

AMENDATORY AGREEMENT

THIS AMENDATORY AGREEMENT is made and entered into this _____ day of November, 2010, by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the "City"), and **MAIN STREET POWER COMPANY, INC.** whose address is 1245 Pearl Street, Suite 201, Boulder Colorado 80302, a Delaware corporation authorized to do business in the State of Colorado ("Lessee" or "the Lessee").

WITNESSETH:

WHEREAS, the City and the Lessee previously entered into a Lease Agreement dated July 6, 2010 (the "Agreement") relating to lease of space on Rude Recreation Center located at 2855 West Holden Place, Denver, Colorado (the "Site") for installation of an electricity grid-connected photovoltaic, solar power plants with a total generating capacity rated at approximately 53.04 kWp (the "Generating Facility"); and

WHEREAS, the parties have, since the execution of the Agreement, been informed that the existing Roofing System Limited Warranty ("Warranty") as fully set forth at Exhibit G hereto, may be cancelled, voided, or otherwise limited by installation of the Generating Facility, which was not contemplated in the Agreement; and

WHEREAS, the parties wish to address the issues surrounding the Warranty.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and obligations herein set forth, the parties agree as follows:

1. Paragraph 8.03 of the Agreement, entitled "**MAINTENANCE**," is amended to add an additional paragraph F as follows:

F. In the event that the roof needs repairs that would have been covered under the Warranty a copy of which is attached as **Exhibit G** and incorporated herein by reference, Lessee shall at its expense make all necessary and appropriate roofing repairs as would have been provided under the Warranty at **Exhibit G**, subject to the limitations and conditions of the Warranty;

2. Except as herein amended, the Agreement is affirmed and ratified in each and every particular.

10-1007-A

IN WITNESS WHEREOF, the City and the Lessee have executed, through their respective lawfully empowered representatives, this Amendatory Agreement as of the day and year first above written.

ATTEST:

CITY AND COUNTY OF DENVER


By _____
STEPHANIE Y. O'MALLEY, Clerk and Recorder,
Ex-Officio Clerk of the City and County of Denver

By _____
Mayor


APPROVED AS TO FORM

RECOMMENDED AND APPROVED:

DAVID R. FINE,
Attorney for the City and County of Denver

By 
Manager of General Services

By _____
Assistant City Attorney

By 
Director of Greenprint

By 
Manager of Parks and Recreation

REGISTERED AND COUNTERSIGNED:


By _____
Manager of Finance

By _____
Auditor
Contract Control No.RC0A007-1

THE CITY

ATTEST:

MAIN STREET POWER COMPANY, INC.

By 
ASSISTANT Secretary

By 

Title PRESIDENT

LESSEE

EXHIBIT G

RED SHIELD BUILDING PRODUCTS WARRANTY



ROOFING SYSTEM LIMITED WARRANTY

Warranty No: R4002082 FERCO #KA1754 Square Footage: 28271 s.f.

Building Owner: CITY OF DENVER PARKS AND RECREATION
 Building Identification: RUDE RECREATION CENTER
 Building Address: 2825 WEST HOLDEN PLACE, DENVER, CO. 80203
 Warranty Period Of: TWELVE (12) Years Beginning on: 05/12/03
 Roofing Contractor: EARL F. DOUGLASS ROOFING CO. (012201)

For the warranty period indicated above, Firestone Building Products Company ("Firestone"), a division of BPS Diversified Products, LLC, a Delaware limited liability company, warrants to the Building Owner ("Owner") above that Firestone will subject to the Terms, Conditions and Limitations set forth below repair any leak in the Firestone Roofing System ("System").

TERMS, CONDITIONS AND LIMITATIONS

- The System is limited to install the Firestone brand membranes, Firestone brand insulation, and other Firestone brand accessories when installed in accordance with Firestone technical specifications.
- In the event any leak should occur in the System (a) The Owner must give written notice to Firestone within thirty (30) days of any occurrence of a leak. (b) Upon notifying Firestone, the Owner authorizes Firestone or its designee to investigate the cause of the leak. (c) If upon investigation, Firestone determines that the leak is not excluded under the Terms, Conditions and Limitations set forth in this limited warranty, the Owner's title and exclusive remedy and Firestone's liability will be limited to the repair of the leak. In the event the investigation reveals that the leak is excluded under the Terms, Conditions and Limitations, the Owner is responsible for payment of the investigation costs. Failure by Owner to pay for these costs shall render this Red Shield Roofing System Limited Warranty ("Limited Warranty") null and void. Firestone will advance the Owner of the type and/or extent of repairs required to be made at the Owner's expense that will permit this Limited Warranty to remain in effect for the unexpired portion of its term. Failure by the Owner to promptly make these repairs in a reasonable number using a Firestone licensed applicator and within a reasonable time shall render the Limited Warranty null and void. (d) Any dispute, controversy or claim between the Owner and Firestone concerning the Limited Warranty shall be settled by mediation. In the event that the Owner and Firestone do not resolve the dispute, controversy or claim in mediation, the Owner and Firestone agree that neither party will commence or prosecute any suit, proceeding, arbitration or claim in the courts of Hamilton County in the state of Indiana or the United States District Court, Southern District of Indiana, Indianapolis, Indiana. Each party irrevocably consents to the jurisdiction and venue of the above-mentioned courts.
- Firestone shall have no obligation under this Limited Warranty unless and until Firestone and the licensed applicator have both read in full the site manuals, drawings, specifications and other costs which are indicated in, or pertinent to, the System.
- Firestone shall have no obligation under this Limited Warranty, at any other liability, now or in the future if a leak or damage is caused by: (a) Normal process, operation, or use of Over-spraying, but not limited to, use of herbicides, pesticides, or other chemicals; (b) Any action, conduct or proceeding by any person, or series of acts, which damages the System or which impairs the System's ability to operate; (c) Failure by the Owner to use reasonable care in maintaining the System, said maintenance includes, but not limited to, those items listed on the reverse side of the Limited Warranty titled "Building Entrance Care and Maintenance Guide"; (d) Contamination or failure of building furnishings, including but not limited to the roof substrate walls, metal, HVAC units, etc.; (e) Contamination or installation of materials in, through or around the walls, ceilings, roof or hardware of equipment, building structure or foundation or surrounding materials; (f) Firestone, specifically exclude any damage to the Firestone insulation or roofing system that may come from moisture within the roof deck, or existing roof system; (g) Any level of harmful physical, chemical, or physical reaction to the leak which causes or contributes to the System, which damages the System, or which impairs the System's ability to resist leaks; (h) Alterations or repairs to the System not approved in writing by Firestone; (i) The architectural, engineering, construction or design of the roof, roofing system, or building. Firestone does not provide the analysis of the mechanical or engineering required to determine what type of roof system is appropriate. (j) A change in building use or intended use. (k) Failure to give proper notice as set forth in paragraph 2(b) above.
- This Limited Warranty shall be transferable subject to Firestone inspection, written approval, and payment of its normal transfer fee.
- During the term of the Limited Warranty, Firestone, its designated representative or any service that uses the access to the roof during regular business hours. In the event that roof access is limited due to weather or other reasons, Owner shall reimburse Firestone for all reasonable cash incurred during inspection and/or repair of the System that are due to delays or associated with such restrictions. Owner shall be responsible for the removal and replacement of any overflows, penetrations or openings, other permanent alterations, including accepted stone ballast or pavers, as necessary to restore the system to original condition.
- Firestone's failure to enforce any of the terms or conditions stated herein shall not be construed as a waiver of such provision, or of any other term or condition of this Limited Warranty.
- This Limited Warranty shall be governed and construed in accordance with the laws of the State of Indiana, not without regard to conflict of laws.

FIRESTONE DOES NOT WARRANT PRODUCTS INCORPORATED OR UTILIZED IN THIS INSTALLATION WHICH IT HAS NOT MANUFACTURED. FIRESTONE SPECIFICALLY DISCLAIMS LIABILITY, UNDER ANY THEORY OF LAW, ARISING OUT OF THE INSTALLATION OR PERFORMANCE OF OR DAMAGES SUSTAINED BY OR CAUSED BY PRODUCTS NOT MANUFACTURED BY FIRESTONE. THIS LIMITED WARRANTY SUPERSEDES AND IS IN LIEU OF ALL OTHER WARRANTIES OR GUARANTEES, WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF BEST MATERIALS AND FITNESS FOR A PARTICULAR PURPOSE. THIS LIMITED WARRANTY SHALL BE THE OWNER'S SOLE AND EXCLUSIVE REMEDY AGAINST FIRESTONE, AND FIRESTONE SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR OTHER DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR DAMAGE TO THE BUILDING OR ITS CONTENTS OR THE ROOF DECK. THIS LIMITED WARRANTY CANNOT BE AMENDED, ALTERED OR EXTENDED IN ANY WAY EXCEPT IN WRITING SIGNED BY AN AUTHORIZED OFFICER OF FIRESTONE. NO OTHER PERSON HAS ANY AUTHORITY TO END FIRESTONE WITH ANY REPRESENTATION OF WARRANTY WHETHER ORAL OR WRITTEN.

FIRESTONE BUILDING PRODUCTS COMPANY
 By: George Furman
 Signature: George Furman
 Title: Manager, Operations Services



BUILDING ENVELOPE CARE AND MAINTENANCE GUIDE
(Recommendations for Buildings with Firestone Red Shield Limited Warranty)

Congratulations on your purchase of a Firestone Roofing System for your building! Your building is a valuable asset and as such should be properly maintained. All building envelope components require periodic attention to perform as designed and to protect your investment.

1. The building envelope, including the roof, should be inspected at least twice yearly (in the Spring and Fall), and after any severe storms. Record maintenance procedures as they occur. Log all access times and parties working on the roof.
2. Although Firestone roofing membranes are designed to accommodate moderate levels of standing water, the weight of standing water, ice or snow on a roof may exceed building structural design loads. As a consequence, good roofing practice suggests that water not be allowed to remain on the roof for more than 48 hours after a rainfall. Roofs should have slope to drain and all drain areas should remain clean. Bag and remove all debris from the roof since such debris can be quickly swept into drains by rain. This will allow for proper water run-off and avoid overloading the roof with standing water.
3. The Firestone Roofing System should not be exposed to acids, solvents, greases, oil, fats, chemicals and the like. If the Firestone Roofing System is subject to contact with any such materials, contact Firestone immediately.
4. The Firestone Roofing System is designed to be a waterproofing component -- not a traffic-bearing component -- of the building envelope. If there is to be roof traffic for any reason, contact Firestone or your Firestone Licensed Applicator for the installation of acceptable protective walkways.
5. Although periodic inspection is recommended to assure that building components have not been subjected to unusual forces or conditions, the Firestone Roofing System components do not require maintenance under normal service in order to perform as designed or to keep this Limited Warranty in effect. Surfacing, such as coatings, are sometimes applied to roof membranes for a number of reasons. These surfacings are not covered under the terms of this limited warranty, although they may be covered under a separate agreement.
 - a) The application of an approved liquid coating, such as Firestone's Acrylic Coating System for Asphalt or Aluminum Roof Coating to smooth surfaced APP membranes provides additional protection from the environment. If this coating is not applied as part of the initial roofing installation, it should be applied within the first five years after the roof is installed to help protect the membrane from surface cracking inherent in such asphalt products. In addition, this coating should be maintained as needed to recover any areas of the coating that have blistered, peeled or worn through.
 - b) Granular surfaced APP and SBS membranes do not normally require surface maintenance other than periodic inspection for contaminants (See item 3.) or damage. If areas of granular loss are discovered during inspection, new granules should be broadcast into hot asphalt or emulsion to protect the surface of the membrane. The application of an approved liquid coating, such as Firestone's Acrylic Coating System for Asphalt or Aluminum Roof Coating to granular surfaced APP or SBS membranes does provide additional protection from the environment. If this coating is not applied as part of the initial roofing installation, it can be applied later to help protect the membrane. If installed, this coating should be maintained as needed to recover any areas of the coating that have blistered, peeled or worn through.
 - c) Gravel surfaced BUR membranes do not normally require surface maintenance other than periodic inspection for contaminants (See item 3.) or damage. If areas of gravel loss are discovered during inspection, gravel must be reinstalled into hot asphalt to protect the surface of the membrane. Smooth surface BUR membranes must be kept coated using original coating materials for the life of this warranty.
 - d) EPDM and other single-ply roofing membranes do not normally require surface maintenance other than periodic inspection for contaminants (See item 3.) or damage. Occasionally, approved liquid roof coatings, such as Firestone AcryliTop, are applied to the surface of EPDM membranes in order to provide a lighter surface color. Such coatings do not need to be maintained to assure the performance of the underlying EPDM roof membrane, but some maintenance and re-coating may be necessary in order to maintain a uniform surface appearance.
6. All counterflashing, metal work, drains, skylights, equipment curb and supports, and any other roofing accessories functioning in conjunction with the Firestone Roofing System must be properly maintained at all times.
7. If any additional equipment is to be installed on your roof (e.g. HVAC units, TV antennas, etc.), contact Firestone, in writing, for approval before proceeding.
8. Should there be an addition to the building, requiring tie-in to the existing Firestone Roofing System, contact Firestone before proceeding to ensure the tie-in is in accordance with Firestone specifications.
9. Should you have a problem:
 - a) Check for the obvious: clogged roof drains, loose counterflashing, broken skylights, open grills or vents, broken water pipes.
 - b) Note conditions resulting in leaks. Heavy or light rain, wind direction, temperature and time of day that the leak occurs are all important clues to tracing roof leaks. Note whether the leak stops shortly after each rain or continues to drip until the roof is dry. If you are prepared with this facts, the diagnosis and repair of the leak can proceed more rapidly.
 - c) Contact Firestone Warranty Claims at 1-800-830-5612 immediately...but please don't call until you are reasonably sure that the Firestone Roofing System is the cause of the leak.

Firestone feels that the preceding recommendations will assist you, the building owner, in maintaining your building for many years. Remember, your building is an investment. To maximize your return on this investment, appropriate care is essential.

Firestone
BUILDING PRODUCTS
NOBODY COVERS YOU BETTER.®

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