writing from time to time the address of substitute or supplementary persons within the State of Colorado to receive such notices. The effective date of service of any such notice shall be the date such notice is mailed or delivered to Permittee or the City.

12. **AUTHORITY TO EXECUTE.** The person signing for the Permittee warrants that he or she has the complete authority to sign on behalf of and bind the Permittee.

13. **CITY AS PERMITTEE**. If the City and County of Denver is the Permittee hereunder, all obligations herein are subject to the prior appropriation of such funds by City Council for such purposes.

[END OF PAGE]

THIS ACCESS PERMIT is executed this _____ day of _____, 20_____.

PERMITTEE:

_____, a

By: _____
Name: _____
Title: _____
Date: _____

OWNER:

FC STAPLETON II, LLC, a Colorado limited liability company

By: Stapleton Land, LLC, a Colorado limited liability company, its Sole Member

By: Forest City Stapleton Land, Inc., a Colorado corporation, its Administrative Member

By: _____
John S. Lehigh, President

EXHIBIT A TO ACCESS PERMIT
Access Property

EXHIBIT B TO ACCESS PERMIT

FC STAPLETON II, LLC ACCESS RULES

1. Speed limit for all areas of the site is 20 miles per hour. Headlights should be on while on site.
2. Site hours are 7:30 a.m. to 3:30 p.m., Monday through Friday. All Permittees shall be off site by 3:30 p.m. unless otherwise approved by FC Stapleton II, LLC.
3. This permit is valid for the Access Property only. For safety and security reasons, if Permittee is found outside of the Access Property, they will be considered trespassing.
4. By acceptance of this Permit, all Permittees acknowledge that the appropriate insurance certificate is on file with FC Stapleton II LLC as required by the terms of this Permit.
5. Hard hats and safety vests are required on site when outside of the vehicle in any construction area.
6. This is a construction site. Be extremely cautious while on site, of drop offs at runway edges, debris on runways taxiways and haul trucks and their haul routes. It is recommended that spare vehicle tires be checked periodically before entering the site.
7. It is recommended that cellular telephones be carried while on site. Mortenson's Superintendent can be reached at 303-917-7695.
8. This site contains hazards, both obvious and hidden, due to its former use and current maintenance levels. Holders of the Permit assume all risk associated with site access and travel.
9. This permit shall be returned to FC Stapleton II, LLC when no longer required or upon expiration.

EXHIBIT C TO ACCESS PERMIT
Insurance Requirements

EXHIBIT C
CERTIFICATE OF INSURANCE FOR BUSINESS ENTITIES

X Original COI Advice of Renewal Change

Party to Whom this Certificate is Issued:	Name and Address of Insured:
FC Stapleton II, LLC 7351 E. 29 th Avenue Denver, CO 80238	

CONTRACT NAME AND NUMBER TO WHICH THIS INSURANCE APPLIES: NAME:

I. MANDATORY COVERAGE

WC-1 Colorado Workers' Compensation and Employer Liability Coverage

Coverage	Minimum Limits of Liability (In Thousands)	Policy No. & Company	Policy Period
Colorado Workers' Compensation Statutory Limits and Employer Liability	Employer's Liability Limits \$100, \$500, \$100		

- Any Policy issued under this section must contain, include or provide for the following:
1. All States Coverage or Colorado listed as a covered state for the Workers' Compensation
 2. Waiver of Subrogation and Rights of Recovery against the FC Stapleton II, LLC ("FCII"), its officers, officials and employees.

CGL-5. Commercial General Liability Coverage

Coverage	Minimum Limits of Liability (In Thousands)	Policy No. & Company	Policy Period												
Commercial General Liability (coverage at least as broad as that provided by ISO form CG0001 1/98 or equivalent)	<table border="0" style="width: 100%;"> <tr> <td>Each Occurrence:</td> <td align="right">\$1,000</td> </tr> <tr> <td>General Aggregate Limit:</td> <td align="right">\$2,000</td> </tr> <tr> <td>Products-Completed</td> <td></td> </tr> <tr> <td>Operations Aggregate Limit:</td> <td align="right">\$1,000</td> </tr> <tr> <td>Personal & Advertising Injury:</td> <td align="right">\$1,000</td> </tr> <tr> <td>Fire Damage Legal (Any one fire)</td> <td align="right">\$50</td> </tr> </table>	Each Occurrence:	\$1,000	General Aggregate Limit:	\$2,000	Products-Completed		Operations Aggregate Limit:	\$1,000	Personal & Advertising Injury:	\$1,000	Fire Damage Legal (Any one fire)	\$50		
Each Occurrence:	\$1,000														
General Aggregate Limit:	\$2,000														
Products-Completed															
Operations Aggregate Limit:	\$1,000														
Personal & Advertising Injury:	\$1,000														
Fire Damage Legal (Any one fire)	\$50														

- Any Policy issued under this section must contain, include or provide for the following:
1. FCII, its officers, officials and employees as additional insureds, per ISO form CG2028 or its equivalent.
 2. Coverage for defense costs of additional insureds outside the limits of insurance, per CG 0001 (1/98) or equivalent.
 3. Contractual Liability.
 4. Waiver of Subrogation and Rights of Recovery, per ISO form CG2404 (10/93) or equivalent.
 5. A check here indicates Business Owners Policy forms are used in lieu of ISO CG forms.

BAL-1. Business Automobile Liability Coverage

Coverage	Minimum Limits of Liability (In Thousands)	Policy No. & Company	Policy Period
Business Automobile Liability (coverage at least as broad as ISO form CA 0001 12/93)	Combined Single Limit \$1,000		

Any Policy issued under this section must contain, include or provide for the following:

1. Symbol 1, coverage for any auto. If no autos are owned, Symbols 8 & 9, (Hired and Non-owned) auto liability.
2. If this contract involves the transport of hazardous cargo such as fuel, solvents or other hazardous materials may occur, then Broadened Pollution Endorsement, per ISO form CA 9048 (12/93) or equivalent and MCS 90 are required.

II. ADDITIONAL COVERAGE

(Professional Liability required if Professional Services are provided).

X PRL-2. Professional Liability, Design, Engineering and Construction Supervision

Coverage	Minimum Limits of Liability (In Thousands)	Policy No. & Company	Policy Period
Professional Liability	Per claim \$1,000		

Any Policy issued under this section must contain, include or provide for the following:

1. Policies written on a claims-made basis must remain in full force in accordance with CRS 13-80-104

X EIP-1. Environmental Impairment/Pollution Liability Coverage

Coverage	Minimum Limits of Liability (In Thousands)	Policy No. & Company	Policy Period
Environmental Impairment/ Pollution Liability	Limit \$1,000		

Any Policy issued under this section must contain, include or provide for the following:

1. FCII, its officers, officials and employees as additional insureds.
2. Waiver of Subrogation and Rights of Recovery against FCII, its officers, officials and employees.
3. Coverage shall include sudden and gradual as well as accidental.

III. ADDITIONAL CONDITIONS

It is understood and agreed, for the benefit of FCII, that the following additional conditions shall apply to all coverage specified herein:

1. With the exception of professional liability and auto coverage, a Waiver of Subrogation and Rights of Recovery against FCII, its officers, officials and employees is required for each coverage period.
2. Advice of renewal is required.
3. All insurance companies issuing policies hereunder must carry at least an A VIII rating from A.M. Best Company or obtain a written waiver of this requirement.

IV. NOTICE OF CANCELLATION

It is understood and agreed that should any Policy issued hereunder be cancelled or should coverage be reduced before the expiration date thereof, the issuing company or its authorized Agent shall mail to the address shown above, by certified mail, return receipt requested, forty-five (45) days prior written notice (ten(10) days for non payment of premium), referencing the contract/project number set forth herein.

V. CERTIFICATE VERIFICATION BY AUTHORIZED INSURANCE AGENT

STATE OF _____ }
COUNTY OF _____ } SS:

I, _____, being first duly sworn, state and aver, under penalty of law, that I am familiar with the insurance coverage maintained by the Insured, _____; that I have reviewed the coverage requirements set forth in the foregoing Certificate of Insurance; that I have completed the foregoing Certificate and; that the information contained in the Certificate is true and correct to the best of my knowledge and the referenced policies are in full force and effect. I further state and aver, under penalty of law, that I am authorized by the identified companies to bind the coverage specified in the Certificate and I understand that FCII will rely on the representations I have provided.

By: _____ Agency: _____
(Signature)
Title: _____
Producer License Number: _____ State of : _____
Telephone number with Area Code: _____

Subscribed and sworn to before me by _____, on the ____ day of _____.

WITNESS MY HAND AND OFFICIAL SEAL.

My Commission expires: _____.

Notary Public

Exhibit D
Form of City Property Access License

**THIRTY-DAY REVOCABLE AND NONEXCLUSIVE LICENSE
(STAPLETON NORTH FIRE STATION 2009 PARCEL)**

THIS THIRTY-DAY REVOCABLE AND NONEXCLUSIVE LICENSE ("License") is entered into as of the Effective Date between the **CITY AND COUNTY OF DENVER**, a home rule City and Colorado municipal corporation, whose address is 1437 Bannock, Denver, Colorado 80202 ("City"), and Forest City Stapleton, Inc., a Colorado corporation, whose address is 7351 E. 29th Avenue, Denver, Colorado 80238("Licensee" and together with the City, the "Parties" or separately, a "Party").

RECITALS

WHEREAS, the City owns certain land located generally at 51st Avenue and Beeler Street, as more specifically described in Exhibit A attached hereto and incorporated herein ("2009 Parcel"); and

WHEREAS, the Licensee and the City desire the Licensee, at no cost to the City,(i) to enter upon the 2009 Parcel for the purposes set forth in Exhibit B, attached hereto and incorporated herein;

NOW, THEREFORE, the City and Licensee hereby set forth the terms and conditions for Licensee's access as follows:

1. **ACCESS**. The purpose of this License is to authorize the Licensee's nonexclusive access to the 2009 Parcel, for the purposes set forth in Exhibit B attached hereto and incorporated herein ("Licensed Activities").

The Parties agree that this License is not a lease of the 2009 Parcel. The access granted herein is nonexclusive and is revocable by the City at the sole discretion of the City's Manager of Public Works ("Manager"), as provided in paragraph 7. The City agrees not to authorize any other person or entity to access or use the 2009 Parcel in any manner that would interfere with the Licensed Activities or conflict with Licensee's exercise of the rights granted hereunder. The Licensee agrees that all Licensed Activities conducted by Licensee shall be performed in accordance with the terms and conditions set forth herein, and all laws, rules and regulations.

2. **LICENSE FEE**. The City makes the grants herein in consideration of the proposed exchange of property for a Fire Station.

3. **CITY'S EXCLUSIVE RIGHT**. City shall have the exclusive right to control, monitor, and establish procedures applicable to Licensee's access to the 2009 Parcel. In addition, the City shall reserve the right of title, use, and occupancy of the 2009 Parcel, subject to the rights granted herein, *provided that* the City shall not unreasonably interfere with Licensee's exercise of the rights granted hereunder.

4. **SPECIAL CONDITIONS OF ACCESS.** The City hereby grants to the Licensee a nonexclusive License to enter onto the 2009 Parcel for completing the Licensed Activities. The Licensee shall have access to the 2009 Parcel, *provided that* the following conditions are met:

- a. Licensee shall provide all notices and obtain all permits and approvals required by any federal, State, and local entities prior to commencing the Licensed Activities at the TOS Property. The Parties shall cooperate with each other in obtaining necessary permits and approvals.
- b. The Licensed Activities conducted by the Licensee, its agents or contractors, pursuant to the terms of this License, shall be deemed to be taken on the Licensee's behalf and not as an agent for the City or its successors, assigns, or grantees.
- c. Access of people and equipment to the 2009 Parcel shall be in accordance with instructions received from the Manager. The Licensee shall notify and obtain the consent of the Manager, in writing, at least forty-eight (48) hours prior to the start of any Licensed Activities. This written notice requirement shall be waived in the event of any emergency situation requiring immediate action, such as equipment failure, power failure, required maintenance activities, and security concerns. In the event of such an emergency, Licensee will provide verbal notice to the Manager, and then follow up with written notice to the Manager within forty-eight (48) hours of such emergency. The Manager will provide necessary instructions regarding access logistics within a reasonable time after Licensee gives such written notice.
- d. Licensee shall not damage, destroy, or harm City property or any improvements thereon, including utilities located on 2009 Parcel. Licensee may remove utilities or improvements only upon written approval of the Manager.
- e. Licensee shall be solely responsible for locating all overhead, above ground, and underground utilities, including without limitation electrical, sewer, water, and other utilities. The City shall make information available to Licensee regarding any subsurface structures, pipelines, or cables that the Manager has knowledge of, but the City is not under a duty to inspect for the presence of such structures, pipelines, or cables. Licensee shall take all necessary precautions to avoid damage to, or injury from, such utilities. Licensee agrees to be solely responsible for any such damage to, or injury from, any such utilities on 2009 Parcel which result from the Licensed Activities conducted by Licensee.
- f. Licensee shall conduct all aspects of the Licensed Activities in accordance with site health and safety plans and all laws, regulations,

and ordinances, including without limitation all U.S. EPA and OSHA requirements, applicable to the work activities on 2009 Parcel.

5. **MATERIALS MANAGEMENT.** In addition to notification required under paragraph 9.a. below, the Licensee agrees to notify David Erickson, Denver Department of Environmental Health, at (720) 865-5433, and at *David.Erickson@denvergov.org*, immediately, if during the course of the Licensed Activities pursuant to this License it encounters any Existing Contamination that is visible, odorous, or otherwise identified with the use of laboratory or mechanical analysis. Licensee shall manage Existing Contamination in accordance with the Materials Management Plan attached as Exhibit F to the MFDA ("Materials Management Work"). The City shall be entitled to observe the Materials Management Work related to such Existing Contamination by the Licensee and to receive all analytical data, split samples, and other information collected by Licensee.

6. **TERMINATION.**

- a. **Termination by Manager.** The Manager shall have the right to revoke or terminate this License effective two (2) business days following written notice to Licensee for Licensee's failure to comply with any or all of the provisions of this License or at the sole discretion of the Manager.
- b. **Documentation of Termination.** The Parties shall cooperate to execute any documents necessary to terminate or evidence the termination of this License. The Manager has the authority to execute such evidence of termination.

7. **INDEMNIFICATION.** Licensee agrees and further agrees to cause its contractors, subcontractors, agents, and representatives to agree to indemnify, release, reimburse, and save harmless the City, its officers, agents, and employees: (a) from and against any and all loss of or damage to property, or injuries to or death of any person or persons, including property and officers and employees of the City; and (b) from any and all claims, damage, suits, costs, expenses, liability, actions, or proceedings of any kind or nature, of or by anyone whomsoever, in any way resulting from, or arising, directly or indirectly, out of the use and occupancy of the by 2009 Parcel Licensee and its contractors, subcontractors, agents, and representative; *except, however*, to the extent caused by the negligence or wrongful misconduct of the City or its contractors, agents, servants, or employees. Nothing herein shall be construed as a waiver by either Party of the immunities, defenses, limitations and other protections afforded by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq., as amended. The provisions of this section shall expressly survive the termination of this License.

8. **ENVIRONMENTAL REQUIREMENTS.**

- a. **Generally.** In the case of the release, spill, discharge, leak, disturbance, or disposal of Hazardous Materials as a result of Licensee's or its contractors', subcontractors', agents', or representatives' activities at the

2009 Parcel, Licensee shall immediately control and diligently remediate all contaminated media to applicable federal, State, and local standards. Licensee shall reimburse the City for any penalties and all reasonable cost and expense, including without limitation reasonable attorneys' fees incurred by the City as a result of the release or disposal by Licensee or its contractors, subcontractors, agents, or representatives of any Hazardous Materials on the 2009 Parcel. Licensee shall also immediately notify the Manager, and the Manager of Environmental Health, in writing, of the release, spill, leak, discharge, or disturbance of Hazardous Materials, the control and remediation response actions taken by Licensee, and any responses, notifications, or actions taken by any federal, State, or local agency with regard to such release, spill, or leak. Licensee shall make available to the Manager, and the Manager of Environmental Health, for inspection and copying, upon reasonable notice and at reasonable times, any or all of the documents and materials that Licensee has 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 any Hazardous Materials at, on, under, or migrating from the 2009 Parcel, Licensee shall provide copies of all results of such report or notice to the Manager and the Manager of Environmental Health. For purposes of this License, the term "Hazardous Materials" shall mean asbestos and asbestos-containing materials, special wastes, polychlorinated biphenyls (PCBs), used oil or any petroleum products, natural gas, radioactive source material, pesticides, and any hazardous waste as defined at 42 U.S.C. § 6903(5) of the Solid Waste Disposal Act, any hazardous substance as defined at 42 U.S.C. § 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act, and any chemical substance as defined at 15 U.S.C. § 2602(2) of the Toxic Substances Control Act, and any rules or regulations promulgated pursuant to such statutes or any other applicable federal or State statute.

At the Manager's and the Manager of Environmental Health's reasonable request, Licensee 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 2009 Parcel due to Licensee's use or occupation of the 2009 Parcel. Licensee shall provide copies of all results of such testing and monitoring to the Manager and the Manager of Environmental Health.

- b. **Existing Contamination.** In no event shall Licensee be obligated to indemnify, release, reimburse, or save harmless the City, its officers, agents, and employees, from any claims, damages, suits, costs, expenses, liability actions, or proceeding of any kind or nature related to Existing Contamination, and the City agrees not to sue Licensee with respect to such Existing Contamination, *unless* Licensee's negligent acts or

omissions caused or exacerbated a release of such Existing Contamination. "Existing Contamination" shall mean Hazardous Materials existing on the 2009 Parcel as a result of the actions or omissions of any party except the Licensee.

- c. **Stormwater Management.** Without limiting any other obligation hereunder, the Licensee shall maintain all necessary permits for construction stormwater discharges ("Stormwater Permits") related to the Licensed Activities and any of Licensee's construction activities on any portion of the 2009 Parcel. The City shall take reasonable steps to not interfere with or damage, and shall take reasonable steps to prevent its officers, agents, employees, and contractors from interfering with or damaging, any structures or measures that Licensee implements on the 2009 Parcel under the applicable SWMP and Stormwater Permits. If the City or its officers, agents, employees, or contractors damage or interfere with any such structures or measures, the City shall promptly cause its contractors to correct such damage or interference in a manner sufficient to avoid any violation of the Licensee's Stormwater Permits or cause its contractors to pay to Licensee an amount sufficient to compensate for the loss sustained by the Licensee as a result of such damage or interference. However, if the Licensee modifies the SWMP or Stormwater Permits during the term of this License, the City shall have no obligation to cause its contractors to correct or reimburse the Licensee for any such damage to any modified structure or measure unless the Manager received notice at least twenty-four (24) hours in advance of such modification and approved such modification. Notification shall include any amendment to the SWMP or Stormwater Permits.

The City shall provide Licensee sufficient operational control over the 2009 Parcel to: (1) implement any applicable SWMP, (2) comply with Stormwater Permits, and (3) address the impacts that construction activity may have on stormwater quality. If this License is terminated, revoked, or modified in a manner that limits or eliminates such operational control prior to completion of the Licensed Activities, the City shall work with Licensee to ensure that the Licensee completes all steps necessary to terminate the Licensee's Stormwater Permit(s) with respect to the 2009 Parcel. If the Manager elects to require the Licensee to terminate the Licensee's Stormwater Permit(s) with respect to the 2009 Parcel, the Licensed Activities shall be limited to those activities necessary to complete site stabilization and/or such other necessary steps to terminate Licensee's Stormwater Permit(s) as soon as is reasonably possible, and Licensee shall work diligently to complete such activities.

9. **COMPLIANCE WITH LAWS.** All persons or entities utilizing the 2009 Parcel pursuant to this License must observe and comply with any applicable provisions of the Charter, ordinances, and rules and regulations of the City, including, to the extent they apply to

Licensee's activities on City property, complying with: (1) the City's Prevailing Wage Ordinance, Section 20-76 *et seq.* of the Denver Revised Municipal Code, and (2) the City's Small Business Enterprise Ordinance, Section 28-205 *et seq.* of the Denver Revised Municipal Code, and with all applicable Colorado and federal laws. Licensee shall obtain, at its sole cost, all necessary permits for the License Activities under this License. Licensee agrees to pay any and all fines, assessments, and fees related to its work under this License.

10. INSURANCE. Licensee agrees to secure, and/or cause its contractor(s) to secure, the following insurance covering all operations, goods, or services provided pursuant to this License and provide copies of insurance certificates to the City evidencing such insurance coverage as a condition of using the 2009 Parcel. Licensee shall keep, or require the required insurance coverage to be kept, in force at all times during the term of the License, or any extension thereof, during any warranty period, and for two (2) years after termination of the License. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-" VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this License. Such notice shall be sent thirty (30) days prior to such cancellation or non-renewal, unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, Licensee shall provide written notice of cancellation, non-renewal, and any reduction in coverage to the parties identified in the Notices section within three (3) business days of such notice by its insurer(s). If any policy is in excess of a deductible or self-insured retention, the City must be notified by the Licensee. The City shall not be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this License are the minimum requirements, and these requirements do not lessen or limit the liability of the Licensee. The Licensee shall maintain or cause to be maintained, at no expense to the City, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this License.

- a. **Proof of Insurance:** Licensee and/or its contractor(s) shall provide a copy of this License to their respective insurance agents or brokers. Licensee may not perform work relating to the License prior to placement of coverage and submittal to the City of a certificate of insurance or other proof of insurance evidencing such coverage. Licensee certifies that the certificates or other proof of insurance submitted hereunder comply with all insurance requirements of this License. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this License shall not act as a waiver of Licensee's breach of this License or of any of the City's rights or remedies under this License. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.
- b. **Additional Insureds:** For Commercial General Liability, Auto Liability, and Pollution Liability, Licensee's and its contractors' and

consultants' insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees, and volunteers as additional insured.

- c. **Waiver of Subrogation:** All coverages shall waive subrogation rights against the City.
- d. **Subcontractors and Subconsultants:** All subcontractors and subconsultants (including independent contractors, suppliers, or other entities providing goods or services required by this License) shall be subject to all of the requirements herein and shall maintain the same coverages required of the Licensee. Licensee shall include or require its contractor(s) to include all such subcontractors and subconsultants as additional insureds under its policies (with the exception of Workers' Compensation), or shall ensure that all such subcontractors and subconsultants maintain the required coverages. Licensee agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.
- e. **Workers' Compensation/Employer's Liability Insurance:** Licensee shall maintain and/or cause its contractor(s) to maintain the coverage as required by statute for each work location and to maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. Licensee expressly represents to the City, as a material representation upon which the City is relying in entering into this License, that none of the Licensee's or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this License, and that any such rejections previously effected have been revoked as of the date Licensee executes this License.
- f. **Commercial General Liability:** Licensee shall maintain and/or cause its contractor(s) to maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.
- g. **Business Automobile Liability:** Licensee shall maintain and/or cause its contractor(s) to maintain Business Automobile Liability with limits of \$1,000,000 combined single limit applicable to all owned, hired, and non-owned vehicles used in performing services under this License
- h. **Contractors' Pollution Liability:** Licensee shall maintain, or cause its contractors or consultants to maintain, limits of \$1,000,000 per

occurrence and \$2,000,000 policy aggregate. Such policy shall include bodily injury; property damage, including loss of use of damaged property; defense costs, including costs and expenses incurred in the investigation, defense, or settlement of claims; and clean-up costs. Policy shall include a severability of interest or separation of insured provision (no insured vs. insured exclusion), and a provision that coverage is primary and non-contributory with any other coverage or self-insurance maintained by the City.

i. **Additional Provisions:**

- (1) For Commercial General Liability, the policy must provide the following:
 - (i) that this License is an Insured Contract under the policy;
 - (ii) defense costs are in excess of policy limits;
 - (iii) a severability of interests or separation of insureds provision (no insured vs. insured exclusion); and
 - (iv) a provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.
- (2) For claims-made coverage, the retroactive date must be on or before the Effective Date or the first date when any goods or services were provided to the City, whichever is earlier.
- (3) Licensee shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At no expense to the City, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Licensee will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

11. **BONDS.** [INTENTIONALLY DELETED]

12. **TERM.** This Permit shall commence on the Effective Date and terminate thirty (30) days thereafter ("Expiration Date").

13. **RESTORATION.** Upon the termination of this License pursuant to paragraph 7.a. above, Licensee shall suspend work on the 2009 Parcel, unless otherwise agreed to by the Manager or unless otherwise required pursuant to paragraph 9.c. above.

14. **NOTICES.** All notices required to be given to the City or Licensee hereunder shall be in writing and sent to:

the City: Manager of Public Works[®]
201 W. Colfax, Dept. 601
Denver, CO 80202

with a copy to: City Attorney's Office
201 W. Colfax Avenue, Dept. 1207
Denver, CO 80202
Attn: Karen Aviles

the Permittee: Forest City Stapleton, Inc.
7351 East 29th Avenue
Denver, CO 80238
Attn: John Lehigh

with a copy to: Forest City Stapleton, Inc.
7351 East 29th Avenue
Denver, CO 80238
Attn: Assistant General Counsel

Such notices shall be in writing and hand delivered during normal business hours to the appropriate office above, or by prepaid U.S. certified mail, return receipt requested. Mailed notices shall be deemed effective upon receipt. The Parties may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed or delivered, but such substitutions shall not be effective until actual receipt of written notification.

15. **APPLICABLE LAW.** This License shall be deemed to have been made in, and shall be construed in accordance with the laws of, the State of Colorado and the Charter and Ordinances of the City and County of Denver. Venue for any action based on this License shall be in a court of proper jurisdiction in the City and County of Denver, State of Colorado.

16. **PERSONAL GRANT.** The rights of the Licensee hereunder are personal to the Licensee and may not be assigned by Licensee, *except that* Licensee may allow access to its contractors and subcontractors performing the Licensed Activities, and shall not constitute an interest in real property and shall not run with the land. Subject to the foregoing, this License shall be binding on the parties hereto and their successors and assigns.

17. **NONDISCRIMINATION.** In connection with the performance of work under this License, Licensee agrees 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, marital status, or physical or mental disability; and Licensee further agrees to insert the foregoing provision in all subcontracts hereunder.

18. **SUBJECT TO APPROPRIATION.** Any obligation of the City under this License shall extend only to monies appropriated for the purpose of this License by the Denver City Council and encumbered for the purposes of this License.

19. **FINAL APPROVAL.** This License is expressly subject to and shall not be or become effective or binding on the City until fully executed by all signatories of the City and County of Denver.

20. **SURVIVAL.** Paragraphs 6, 8, 9, and 14 shall survive the termination of the access granted.

21. **CAPITALIZED TERMS.** Capitalized terms shall have the meanings set forth herein or in the Recitals hereto.

22. **AUTHORITY TO EXECUTE.** The person signing for the Licensee warrants that he or she has the complete authority to sign on behalf of and bind the Licensee.

23. **EFFECTIVE DATE.** The Effective Date shall be _____.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have executed this License as of the Effective Date.

CITY AND COUNTY OF DENVER,
a Colorado Municipal Corporation

By: _____
Manager of Public Works

APPROVED AS TO FORM:

D. Scott Martinez, Attorney for the
City and County of Denver

By: _____
Assistant City Attorney

PERMITTEE:

**Forest City Stapleton, Inc.,
a Colorado corporation**

ATTEST: _____

By: _____

Title: President

EXHIBIT A
To Thirty-Day Revocable and Nonexclusive License
2009 Parcel Description

Vigil Land Consultants

SURVEYORS

480 Yuma Street ■ Denver, Colorado 80204
Off: (303) 436-9233 ■ Fax: (303) 436-9235

Date 08-13-09

Job No. 08091

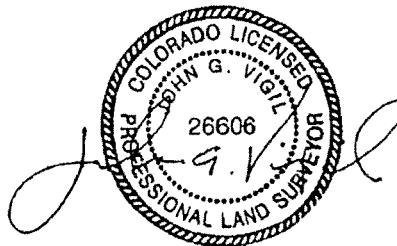
LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, BEING A PORTION OF LOT 1, BLOCK 1, STAPLETON FILING NO. 13 AS RECORDED AT RECEPTION NO. 2004204799, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 15, WHENCE THE CENTER SECTION THEREOF BEARS N89°28'34"E, A DISTANCE OF 2626.04 FEET; THENCE S73°39'12"E, A DISTANCE OF 683.14 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 1, BLOCK 1, BEING THE POINT OF BEGINNING; THENCE ALONG SAID NORTHERLY LINE AND THE EASTERLY LINE OF SAID LOT 1, BLOCK 1 THE FOLLOWING THREE (3) COURSES:

1. N90°00'00"E, A DISTANCE OF 273.01 FEET TO A POINT OF CURVE;
2. ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 90°00'00", A RADIUS OF 16.00 FEET, AN ARC LENGTH OF 25.13 FEET AND A CHORD BEARING S45°00'00"E, A DISTANCE OF 22.63 FEET TO A POINT OF TANGENT;
3. S00°00'00"E, ALONG SAID TANGENT, A DISTANCE OF 199.00 FEET; THENCE N90°00'00"W, A DISTANCE OF 304.00 FEET; THENCE N00°00'00"E, A DISTANCE OF 204.60 FEET TO A POINT ON A CURVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 69°30'32", A RADIUS OF 16.00 FEET, AN ARC LENGTH OF 19.41 FEET AND A CHORD BEARING N55°14'44"E, A DISTANCE OF 18.24 FEET TO THE POINT OF BEGINNING. CONTAINING 65,263 SQUARE FEET OR 1.498 ACRES MORE OR LESS.

JOHN G. VIGIL, PLS NO. 26606



Vigil Land Consultants

SURVEYORS

480 Yuma Street ■ Denver, Colorado 80204
 Off: (303) 436-9233 ■ Fax: (303) 436-9235

Job No. 08091

Date 08-13-09

ATTACHMENT TO LEGAL DESCRIPTION - NOT A SURVEY

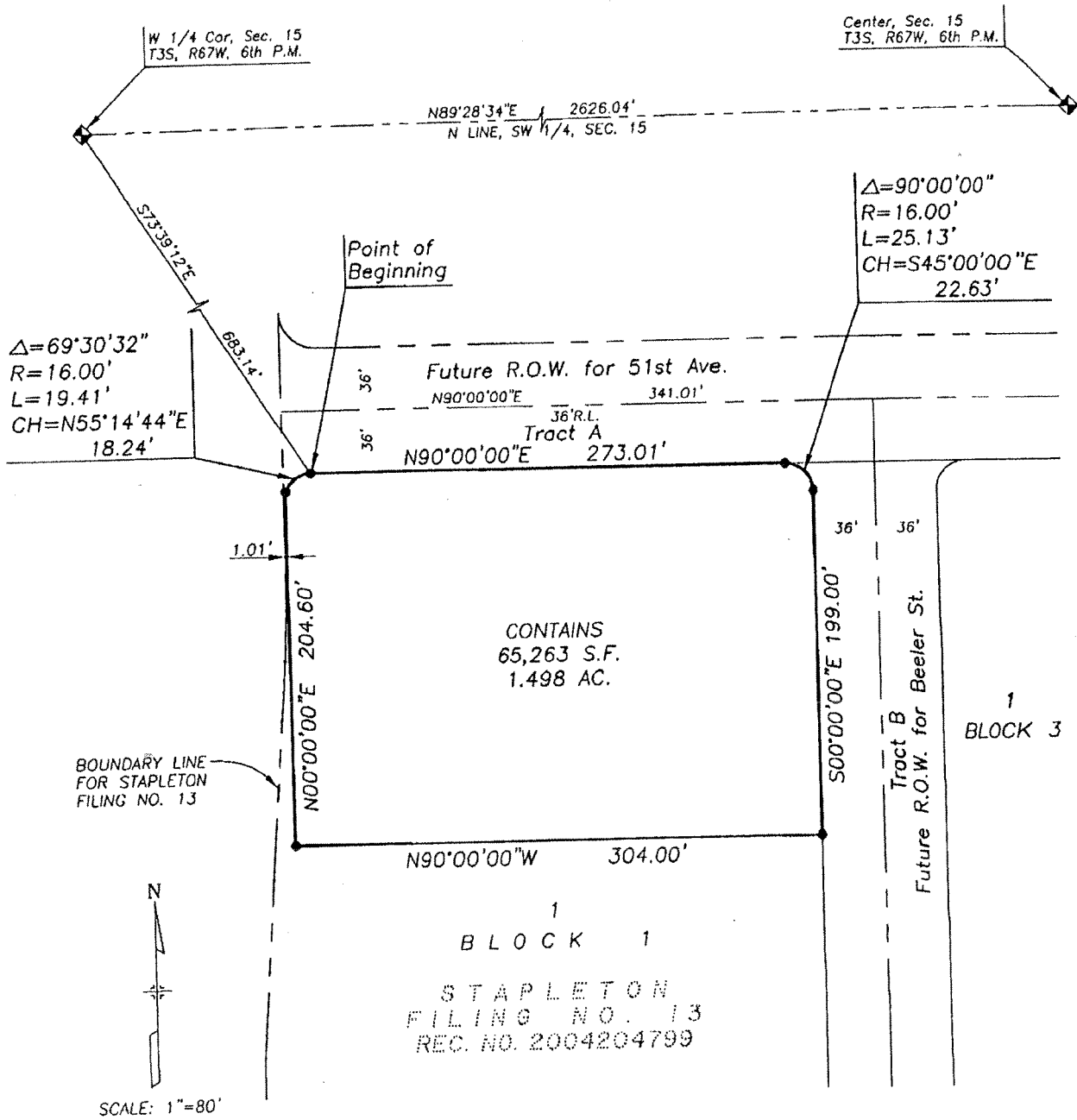
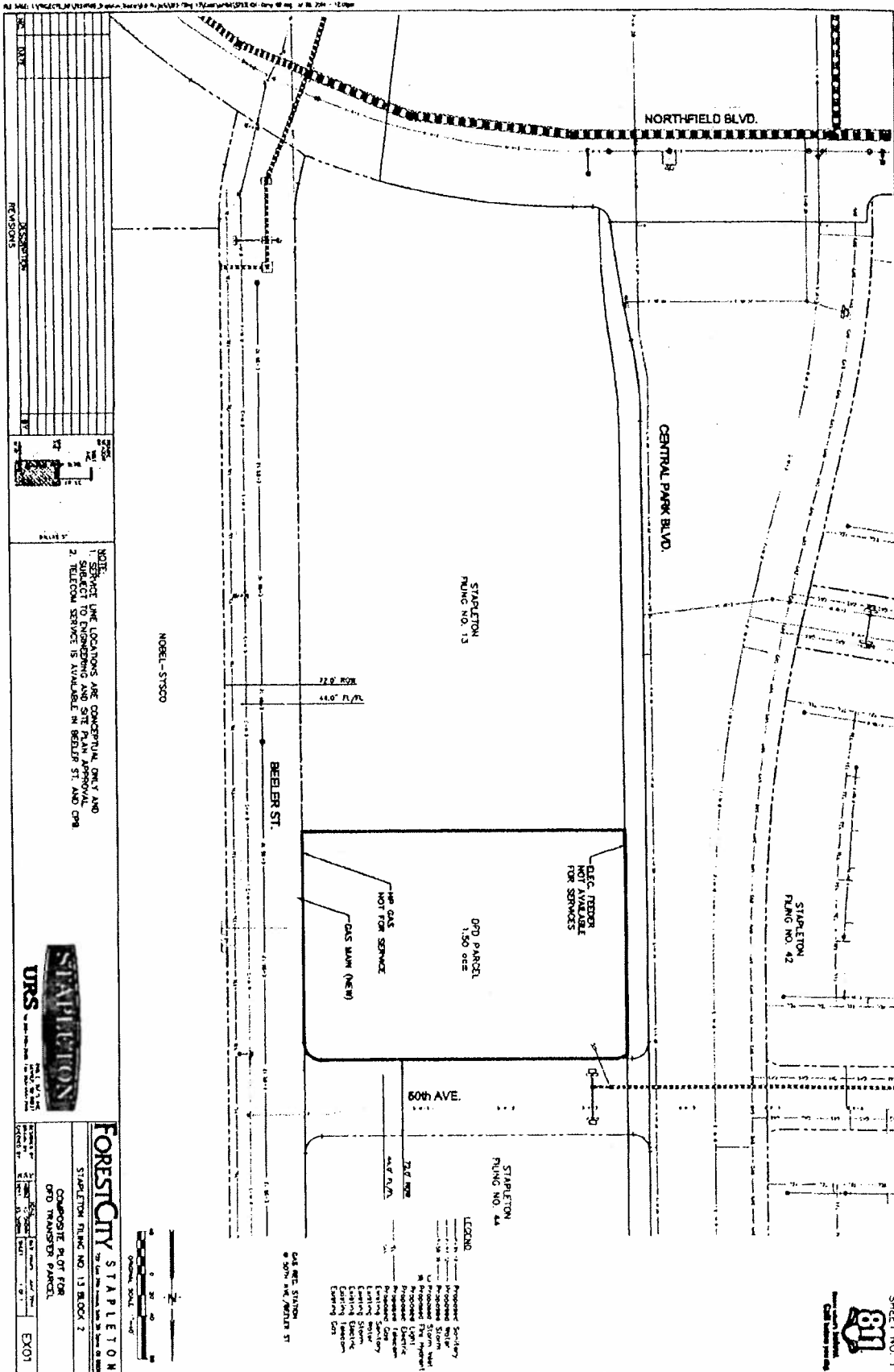


EXHIBIT B
To Thirty-Day Revocable and Nonexclusive License

Licensed Activities

Due diligence activities, including surveying, geotechnical sampling, and environmental review, testing and sampling

Exhibit E Infrastructure Depiction



REVISIONS

NO.	DATE	DESCRIPTION

NOTE:
 1. SERVICE LINE LOCATIONS ARE COOPERATION, DRUG AND
 SERVICE LINE LOCATIONS ARE COOPERATION, DRUG AND
 SERVICE LINE LOCATIONS ARE COOPERATION, DRUG AND
 SERVICE LINE LOCATIONS ARE COOPERATION, DRUG AND
 2. TELECOM SERVICE IS AVAILABLE IN BEELER ST. AND CMA



URS

FOREST CITY STAPLETON
 STAPLETON PLNG NO 13 BLOCK 2
 COMPOSITE PLAN FOR
 OFD TRANSFER PARCEL



LEGEND
 Proposed Facility
 Proposed Storm Sewer
 Proposed Storm Sanitary
 Proposed Telephone
 Proposed Gas
 Proposed Sewer
 Proposed Water
 Proposed Light
 Proposed Cable TV
 Proposed Street Light



SHEET NO. 1