

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“Agreement”) made and entered into as of the Effective Date set forth below, by and between 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 (“Purchaser”), and **TMC ENTERPRISES, LLC**, a Colorado limited liability company, whose address is 1378 McNeil Road, P.O. Drawer 10, Sanford, North Carolina 27331-0010 (“Seller”).

RECITALS

- A. **WHEREAS**, Seller owns certain real property in City and County of Denver, State of Colorado;
- B. **WHEREAS**, subject to the terms of the Agreement, Seller agrees to sell and Purchaser agrees to purchase the Property described in Section 1 of this Agreement for a 911 Communications Center, and other related improvements and appurtenances as described; and
- C. **WHEREAS**, Purchaser intends to purchase the Property with proceeds generated by a sale leaseback transaction with a yet to be determined trustee.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and obligations set forth herein, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **SUBJECT PROPERTY**. Subject to the terms of the Agreement, Purchaser shall purchase and the Seller shall sell the real property generally located at 12025 East 45th Avenue, Denver, Colorado, which is more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference, together with (i) all buildings (consisting of approximately 72,000 square feet), fixtures and improvements on the property and any and all personal property for maintenance of the property; (ii) all easements, rights of way and vacated roads, streets and alleys appurtenant to the property; and (iii) all of Seller’s right, title and interest in and to all utility taps, licenses, permits, contract rights, and warranties and guarantees associated with the property (collectively “Property”).

2. **PURCHASE PRICE AND EARNEST MONEY DEPOSIT**.

a. **Purchase Price**. The total purchase price for the Property to be paid by Purchaser at Closing, as hereinafter defined in paragraph 8, is **SEVEN MILLION THIRTY FIVE THOUSAND DOLLARS AND ZERO CENTS (\$7,035,000.00)** (“Purchase Price”), which may be paid by cash, certified check, wire transfer or other good funds.

b. **Earnest Money Deposit**. Ten (10) days after the Effective Date, Purchaser shall deposit **FIFTY THOUSAND DOLLARS AND ZERO CENTS (\$50,000.00)** (“Earnest Money”) in to an escrow account held by the Chicago Title (“Title Company”). If Purchaser elects to proceed to Closing and the Closing occurs, the Earnest Money shall be applied to the Purchase Price. If Purchaser elects not to close due to Seller’s failure to cure any defects or conditions timely objected to and not waived in writing by Purchaser or because of Seller’s uncured default hereunder as provided for in this

Agreement, the Earnest Money, and any interest accrued thereon, shall be returned to Purchaser within (7) days.

3. **ENVIRONMENTAL CONDITION.**

a. **Environmental Information.** Within the timeframe set forth in paragraph 7(a), Seller shall deliver to Purchaser all environmental reports and other written notices in Seller's possession regarding any environmental contamination (including asbestos-contaminated soils) or the presence of any hazardous or toxic substances on, under, or about the Property. In the event Seller acquires any additional information regarding environmental contamination, it has the ongoing duty to provide a copy of such information to Purchaser up to the time of Closing, and will do so within five (5) days of the receipt of such additional information. For purposes of the Agreement: "hazardous substances" means all substances listed pursuant to regulation and promulgated under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C., § 9601 *et seq.*, or applicable state law, and any other applicable federal or state laws now in force or hereafter enacted relating to hazardous waste disposal; provided, however, that the term hazardous substance also includes "hazardous waste" and "petroleum" as defined in the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 *et seq.* §6991(1). The term "toxic substances" means and includes any materials present on the Property that are subject to regulation under the Toxic Substance Control Act ("TSCA"), 15 U. S. C. § 2601 *et seq.*, applicable state law, or any other applicable federal or state law now in force or later enacted relating to toxic substances. The term "toxic substances" includes, but is not limited to, asbestos, polychlorinated biphenyls (PCB's), and lead-based paints.

b. **Environmental Review.** Purchaser, at its sole option and expense, may conduct or cause to be conducted environmental audits and perform other environmental tests on the Property to identify any existing or potential environmental problems located in, on, or under the Property, including but not limited to, the presence of Hazardous Waste, Hazardous Substances or Toxic Substances. Seller hereby grants Purchaser and any of its employees and consultants access to the Property to perform such audits and tests.

c. **Notice of Unacceptable Environmental Conditions, Cure, Purchaser Election.** By the deadline set forth in paragraph 7(b), Purchaser shall give notice to Seller of any unacceptable environmental condition relating to the Property. At Seller's sole cost and expense, Seller may elect to cure such unacceptable environmental condition. In the event Seller fails or declines to cure any timely noticed unacceptable environmental condition by the date set forth in paragraph 7(c), Purchaser, in its sole discretion and as its sole remedy, may elect to either waive such unacceptable conditions and proceed to Closing by the deadline set forth in paragraph 7(d) without adjustment to the Purchase Price or treat the Agreement as terminated with no further obligation on the part of either party.

4. **INSPECTION/SURVEY.** The Purchaser has the right to inspect the physical condition of the Property. Seller, at its sole cost and expense, shall cause an ALTA survey to be conducted of the Property and provide such survey to Purchaser in accordance with the schedule set forth in paragraph 7(a) below. This right to inspect is in addition to the right of Purchaser to an environmental review of the Property under Section 3.b of this Agreement. The Purchaser shall give notice of any unacceptable physical or survey condition of the Property to Seller by the deadline set

forth in paragraph 7(b). At Seller's sole cost and expense, Seller may elect to cure such unacceptable physical or survey condition to Purchaser's reasonable satisfaction. In the event Seller fails or declines to cure such timely noticed unacceptable physical or survey condition by the date set forth in paragraph 7(c), Purchaser, at its sole discretion and as its sole remedy, may elect to either waive such unacceptable physical or survey condition by the date set forth in paragraph 7(d) and proceed to Closing by the deadline set forth in paragraph 7(d) without adjustment to the Purchase Price or treat the Agreement as terminated with no further obligation on the part of either party. Seller hereby grants Purchaser and any of its employees and consultants access to the Property to perform such inspections of the Property.

5. **TITLE.**

a. **Title Review.** Within seven (7) business days after execution of this Agreement, Seller, at Seller's expense, shall provide Purchaser a current commitment for ALTA Form B Seller's Title Insurance Policy for the Property from the Title Company. The title insurance commitment and all copies or abstracts of instruments or documents identified in the commitment shall constitute the title documents ("Title Documents"). The Purchaser has the right to inspect the Title Documents.

b. **Matters Not Shown by the Public Records.** By the deadline set forth in paragraph 7(a), Seller shall deliver to Purchaser complete and accurate copies of all lease(s) and survey(s) in Seller's possession pertaining to the Property and shall disclose, in writing, to Purchaser all easements, liens or other title matters not shown by the public records of which Seller has actual knowledge.

c. **Notice of Unacceptable Condition, Cure, and Purchaser Elections.** The Purchaser shall give written notice of any unacceptable condition of title to Seller by the deadline set forth in paragraph 7(b). At Seller's sole cost and expense, Seller may elect to cure such unacceptable condition to Purchaser's reasonable satisfaction. In the event Seller fails or declines to cure such timely noticed unacceptable condition by the date in paragraph 7(c), Purchaser in its sole discretion and by the date set forth in paragraph 7(d) as Purchaser's sole remedy, may elect to either waive such unacceptable condition and proceed to Closing without adjustment to the Purchase Price or treat the Agreement as terminated with no further obligation on the part of either party.

6. **CLOSING PRE-CONDITIONS.** Seller shall fully cooperate with Purchaser to do all things reasonably necessary, including execute affidavits as necessary and provide adequate assurances reasonably necessary for removal of the standard exceptions for defects, liens, mechanic's liens, tax or assessment liens, title insurance, encumbrances, encroachments, prescriptive easements, adverse claims, or similar matters, regarding such matters. Seller's obligation to execute reasonably necessary affidavits, provide adequate assurances for the removal of the standard exception from the title insurance to be issued are conditions precedent to Purchaser's obligation to purchase the Property. Notwithstanding the foregoing, Seller shall not be required to expend any money to cooperate, to provide said deliverables, or to remove such items. If Seller does not provide the adequate assurances by the date in paragraph 7(c), Purchaser as Purchaser's sole remedy may elect to waive the failure to provide the adequate assurances and proceed to Closing without adjustment to the Purchase Price or treat the Agreement as terminated with no further obligation on the part of either party, except the Earnest Money, and any interest accrued thereon, shall be returned to Purchaser within (7) days. In

addition to the foregoing, the Closing shall be contingent upon the following:

- a. Purchaser entering into a sale leaseback transaction with a yet to be determined trustee intended to fund the purchase of the Property at Closing; and
- b. Seller's termination of the Commercial Lease Agreement described in paragraph 11(c) below occurring on or prior to the Closing.

7. **SCHEDULE.**

a. **Seller's Disclosure.** Seller shall deliver any documents and make the disclosures required by this Agreement, including paragraphs 3(a) and 5(b), no later than 5 p.m. local time seven (7) business days from the date Seller executes the Agreement.

b. **Purchaser's Objection Notice.** The Purchaser shall notify Seller in writing of any unacceptable environmental, physical, survey, title conditions and all other unacceptable matters by 5 p.m. local time, thirty (30) days from receipt of Seller's disclosures.

c. **Seller's Cure.** Seller shall have until no later than 5 p.m. local time ten (10) days from the date of Purchaser's objection notice to cure all the unacceptable conditions set forth in the objection notice that Seller elects to cure.

d. **Purchaser's Election.** The Purchaser shall elect, in writing, to waive any uncured objections and proceed to Closing without adjustment to the Purchase Price or to terminate the Agreement by the deadline to cure established in paragraph 7(c) above. If Purchaser elects to proceed to Closing by the date established in paragraph 7(c), the Earnest Money shall be nonrefundable. If Purchaser elects not to proceed to Closing by the date established in paragraph 7(c), the Earnest Money, and any interest accrued thereon, shall be returned to Purchaser within (7) days.

8. **DATE OF CLOSING.** The date of closing will be on a date, time and place mutually agreed upon by the Parties, but no later than January 30, 2015 ("Closing"); provided, however, that the Closing date may be changed by Purchaser's Director of the Division of Real Estate with agreement of the Seller.

9. **TRANSFER OF TITLE.** Subject to tender of the Purchase Price at Closing and compliance with the other terms and provisions of the Agreement, Seller shall execute and deliver a Special Warranty Deed in substantially the form set forth as **Exhibit B**, attached hereto and incorporated herein by this reference ("Deed") to Purchaser at Closing conveying the Property free and clear of all taxes (with proration as provided herein) and free and clear of all liens and encumbrances, except: (i) those matters accepted by Purchaser in accordance with the provisions in the Agreement; (ii) those rights, if any, of third parties in the Property not shown by the public records accepted by Purchaser in accordance with the Agreement; and (iii) subject to applicable building and zoning regulations.

10. **POSSESSION.** Possession of the Property shall be delivered to Purchaser at Closing.

11. **REPRESENTATIONS.** Seller warrants and represents that at the time of conveyance:

a. Seller is the owner of the Property subject to any and all matters of title disclosed by the title commitment and other disclosures delivered hereunder; and

b. There are no other parties in possession except as otherwise disclosed herein and Purchaser shall have possession as of Closing or as otherwise agreed to herein; and

c. There are no other known parties of interest, including leasehold interests, in the Property other than that certain Commercial Lease Agreement, as amended from time to time, by and between Seller and Convergys Customer Management Group Inc., a copy of which has been provided to Purchaser prior to the Effective Date; and

d. To the best of Seller's actual knowledge there is no known condition existing with respect to the Property or its operation, that to Seller's actual knowledge violates any law, rule regulation, code or ruling of the local jurisdiction, the State of Colorado, the United States, or any agency or court thereof; and

e. Seller has no actual knowledge of any patent or latent defects, soil deficiencies, or subsurface anomalies existing on the Property; and

f. There is no pending or, to the best of Seller's knowledge, threatened litigation, proceeding, or investigation by any governmental authority or any other person known to Seller against or otherwise affecting the Property, nor does Seller know of any grounds for any such litigation, proceeding or investigations; and

g. To the best of the Seller's actual knowledge, each and every document, schedule, item, and other information delivered or to be delivered by the Seller to Purchaser or made available to Purchaser for inspection under the Agreement is complete; and

h. To the best of the Seller's actual knowledge, Seller has provided Purchaser with a copy of all leases or rental and all other agreements and documents not shown in the real property records relating to the Property, or to any part thereof; and

i. Seller has notified Purchaser of all improvements, real or personal, on the Property not owned by the Seller and Seller warrants to Purchaser that it is the lawful owner of all other improvements located in or on the Property and is entitled to the Purchase Price as compensation for the same; and

j. To the best of Seller's actual knowledge, Seller has notified Purchaser of all claims of possession not show by record, as to any part of the Property; and

k. With respect to environmental matters, except as previously disclosed herein, to the best of Seller's actual knowledge:

- (i) No part of the Property has ever been used as a landfill by Seller; and
- (ii) Seller has no actual knowledge of the presence of asbestos-contaminated soils existing within the Property; and
- (iii) Seller has no actual knowledge or information that the Property is or may be contaminated with any hazardous or toxic substances; and
- (iv) Seller has not caused and will not cause, and to the best of the Seller's knowledge, there never has occurred, the release of any hazardous or toxic substances on the Property; and
- (v) Seller has received no written or official notification that the Property is subject to any federal, state or local lien, proceedings, claim, liability or action or the threat or likelihood thereof, for the cleanup, removal, or remediation of any hazardous or toxic substances from the Property; and
- (vi) Seller has no actual knowledge or information as to any storage tanks on or beneath the Property other than an above-ground storage tank serving a generator located on the Property; and

By selling the Property, Seller does not transfer, nor is it released from, any liability for the cleanup, removal, or remediation of any hazardous or toxic substances from the Property or any liability, cost, or expense for the oversight, management, and removal of any asbestos (including asbestos-contaminated soils) or underground storage tank from the Property, to the extent such liability may exist under federal, state, or local law.

12. **PAYMENT OF ENCUMBRANCES.** Seller is responsible for paying at or before Closing all mortgages and other judgments and monetary liens that can be released by paying a fixed sum of money from the proceeds of this transaction or from any other source.

13. **CLOSING COSTS, DOCUMENTS AND SERVICES.** Fees for real estate closing services shall be paid at Closing by the Seller and Purchaser as follows: The Seller shall pay for (i) a standard coverage owner's policy of title insurance (including any endorsements thereto required to delete standard title exceptions), (ii) one-half (1/2) of all escrow fees and closing fees, and (iii) all prorated items to the date of Closing. The Purchaser shall pay for (i) all transfer taxes, state deed fees, recording fees, and documentary fees, and (ii) one-half (1/2) of all escrow fees and closing fees. The Purchaser and Seller shall sign and complete all customary or required documents at or before Closing.

14. **PRORATIONS.** Seller shall pay any and all taxes owed on the Property prorated through the date of Closing. Seller shall pay all special assessments accrued as of the Effective Date. Based on the most recent levy and the most recent assessment, at or before Closing, Seller shall pay all utility, water and sewer charges, and other items related to the Property prorated through the date of Closing.

15. **TIME IS OF THE ESSENCE/REMEDIES.** Time is of the essence. All the agreements and representations set forth in the Agreement shall be binding upon and for the benefit of each party's successors and assigns. If any payment due in accordance with the Agreement is not paid, honored or tendered when due, or if any other obligation under the Agreement is not performed or waived as provided in the Agreement, there shall be the following remedies:

a. **If Purchaser Is In Default.** If Purchaser is in default under the terms of this Agreement, the Seller may elect to (i) treat the Agreement as canceled and the Parties shall thereafter be released from all obligations under the Agreement and Seller shall be entitled to retain all nonrefundable Earnest Money deposits earned up to the point of default or (ii) treat the Agreement as being in full force and effect and seek specific performance or damages, including delay damages and attorney fees, or both, or any other legal or equitable remedy.

b. **If Seller Is In Default.** If the Seller is in default under the terms of this Agreement, the Purchaser may elect to (i) treat the Agreement as canceled, in which case all payments and things of value received under the Agreement shall be returned and the Parties shall thereafter be released from all obligations under the Agreement or (ii) treat the Agreement as being in full force and effect and seek specific performance or damages, including delay damages and attorney fees, or both, or any other legal or equitable remedy.

16. **TERMINATION.** If the Agreement is terminated, the Earnest Money shall be disbursed as provided hereunder and all other payments and things of value received under the Agreement shall be returned and the Parties shall be relieved of all obligations under the Agreement.

17. **AUTHORITY TO EXECUTE.** Each Party represents that the persons who have executed the Agreement on behalf of such Party have all necessary and sufficient authority to bind such Party.

18. **COOPERATION OF THE PARTIES.** In the event that any third party brings an action against a party to the Agreement regarding the validity or operation of the Agreement, the other party will reasonably cooperate in any such litigation. Any party named in an action shall bear its own legal costs.

19. **BROKER'S FEES.** Purchaser and Seller represent and warrant to each other that except as to CBRE, Inc., which is the Seller's broker, and McLin Commercial, which is the Purchaser's broker, such Party has not employed nor engaged any brokers, consultants or real estate agents to be involved in this transaction. Seller shall pay a commission to CBRE, Inc. in accordance with a separate listing agreement. In the event of Closing pursuant to the terms of this Agreement, Seller shall also pay to McLin Commercial a commission computed as follows: (i) two percent of the \$7,000,000 Purchase Price, or (ii) if the actual Purchase Price paid by Purchaser at Closing is less than \$7,000,000, the commission payable to McLin Commercial shall be equal to two percent (2%) of the actual Purchase Price paid by Purchaser at Closing.

20. **SEVERABILITY.** The promises and covenants contained in the Agreement are several in nature. Should any one or more of the provisions of the Agreement be judicially adjudged invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remaining provisions of

the Agreement.

21. **NO DISCRIMINATION IN EMPLOYMENT**. In connection with the performance duties under the Agreement, the Seller agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color religion, national origin, gender, age, military status, sexual orientation, gender variance, marital status, or physical or mental disability; and further agrees to insert the foregoing provision in all subcontracts relating to the Agreement.

22. **WHEN RIGHTS AND REMEDIES NOT WAIVED**. In no event shall any performance under the Agreement constitute or be construed to be a waiver by any party of any breach of covenant or condition or of any default that may then exist. The rendering of any such performance when any breach of default exists in no way impairs or prejudices any right of remedy available with respect to the breach of default. Further, no assent, expressed or implied, to any breach of any one or more covenants, provisions, or conditions of the Agreement may be deemed or taken to be a waiver or any other default or breach.

23. **SUBJECT TO LOCAL LAWS; VENUE**. The Agreement is subject to and is to be construed in accordance with the laws of the local jurisdiction and the State of Colorado, including all ordinances, rules and regulations enacted or promulgated pursuant to these state and local provisions. The aforementioned provisions are incorporated into the Agreement by this reference. Venue for any action arising out of the Agreement is in the District Court of the jurisdiction where the property is located.

24. **NOTICES**. All notices provided for herein must be in writing and be personally delivered, sent via facsimile, electronic mail, or mailed by registered or certified United States mail, postage prepaid, return-receipt requested, if to the Seller at the address first listed above and if to Purchaser at the addresses or facsimile numbers given below. Notices delivered personally or sent electronically or by facsimile are effective when sent. Notices sent by certified or registered mail are effective upon receipt. The Parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered; however, these substitutions will not become effective until actual receipt of written notification.

If to Purchaser:

Jeffrey J. Steinberg
Director of Division of Real Estate
Department of Finance
201 West Colfax Avenue, Department 1010
Denver, Colorado 80202
e-mail: jeffrey.steinberg@denvergov.org
facsimile: 720.865.7585

With copies of termination and similar notices to:

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

and

City Attorney's Office
201 West Colfax Avenue, Dept. 1207
Denver, Colorado 80202

If to Seller:

TMC Enterprises, LLC
1378 McNeil Road
P.O. Drawer 10
Sanford, North Carolina 27331-0010

25. **PARTIES' LIABILITIES.** Each party is responsible for any and all suits, demands, costs, or action proximately resulting from its own individual acts or omissions.

26. **RIGHT TO ALTER TIME FOR PERFORMANCE.** The Parties may alter any time for performance set forth in the Agreement by a letter signed by both Purchaser's Director of the Division of Real Estate and an authorized representative of Seller.

27. **AGREEMENT AS COMPLETE INTEGRATION; AMENDMENTS.** The Agreement is intended as the complete integration of all understandings between the Parties. No prior or contemporaneous addition, deletion or other amendment to the agreement will have any force or effect whatsoever, unless embodied in writing in the Agreement. Except as expressly provided for in the Agreement, no subsequent notation, renewal, addition, deletion, or other amendment to the Agreement shall have any force or effect unless embodied in a written amendatory or other agreement executed by the Parties.

28. **THIRD-PARTY BENEFICIARY.** It is the intent of the Parties that no third party beneficiary interest is created in the Agreement except for an assignment pursuant to the Agreement. The Parties are not presently aware of any actions by them or any of their authorized representatives that 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 the Agreement.

29. **APPROPRIATION BY CITY COUNCIL.** All obligations of Purchaser under and pursuant to the Agreement are subject to prior appropriations of monies expressly made by Purchaser Council for the purposes of the Agreement and paid into the Treasury of Purchaser.

30. **REASONABLENESS OF CONSENT OR APPROVAL.** Whenever under the Agreement "reasonableness" is the standard for the granting or denial of the consent or approval of either party, such party shall be entitled to consider public and governmental policy, moral and ethical

standards, as well as business and economic considerations.

31. **NO PERSONAL LIABILITY**. No elected official, director, officer, agent or employee of Purchaser nor any director, officer, employee or personal representative of Seller shall be charged personally or held contractually liable by or to the other party under any term or provision of the Agreement or because of any breach thereof or because of its or their execution, approval or attempted execution of the Agreement.

32. **CONFLICT OF INTEREST BY CITY OFFICER**. Seller represents that to the best of Seller's information and belief no officer or employee of Purchaser is either directly or indirectly a party to or in any manner interested in the Agreement except as such interest may arise as a result of the lawful discharge of the responsibilities of such elected official or employee.

33. **MERGER**. The terms of the Agreement survive Closing and do not merge into the Deed conveying the Property.

34. **CONSTRUCTION**. The Agreement may not be interpreted in favor of or against either Seller or Purchaser merely because of their respective efforts in preparing it. The rule of strict construction does not apply to the Agreement. This instrument is subject to the following rules of construction:

- a. Specific gender references are to be read as the applicable masculine, feminine, or gender neutral pronoun.
- b. The words "include," "includes," and "including" are to be read as if they were followed by the phrase "without limitation."
- c. "Seller" means "Sellers" when more than one person or entity is identified as an owner in the Agreement and each associated verb is to be read as singular or plural as appropriate.
- d. The words "party" and "Parties" refer only to a named party to the Agreement.
- e. Unless otherwise specified, any reference to a law, statute, regulation, charter or code provision, or ordinance means that statute, regulation, charter or code provision, or ordinance as amended or supplemented from time to time and any corresponding provisions of successor statutes, regulations, charter or code provisions, or ordinances.

35. **ASSIGNMENT**. The Purchaser is not obligated or liable under the Agreement to any party other than Seller named in the Agreement. Seller understands and agrees that it may not assign any of its rights, benefits, obligations, or duties under the Agreement without Purchaser's Director of the Division of Real Estate's prior written approval.

36. **PURCHASER EXECUTION OF AGREEMENT**. The Agreement is subject to, and will not become effective or binding on Purchaser until full execution by all required signatories of Purchaser as set forth in Purchaser's signature block below.

37. **COUNTERPARTS**. The Agreement may be executed in counterparts, each of which

is an original and together constitute the same document.

38. **EFFECTIVE DATE**. The Effective Date shall be the date set forth on Purchaser's signature page below.

39. **ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS**. Other than the Deed, the Parties hereto consent to the use of electronic signatures by the Parties. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the Parties in the manner specified by the Parties. The Parties agree not to deny the legal effect or enforceability of the 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 the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

40. **1031 Exchange**. If requested, each Party shall cooperate with the other Party in effecting a tax-free, like-kind exchange utilizing a qualified intermediary in accordance with the terms of 1031 of the Internal Revenue Code. The exchangor shall be responsible for its own fees and expenses in facilitating its own 1031 tax-free exchange, and the other Party's commitment to assist in such facilitation by the exchangor shall be at no cost to the other Party.

IN WITNESS WHEREOF, the Parties have executed and affixed their seals, if any, as of the Effective Date.

[Remainder of Page Intentionally Left Blank]

Signatures on following pages.

IN WITNESS WHEREOF, the parties have executed and affixed their seals, if any, at Denver, Colorado as of: _____.

ATTEST:

CITY AND COUNTY OF DENVER

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

By: _____
MAYOR

APPROVED AS TO FORM:
Denver City Attorney

REGISTERED AND COUNTERSIGNED:

By: _____
Assistant City Attorney

By: _____
Chief Financial Officer

By: _____
Auditor

“PURCHASER”

Contract Control Number:
Contractor Name:

TMC ENTERPRISES, LLC,
a Colorado limited liability company

By: _____

Name: _____

Title: _____

“SELLER”

Contract Control Number: FINAN-201418734-00

Contractor Name: TMC ENTERPRISES LLC

By: 

Name: JEFFREY T. MYLES
(please print)

Title: MANAGER
(please print)

ATTEST: [if required]

By: NONE REQUIRED

Name: _____
(please print)

Title: _____
(please print)



Contract Control Number:

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

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



Exhibit A

(Exhibit on Following Page)

PARCEL 1

A PORTION OF BLOCK 1, MONTBELLO NO. 19, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID BLOCK 1; THENCE NORTHERLY ALONG THE WEST LINE OF SAID BLOCK 1, A DISTANCE OF 240.82 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WEST LINE OF BLOCK 1, A DISTANCE OF 459.38 FEET; THENCE ON AN ANGLE TO THE RIGHT OF 90°11'28", A DISTANCE OF 405.80 FEET; THENCE ON AN ANGLE TO THE RIGHT OF 90°00'00", A DISTANCE OF 240.00 FEET; THENCE ON AN ANGLE TO THE RIGHT OF 90°00'00", A DISTANCE OF 72.81 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 90.00 FEET AND THROUGH A CENTRAL ANGLE OF 90°00'00", AND ARC LENGTH OF 141.37 FEET TO A POINT OF TANGENCY; THENCE ALONG SAID TANGENT, A DISTANCE OF 129.35 FEET; THENCE ON AN ANGLE TO THE RIGHT OF 90°00'00", A DISTANCE OF 241.86 FEET TO THE POINT OF BEGINNING, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

EXCEPT THAT PORTION DESCRIBED AS FOLLOWS:

A PORTION OF BLOCK 1, MONTBELLO NO. 19, CITY AND COUNTY OF DENVER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID BLOCK 1; THENCE NORTHERLY ALONG THE WEST LINE OF SAID BLOCK 1, A DISTANCE OF 700.00 FEET; THENCE ON AN ANGLE TO THE RIGHT OF 90°11'28", A DISTANCE OF 205.80 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG LAST MENTIONED COURSE, A DISTANCE OF 200.00 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF PARIS STREET; THENCE ON AN ANGLE TO THE RIGHT OF 90°00'00" AND ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 210.00 FEET; THENCE ON AN ANGLE TO THE RIGHT OF 90°00'00", A DISTANCE OF 200.00 FEET; THENCE ON AN ANGLE TO THE RIGHT OF 90°00'00", A DISTANCE OF 210.00 FEET TO THE POINT OF BEGINNING,

AND EXCEPT ANY PORTION LYING WITHIN 48TH AVENUE OR PARIS STREET.

PARCEL 1

FURTHER DESCRIBED AS:

A PORTION OF BLOCK 1, MONTBELLO NO. 19, CITY AND COUNTY OF DENVER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF BLOCK 1, MONTBELLO NO. 19; THENCE NORTHERLY ALONG THE WEST LINE OF BLOCK 1, MONTBELLO NO. 19, A DISTANCE OF 240.82 FEET TO A FOUND 1/2" REBAR W/PLASTIC CAP LABELED NHP&Q LS 2882, THE POINT OF BEGINNING; THENCE CONTINUING NORTHERLY ALONG SAID WEST LINE A DISTANCE OF 459.81 FEET TO A FOUND CHISELED CROSS IN A CONCRETE CURB; THENCE ON AN ANGLE TO THE LEFT OF 89°52'09", A DISTANCE OF 205.57 FEET TO A FOUND 1/2" REBAR W/PLASTIC CAP LABELED LS 8133, ALSO BEING THE NORTHWEST CORNER OF THE PARCEL DESCRIBED AT BOOK 13 PAGE 3108 AS RECORDED AT THE CITY AND COUNTY RECORDS; THENCE ON AN ANGLE TO THE LEFT OF 90°01'10", A DISTANCE OF 210.04 FEET TO A SET 5/8" REBAR W/PLASTIC CAP LABELED TECH GROUP INC. LS 28277, ALSO BEING THE SOUTHWEST CORNER OF SAID PARCEL; THENCE ON AN ANGLE TO THE RIGHT OF 90°04'10", A DISTANCE OF 200.07 FEET TO A FOUND 1/2" REBAR W/PLASTIC CAP LABELED LS 8133, ALSO BEING ON THE WEST RIGHT OF WAY LINE OF PARIS STREET AND EAST 48TH AVENUE AS RECORDED AT BOOK 876 PAGE 485 OF THE CITY AND COUNTY OF DENVER RECORDS; THENCE ON AN ANGLE TO THE LEFT OF 90°00'00" ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 5.2 FEET TO A SET 5/8" REBAR W/PLASTIC CAP LABELED TECH GROUP, INC LS 28277, ALSO BEING A POINT OF CURVATURE; THENCE ON A CURVE TO THE RIGHT ALONG SAID RIGHT OF WAY LINE THROUGH A CENTRAL ANGLE OF 90°04'20" AN ARC LENGTH OF 39.3 FEET TO A SET 5/8" REBAR W/PLASTIC CAP LABELED TECH GROUP, INC. LS 28277, ALSO BEING A POINT OF TANGENCY; THENCE CONTINUING WESTERLY ON SAID RIGHT OF WAY LINE, A DISTANCE OF 47.62 FEET TO A FOUND 1/2" REBAR W/PLASTIC CAP LABELED NHP&Q LS 2882, ALSO BEING A POINT OF CURVATURE; THENCE ALONG SAID RIGHT OF WAY LINE ON A CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 89°57'51" AN ARC LENGTH OF 141.32 FEET TO A SET 5/8" REBAR W/PLASTIC CAP LABELED TECH GROUP, INC. LS 28277, ALSO BEING A POINT OF TANGENCY; THENCE SOUTHERLY ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 129.35 FEET TO A FOUND 1/2" REBAR W/PLASTIC CAP LABELED LS

PARCEL II

A TRACT OF LAND SITUATED IN SECTION 23, TOWNSHIP 3 SOUTH, RANGE 107 WEST OF THE 6TH PRINCIPAL MERIDIAN, MORE PARTICULARLY DESCRIBED AS

COMMENCING AT THE SOUTHWEST CORNER OF BLOCK 1, MONTBELLO NO. 19, EASTERLY ALONG THE SOUTH LINE OF SAID BLOCK 1, MONTBELLO NO. 19, A DISTANCE OF 300.88 FEET TO THE TRUE POINT OF BEGINNING; THENCE ON AN ANGLE TO THE LEFT OF 90°00'00" AND PARALLEL WITH THE EAST LINE OF SECTION 23, A DISTANCE OF 400.00 FEET; THENCE EASTERLY ON A RIGHT OF 90°00'00", A DISTANCE OF 485.00 FEET; THENCE SOUTHERLY TO THE RIGHT OF 90°00'00" AND PARALLEL WITH THE EAST LINE OF SECTION 23, A DISTANCE OF 400.00 FEET; THENCE WESTERLY ON AN ANGLE TO THE LEFT OF 90°00'00", A DISTANCE OF 485.00 FEET TO THE POINT OF BEGINNING;

ALSO THE EAST 86.33 FEET OF BLOCK 3, MONTBELLO NO. 8 LYING N 45TH AVENUE, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

EXCEPT FROM THE ABOVE DESCRIPTION ANY PORTION LYING WITHIN 4 AVENUE OR PARIS STREET.

PARCEL II

FURTHER DESCRIBED AS:

A PORTION OF BLOCK 1, MONTBELLO NO. 19, AND A PORTION OF BLOCK 3, MONTBELLO NO. 8, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

COMMENCING AT THE SOUTHWEST CORNER OF BLOCK 1, MONTBELLO NO. 19, EASTERLY ALONG THE SOUTH LINE OF SAID BLOCK 1, A DISTANCE OF 300.88 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTHERLY ON AN ANGLE TO THE RIGHT OF 90°00'00" AND PARALLEL WITH THE EAST LINE OF SECTION 23, A DISTANCE OF 16.88 FEET TO A FOUND REBAR W/PLASTIC CAP LABELED "TRICON LS 20683", SAID POINT ALSO BEING THE EASTERLY RIGHT OF WAY LINE OF PARIS STREET AND EAST 46TH AVENUE AS RECORDED IN DEED BOOK 878 AT PAGE 485 OF THE CITY AND COUNTY OF DENVER RECORDS, THE POINT OF BEGINNING; THENCE NORTHERLY, CONTINUING COURSE ALONG THE EASTERLY LINE OF SAID RIGHT OF WAY A DISTANCE OF 16.88 FEET TO A POINT OF CURVATURE, BEING A FOUND ALUMINUM TAG LABELED "TRICONSULTANTS LS 20683"; THENCE CONTINUING ON SAID RIGHT OF WAY CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC LENGTH OF 47.12 FEET TO A POINT OF TANGENCY AT A FOUND ALUMINUM TAG LABELED "TRICONSULTANTS LS 20683"; THENCE CONTINUING ON SAID RIGHT OF WAY A DISTANCE OF 455.00 FEET TO A FOUND 1/2" REBAR W/PLASTIC CAP LABELED "TRICON LS 20683"; THENCE SOUTHERLY ON AN ANGLE TO THE LEFT OF 90°00'00" AND PARALLEL WITH THE EAST LINE OF SECTION 23, A DISTANCE OF 400.00 FEET TO THE NORTH RIGHT OF WAY LINE OF EAST 45TH AVENUE, AS RECORDED IN DEED BOOK 103 OF THE CITY AND COUNTY OF DENVER RECORDS, BEING A BRASS TAG LABELED "KLH ENG., LS 20683" SET IN CONCRETE AT THE CORNER OF A CHISELED CROSS; THENCE WESTERLY ON AN ANGLE TO THE LEFT OF 90°00'00" ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 398.87 FEET TO A POINT OF CURVATURE BEING A FOUND 1/2" REBAR W/PLASTIC CAP LABELED "TRICON LS 20683", SAID POINT ALSO BEING THE EASTERN MOST CORNER OF BLOCK 3, MONTBELLO NO. 8, AS RECORDED IN THE CITY AND COUNTY OF DENVER RECORDS; THENCE CONTINUING ON SAID RIGHT OF WAY LINE ON A CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 15°07'41" AN ARC LENGTH OF 55.45 FEET TO A POINT OF REVERSE CURVATURE AT A FOUND 1/2" REBAR W/PLASTIC CAP LABELED "TRICON LS 20683"; THENCE CONTINUING WESTERLY AND NORTHWESTERLY ALONG SAID PARIS STREET RIGHT OF WAY LINE, ON A CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 105°07'41", AN ARC LENGTH OF 45.87 FEET TO THE POINT OF BEGINNING.

Exhibit B

(Exhibit on Following Page)

After recording, return to:
Brent A. Eisen
201 West Colfax Avenue Dept 1207
Denver, CO 80202

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED (“Deed”), made as of this _____ day of _____, _____, by _____, a _____ corporation, whose address is _____ (“Grantor”) to the CITY AND COUNTY OF DENVER, a Colorado municipal corporation of the State of Colorado and home rule city, whose address is 1437 Bannock Street, Denver, Colorado 80202 (“Grantee”).

WITNESSETH, that the Grantor, for and in consideration of the sum of _____ Dollars (\$ _____) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and by these presents does hereby grant, bargain, sell, convey and confirm, unto the Grantee, and its successors and assigns forever, the real property described below, together with all improvements thereon, owned by the Grantor situate, lying and being in the City and County of Denver, State of Colorado, and being more particularly described on Exhibit A attached hereto and incorporated herein (“Property”);

TOGETHER WITH all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all of the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in, and to the above-bargained Property, together with the hereditaments and appurtenances;

TO HAVE AND TO HOLD the Property above bargained and described with the appurtenances, unto the Grantee, and its successors and assigns forever. The Grantor, for itself and its successors and assigns does covenant and agree that it shall and will WARRANT AND FOREVER DEFEND the above-bargained Property in the quiet and peaceable possession of the Grantee, and its successors and assigns, against all and every person or persons [claiming the whole or any part thereof, by, through, or under the Grantor,] except those items set forth on Exhibit B, attached hereto and incorporated herein..

No separate bill of sale with respect to improvements on the Property will be executed.

IN WITNESS WHEREOF, the Grantor has executed this Deed on the date set forth above.

ATTEST: _____,
By: _____ a _____ Colorado
Name: _____
Title: _____
By: _____
Name: _____
Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

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

Witness my hand and official seal.

My commission expires: _____

Notary Public

Exhibit A
Legal Description