When Recorded Mail To:

Ascendant Capital Partners DNA, LLC
Attention: John A. Woodward
5619 DTC Parkway, Suite 525
Greenwood Village, CO 80111

FOX NORTH

DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement") is entered into as of the date set forth on the City's signature page below (the "Effective Date") by and between Ascendant Capital Partners DNA, LLC, a Colorado limited liability company, its successors and assigns ("Ascendant") West Globeville Metropolitan District No. 1 and West Globeville Metropolitan District No. 2 (collectively the “Districts”), and the City and County of Denver, a home rule city and municipal corporation of the State of Colorado (the "City") (each, a "Party" and, collectively, the "Parties").

RECITALS

A. Ascendant is the owner of the real property generally known as the old Denver Post site, containing approximately 41.05 acres, located at 4400 Fox Street, Denver, Colorado, and as legally described on the attached Exhibit “A” and depicted in the ALTA/ASCM survey included as Exhibit “A-1” (the "Property"). The former Denver Post printing plant (the “Existing Building”), an industrial 319,000 square-foot building with associated walks, drives, parking areas, and landscaped areas, is located on the Property.

B. In an attempt to realize the City’s vision for the 41st and Fox commuter station area (“Fox Station Area”), Ascendant desires to develop the Property as a multi-phased pedestrian-friendly, urban, mixed use development with residential, commercial, retail and special industrial uses, a fully connected street grid generally aligned with the City’s existing transportation network, and a variety of publicly accessible and useable open spaces, including Fox Park, a public park dedicated to the City pursuant to this Agreement and consisting of approximately 3.08 acres (“Fox Park”), along with private plazas, privately owned open spaces (the "Project").

C. The Districts are quasi-municipal corporations and political subdivisions of the State of Colorado formed with the ability to finance, maintain, repair and replace certain public infrastructure benefitting the Property, including, without limitation, all public open spaces and Property-wide storm water and water quality facilities not otherwise accepted by the City perpetually.

D. The Property was previously subject to the 25 / 70 General Development Plan approved by the City on December 17, 2015, and recorded in the records of the Clerk and Recorder of the City

and County of Denver on December 28, 2015 at Reception No. 2015178640 (the "GDP"). In order to proceed with the Project, the City has approved the repeal of the GDP and approved a new Infrastructure Master Plan governing the Property (the "IMP"), which will guide the development, circulation network, parks and open space, sanitary and storm water, drainage and phasing of the Project. The IMP can be found under City Clerk File Number _____.

E. The IMP requires the design, construction and maintenance of a minimum of 3.08 acres of publicly accessible and useable open space, which is ten-percent (10%) of the IMP Net Developable Area (defined below) (the "OS Requirement"). In satisfaction of the OS Requirement, the IMP requires the design and construction to the minimum dimensions set forth in the IMP and dedication to the City of Fox Park, consisting of 2.52 acres along with the design and construction to the minimum dimensions set forth in the IMP of the private parcel of open space known as the printing plant plaza, consisting of 0.56 acres ("Printing Plant Plaza").

F. The IMP also provides for the design, construction, and maintenance of certain other parcels of private open space considered "bonus" open space for the Project, consisting of the following:

i. Galapago Street Parklet, consisting of 1.00 acres ("Galapago St. Parklet"); and

ii. Huron Street Linear Open Space, consisting of 0.28 acres ("Huron St. Open Space").

Printing Plant Plaza, the Galapago Street Parklet and Huron Open Space shall hereinafter be collectively referred to as the "Private Open Spaces".

G. Access to the Project is provided by Interstate 70 and Interstate 25 with neighborhood access via 38th Avenue/Park Avenue, Fox Street and 44th Avenue. The IMP requires the existing single entry point to the Property from City ROW (located off of 45th Avenue and Fox Street) be replaced with a fully connected street grid generally aligned with the City's existing transportation network. As set forth below in further detail, a variety of on and off-site traffic mitigation measures are contemplated with respect to this Project.

H. The City is authorized to enter into this Agreement pursuant to its home rule powers under Article XX of the Colorado Constitution. C.R.S. 24-68-101 et seq. authorizes local governments to enter into development agreements with landowners providing for vesting of property rights upon approval of a site specific development plan. Such vesting may be authorized for greater than three years where warranted in light of relevant circumstances, including but not limited to, the size and phasing of the development and market conditions. As contemplated in the IMP, Ascendant has proposed to develop the Property in phases over a period of time with vested property rights as described in this Agreement, with the corresponding construction and installation of certain public improvements as of the time, and in conjunction with, the development of parcels of the Property.

I. The Parties desire to enter into this Agreement for the purposes of developing a coherent framework for development of the Property, the construction, installation and maintenance of public improvements and certain private improvements, and fully satisfying requirements of the IMP.

J. The City Council, pursuant to Council Bill No. _____, has rezoned 30.56 acres of the Property to C-MX-12 UO-2; C-RX-12 UO-2; and C-RX-8 UO-2 to accommodate development of the Property ("2nd Rezoning"). On September 14, 2015, pursuant to Council Bill No. 2015-0535, the City Council rezoned 10.49 acres of the Property to C-MX-12 UO-2 to accommodate development of the Property ("1st Rezoning"). The 1st Rezoning and 2nd Rezoning are collectively referred to in this Agreement as the "Vested Zoning". The Vested Zoning ordinances can be found under City Clerk File Number _____.

K. References in this Agreement to "Temporary Certificate of Occupancy" and "Certificate of Occupancy" have the meanings assigned to each of them in the 2016 Denver Building and Fire Code, as such code may be amended, replaced, or modified from time-to-time hereafter.

AGREEMENT

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

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

2. Development Thresholds. Development of the Property is limited to the number of residential dwelling units and non-residential square footage as specified in Section 2 of the IMP as may be amended from time to time, subject to the limitations of Section 5 of this Agreement. However, flexibility among such uses is permitted within the Property so long as the cumulative impact of varying the uses on the Property does not cause the development of the Property to exceed the planned infrastructure set forth in the IMP or create material adverse impacts on surrounding properties. Where such changes among uses would cause the development of the Property to exceed the planned infrastructure set forth in the IMP or would create material adverse impacts on the surrounding properties, then this will require an amendment to the IMP pursuant to Subsection 1.3 of the IMP.

3. Future Development Applications Subject to IMP. All subsequent subdivision, site plans, zoning permits, and other applications submitted to the City for construction of infrastructure, open space, roadways, and site development are subject and shall be designed in accordance with the IMP, and must meet City standards for the engineering of such infrastructure at the time of design. The IMP serves as the conceptual infrastructure design document on which final engineering plans and other submittals will be based at the time each portion of the development goes through the

Site Development Plan process with the City and are reviewed by the City according to City standards. Each Site Development Plan or subdivision will be required to provide plans and engineering demonstrating sufficient infrastructure improvements to that will be constructed (or that are already in place) within the applicable district (or as otherwise shown in the appropriate IMP phase) to support the proposed development within said Site Development Plan or subdivision.

i. The Parties specifically agree that the change of use of the Existing Building pursuant to the IMP will be subject to the City's Site Development Plan review process. Interim uses of the Existing Building not requiring its redevelopment or a change of use shall not require a Site Development Plan. Subsequent modifications to the Existing Building following its re-development pursuant to the IMP shall be subject to standard City review and approvals.

ii. With each Site Development Plan or subdivision submittal, the party submitting the plan will also submit the following (either on the face of the Site Development Plan or separately): (A) reasonably detailed documentation tracking total development to date within the Property, (B) open space provided within the Property to date, (C) the Minor Mitigation (defined below) completed or funded to date, and (D) any prior allocation of the Minor Mitigation Trips (defined below) or Next Steps Trips (defined below).

4. Open Space. Ascendant agrees to provide a minimum of ten percent (10%) of the IMP Net Developable Area of the Project as publicly accessible open space. The "IMP Net Developable Area" has been determined to be 30.18 acres by subtracting street area from the gross area of the Property according to the following parameters: (i) private drives and private access fire drives are not subtracted from the gross area; (ii) streets not owned or maintained by the City, but with public access easements are subtracted from the gross area; and (iii) rights-of-way or right-of-way easements dedicated to the City are subtracted from the gross area. The location of that open space is identified in the IMP. All open space shall meet the following criteria: (1) Open space shall be provided in one or more areas; (2) open space shall remain publicly accessible and usable through either: (i) dedication to the City; (ii) dedication to one or both of the District(s); or (iii) Ascendant's execution and recording of a perpetual, non-exclusive easement for each Private Open Space parcel allowing public use as set forth in more detail below; and (3) open space shall result in one or more of the following public benefits: (a) enhanced connections to transit facilities, plazas, or streets; (b) enhanced pedestrian environments; (c) enhanced or new public spaces; and (d) quality spaces for active and passive recreation.

i. Fox Park:

a. Design, Construction and Phasing. Ascendant shall design and construct Fox Park in substantial compliance with the IMP in the following phases:

1. Phase 1: Unless otherwise agreed in writing by the Executive Director of the Denver Parks and Recreation ("DPR") construction of Phase 1 of Fox Park shall

be completed by Ascendant no later than twenty four (24) months after the City's final approval of a Site Development Plan containing the seven hundred fiftieth (750th) residential unit within the Project. Phase 1 of Fox Park shall be constructed to substantially include the elements in the list set forth in Subsection 4.2.3.A of the IMP, but not more.

2. Phase 2: Unless otherwise agreed in writing by the Executive Director of DPR, construction of Phase 2 of Fox Park, shall be completed by Ascendant no later than twenty-four (24) months after the City's final approval of a Site Development Plan containing the one thousand five hundredth (1,500th) residential unit within the Project. Phase 2 of Fox Park shall be constructed to substantially include the elements in the list set forth in Subsection 4.2.3.B of the IMP, but not more, except as may be modified pursuant to Subsection 4.i.a.3 below.

3. Notwithstanding anything in Subsection 4.i.a.2 to the contrary, if:

A. a formal Site Development Plan is submitted to the City and the land area contained in parcel(s) noted in that formal Site Development Plan when added to previously approved final Site Development Plans on parcels A through K of Exhibit 4.2 of the IMP is equal to or exceeds seventy five percent (75%) of the land area contained in Parcels A through K of Exhibit 4.2 of the IMP and vertical development has been substantially completed pursuant to a previously approved final Site Development Plan for either Parcel H or I of Exhibit 4.2 of the IMP,

B. and such Site Development Plan when added to the total development incurred to that point on the other parcels does not equal at least 1,500 residential units within the Project and it is reasonably evident that such 1,500 residential unit threshold for the Project will not be met upon the completion of development on one hundred percent (100%) of the parcels listed in this sentence; then

Ascendant shall construct the Fox Park Phase 2 Design Alternative no later than twenty-four (24) months after the City's final approval of such Site Development Plan. Fox Park Phase 2 Design Alternative shall be constructed to substantially include the elements in the list set forth in Subsection 4.2.3.C of the IMP, but not more. When triggered pursuant to this Subsection 4.i.a.3, the construction of the Fox Park Phase 2 Design Alternative pursuant to this Subsection 4.i.a.3 and in material conformity with the IMP shall compete Ascendant's obligation to construct or make improvements to Fox Park.

4. Notwithstanding anything to the contrary in Subsection 4.i.a.3, if:

A. a formal Site Development Plan is submitted to the City and the land area contained in parcel(s) noted in that formal Site Development Plan when added to previously approved final Site Development Plans on parcels A through K of Exhibit 4.2 of the IMP is equal to or exceeds seventy five percent (75%) of the land area contained in Parcels A through K of Exhibit 4.2 of the IMP, but a Certificate of Occupancy for vertical development has

not been issued for the primary structure(s) on one of either Parcel H or I of Exhibit 4.2 of the IMP pursuant to a previously approved final Site Development Plan; then

B. Ascendant's obligation to construct the Fox Park Phase 2 Design alternative shall not occur until final approval of a formal Site Development Plan for either Parcel H or Parcel I of Exhibit 4.2 of the IMP. Upon such final approval of the formal Site Development Plan, Ascendant shall construct the Fox Park Phase 2 Design Alternative no later than twenty-four (24) months after the issuance of a Temporary Certificate of Occupancy for the first core and shell vertical development constructed on either Parcel H or Parcel I of Exhibit 4.2 of the IMP pursuant to such approved formal Site Development Plan. Fox Park Phase 2 Design Alternative shall be constructed to substantially include the elements in the list set forth in Subsection 4.2.3.C of the IMP, but not more. When triggered pursuant to this Subsection 4.i.a.4, the construction of the Fox Park Phase 2 Design Alternative pursuant to this Subsection 4.i.a.4 and in material conformity with the IMP shall compete Ascendant's obligation to construct or make improvements to Fox Park.

5. As more specifically detailed in Subsection 4.2.5 of the IMP, and concurrently with the appropriate Site Development Plans set forth above, Ascendant shall submit construction design documents to the DPR for review and approval by DPR according to its design review standards and the element lists set forth in the above referenced subsections of the IMP. DPR shall have the right to inspect the construction of Fox Park according to provisions of Subsection 4.2.6 of the IMP to ensure Fox Park is built in in substantial compliance with the IMP and this Agreement, and that any material deviations therefrom are known and approved pursuant to the IMP.

6. Unless otherwise agreed in writing by the Executive Director of CPD or DPR, the City may condition a Temporary Certificate of Occupancy and withhold a Final Certificate of Occupancy for any unit, building or structure within the Project that triggered construction of Fox Park under Subsections 4.i.a.1, 4.i.a.2, 4.i.a.3, or 4.i.a.4 above, as applicable, until Ascendant has substantially completed the applicable phase of construction of Fox Park.

b. Dedication to and Acceptance by the City. Following substantial completion of (X) the construction of Phase 2 of Fox Park or (Y) the construction of Fox Park Phase 2 Design Alternative, DPR shall inspect and approve such construction in accordance with the City's standard practices. No later than the two-year anniversary of the City's approval of the substantial completion via a final inspection of the construction of Fox Park conducted pursuant to Subsection 4.2.6.D of the IMP and Fox Park being maintained during such period in material conformity with DPR standards pursuant to the terms and conditions set forth in Subsection 4.2.6.C of the IMP, Ascendant will convey and transfer ownership of Fox Park to the City. At that time, the City shall accept such ownership and maintenance obligations for Fox Park, and accordingly will thereafter own, operate, maintain, repair and replace Fox Park and all of its elements in

accordance with the City's standard policies. Promptly, following transfer of ownership, DPR shall apply for rezoning of Fox Park and begin the park designation process.

ii. Private Open Spaces.

a. Design, Construction and Phasing. Ascendant shall design and construct the Private Open Spaces in substantial compliance with the IMP as follows:

1. Printing Plaza. Construction of Printing Plaza shall be complete prior to the issuance of the first (1st) Certificate of Occupancy for any use located on Parcel A depicted on Exhibit 6.2 of the IMP, including any residential unit or non-residential equivalent use located within the Existing Building.

2. All Other Private Open Spaces.

A. Construction of the Galapago Street Parklet shall be complete prior to the issuance of a Certificate of Occupancy for any use in any development on Parcel D of Exhibit 6.5 of the IMP.

B. Construction of the Huron St Linear Open Space shall be complete prior to the issuance of a Certificate of Occupancy for any use in any development on Parcel B of Exhibit 6.5 of the IMP.

b. Grant of Easement. Unless a later date is approved by the Executive Director of CPD, prior to approval of the Site Development Plan for vertical development on the adjacent parcel triggering development of such Private Open Space pursuant to this Agreement, Ascendant shall grant to the City an easement in substantially the form set forth in Exhibit "B" (the "OS Easement"). The terms of the OS Easement touch and concern the Property and shall be deemed covenants running with such land, unless varied, modified or terminated by all owners of the Property and the City in writing. The OS Easement for each parcel of Private Open Space will be recorded no later than City's final approval of the Site Development Plan or subdivision on the respective parcels noted in Subsection 4.ii.a of this Agreement.

5. Traffic and Roadways.

i. Onsite and Adjacent Traffic Management.

a. Onsite Road Infrastructure. All onsite and abutting City right-of-way frontage transportation infrastructure, including public streets, private streets, sidewalks, streetscape improvements, lighting, signage and other requirements within the boundaries of the Project and abutting City right-of-way frontage along the Project, and required by the IMP shall be constructed by Ascendant in substantial conformance with the IMP, inclusive of phasing, timing and all applicable City Rules and Regulations governing site development and infrastructure. The extent of the onsite road infrastructure needed to support each building constructed will be

determined during the Site Development Plan phase for each project, but shall generally follow the phasing listed in Article 6 of the IMP. In the event that the City elects to move forward independently with construction of any elements of the transportation infrastructure, in substantial conformance with the IMP, including, but not limited to, the bridge over the railroad tracks to the Sunnyside neighborhood at 47th Avenue, Ascendant will convey to the City all such reasonably necessary right-of-way located on the Property at no cost to the City. In no event shall the right-of-way granted to and constructed by the City on the Property pursuant to the previous sentence fail to include 47th Avenue to Fox Street and Fox Street to the north from the existing intersection of 45th Avenue and Fox Street, unless both right-of-ways have previously been constructed by Ascendant. Should such independent City infrastructure construction necessitate construction of other related infrastructure as set forth in the IMP, including public storm sewer main lines to be located within such right-of-way, then the City will construct such improvements at its expense in accordance with the IMP; and nothing shall preclude Ascendant from being afforded the opportunity by the City to install other wet and dry utilities in accordance with the IMP or as otherwise necessary for the development of the Project prior to or concurrently with the City's construction of the right-of-way.

b. Adjacent Road Improvements. In addition to the elements in Subsection 5.i.a above, Ascendant shall install traffic signals and restriping of public right of way as set forth in Subsection 3.2.2 of the IMP and further detailed in the Traffic Impact Study set forth as Appendix B of the IMP, at its sole cost, when warranted pursuant Traffic Impact Study set forth as Appendix B of the IMP or when a Site Development Plan level traffic analysis shows that the phase of the project will warrant a signal or restriping.

ii. Development Agreement Traffic Management. The City and Ascendant acknowledge that the east side of the 41st and Fox Station Area may require a Comprehensive Mobility Solution (defined below) to realize the full development potential of the area due to the limited number of access points into this side of the Fox Station Area. Prior to enacting such a comprehensive solution, the City is in the process of working to adopt rules and regulations related to trip capacity and development on the east side of the Fox Station Area ("Rules"), which will be applicable to development within a portion of the 41st and Fox Station Area.

a. Unless Ascendant elects to participate in the Rules pursuant to Subsection 5.ii.b below, Ascendant and the City agree that the following shall apply to development of the Property until the Comprehensive Mobility Solution (defined below) is adopted:

1. The City and Ascendant agree that the daily trip capacity for the east side of the Fox Station Area is 25,000 trips. The current available trips for the east side of the Fox Station Area is 12,800 daily trips ("Available Trips"). The "reservation" of a trip from the Project or other development in the Fox Station Area from the Available Trips shall occur at the time of the City's release of a Site Development Plan from the "concept" phase as further detailed in Subsection 5.a.4 below. The "allocation" of a trip from the Available Trips shall occur at the

approval by the City of a formal Site Development Plan, or in the case of the RTD park-n-ride located at 41st and Fox Street that has already been developed but is not currently operational, 1,500 daily trips of the Available Trips will be reserved for the park-n-ride and will be allocated for the park-n-ride no earlier than six months after the station opens to the public. Should Ascendant choose to study the operations of the RTD park-n-ride, then upon submittal to the City by Ascendant of a reasonably detailed study of the actual in-place operations, then the City shall adjust the allocation for the park-n-ride accordingly (whether up or down). Once a trip is reserved or allocated from the Available Trips, then it is unavailable for use by any other development until the City measures the available daily trips pursuant to this Subsection 5.ii.a.1 which shall set the then-currently available daily trips. The City shall measure and republish the available daily trips that are left in the general pool of Available Trips to be reserved and allocated based on the increase or decrease in trips in the east side of the Fox Station Area, in five (5) year intervals, with the first such re-measurement to occur not earlier than five (5) years from the date of this Agreement. Such re-measurement shall not modify the 25,000 trip daily trip capacity set forth in this Subsection 5.ii.a.1. Until the Comprehensive Mobility Solution (defined below) is adopted, development of the Project will be subject to allocation of vehicle trips according to such system of allocation, subject to the foregoing total Available Trips (which serves as the allocation limit) for each five (5) year period. As part of this system, the City will make publicly available the number of trips that have been reserved and allocated from the Available Trips. The City shall over-reserve trips by 15% of the estimated Available Trips under the trip allocation system set forth in this Subsection 5.ii.a.1.

2. Each concept Site Development Plan for a parcel of vertical development within the Property shall submit a transportation demand management plan to be reasonably reviewed and approved by the City. Such transportation demand management plan may include some or all of the elements listed in the sample plan attached to this Agreement as Exhibit "C" and incorporated into it by this reference;

3. Each concept Site Development Plan for a parcel of vertical development within the Project shall submit a traffic impact study or traffic memorandum, which shall be used for trip allocation in conformity with this Agreement;

4. Site Development Plan submittals for the Project, shall conform to the following timelines:

A. The development project must submit complete formal Site Development Plan and associated engineering documents no later than one hundred twenty (120) days after the receipt of written notification from the City notifying the development of its release from the concept plan review phase of the site development plan process. If the formal Site Development Plan is not submitted within that timeframe, then the "reserved" trips will be cancelled.

B. If a concept Site Development Plan contains multiple buildings designated for occupied uses, but the formal Site Development Plan does not include all buildings, then the "reserved" trips designated for the buildings not included in the formal Site Development Plan will be cancelled. In Site Development Plans containing multiple buildings, any mixed-use trip reductions resulting from the multi-building plan will be "assigned" to the last building submitted in a formal Site Development Plan.

C. Following the initial formal Site Development Plan submittal for a development project and upon receipt of the first round of formal comments from the City, the party submitting such formal Site Development Plan must resubmit the revised Site Development Plan and associated engineering documents responding to such comments no later than one hundred twenty (120) days after receipt of written notification from the City setting out the comments to the initial submittal of such formal Site Development Plan. If the formal Site Development Plan is not re-submitted within that timeframe, then the "reserved" trips will be cancelled.

D. Following the first resubmittal of a formal Site Development Plan for a development project and upon receipt of any subsequent round of formal comments from the City, the party submitting such formal Site Development Plan must resubmit the revised Site Development Plan and associated engineering documents responding to such comments no later than ninety (90) days after receipt of written notification from the City setting out the comments to the re-submittal of such formal Site Development Plan. If the formal Site Development Plan is not re-submitted within that timeframe, then the "reserved" trips will be cancelled.

E. Following the receipt of written notification from the City notifying the development of its release from the concept plan review phase of the site development plan process, a formal Site Development Plan based on such concept Site Development Plan must be approved by the City no later than twenty-four (24) months after the date of such receipt of written notification from the City notifying the development of its release from the concept plan review phase of the site development plan process. If the formal Site Development Plan is not timely approved within the time period set forth in the preceding sentence, then the "reserved" trips will be cancelled.

F. Upon the expiration of any approved formal Site Development Plan due to a lack of one or more active building permits under such approved formal Site Development Plan, all trips "allocated" by the City to that Site Development Plan will be cancelled and returned to the pool of Available Trips.

b. In the event that the Rules are not adopted by the City within seventeen (17) months of the date of this Agreement addressing a methodology for the allocation of Available Trips and setting forth TDM requirements for development in the east side of the Fox Station Area

other than within the Property, then Subsections 5.ii.a.2, 5.ii.a.3, and 5.ii.a.4 are void. If the City adopts the Rules, then upon not less than thirty days' advance written notice, Ascendant may elect, in its sole subjective discretion, for the Rules to apply to the Property and Ascendant. Upon such election, the Rules will supersede and replace Subsection 5.ii.a of this Agreement. Unless and until Ascendant elects to participate in the Rules pursuant to this Subsection 5.ii.b, the Rules shall not apply to Ascendant or the Property, the terms and conditions of this Agreement shall control, and any terms and conditions set forth in the Rules that conflict with or are contrary to the terms and conditions of this Agreement are deemed to have no effect on Ascendant or the Property.

iii. Offsite Traffic Mitigation. Ascendant and the City recognize the impact the development of the Project will have upon roads and traffic in the east side of the Fox Station Area, and the unique traffic and access issues posed by the location of the Property within the Fox Station Area. In order to mitigate such impact, the Parties agree as follows:

a. Rules. Following the execution of this Agreement, the City shall diligently pursue the formal adoption of the Rules applicable throughout the Fox Station Area.

b. Next Steps Study. The City will undertake a next steps study to research capital, regulatory and programmatic solutions to the increased vehicular traffic impact and transportation demands caused by future development of the Fox Station Area neighborhood (the "Comprehensive Mobility Solution" or "CMS") and to promote alternative forms of transportation and any corresponding companion study ("Next Steps Study"). Ascendant will fund the reasonable third-party cost of the Next Steps Study, up to a maximum of $250,000.00, as and when incurred based on percentage completion by the third party consultant. Concurrently with the 2nd Rezoning, the City shall establish a special revenue account tied to this study. The City shall provide Ascendant with the ordinance that will be used to create the account no later than ten (10) business days prior to the public hearing for the 2nd Rezoning for Ascendant's review. Ascendant shall reimburse the fund for the Next Steps Study no later than thirty (30) days after receipt of reasonably detailed invoice(s) from the City showing its payment to the third party consultant for work performed on the Next Steps Study. The Next Steps Study may include recommendations to include in the CMS, including but not limited to, regulatory and financial programs such as formation of improvement districts, impact fees, urban renewal, creation of or inclusion within a Transportation Management Association or other mechanisms to ensure regional participation in funding capital and programmatic solutions that may be included in the CMS. The City and Ascendant agree that Ascendant will be involved in the Next Steps Study (including, at Ascendant's election, offering potential consultants, observing the consultant interviews, and defining the final scope of the study) and shall be entitled to representation upon the Next Steps Study's project stakeholder committee or equivalent; however, Ascendant is not allowed to vote on the committee that will select the consultant(s) to perform the Next Steps Study. The City shall allocate Ascendant 1,500 daily trips for its exclusive use ("Next Steps Trips") for the development of the Project on a pro-rata basis (i.e. 10% of trips available upon 10% funding of the $250,000.00

allocation to the Next Steps Study) as it timely funds the Next Steps Study pursuant to this Subsection 5.iii.b, which Ascendant may elect to access by fully funding the $250,000.00 into the special revenue account prior to the City incurring such spending on the Next Steps Study. The Next Steps Trips shall not count for any allocation made to the Project from the Available Trips under the Rules or 5.ii, above, and Ascendant shall be required to submit a Site Development Plan using the Next Steps Trips until those trips are fully allocated, at which point trips may be allocated from the remaining general pool of Available Trips or as otherwise provided in this Agreement. Should a trip allocated to Ascendant from the Next Steps Trips not be used through vertical development following such allocation according to this Agreement, then any such trips shall be returned to the pool of Next Steps Trips to be allocated to future development of the Project according to the provisions of this Agreement and not otherwise allocated by the City to any other development.

c. Minor Offsite Mitigation: Prior to the CMS Implementation, the City and Ascendant agree that certain minor offsite traffic mitigation measures will increase the total available trips for the east side of the Fox Station Area by 5,000 daily trips ("Minor Mitigation Trips"). Provided Ascendant complies with the terms and conditions set forth below, the City shall allocate the Minor Mitigation Trips to Ascendant for its exclusive use. The Minor Mitigation Trips shall not count for any allocation made to the Project under the Rules, and Ascendant shall not be required to submit a Site Development Plan using the Minor Mitigation Trips unless (A) all other trips have been allocated pursuant to the Rules and (B) the Next Steps Trips have been allocated pursuant to this Agreement. The list of Minor Mitigations is set forth in Exhibit "D" attached to this Agreement and incorporated into it by this reference ("Minor Mitigation(s)"). Each such Minor Mitigation is more fully depicted in Exhibit "E" attached to this Agreement and incorporated into it by this reference and set forth in Figure 11 of the Traffic Impact Study attached and incorporated into the IMP as Exhibit B. Should trips be allocated to development of the Project from the Minor Mitigation Trips pursuant to this Agreement and such development fails to occur, then the City shall return such allocated trips to the pool of Minor Mitigation Trips for Ascendant's future use according to the terms and conditions of this Agreement.

1. The design and engineer's cost estimate for all of the Minor Mitigations except Minor Mitigation No. 4 must be provided to the City in conjunction with the first subdivision filing or first formal Site Development Plan submittal (after a Site Development Plan is released from concept by the City) located within the Project. The design and engineer's cost estimate for Minor Mitigation No. 4 must be provided to the City in conjunction with the subdivision filing or formal Site Development Plan submittal located within the Project where the land area contained in parcel(s) noted in that formal Site Development Plan when added to previously approved final Site Development Plans on parcels A through K of Exhibit 4.2 of the IMP is equal to or exceeds seventy five percent (75%) of the land area contained in Parcels A through K of Exhibit 4.2 of the IMP.

2. Each Minor Mitigation shall equal the percentage of the total 5,000 Minor Mitigation Trips noted next to such Minor Mitigation on the list of Minor Mitigations set forth in Exhibit "D" attached to this Agreement. The Minor Mitigation Trips shall be allocated by the City to Ascendant for the development of the Project according to the respective percentages as set forth in the preceding sentence based upon the first occurrence of: (X) Ascendant providing funding surety for a Minor Mitigation according to Subsection 5.iii.d below or (Y) Ascendant constructing a Minor Mitigation according to Subsection 5.iii.e below.

d. Mitigation Funding. In order to secure the allocation of Minor Mitigation Trips associated with a particular Minor Mitigation prior to constructing it pursuant to 5.iii.e below, Ascendant must provide the City with proof of financial performance. Ascendant may, in its sole subjective discretion, provide such proof through either (X) establishment of an escrow account with the City funded with immediately available federal funds, (Y) a performance bond or bonds, or (Z) letter of credit. Upon selecting any of the forgoing methods, the method selected by Ascendant must funded be in an amount equal to one hundred twenty five percent (125%) of the estimated cost of such Minor Mitigation project as submitted with the detailed engineering created pursuant to Subsection 5.iii.c.1 above (which estimate shall be updated for any unfunded project every five years following the date of this Agreement). Once a Minor Mitigation project is completed by Ascendant pursuant to Subsection 5.iii.e below, accepted by the City pursuant to the City's standard practices for acceptance of privately constructed improvements, and past the warranty period for the work (per standard City practice), the bond or letter of credit will be released or the unspent escrowed funds returned to Ascendant, as applicable. Should the City construct any of the Minor Mitigations, then the City shall immediately accept the Minor Mitigation and release the bond or letter of credit or refund the unspent escrowed funds, as applicable without delay for a warranty period. Ascendant may, in its sole subjective discretion, elect to construct a Minor Mitigation after providing proof of financial performance but before the City has determined a need for such Minor Mitigation pursuant to Subsection 5.iii.e below, by providing written notice to the City of such election and thereafter pursuing the construction of such Minor Mitigation pursuant to Subsection 5.iii.e below as if the City had determined there was a need for such Minor Mitigation.

e. Mitigation Construction. Unless Ascendant has already completed the mitigation funding pursuant to Subsection 5.iii.d above and commenced construction pursuant to this Subsection, each of the Minor Mitigations shall be constructed by Ascendant (or the District(s) should Ascendant elect) following written notice to Ascendant of a determination by the City Traffic Engineer or its designee of the need for such mitigation, with such notice to include the reasoning for the City's determination and such determination shall not rely solely on the Traffic Impact Study submitted to the City as Exhibit B to the IMP. No such notice may be given to Ascendant by the City until twelve (12) months following the completion of design and cost

estimation set forth in 5.iii.c above. Following Ascendant's receipt of proper notice of the need to construct a Minor Mitigation, then Ascendant must commence construction of the identified Minor Mitigation no later than six (6) months thereafter, diligently pursuing such construction to completion. Construction should be completed by Ascendant and accepted by the City within one year of the start of construction unless otherwise agreed by the City, set forth in the original construction bids/estimates created pursuant to 5.iii.c above, or due to force majeure event(s). The Parties acknowledge and agree that Ascendant is not obligated to conduct any construction related activities on or over any land that is not City right-of-way or otherwise owned by the City and such failure to conduct construction in such non-City owned (or right-of-way) areas shall not be a default under this Agreement. The City shall reasonably cooperate with Ascendant in negotiating and implementing the Minor Mitigations with such parties as Colorado Department of Transportation where construction of a Minor Mitigation may need to occur in a non-City owned area (or right-of-way). The Parties acknowledge that without engaging in detailed design of the Minor Mitigations that they have independently conducted a reasonably review of the Minor Mitigation concepts and each have concluded that the Minor Mitigations should all be contained within City owned areas (or right-of-way).

f. Failure to Fund or Construct. Should Ascendant fail to commence construction of a Minor Mitigation project when delivered notice by the City pursuant to Subsection 5.iii.e above or fail to construct a Minor Mitigation following its voluntary election to construct it pursuant to Subsection 5.iii.d above, then the City shall deliver written notice of such failure to Ascendant. Ascendant shall have thirty (30) days following the delivery of such notice to cure its default by commencing construction. Should Ascendant fail to cure within the thirty (30) day period, then Minor Mitigation Trips allocated to that Minor Mitigation will be deemed unavailable to Ascendant upon the earlier to occur of (A) another party receiving a permit for the construction of that Minor Mitigation, (B) such third party's first formal Site Development Plan submittal to the City or subdivision that includes the construction of that Minor Mitigation, or (C) such other party subject to (A) or (B) of this sentence providing the City with proof of financial performance for the construction of such Minor Mitigation in an amount equal to or greater than the amount required of Ascendant pursuant to this Agreement. Until CMS Implementation occurs and following a default of this Subsection 5.iii.f by Ascendant, if, (X) prior to receipt of a permit for construction of such Minor Mitigation by a private third party, (Y) such third party's first formal Site Development Plan submittal to the City or subdivision that includes the construction of that Minor Mitigation, or (Z) such other party subject to (X) or (Y) of this sentence providing the City with proof of financial performance for the construction of such Minor Mitigation in an amount equal to or greater than the amount required of Ascendant pursuant to this Agreement, Ascendant delivers written notice of its intent to redeem the allocated trips for such Minor Mitigation, then Ascendant may redeem such trips by delivering a bond in the amount of 110% of what would otherwise be required pursuant to Subsection 5.iii.d above and commencing

construction of the Minor Mitigation according to the terms and conditions set forth in Subsection 5.iii.e above.

g. CMS Selection, Approval and Implementation. Once the CMS Approval (defined below) has occurred, it shall replace and supersede any allocation of trips pursuant to this Agreement and the Rules, except that the Vested Trips shall still be available to Ascendant to use for development of the Project until the CMS is implemented to a level sufficient to allow the City to approve the full development of the Property up to the development thresholds set forth in the IMP ("CMS Implementation"). Nothing in this Agreement shall be deemed to be Ascendant's acceptance, agreement to participate in, or consent to the funding or determination of the CMS. The Parties acknowledge that it is anticipated that the funding for the CMS may include, but is not limited to, (without binding any Party), impact fees, tax increment financing, special improvement district financing, or other public funding and is intended to be applied comprehensively across the entire east area of the Fox Station Area. CMS identification shall be deemed to occur for purposes of this Agreement upon completion of the Next Steps Study. Since there may be several funding mechanisms used to achieve CMS Implementation, it is likely that not all mechanisms will be pursued at one time. Once City Council, or the appropriate approval body within the City's executive branch as reasonably determined according to each such funding mechanism identified in the Next Steps Study, approves the first funding mechanism for the CMS, then CMS approval shall be deemed to have occurred ("CMS Approval").

6. Vesting. The approved IMP is a site specific development plan only for and with respect to those items identified in Subsection 5.iii.b., Subsection 5.iii.c, Subsection 5.iii.g, and Subsections 6.i through 6.iii of this Agreement. The Parties acknowledge that Ascendant applied for the 2nd Rezoning to occur after the approval of the IMP and concurrently with execution of this Agreement. For reference to the detailed heights, uses, definitions, and other details with respect to the Vested Zoning, the appropriate Denver Zoning Code sections, definitions, and charts can be found under City Clerk File Number _____ ("Zoning Definitions").

i. Due to the complexity and timing of the Project, which is currently estimated to be between five and ten years, the City hereby grants the following amended and extended vested property rights for ten (10) years from the date of this Agreement:

a. The permitted uses within the zone districts included in the Vested Zoning while applying the Zoning Definitions;

b. Building heights (feet/stories) within the Project as designated by the maximum heights allowed in the Vested Zoning while applying the Zoning Definitions;

c. No floor-area ratio limits shall be imposed on the Project; and

d. The vesting period established by the IMP with respect to the following development approvals: Site Development Plan approvals (or equivalent for horizontal

infrastructure or future plans adopted to replace in whole or in part the Site Development Plan process) is hereby extended from eighteen (18) months to twenty-four (24) months.

The foregoing a., b., c., and d. are collectively referred to herein as the "Vested Development Rights".

ii. Due to the measurable impact of the Minor Mitigations and the complexity and timing of the CMS, the City hereby grants the following amended and extended vested property rights for the Vested Trips from the date of this Agreement until CMS Implementation has occurred after the CMS Approval per Subsection 5.iii.g:

a. Notwithstanding anything to the contrary in this Agreement or the Rules (but subject to the City's police powers as set forth in Subsection 10.a) and provided that Ascendant materially complies with the terms and conditions of Section 5 of this Agreement, the City agrees that the Next Steps Trips and Minor Mitigation Trips shall be a vested property right of Ascendant ("Vested Trips") until CMS Implementation has occurred after CMS Approval pursuant to Subsection 5.iii.g.

iii. At the time of application for either a concept Site Development Plan or a formal Site Development Plan, such applicant shall state in its application what zoning code regulations it intends to develop in accordance with: (X) the zoning code in effect as contained in the Vested Zoning or (Y) the then current zoning code provisions within the most recently adopted Denver Zoning Code in place at the time of site development application, and shall provide a reasonably detailed explanation of applicable portions of the Vested Zoning and IMP together with its Site Development Plan or Zoning Permit application, respectively.

7. Ownership and Operation of Non-City Owned Improvements.

i. Following Ascendant's initial construction of each parcel of Private Open Space and detention/retention/water quality area noted in Exhibit 5.1 of the IMP not contained in City-owned Right of Way (each a "Detention Area"), Ascendant shall elect to do one of the following:

a. Transfer title to such parcel of Private Open Space or Detention Area to one or both of the District(s) in accordance with Districts' service plans, as may be further amended; which transfer shall include the District(s) accepting ownership and maintenance of such public improvements and being bound by the terms and conditions of any existing or required easements related to the Private Open Spaces and Detention Areas. Subject to the provisions of the service plans for such District(s), as may be amended, and applicable law, the District(s) shall own each parcel of Private Open Space located within or without such District's boundaries, and shall maintain, repair, replace, and operate such parcel of Private Open Space, including any public improvements located therein, in accordance with each District's respective service plan, as may further be amended. Nothing contained herein shall prohibit the District(s) from coordinating with one another, or with other third parties, in maintaining, repairing, replacing and operating such

parcel(s) of Private Open Space. Subject to the provisions of the service plans for such District(s), as may be amended, and applicable law, the District(s) shall own the parcel(s) constituting the Detention Areas located within or without such District's boundaries, and shall maintain, repair, replace, and operate such parcel of Detention Areas, including any public improvements located therein, in accordance with each District's respective service plan, as may be further amended. Nothing contained herein shall prohibit the District(s) from coordinating with one another, or with other third parties, in maintaining, repairing, replacing and operating such parcel(s) of Detention Area(s). Any public improvement conveyed to the District(s), including, without limitation, applicable Private Open Space(s) and/or Detention Area(s), will be dedicated or conveyed to such District(s) subject to any acceptance requirements adopted by or otherwise required by the District(s), in each District's reasonable sole discretion. The City agrees to review any reasonable written request by the District(s) to enter into a separate intergovernmental agreement with respect to any District activities or ownership of Private Open Spaces and Detention Areas.

b. Transfer title to such parcel of Private Open Space or Detention Area to one or more "common interest community" (as defined in the Colorado Common Interest Community Act) or a reasonably creditworthy private owner either having (X) a verifiable net worth of $20,000,000 or more or (Y) have its equity traded on a public stock exchange or be an "affiliate" of either (X) or (Y) where "affiliate" means an entity that is controlled by, controls, or is under common control with the entity noted in (X) or (Y) ("Private Owner"); which transfer shall include that the Private Owner or common interest community agree to accept ownership and maintenance of such public improvements and be bound by the terms and conditions of any existing or required easements related to the Private Open Spaces and Detention Areas. The Parties acknowledge and agree that such Ascendant elect to transfer ownership of any Detention Areas to a Private Owner pursuant to this Agreement, that Ascendant shall prior to such transfer grant the City a permanent non-exclusive easement in favor of the City substantially in the form attached to this Agreement as Exhibit "F" and incorporated into this Agreement by this reference. The Private Owner or common interest community shall own each parcel of Private Open Space such party agrees to assume, and shall maintain, repair, replace, and operate such parcel of Private Open Space, including any public improvements located therein, in accordance with the OS Easement granted by Ascendant. The Private Owner or common interest community shall own the parcel(s) constituting the Detention Areas and such party agrees to assume, and shall maintain, repair, replace, and operate such parcel of Detention Areas, including any public improvements located therein, in accordance with an easement or other agreement between the City and such party and/or Ascendant and such party, which must be entered into no later than ten (10) days prior to the conveyance of the Detention Areas or Private Open Space to the common interest community or Private Owner pursuant to this Agreement.

ii. Following the construction of such non-City owned public improvements and once the election is made above by Ascendant (with respect to ownership and maintenance responsibilities) and in the event that any additional easement or agreement is necessary to allow

for the maintenance, repair, and replacement of such non-City owned public improvements by the responsible party, such areas shall be permanently operated, maintained, repaired and replaced by such respective party or its successor. Ascendant shall also grant such additional permanent non-exclusive easement interests to such parties, in mutually agreed-upon form between Ascendant and such party, as may be required to allow such party to provide such maintenance, repair and replacement services for the Private Open Spaces and Detention Areas, to the extent that Ascendant remains in ownership of a portion or all of such Private Open Spaces and Detention Areas, as detailed herein. In addition to the foregoing set forth in this Section 7, all dedications or conveyances of public improvements for the ownership, maintenance, or both may be subject to additional agreements, easements, or deeds as may be necessary to give effect to the terms and conditions of this Section 7.

iii. Following the City's approval of the design and construction of Fox Park, but prior to the City accepting ownership of Fox Park pursuant to Subsection 4.i.b of this Agreement, Ascendant, the Districts, or Private Owner shall maintain and administer Fox Park. Ascendant shall, prior to the final approval of the construction drawings and commencement of construction of Fox Park, select (X) the District(s), (Y) a common interest community, or (Z) Private Owner to maintain and administer Fox Park for a two-year establishment period. In the event that the District(s) are chosen, such maintenance and administration duties will be outlined in accordance with an intergovernmental agreement to be executed between the City and District(s), no later than the start of construction of Fox Park. In the event that a Private Owner or common interest community is chosen, such maintenance and administration duties will be outlined in accordance with a separate easement and maintenance agreement to be executed between Ascendant and such other party, no later than the start of construction of Fox Park. During such two-year establishment period, Ascendant shall be responsible for the repair and replacement of any of the elements of Fox Park determined not to have been constructed, installed and maintained in substantial compliance with the requirements of the IMP.

8. Failure of 2nd Rezoning. The approval of the 2nd Rezoning by the Denver City Council is a condition precedent to Ascendant's obligations under this Agreement. Should the City Council fail to approve the 2nd Rezoning within ninety (90) days after the date of this Agreement even if executed by Ascendant or the City, then this Agreement is automatically void without further action of the City or Ascendant, and the City shall not record this Agreement or any related agreements in the public records for the City and County of Denver.

9. Affordable Housing Linkage Fee. In 2016, the City adopted a linkage fee on vertical development in the City to fund affordable housing through Council Bill No. 2015-0535 (Ordinance No. 20160625) ("Ordinance"), and the City has adopted Rules and Regulations dated July 7, 2017 with respect to the administration of the Ordinance ("Regulations"). So long as the current Ordinance remains in effect, Ascendant shall provide an amount equal to one hundred twenty-five percent (125%) of the linkage fees otherwise due pursuant to the Ordinance or Regulations for vertical development of the Project. For example and illustrative purposes only,

should a 1,000 square foot building be approved and submitted for building permit, and the normal linkage fee for such building outside the Project equals $2,000 (representing $2.00 per square foot of building area), Ascendant shall pay linkage fees equal to $2,500.00 (representing $2.50 per square foot of building area) for the construction of that building within the Project. With respect to the "build alternative" as outlined in the Ordinance and Regulations, Ascendant shall also be required to provide one hundred twenty-five percent (125%) of the units otherwise required in lieu of the fee. All other provisions of the Ordinance and Regulations shall apply as stated therein, for example linkage fees for the Project are due and payable at the same time and in the same manner as other projects in the City, and Ascendant shall not be obligated to provide documentation or paperwork otherwise not required of other development in the City under the Ordinance or Regulations except noting the applicability of this agreement on payment of affordable housing fees on the Affordable Housing Fee Application or other documents required pursuant to the Regulations should the Affordable Housing Fee Application be eliminated after the date of this Agreement.

10. Miscellaneous.

a. Compliance with General Regulations. The establishment of Vested Development Rights and Vested Trips under this Agreement, shall not preclude the City's application on a uniform and non-discriminatory basis of its regulations of general applicability (including, but not limited to, street and streetscape regulations, building, fire, plumbing, electrical and mechanical codes, the Denver Revised Municipal Code, and other City rules and regulations) or the application of state or federal regulations, as all of such regulations exist on the date of this Agreement or may be enacted or amended after the date of this Agreement, except for any newly enacted or amended City regulations not required by state or federal law that have the effect of materially and adversely altering, impairing, preventing, diminishing, imposing a moratorium on development, delaying or otherwise adversely affecting any of the Vested Development Rights and Vested Trips. Ascendant does not waive its right to oppose the enactment or amendment of any such regulations or to challenge the validity of such regulations through proper legal or political means. Nothing in this Agreement shall impair the City's exercise of its police powers.

b. Severability. In the event any clause, sentence or any portion of the terms, conditions, covenants and provisions of this Agreement are deemed illegal, null or void for any reason or are held by any court of competent jurisdiction to be so, the remaining portions of this Agreement shall remain in full force and effect.

c. Choice of Law. This Agreement shall be governed by the laws of the State of Colorado and the laws, rules and regulations of the City and County of Denver.

d. Captions for Convenience. All headings and captions used herein are for convenience only and are of no meaning in the interpretation or effect of this Agreement.

e. Exhibits. All exhibits attached to this Agreement are incorporated herein and are made a part hereto as if fully set forth herein.

f. Appropriation. Any obligations of City hereunder are subject to the prior appropriation of monies expressly made by the Denver City Council for such purposes and paid into the Treasury of the City.

g. Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. Ascendant shall have the right to assign or transfer all or any portion of its interest, rights or obligations under this Agreement to any party that receives an assignment of Ascendant's rights and duties hereunder, including but not limited to, any party acquiring an interest or estate in the Property, the Project, or any improvements constructed thereon, provided that to the extent Ascendant assigns any of its obligations under this Agreement, the assignee of such obligations shall expressly assume such obligations. The express assumption of any of Ascendant's obligations under this Agreement concerning the Property and/or rights and duties subject to such assignment by its assignee or transferee shall thereby relieve Ascendant of any further obligations under this Agreement concerning such property and/or rights and duties and shall release the City from further obligation to Ascendant, with respect to the matter so assumed. Ascendant shall provide the City with a copy of such assignment or notify the City of any such assignment with a certification that Ascendant and such assignee have complied with the terms and provisions of this Subsection 10.g in the applicable assignment. In no event shall a default by any such assignee with respect to the obligations assumed by such assignee affect the rights or obligations of Ascendant or any other assignee under this Agreement that were not assigned to or assumed by such defaulting assignee, nor shall Ascendant be liable to the City with respect to such assignee's default.

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

i. No Liability. No council member, elected official, director, officer, agent, or employee of the City or District(s) shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Agreement, because of any breach of this Agreement, or because of its or their execution, approval or attempted execution of this Agreement. No member, manager, director, officer, shareholder, partner, agent, or employee of Ascendant shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Agreement, because of any breach of this Agreement, or because of its or their execution, approval or attempted execution of this Agreement.

j. Default; Cure Period; Remedies. In event of a breach by either Party of their obligations under this Agreement, the non-defaulting Party may seek specific performance, but not damages. The Parties expressly waive the right to either seek and/or be awarded damages in any form whether actual, consequential or punitive. The failure of the City to appropriate shall not be considered a breach or default under this Agreement. In the event of a default by either Party under this Agreement, the non-defaulting Party shall deliver written notice to the defaulting Party of such default, at the address specified in Subsection 10.n below, and the defaulting Party shall have thirty (30) days from and after receipt of such notice to cure such default. If such default is not of a type which can be cured within such 30-day period and the defaulting Party gives written notice to the non-defaulting Party within such 30-day period that it is actively and diligently pursuing such cure, the defaulting Party shall have a reasonable period of time given the nature of the default following the end of such 30-day period to cure such default, provided that such defaulting Party is at all times within such additional time period actively and diligently pursuing such cure. A "breach" or default" under this Agreement is the failure by a Party to fulfill or perform any material obligation of such Party.

k. Attorney Review. All Parties hereto and their attorneys have had full opportunity to review and participate in the drafting of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

l. Conflict of Interest. Each non-City Party shall not knowingly permit any of the following persons to have any interest, direct or indirect, in this Agreement: A member of the governing body of the City or an employee of the City who exercises responsibility concerning this Agreement.

m. Modification; Termination. This Agreement may be amended or terminated only by mutual consent in writing of the Parties. Any such modification or termination shall be approved by the Executive Director of DPW and the Executive Director of CPD and shall not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council. Notwithstanding the foregoing, amendments and modifications to the IMP will not require an amendment to this Agreement.

n. Notices. All notices provided for in this Agreement shall be in writing and shall be personally delivered or mailed by registered or certified United States mail, postage prepaid, return receipt requested, to the parties at the addresses given below or at such other address that may be specified by written notice in accordance with this Subsection 10.n:

If to the City or CPD:
Executive Director of Community Planning & Development
201 W. Colfax Avenue, Dept. 205
Denver, Colorado 80202

If to DPR:
Executive Director of Dept. of Parks & Recreation
201 W. Colfax Avenue, Dept. 601
Denver, Colorado 80202

If to DPW:
Executive Director of Dept. of Public Works
201 W. Colfax Avenue, Dept. 506
Denver, Colorado 80202

If to Ascendant:

Ascendant Capital Partners DNA, LLC
Attention: John Woodward
5619 DTC Parkway, Suite 525
Greenwood Village, CO 80111

With a copy to:
Spierer, Woodward, Corbalis & Goldberg, PC
Attn: Seth Murphy
5619 DTC Parkway, Suite 525
Greenwood Village, CO 80111

If to either of the District(s):

West Globeville Metropolitan District Nos. 1 & 2
c/o White Bear Ankele Tanaka & Waldron, Attorneys at Law
Attention: Bradley Neiman, Esq.
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122

A copy of any notice provided to the City, CPD, DPR, or DPW, shall also be provided to:

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

o. No Obligation to Develop. Ascendant shall have the right to develop the Site in the order, at the rate and at the time as market conditions dictate, subject to the terms and conditions of this Agreement. Except as expressly set forth in this Agreement upon the occurrence of the condition precedent to such obligation, Ascendant shall have no obligation to construct private improvements on all or any portion of the Project and shall have no liability to the City for any failure to construct private improvements on all or any part of the Project. Ascendant and the City contemplate that the Site will be developed in phases. Except as expressly set forth in this

Agreement upon the occurrence of the condition precedent to such obligation, Ascendant shall have no obligation to develop all or any portion of the private improvements on any such phase, notwithstanding the development or non-development of any other phase and Ascendant shall have no liability to the City for any failure to develop all or any portion of the private improvements on any such phase of the Project.

p. No Third-Party Beneficiary. It is the intent of the Parties that no third party beneficiary interest is created in this Agreement 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.

q. Dry Utility Easements. In the event Ascendant elects to enter into easements (or licenses) for dry utilities (including, but not limited to, electricity, natural gas, and telecommunications) that are located in areas that are indicated as future right-of-way in the IMP, then any such easement (or license) shall contain substantially the following language:

> "This [easement/license (as applicable)] or any portion thereof shall automatically terminate upon dedication of that portion of such [easement/license] area to the City as public street right-of-way. Any portion of such [easement/license] area not so dedicated or designated as public right-of-way shall remain in full force and effect."

r. Counterparts, Electronic Signatures and Electronic Records. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same document. Facsimile and PDF signatures shall be accepted as originals. The City Parties consent to the use of electronic signatures by any Party hereto. This Agreement and 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 an electronic document, 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 PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have executed this Fox North Development Agreement on the date set forth below by the Parties' signatures, but effective on the Effective Date:

CITY:

CITY AND COUNTY OF DENVER,
a Colorado municipal corporation

_____

Mayor Date

Registered and Countersigned:

_____

By: Manager of Finance

_____

By: Auditor

Attest:

_____

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

Approved as to form:

_____

Assistant City Attorney

IN WITNESS WHEREOF, the Parties hereto have executed this Fox North Development Agreement on the date set forth below by the Parties' signatures, but effective on the Effective Date:

ASCENDANT:
ASCENDANT CAPITAL PARTNERS DNA, LLC,
a Colorado limited liability company

By Its Managers:

Ascendant Equity Partners DNA, LLC,
a Colorado limited liability company

_____
Graham T. Benes, Manager Date

and

DNAMSW, LLC,
a Colorado limited liability company

_____
John A. Woodward, Manager Date

STATE OF _____)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me on the _____ day of _____, 20____, by Graham T. Benes, as Manager of Ascendant Equity Partners DNA, LLC, the Manager of Ascendant Capital Partners DNA, LLC.

WITNESS my hand and official seal.

_____
Notary Public

STATE OF _____)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me on the _____ day of _____, 20____, by John A. Woodward, as Manager of DNAMSW, LLC, the Manager of Ascendant Capital Partners DNA, LLC.

WITNESS my hand and official seal.

_____
Notary Public

IN WITNESS WHEREOF, the Parties hereto have executed this Fox North Development Agreement on the date set forth below by the Parties' signatures, but effective on the Effective Date:

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

_____
Officer

ATTEST:

_____

WEST GLOBEVILLE METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado

_____
Officer

ATTEST:

_____

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

_____
General Counsel to the District(s)

Exhibit "A" to
Fox North Development Agreement

Legal Description of Ascendant Property

PARCEL 1:

THOSE PARTS OF THE NORTHWEST ONE-QUARTER NORTHWEST ONE-QUARTER AND OF THE SOUTHWEST ONE-QUARTER NORTHWEST ONE-QUARTER AND OF THE NORTHWEST ONE-QUARTER SOUTHWEST ONE-QUARTER OF SECTION 22, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN IN THE CITY AND COUNTY OF DENVER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 22; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, ALONG THE WEST LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 22, A DISTANCE OF 1886.76 FEET TO THE NORTHWEST CORNER OF A TRACT CONVEYED BY DEED RECORDED IN BOOK 9910 AT PAGE 220, CITY AND COUNTY OF DENVER RECORDS;
THENCE SOUTH 69 DEGREES 02 MINUTES 40 SECONDS EAST, ALONG THE NORTHERLY LINE OF SAID TRACT DESCRIBED IN DEED RECORDED IN BOOK 9910 AT PAGE 220, AND ALONG THE SOUTHWESTERLY LINE OF THE VALLEY HIGHWAY AS DESCRIBED IN ORDINANCE NO. 3 OF 1962, A DISTANCE OF 535.41 FEET TO A POINT, SAID POINT BEING 500 FEET EAST OF THE WEST LINE OF THE NORTHWEST ONE-QUARTER AND 951.96 FEET SOUTH OF THE NORTH LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 22;

THENCE SOUTH 65 DEGREES 41 MINUTES 45 SECONDS EAST, ALONG SAID SOUTHWESTERLY LINE OF THE VALLEY HIGHWAY, A DISTANCE OF 541.34 FEET;
THENCE CONTINUING ALONG SAID SOUTHWESTERLY LINE ALONG THE ARC OF A CURVE TO THE RIGHT, CENTRAL ANGLE = 15 DEGREES 15 MINUTES 40 SECONDS, RADIUS 1,432.39 FEET, AN ARC MINUTES 47 SECONDS EAST A DISTANCE OF 380.40 FEET, AND FROM WHICH POINT THE NORTHEAST CORNER OF THE SOUTHWEST ONE-QUARTER NORTHWEST ONE-QUARTER BEARS NORTH 24 DEGREES 22 MINUTES 15 SECONDS EAST, A DISTANCE OF 123.32 FEET;
THENCE CONTINUING ALONG SAID SOUTHWESTERLY LINE SOUTH 42 DEGREES 59 MINUTES 40 SECONDS EAST, A DISTANCE OF 74.74 FEET TO A POINT ON THE EAST LINE OF THE SOUTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER FROM WHICH POINT THE NORTHEAST CORNER SAID SOUTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER BEARS NORTH 00 DEGREES 01 MINUTES 42 SECONDS WEST, A DISTANCE OF 167.00 FEET;
THENCE SOUTH 00 DEGREES 01 MINUTES 42 SECONDS EAST, ALONG THE EAST LINE OF THE SOUTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER, A DISTANCE OF 179.18 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF THE RIGHT OF WAY OF THE CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY AS DESCRIBED IN INSTRUMENT RECORDED JULY 7, 1890 IN BOOK 607 AT PAGE 230;

THENCE SOUTH 43 DEGREES 39 MINUTES 41 SECONDS WEST, ALONG SAID SOUTHEASTERLY LINE AS DESCRIBED IN BOOK 607 AT PAGE 230 TO A POINT ON THE WEST RIGHT OF WAY LINE OF FOX STREET, PRODUCED NORTHERLY;
THENCE SOUTH ALONG SAID WEST LINE PRODUCED NORTHERLY, A DISTANCE OF 0.64 FEET TO A POINT, SAID POINT BEING THE TRUE POINT OF BEGINNING OF PARCEL 2 DESCRIBED IN BOOK 9363 AT PAGE 227, WHICH POINT IS 10.00 FEET PERPENDICULAR DISTANT NORTHWESTERLY OF THE CENTERLINE OF THE CERTAIN STANDARD GAUGE RAILROAD TRACK OF THE COLORADO AND SOUTHERN RAILWAY COMPANY KNOWN AND DESIGNATED AS TRACT #747;
THENCE SOUTH 45 DEGREES 19 MINUTES 28 SECONDS WEST, ALONG THE SOUTHEASTERLY LINE SAID TRACT DESCRIBED IN BOOK 9363 AT PAGE 227, AND ALONG THE SOUTHEASTERLY LINE TRACT DESCRIBED IN BOOK 9188 AT PAGE 206, A DISTANCE OF 360.97 FEET TO A POINT OF CURVATURE;
THENCE CONTINUING ALONG THE SOUTHEASTERLY LINE OF TRACT DESCRIBED IN BOOK 9188 AT PAGE 260 ALONG THE ARC OF A CURVE CONCAVE SOUTHEASTERLY CENTRAL ANGLE = 17 DEGREES 05 MINUTES 00 SECONDS, RADIUS OF 726.78 FEET, AN ARC DISTANCE OF 216.70 FEET TO A POINT OF TANGENCY;
THENCE SOUTH 28 DEGREES 14 MINUTES 28 SECONDS WEST, ALONG SAID TANGENT AND ALONG SAID SOUTHEASTERLY LINE, A DISTANCE OF 12.00 FEET TO A POINT OF CURVATURE;
THENCE CONTINUING ALONG SAID SOUTHEASTERLY LINE ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST, CENTRAL ANGLE = 05 DEGREES 01 MINUTES 34 SECONDS, RADIUS = 1,283.57 FEET, AN ARC DISTANCE OF 112.60 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF VACATED WEST 43RD AVENUE IN SAID CITY OF DENVER AS VACATED BY ORDINANCE NUMBER. 30, SERIES OF 1943;
THENCE SOUTH 89 DEGREES 53 MINUTES 55 SECONDS WEST, ALONG SAID NORTH LINE VACATED WEST 43RD AVENUE, A DISTANCE OF 133.59 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST ONE-QUARTER OF SECTION 22;
THENCE NORTH 00 DEGREES 01 MINUTES 05 SECONDS, WEST, ALONG THE WEST LINE SAID SOUTHWEST ONE-QUARTER, A DISTANCE OF 344.00 FEET TO THE POINT OF BEGINNING

AND BEGINNING AT THE SOUTHEAST CORNER OF BLOCK 6, VIADUCT ADDITION;
THENCE NORTH 00 DEGREES 02 MINUTES 05 SECONDS WEST, ALONG THE EAST LINE OF SAID BLOCK 6 AND ITS EXTENSION NORTHERLY TO AN INTERSECTION WITH THE SOUTHEASTERLY LINE OF THE RAILROAD RIGHT OF WAY AS DESCRIBED IN INSTRUMENT RECORDED MAY 12, 1893 IN BOOK 847 AT PAGE 273;
THENCE SOUTH 45 DEGREES 17 MINUTES 00 SECONDS WEST, ALONG SAID RIGHT OF WAY, ADISTANCE OF 198.31 FEET;
THENCE SOUTH 44 DEGREES 55 MINUTES 55 SECONDS WEST, ALONG SAID RIGHT OF WAY, A DISTANCE OF 176.88 FEET TO A POINT;
THENCE SOUTH 25 DEGREES 26 MINUTES 32 SECONDS WEST, ALONG SAID RIGHT OF WAY, A DISTANCE OF 293.71 FEET TO AN INTERSECTION WITH THE CENTERLINE OF VACATED WEST 43RD AVENUE;
THENCE NORTH 89 DEGREES 53 MINUTES 55 SECONDS EAST, ALONG SAID VACATED CENTERLINE WEST 43RD AVENUE, A DISTANCE OF 46.34 FEET TO A NORTHERLY EXTENSION OF THE WEST LINE OF GALAPAGO STREET;
THENCE NORTH 00 DEGREES 02 MINUTES 05 SECONDS WEST, A DISTANCE OF 40.00 FEET TO THE SOUTHEAST CORNER OF BLOCK 5, VIADUCT ADDITION;

THENCE ALONG A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 17 DEGREES 05 MINUTES 00 SECONDS, A RADIUS OF 726.78 FEET, AN ARC LENGTH OF 216.70 FEET AND A CHORD WHICH BEARS SOUTH 36 DEGREES 46 MINUTES 58 SECONDS WEST A DISTANCE OF 215.90 FEET TO A POINT OF TANGENCY;

THENCE SOUTH 28 DEGREES 14 MINUTES 28 SECONDS WEST A DISTANCE OF 12.00 FEET TO A POINT OF CURVATURE;

THENCE ALONG A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 5 DEGREES 01 MINUTES 34 SECONDS, A RADIUS OF 1283.57 FEET, AN ARC LENGTH OF 112.60 FEET AND A CHORD WHICH BEARS SOUTH 25 DEGREES 43 MINUTES 38 SECONDS WEST A DISTANCE OF 112.57 FEET TO A POINT OF NON-TANGENCY LYING ON THE NORTHERLY RIGHT OF WAY LINE OF SAID VACATED WEST 43RD AVENUE;

THENCE SOUTH 89 DEGREES 53 MINUTES 55 SECONDS WEST ALONG SAID NORTHERLY LINE, A DISTANCE OF 133.59 FEET TO SAID WEST LINE OF THE SOUTHEAST ONE-QUARTER OF SECTION 22;

THENCE SOUTH 0 DEGREES 01 MINUTES 05 SECONDS EAST ALONG SAID WEST LINE, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING.

NOTE: SAID PARCELS 1 AND 2 ARE ALSO DESCRIBED AS FOLLOWS:

THAT PART OF THE NORTHWEST 1/4 AND THE SOUTHWEST 1/4 OF SECTION 22 TOWNSHIP 3 SOUTH RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN LOCATED IN THE CITY AND COUNTY OF DENVER, COLORADO DESCRIBED AS:

BEGINNING AT THE WEST 1/4 CORNER OF SAID SECTION 22;
THENCE NORTH 00 DEGREES 16 MINUTES 50 SECONDS EAST, ALONG THE WEST LINE OF SAID NORTHWEST 1/4, A DISTANCE OF 1886.76 FEET TO THE SOUTHWESTERLY LINE OF THE VALLEY HIGHWAY AS DESCRIBED IN ORDINANCE NO. 3, OF 1962 IN THE RECORDS OF SAID COUNTY.

THENCE ALONG SAID SOUTHWESTERLY LINE THROUGH THE FOLLOWING FOUR COURSES:

1. SOUTH 68 DEGREES 45 MINUTES 50 SECONDS EAST, 535.41 FEET TO A POINT THAT IS 500 FEET EAST OF LAST SAID WEST LINE AND 951.70 FEET SOUTH OF THE NORTH LINE OF SAID NORTHWEST 1/4;

2. SOUTH 65 DEGREES 24 MINUTES 55 SECONDS EAST, 541.34 MINUTES TO A 1432.39 FOOT RADIUS, NON-TANGENT CURVE THAT IS CONCAVE SOUTHWESTERLY (THE CENTER OF SAID CURVE BEARS SOUTH 35 DEGREES 52 MINUTES 13 SECONDS WEST);

3. SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 15 DEGREES 15 MINUTES 40 SECONDS A DISTANCE OF 381.53 FEET TO A POINT FROM WHICH THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF SAID NORTHWEST 1/4 BEARS NORTH 24 DEGREES 22 MINUTES 15 SECONDS EAST, 125.07 FEET;

4. SOUTH 42 DEGREES 42 MINUTES 50 SECONDS EAST, 74.74 FEET TO THE EAST LINE OF SAID NORTHWEST 1/4 FROM WHICH POINT LAST SAID NORTHEAST CORNER BEARS NORTH 00 DEGREES 18 MINUTES 32 SECONDS EAST, ALONG THE EAST LINE OF SAID NORTHWEST 1/4, A DISTANCE OF 168.84;

THENCE LEAVING SAID SOUTHWESTERLY LINE SOUTH 00 DEGREES 18 MINUTES 32 SECONDS WEST, ALONG LAST SAID EAST LINE, 271.01 FEET TO THE NORTHWESTERLY AND WESTERLY RIGHT OF WAY LINE OF FOX STREET PER ORDINANCE NO. 195, SERIES 1953, RECORDED IN BOOK 44 AT PAGE 492, RECEPTION NO. 273585 OF THE RECORDS OF THE CITY AND COUNTY OF DENVER, STATE OF COLORADO;

THENCE ALONG SAID RIGHT OF WAY LINE THROUGH THE FOLLOWING TWO COURSES:

1. SOUTH 45 DEGREES 33 MINUTES 23 SECONDS WEST, 1051.28 FEET;

2. SOUTH 00 DEGREES 21 MINUTES 37 SECONDS WEST, 490.30 FEET TO THE NORTH RIGHT OF WAY LINE OF WEST 43RD AVENUE AS PLATTED IN THE VIADUCT ADDITION TO DENVER SUBDIVISION, BOOK 10, PAGE 7 DATED OCTOBER 6, 1887, IN SAID RECORDS.

THENCE ALONG SAID RIGHT OF WAY LINE THROUGH THE FOLLOWING FIVE COURSES PER DEEDS RECORDED JULY 14, 1986 UNDER RECEPTION NO. 794972 AND UNDER RECEPTION 794973 OF SAID RECORDS;

1. NORTH 89 DEGREES 44 MINUTES 54 SECONDS WEST, 285.46 FEET TO A 50.00 FOOT RADIUS, NONTANGENT CURVE THAT IS CONCAVE SOUTHERLY (THE CENTER OF SAID CURVE BEARS SOUTH 16 DEGREES 30 MINUTES 43 SECONDS WEST);

2. WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 32 DEGREES 31 MINUTES 13 SECONDS A DISTANCE OF 28.38 FEET;

3. NORTH 89 DEGREES 44 MINUTES 54 SECONDS WEST A DISTANCE OF 31.95 FEET ALONG PREVIOUS NORTH RIGHT OF WAY;

4. SOUTH 00 DEGREES 14 MINUTES 46 SECONDS WEST, 28.36 FEET TO A 50.00 FOOT RADIUS, NONTANGENT CURVE THAT IS CONCAVE EASTERLY (THE CENTER OF SAID CURVE BEARS SOUTH 66 DEGREES 41 MINUTES 46 SECONDS EAST);

5. ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 13 DEGREES 54 MINUTES 55 SECONDS A DISTANCE OF 12.14 FEET TO THE CENTERLINE OF 43RD AVENUE AS ESTABLISHED PER SAID VIADUCT ADDITION TO DENVER SUBDIVISION;

THENCE NORTH 89 DEGREES 44 MINUTES 54 SECONDS WEST, ALONG SAID CENTERLINE, 225.04 FEET TO THE WEST LINE OF THE SOUTHWEST 1/4 OF SECTION 22;
THENCE NORTH 00 DEGREES 16 MINUTES 50 SECONDS EAST, ALONG LAST SAID WEST LINE, 384.08 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THOSE PORTIONS IDENTIFIED AS "PARCEL NO. CM-17" AND "PARCEL NO. CM-17A" AS SET FORTH IN RULE AND ORDER RECORDED AUGUST 20, 2012 UNDER RECEPTION NO. 2012112161, "PARCEL NO. CM-17C" AS SET FORTH IN SPECIAL WARRANTY DEED RECORDED JANUARY 7, 2015 UNDER RECEPTION NO. 2015002275 AND "PARCEL NO. CM-17B" AS SET FORTH IN SPECIAL WARRANTY DEED RECORDED JANUARY 7, 2015 UNDER RECEPTION NO. 2015002278.

Exhibit "A-1" to
Fox North Development Agreement

ALTA/ASCM Survey of the Property

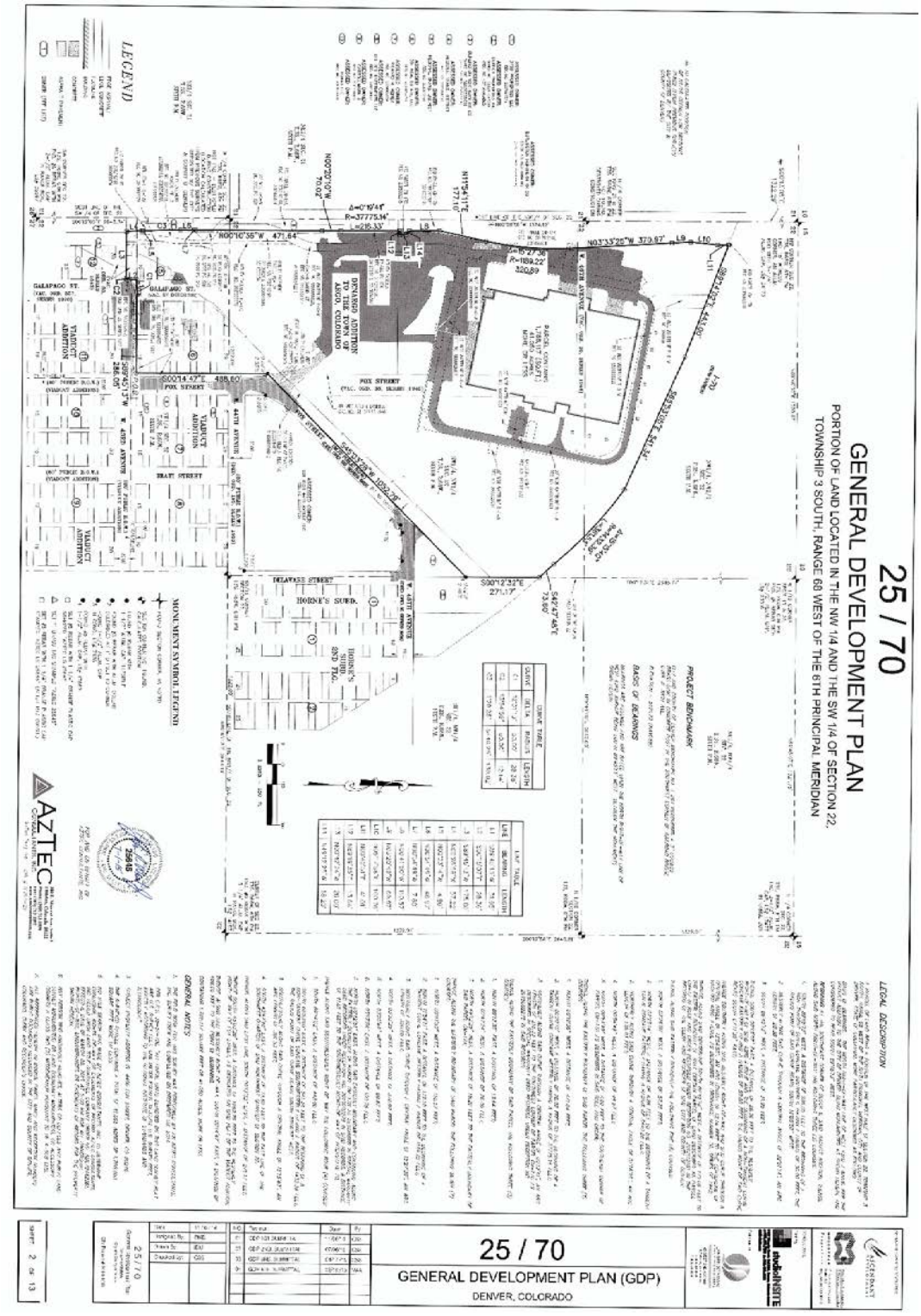


Exhibit "B" to
Fox North Development Agreement

Form of Open Space Easement

After Recording Return to:

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

PERMANENT EASEMENT FOR FOX NORTH PRIVATELY OWNED OPEN SPACE

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

WITNESSETH:

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

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

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

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

SEE EXHIBIT A
ATTACHED HERETO AND INCORPORATED HEREIN

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

Grantor further covenants and agrees that, unless otherwise authorized by a Site Development Plan approved by the City, no building, structure, or other above or below ground obstruction that may interfere with the purposes for which this Easement is granted may be placed, erected, installed or permitted upon the Easement Area(s). Grantor further agrees that in the event the terms of this Easement are violated, such violation shall immediately be corrected by the Grantor upon receipt of written notice from the City, or the City may itself elect to correct or eliminate such violation at the Grantor's expense. The Grantor shall promptly reimburse the City for any costs or expenses incurred by the City in enforcing the terms of this paragraph.

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

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

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

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

Grantor shall indemnify, defend and hold harmless the City from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses arising from the environmental condition of the Easement Area(s), including the existence of any hazardous material, substance or waste.

The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto and all covenants herein shall apply to and run with the land.

[SIGNATURE PAGE FOLLOWS]

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

GRANTOR
INSERT NAME OF GRANTOR HERE,
[insert type of entity here]
By: _____
Name: _____
Title: _____

GRANTEE
INSERT NAME OF GRANTEE HERE,
[insert type of entity here]
By: _____
Name: _____
Title: _____

STATE OF _____)
)
COUNTY OF _____)

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

WITNESS my hand and official seal.

_____
Notary Public

STATE OF _____)
)
COUNTY OF _____)

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

WITNESS my hand and official seal.

_____
Notary Public

Exhibit A to
Permanent Easement for Fox North Expanded Streetscape and Privately Owned Open Space

Legal Description of Easement Area(s)

[TO BE INSERTED]

Exhibit "C" to
Fox North Development Agreement

Sample Transportation Demand Management Plan

TRANSPORTATION DEMAND MANAGEMENT PLAN

[Development Name]

[Address]

[Development] is a proposed new _____ development consisting of _____, located at _____ in Denver, Colorado. Pursuant to _____[Rule or Ordinance], new development must provide a Transportation Demand Management Plan ("TDMP").

A TDMP is a site-specific plan that identifies transportation demand management strategies that encourage residents and employees to use alternative modes of transportation such as public transportation, walking, biking, or ridesharing, in lieu of driving alone in a single-occupant vehicle (SOV) during peak traffic hours. Ultimately, a TDMP is designed to encourage the use of alternative modes of transportation and reduce daily vehicle trips. A successful TDMP will increase the availability, awareness, and use of public transit, ridesharing, car-sharing, biking, bike-sharing, and walking by generating awareness at the project level. It will also educate residents and employees on alternatives available to traveling by SOV. By reducing SOV trips, the TDMP will:

- Reduce the strain on existing transportation infrastructure, helping it last longer;
- Reduce the demand for new roads and parking, freeing up resources and space for jobs, housing, parks and other amenities;
- Maximize the use of existing public transit services and investments;
- Support the economy with increased commute flexibility and increased access to and visibility of local businesses;
- Maintain a high quality of life and mobility in surrounding neighborhoods;
- Improve the environment by reducing emissions of greenhouse gases; and
- Improve public health by reducing emissions of particulate matter and offering transportation options that increase physical activity.

The 41st and Fox rail station is within walking distance of the _____ development at _____ away. The G-line provides access to the entire Denver metro area. The [Development] TDMP will encourage residents and employees to use both stations, resulting in a corresponding decrease in the number of SOVs on Denver's streets.

The TDMP for [Development] will increase resident and employee awareness and use of alternative modes of transportation by planning the implementation of the following:

1. Ride Sharing
    a. Social media platforms (e.g. Facebook, Website) will be utilized by property management to encourage ride sharing. _____ will be encouraged to car pool with others to minimize the use of SOVs as they travel.
    b. Information on Denver's RideShare programs will be made available to residents and employees and the use of these programs will be encouraged.
    c. _____ parking spaces in the _____ have been designated for alternative-fuel vehicles.
    d. On-site vehicular parking will be charged separately from the _____ rent.
2. Bicycles
    a. Secured on-site bicycle storage will encourage residents to use bicycles for personal transportation as an alternative to motor vehicles. _____ secured bicycle storage spaces will be provided on the property. This represents a ratio of _____ bike racks for every _____.
    b. The development includes an off-street bike route connector _____ (see graphic).
    c. [A _____ sf designated bike repair shop and wash-down room will be provided in the _____. – Optional]
3. Transit
    a. RTD schedules, maps, and other alternative modes of transportation will be made available to _____.
    b. A map will be posted on the property showing the most convenient pedestrian or bicycle routes to the two light rail stations near the property.
    c. The location of the nearest bus shelter locations will be posted on the property.
    d. [Optional - The Owner will provide RTD flex passes for all on-site employees _____.]
4. Walking
    a. Property management will post and maintain information on nearby commercial and dining facilities within walking distance to encourage patronage.
    b. The development will include high-quality pedestrian environments along _____, with accessible sidewalks, pedestrian lighting, landscaping and furnishings.
    c. The development will include attractive and secure waiting/drop-off areas at building entrances for people walking to and from the property.
5. [Optional - Pre-paid 3-year Membership with Transportation Solutions (TS). With our membership, Transportation Solutions has offered the following program elements for [Development] _____.]

Exhibit "D" to
Fox North Development Agreement

List of Minor Offsite Traffic Mitigations

1) Southbound I-25 Ramp and Fox Street – 25% of the total Minor Mitigation Trips
    a. Option A
        i. Dual southbound turn lanes
        ii. Traffic signal modification with new poles and mast arms
    b. Option B
        i. Southbound protected/permitted left turn phasing
        ii. Westbound triple left turn lanes with new westbound right turn lane constructed
        iii. Traffic signal modification with new poles and mast arms

2) 38th Avenue and Fox Street – 30% of the total Minor Mitigation Trips
    a. Reconstructing eastbound 38th Avenue past the bridge underpass structure to lengthen the westbound dual left turn lanes
    b. Traffic signal modification

3) 39th Avenue and Fox Street – 25% of the total Minor Mitigation Trips
    a. Designating left turn lanes on all four approaches
    b. Designating second southbound through lane
    c. Traffic signal upgrades

4) 45th Avenue and Lincoln Street – 10% of the total Minor Mitigation Trips
    a. Signalization
    b. Notwithstanding a. and b. above the City may elect at the time the City requests design of this Minor Mitigation that the City may provide alternates for Ascendant to design, but only those alternates that do not exceed the customary hard and soft costs to design and construct the mitigations discussed in a. and b. above.

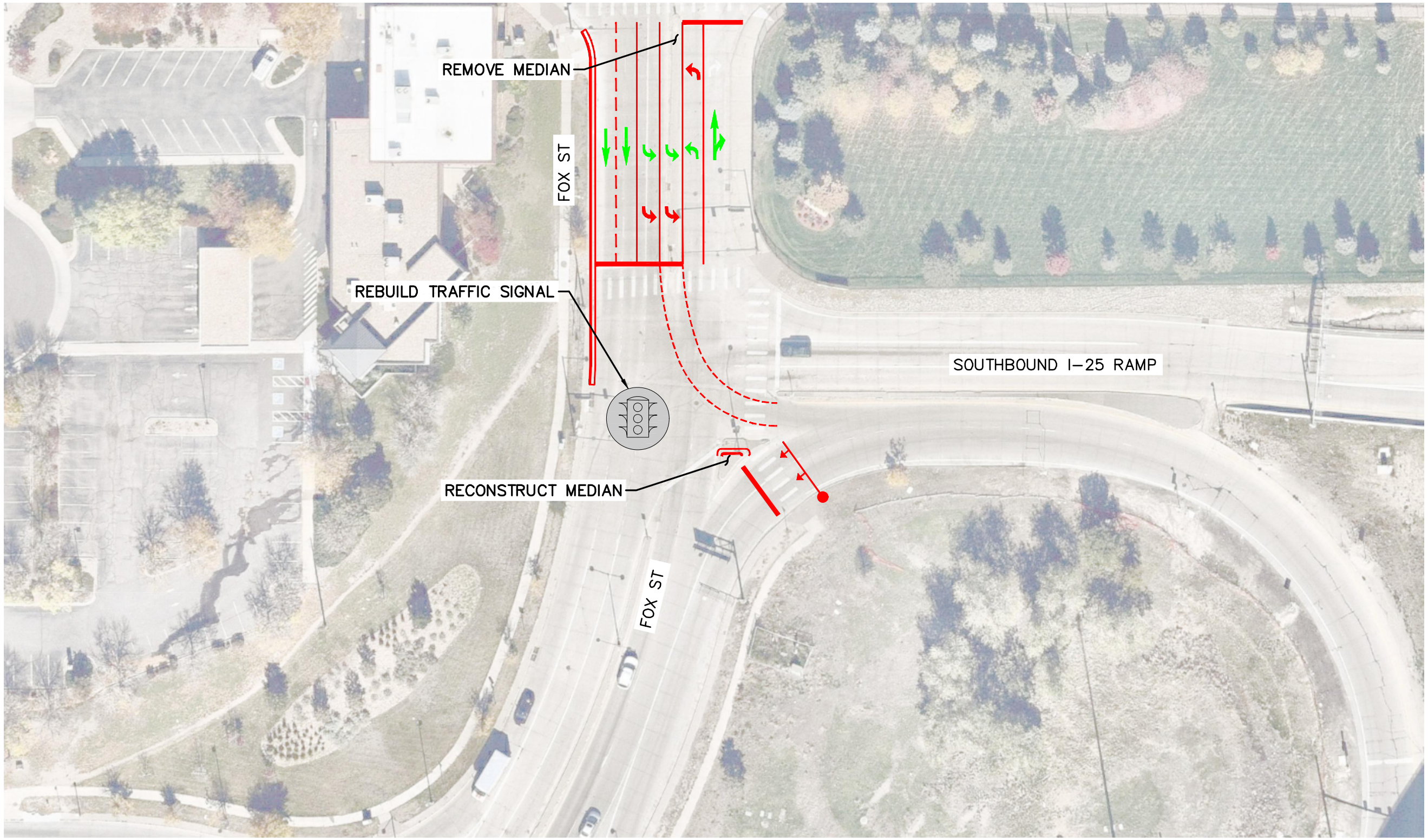
5) 45th Avenue and Washington Street – 10% of the total Minor Mitigation Trips
    a. Restripe eastbound left turn lane to lengthen from 50 feet to 100 feet
    b. Two-way left turn lane striping along 45th Avenue between Pennsylvania Street and Pearl Street to transition to eastbound left turn lane at Washington Street

Exhibit “E” to
Fox North Development Agreement

Depictions Minor Offsite Traffic Mitigations

[See Attached.]

Kimley»Horn NORTH
NTS 096579000



NOTE:
THIS IS A CONCEPTUAL EXHIBIT AND THE FINAL DESIGN WILL MEET CITY AND COUNTY OF DENVER CRITERIA.

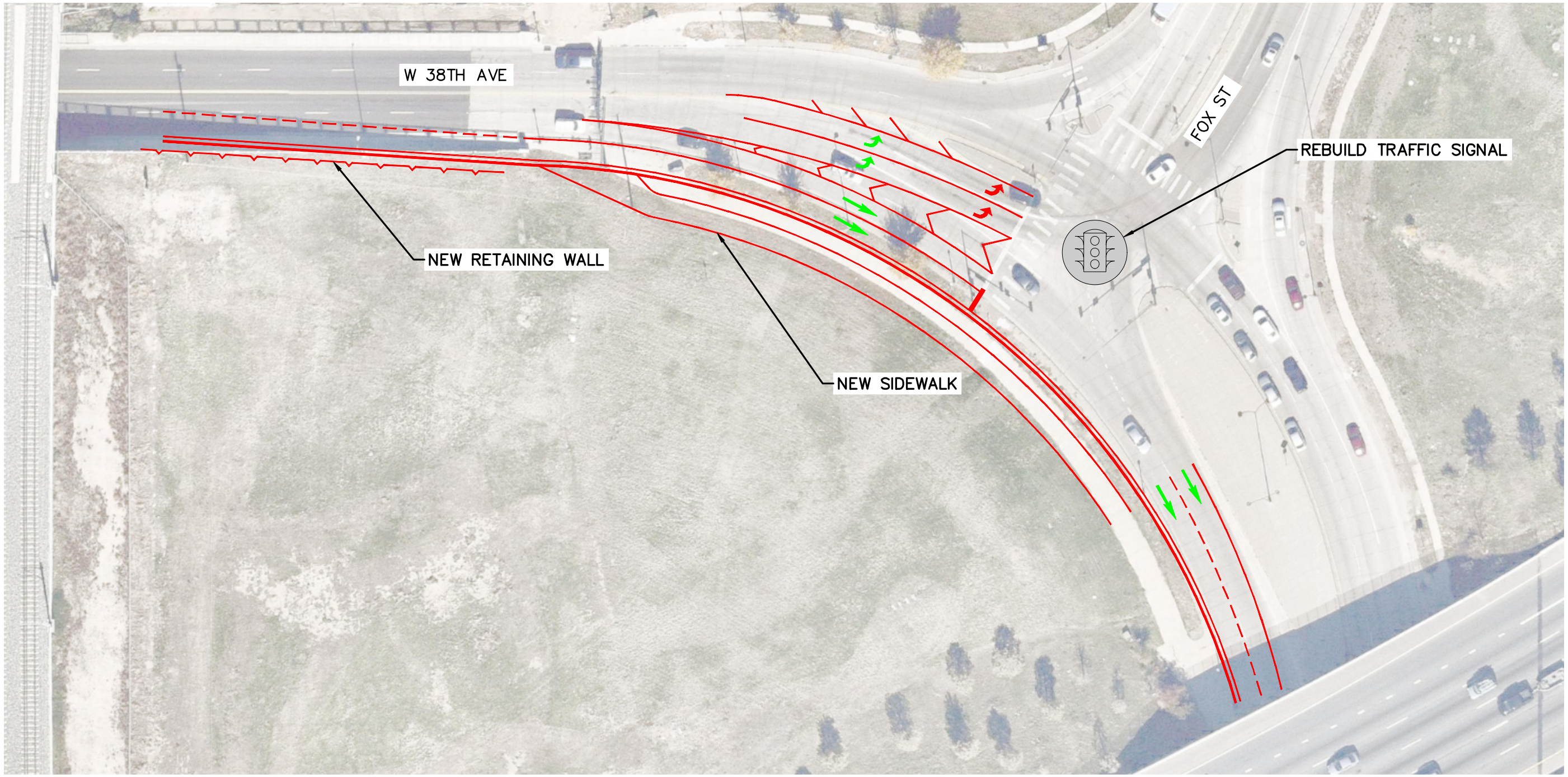
GRAPHIC SCALE IN FEET
0 25 50 100

FOX NORTH
DENVER, COLORADO
SOUTHBOUND I-25 RAMP AND FOX STREET MINOR MITIGATION IMPROVEMENT EXHIBIT

FIGURE 1

Kimley»Horn

Kimley»Horn
NORTH
NTS 096579000



NOTE:
THIS IS A CONCEPTUAL EXHIBIT AND THE FINAL DESIGN WILL MEET CITY AND COUNTY OF DENVER CRITERIA.

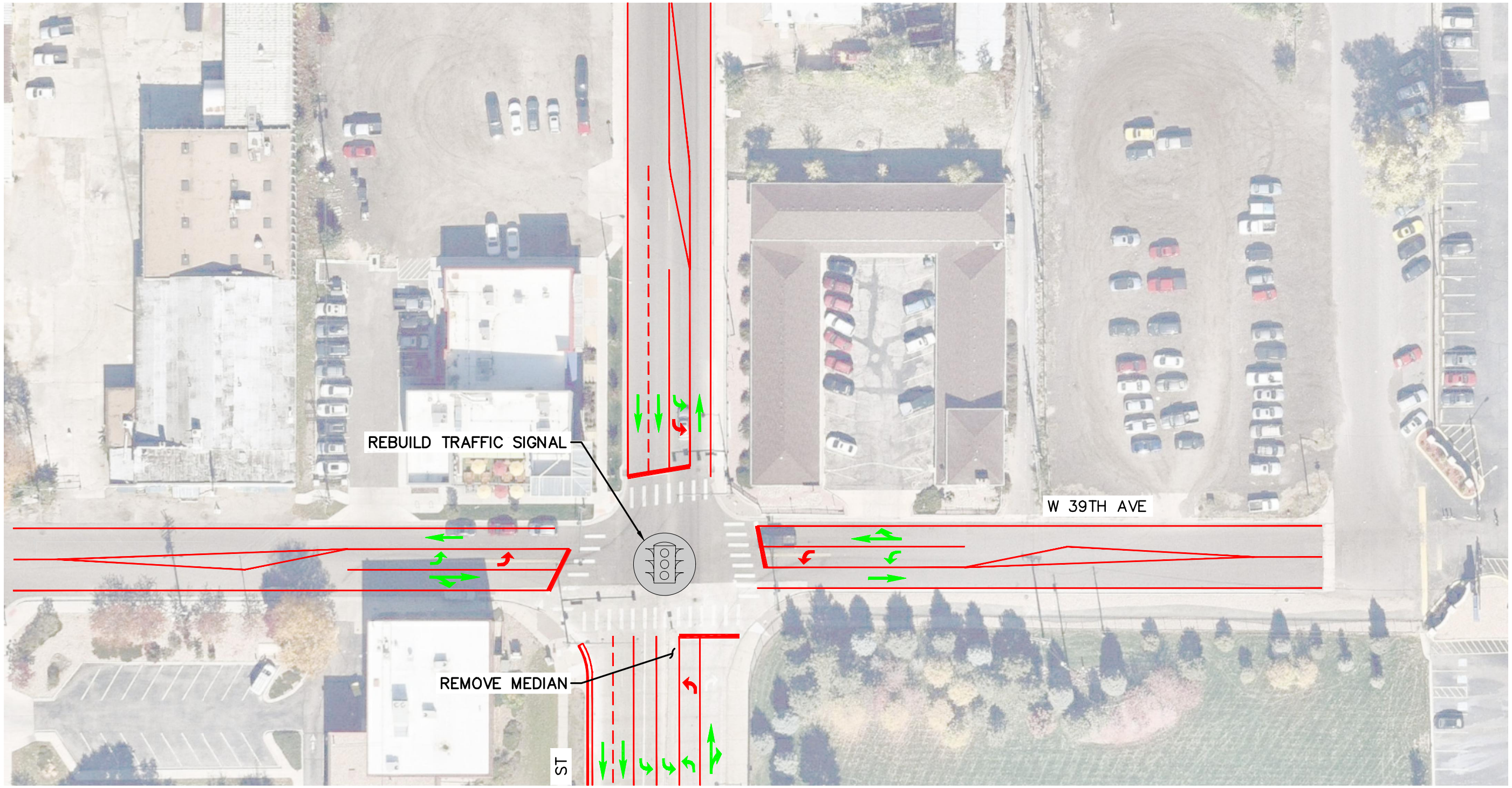
GRAPHIC SCALE IN FEET
0 25 50 100

FOX NORTH
DENVER, COLORADO
38TH AVENUE AND FOX STREET MINOR MITIGATION IMPROVEMENT EXHIBIT

FIGURE 2

Kimley»Horn

NTS 096579000



NOTE:
THIS IS A CONCEPTUAL EXHIBIT AND THE FINAL DESIGN WILL MEET CITY AND COUNTY OF DENVER CRITERIA.

GRAPHIC SCALE IN FEET
0 25 50 100

FOX NORTH
DENVER, COLORADO
39TH AVENUE AND FOX STREET MINOR MITIGATION IMPROVEMENT EXHIBIT

FIGURE 3

Kimley»Horn
NORTH
NTS 096579000

NOTE:
THIS IS A CONCEPTUAL EXHIBIT AND THE FINAL DESIGN WILL MEET CITY AND COUNTY OF DENVER CRITERIA.

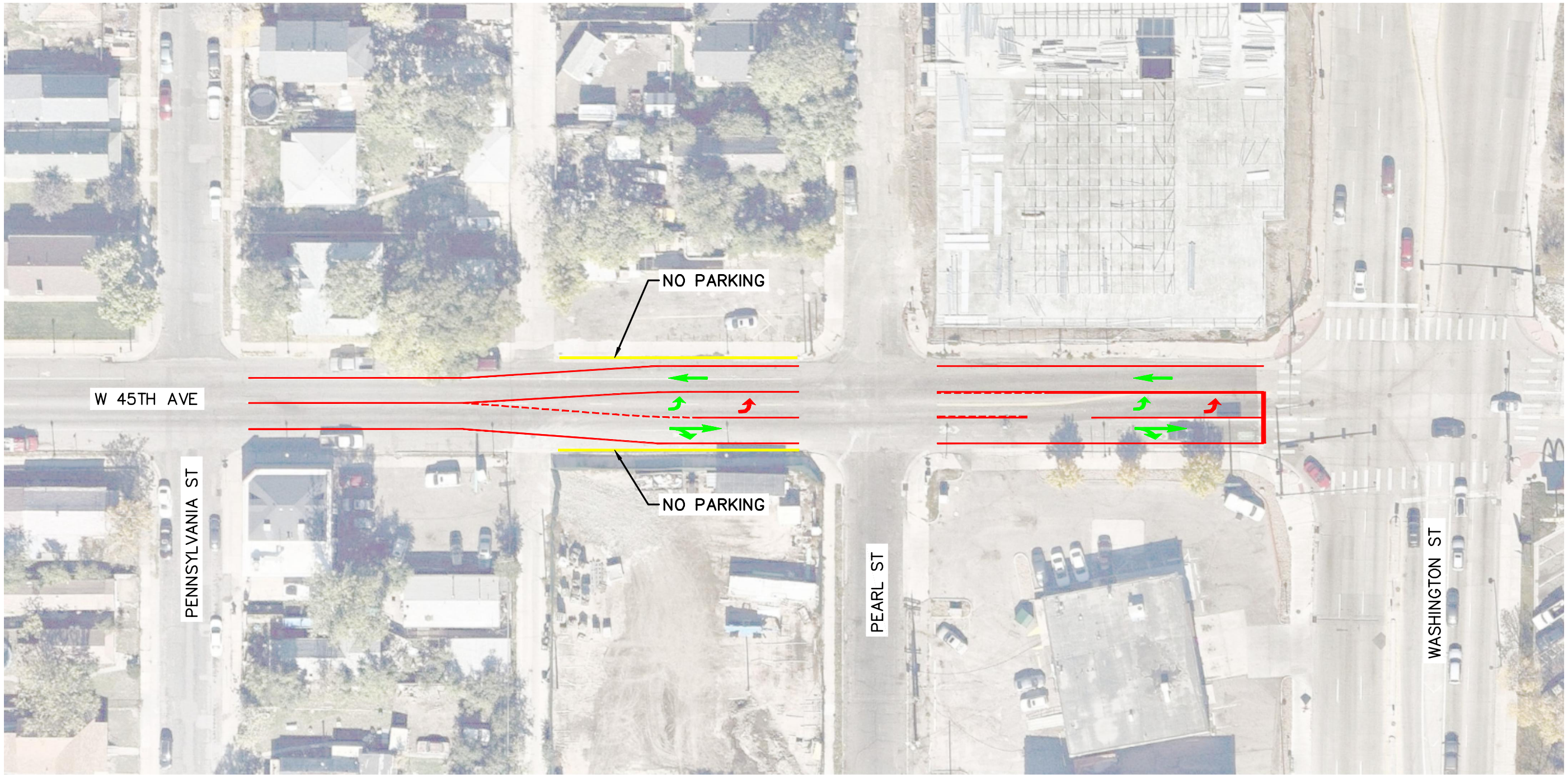
GRAPHIC SCALE IN FEET
0 25 50 100

FOX NORTH
DENVER, COLORADO
45TH AVENUE AND LINCOLN STREET MINOR MITIGATION IMPROVEMENT EXHIBIT

FIGURE 4

Kimley»Horn

NTS 096579000



NOTE:
THIS IS A CONCEPTUAL EXHIBIT AND THE FINAL DESIGN WILL MEET CITY AND COUNTY OF DENVER CRITERIA.

GRAPHIC SCALE IN FEET
0 25 50 100

FOX NORTH
DENVER, COLORADO
45TH AVENUE AND WASHINGTON STREET MINOR MITIGATION IMPROVEMENT EXHIBIT

FIGURE 5

Exhibit "F" to
Fox North Development Agreement

Form of Permanent Non-Exclusive Easement for Detention/Water Quality

Project Number:

PERMANENT NON-EXCLUSIVE EASEMENT

This Permanent Non-Exclusive Easement ("Easement"), made _____ Day of _____, 20___ between _____ whose address is _____ ("Grantor(s)" or "Owner(s)") and the CITY AND COUNTY OF DENVER, a home rule city and municipal corporation of the State of Colorado, whose address is 1437 Bannock Street, Denver, Colorado 80202 ("City" or "Grantee")

For and in consideration of connection to city wastewater facilities and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, the Grantor agrees as follows:

1. The Grantor(s) are the owner of the property commonly known and addressed as _____, (the "Property"), described in Exhibit A attached hereto and incorporated herein, which will be served by the following privately owned wastewater facilities: [sanitary sewer, storm sewer, permanent aboveground detention/water quality pond, permanent underground detention/water quality structure or vault with or without pump(s) and storm sewer outlet pipe] (collectively the "Facilities").

2. The Grantor(s) are jointly and severally responsible for the maintenance and service of such Facilities to ensure conformance with all applicable plans and standards approved by the City.

3. The Grantor(s) hereby grant(s) and convey(s) a permanent non-exclusive easement to the City under, in, upon, across and over the land described in Exhibit B attached hereto and incorporated herein ("Easement Area"), for the purpose of maintaining, repairing, and servicing the Facilities if required as set forth herein, together with any and all rights of ingress and egress, necessary or convenient to the City to accomplish such purposes.

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

5. If, in the sole opinion of the City's Manager of Public Works, Facilities are not properly maintained, constructed, repaired, or serviced by Grantor(s), the City shall give notice to the Grantor(s) and if maintenance, construction, repairs, servicing, or corrections are not made within the time designated in such notice, the City is authorized, but not required, to make or have made maintenance, construction, repairs, servicing or corrections. If the City performs such maintenance, construction, repair, servicing or correction, the City shall charge and collect the cost thereof from the Grantor(s). However, in cases of emergency, as solely determined by the City's Manager of Public Works, the City may choose to make immediate maintenance, servicing, repairs or corrections and to collect the cost thereof from the Grantor(s) without notice. Without limiting any other rights, remedies, or powers of the City, the costs to discharge Grantor's obligations to the City pursuant to this paragraph if unpaid are subject to filing of a Lien on the Property according to Colorado law, including C.R.S. 38-22-101 et. al.

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

7. If the Grantor(s) form an Owners Association to hold title to and/or administer the use, construction, repair, servicing and maintenance of the Facilities, the declaration or any similar instrument for any such Owners Association shall clearly state that the Owners Association has joint and several financial responsibility for the maintenance and repair of such Facilities, and the indemnity provisions of this Easement.

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

9. This Permanent Non-Exclusive Easement shall be recorded in the Denver County real property records.

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

If to City: Manager of Public Works

201 W. Colfax, Department 608

Denver, CO 80202

If to Grantor(s): Company

Address

Address

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

[Signatures follow on next page.]

IN WITNESS WHEREOF, the Grantor(s) hereto have executed this Permanent Non- Exclusive Easement as of the day and year first above written.

GRANTOR(S):

_____, a _____

BY: _____

Name, Title

STATE OF)
) ss
COUNTY OF)

The forgoing instrument was acknowledged before me the _____day of _____, 20___, by _____ as _____ for _____, a _____ as the Grantor(s).

Witness my hand and official seal

My Commission expires: _____

_____

Notary Public

_____

Address

EXHIBIT A
Property Legal Description
[To Be Inserted]

EXHIBIT B
Easement Area Legal Description
[To Be Inserted]