When Recorded Mail To:

Vita Fox North, L.P.
Attention: Manuel Jimenez
1801 Wewatta Street, 11th Floor
Denver CO, 80202

FOX NORTH

AMENDED AND RESTATED DEVELOPMENT AGREEMENT

This Amended and Restated 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 among Vita Fox North, L.P., a Delaware limited partnership ("**Developer**"), West Globeville Metropolitan District No. 1, a quasi-municipal corporation and political subdivision of the State of Colorado ("**District 1**"), West Globeville Metropolitan District No. 2, a quasi-municipal corporation and political subdivision of the State of Colorado ("**District 2**" and collectively with District 1, the "**Districts**"), and the City and County of Denver, a home rule city and municipal corporation of the State of Colorado (the "**City**") (each of Developer, District 1, District 2 and the City, a "**Party**" and, collectively, the "**Parties**").

RECITALS

A. On July 1, 2018, Ascendant Capital Partners DNA, LLC, a Colorado limited liability company ("**Ascendant**"), District 1, District 2 and the City entered into that certain Development Agreement, which such Development Agreement was recorded in the real property records for the City and County of Denver ("**Official Records**") at Reception No. 2018086656 ("**Original DA**").

B. The Original DA was entered into for the purposes of developing a coherent framework for development of approximately 41.05 acres of real property generally located at 4400 Fox Street, and legally described on **Exhibit A** and depicted on **Exhibit A-1** (the "**Property**").

C. 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.

D. On August 21, 2019, Ascendant assigned all of its right, title, claim and interest in and to the Original DA to Developer pursuant to that certain Assignment and Assumption of Development Agreement.

E. As of the Effective Date and in accordance with Section 10(m) of the Original DA, the Parties desire to amend, restate and supersede the Original DA in its entirety with this Agreement.

F. Developer 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 (the "**Project**"), which such Project shall include a public park to be owned by District 1 ("**Great Lawn**").

G. The Parties agree and acknowledge that attached hereto and incorporated herein as **Exhibit B** is a general depiction of the Project and the various public improvements described in this Agreement and the IMP (defined below) ("**IMP Exhibit**"), which IMP Exhibit includes a depiction and reference to both the defined terms used herein as well as the defined terms used to describe the same public improvements in the IMP (defined below).

H. 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 for ownership or maintenance by the City.

I. The Property is subject to an Infrastructure Master Plan, filed under City Clerk File Number 2018-0202 (as the same may be amended, the "**IMP**"), which will guide the development, circulation network, parks and open space, sanitary and storm water, drainage and phasing for the Project. The IMP requires the design, construction and maintenance of a minimum amount of publicly accessible and useable open space, in an amount not less than the ten percent (10%) of the IMP Net Developable Area (defined below), which such requirements include: (1) the design, construction and maintenance of the Great Lawn; (2) design, construction and maintenance of a private parcel of open space referred to herein as the printing plant plaza ("**Fox Square**"), and (3) design, construction, and maintenance of certain other parcels of private open space considered "bonus" open space for the Project, consisting of the following: (a) the park to be located on Huron Street ("**Huron Park**"); and (b) the Huron Street Linear Open Space ("**Huron Street Open Space**", and together with Fox Square and Huron Park, all collectively referred to as the "**Other Open Spaces**"). The Other Open Spaces are depicted on Exhibit 4.3 of the IMP ("**Open Space Plan**"), which such Open Space Plan is attached hereto and incorporated herein for reference as **Exhibit C**. The Parties agree and acknowledge that the Open Space Plan is attached hereto and incorporated herein for reference only, and the location of open space on the Property shall be subject to the IMP, and the IMP may be modified or amended in accordance with its terms.

J. The IMP requires the existing single entry point to the Property from City owned public right of way (located off of 45th Avenue and Fox Street) be replaced with a connected street grid generally aligned with the City's existing transportation network.

K. The Property will be subject to a Bona Fide Prospective Purchaser Agreement (the "**BFPPA**") with the United States Environmental Protection Agency ("**EPA**"), because a portion of the Property is within the Operable Unit 3 ("**OU-3**") of the Vasquez Boulevard & Interstate 70 ("**VB/I-70**") federal Superfund site, which was added to the National Priority List in January 1999. OU-3 is associated with the operation of the former Argo Smelter, which operated to produce gold, silver, and copper from 1878 through 1910. Site assessment began in 1992. The EPA Phase I Remedial Investigation and Feasibility Study of OU-3 included five soil borings and fifteen soil

samples analyzed for the constituents of concern, including lead, arsenic and perhaps other metals, on the portion of OU-3 on the Property. EPA also completed groundwater remedial investigation for OU-3, but no groundwater sampling occurred under or downgradient of the Property. Currently the EPA is awaiting funding to complete the investigation and develop the remediation for OU-3. Developer is in the process of negotiating the BFPPA to remediate the Property, including the portion of the Property located within the current OU-3 boundary. The purpose of the BFPPA will be to authorize the Developer to undertake any necessary remediation on the Property, and in exchange to receive a Covenant Not To Sue from EPA. It is anticipated that the BFPPA will be finally approved and become effective in early 2022.

L. Pursuant to the BFPPA and this Agreement, environmental investigation, monitoring, remediation, and materials management (collectively, the "**Environmental Remediation**") will be undertaken in conjunction with the development of the Project and, in particular, the construction of public infrastructure intended to be conveyed to the City, to assure that such future development is protective of human health and the environment. The Parties desire to set forth in this Agreement the approach by which development of the Project and transfer of land and public infrastructure improvements to the City may be accomplished: (i) subsequent to completion of Environmental Remediation which shall be completed in accordance with applicable state and federal regulations; (ii) consistent with standards protective of human health and the environment (hereinafter "**Remediation Standards**") as established by residential standards as set forth in that certain table titled "EPA Regional Screening Level (RSL) Summary Table (TR=1E-6, HQ=1)" as periodically updated or superseded (hereinafter "**RSL Summary Table**"), with a modification to the residential RSL for lead by reducing the RSL from the current 400 milligrams per kilogram (mg/kg) to 200 mg/kg unless a more stringent standard is set by the EPA or the Colorado Department of Public Health and Environment ("**CDPHE**"), and with a modification to the residential RSL for arsenic if a less stringent standard is set by the EPA or CDPHE; and Water Quality Control Commission Basic Standards for Groundwater as set forth in Regulation No. 41 (5 Code of Colorado Regulations 1002-41), as periodically amended (hereinafter "**CGWQS**"); and (iii) in a manner that avoids, to the extent set forth in Section 9.d of this Agreement, aesthetically undesirable contamination attributes, specifically odor, staining, and debris in locations where workers and/or the public may come into contact with soil, such as utility corridors and certain park locations.

M. The legislature of the State of Colorado adopted Sections 24-68-101, et seq. of the Colorado Revised Statutes (the "**Vesting Statute**") to provide for the establishment of vested property rights for certain site-specific development plans in order to ensure reasonable certainty in the land use planning process, stability and fairness in the land use planning process and in order to stimulate economic growth, secure reasonable investment-backed expectations of landowners and foster cooperation between the public and private sectors in the area of land use planning. The Vesting Statute and the City's home rule powers under Article XX of the Colorado Constitution authorize the City to enter into agreements with landowners providing for vesting of certain development rights.

N. 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.

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; Amendment and Reinstatement. All of the Recitals above are hereby confirmed and hereby incorporated herein as part of this Agreement. In accordance with Section 13(m) of the Original DA, the Parties hereby agree and acknowledge that this Agreement amends, restates and supersedes the Original DA in its entirety.

2. Development Thresholds. Development of the Property is limited to the number of residential dwelling units and non-residential square footage as specified in the IMP, subject to assignment and allocation of Available Vehicle Trips as required in Section 5. 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. Where such changes among uses would cause the development of the Property to exceed the planned infrastructure set forth in the IMP, then this will require an amendment to the IMP in accordance with its terms.

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 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 phase to support the proposed development within said site development plan.

a. 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.

b. 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, and (B) open space provided within the Property to date.

4. Open Space. Developer agrees to provide a minimum of ten percent (10%) of the IMP Net Developable Area of the Project as publicly accessible open space. The open space constructed by Developer at the Property shall comply with the requirements described in **Schedule 4** ("**Vested OS Requirements**"), attached hereto and incorporated herein by this reference. The

"**IMP Net Developable Area**" shall be calculated as provided in the IMP and has been determined 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 general location of open space is identified in the IMP.

a. Great Lawn:

i. Design, Construction and Phasing. Developer shall design and construct or cause District 1 to design and construct the Great Lawn in substantial compliance with the IMP, and in the following phases:

(1) Phase 1: Unless otherwise agreed in writing by the Executive Director of Denver Parks and Recreation ("**DPR**") construction of Phase 1 of the Great Lawn (hereinafter, the "**Interim Condition**") shall be completed by Developer or District 1 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. The Interim Condition of the Great Lawn shall be constructed to substantially include the elements in the list of "Phase One Improvements" described in Subsection 4.2.3 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 Great Lawn ("**Final Condition**"), shall be completed by Developer or District 1 prior to the date which is 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. The Final Condition of Great Lawn shall be constructed to substantially include the elements in the list of "Phase 2 Improvements" described in Subsection 4.2.3 of the IMP, but not more, except as may be modified pursuant to Subsection 4.a.i.3 below. For clarity, Exhibit 4.2 of the IMP shall be referred to in this Agreement as the "**Phasing Plan**" and is attached to this Agreement as **Exhibit D** for reference.

(3) Notwithstanding anything in Subsection 4.a.i.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 for all of Parcels A through K on the Phasing Plan is equal to or exceeds seventy five percent (75%) of the land area contained in Parcels A through K of the Phasing Plan and vertical development has been substantially completed pursuant to a previously approved final site development plan for either Parcel H or I as shown in the Phasing Plan, and

(B) such site development plan when added to the total development incurred to that point on the other parcels on the Property 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 of one hundred percent (100%) of the parcels located on the Property; then

Developer shall construct the Great Lawn Phase 2 Design Alternative, which is more particularly described in Section 4.2.3 of the IMP as the "Phase Two Design Alternative" no later than twenty-four (24) months after the City's final approval of such site development plan. The Great Lawn Phase 2 Design Alternative shall be constructed to substantially include the elements in the list set forth in Subsection 4.2.3 of the IMP under the heading "Phase Two Design Alternative", but not more. If this Subsection 4.a.i.3 is applicable, the construction of the Phase 2 Design Alternative in accordance with this Subsection 4.a.i.3 and in material conformity with the IMP shall satisfy Developer's obligation to construct or make improvements to Great Lawn under this Agreement and the IMP.

(4) Notwithstanding anything to the contrary in Subsection 4.a.i.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 in the Phasing Plan is equal to or exceeds seventy five percent (75%) of the land area contained in Parcels A through K of the Phasing Plan, but a "**Certificate of Occupancy**" (such term, as used in this Agreement shall have the meaning set forth in the 2019 Denver Building and Fire Code, as such code may be amended, replaced or modified from time to time) for vertical development has not been issued for the primary structure(s) on one of either Parcel H or I of the Phasing Plan pursuant to a previously approved final site development plan; then

(B) Developer's obligation to construct the Phase Two Design Alternative for the Great Lawn shall not occur until final approval of a formal site development plan for either Parcel H or Parcel I of the Phasing Plan. Upon such final approval of the formal site development plan, Developer shall construct the Phase 2 Design Alternative no later than twenty-four (24) months after the issuance of a "**Temporary Certificate of Occupancy**" (such term, as used in this Agreement shall have the meaning set forth in the 2019 Denver Building and Fire Code, as such code may be amended, replaced or modified from time to time) for the first core and shell vertical development constructed on either Parcel H or Parcel I of the Phasing Plan pursuant to such approved formal site development plan. The Phase Two Design Alternative shall be constructed to substantially include the elements in the list described under "Phase Two Design Alternative" in Subsection 4.2.3 of the IMP, but not more. If this Subsection 4.a.i.4 is applicable, the construction of the Phase 2 Design Alternative in accordance with this Subsection 4.a.i.4 and in material conformity with the IMP shall satisfy Developer's obligation to construct or make improvements to Great Lawn under this Agreement and the IMP.

(5) As more specifically detailed in Subsection 4.2.5 of the IMP, and concurrently with the appropriate site development plans set forth above, Developer 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 Great Lawn according to provisions of Subsection 4.2.5 of the IMP to ensure Great Lawn 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 Great Lawn under Subsections 4.a.i.1, 4.a.i.2, 4.a.i.3, or 4.a.i.4 above, as applicable, until Developer has substantially completed or caused substantial completion of the applicable phase of construction of Great Lawn.

b. Other Open Spaces.

i. Design, Construction and Phasing. Developer shall design and construct the Other Open Spaces in substantial compliance with the IMP as follows:

(1) Fox Square. Construction of Fox Square shall be complete not later than twelve (12) months after issuance of the first (1st) Certificate of Occupancy for any use located on Parcel A as shown on the Phasing Plan, including any residential unit or non-residential equivalent use located within the Existing Building.

(2) Other Open Spaces (Excluding Fox Square).

(A) Construction of the Huron Park shall be complete prior to the issuance of a Certificate of Occupancy for any use in any development on Parcel D, as identified on the Phasing Plan.

(B) Construction of the Huron Street Open Space shall be complete prior to the issuance of a Certificate of Occupancy for any use in any structure located on Parcel B, as identified in the Phasing Plan.

ii. Grant of Easement. Unless a later date is approved by the Executive Director of CPD, prior to approval of a site development plan for vertical development on the parcels identified in the Phasing Plan which trigger development of the Great Lawn and Other Open Spaces pursuant to this Section 4, and subject to the requirements of Section 9 of this Agreement, Developer shall grant to the City an easement in substantially the form set forth in **Exhibit E** (the "**OS Easement**") over the Great Lawn or Other Open Spaces (as applicable), and the respective OS Easements shall be recorded against the applicable parcels concurrently with approval of the site development plans for such parcels shown in the Phasing Plan. The OS Easement shall encumber the surface of the subject portion of Great Lawn or Other Open Spaces up to and including two feet (2') below the surface of the Great Lawn or Other Open Spaces, and shall in no event encumber any portion of the Great Lawn or Other Open Spaces below two feet (2') underneath the surface of the same.

5. On and Off Site Transportation Infrastructure.

a. Onsite and Adjacent Traffic Management.

i. Onsite Road Infrastructure. All 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 Developer 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 Horizontal site development plan(s) approval phase, but shall generally follow the phasing listed in Article 6 of the IMP.

ii. Adjacent Road Improvements. In addition to the elements in Subsection 5.a.i above, Developer 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.

b. Offsite Transportation Improvements and Trip Allocations.

i. ED Vested Trips. The City agrees and acknowledges that, as of the Effective Date, Developer has been allocated and assigned (i) an initial allocation of 1500 vehicular trips, which such trips are allocated to the Property without the need for any site development plan submittal, all in consideration of Developer's financial contribution to the Next Steps Study (defined below), and (ii) an additional 6481 vehicular trips, pursuant to the trip reservation system in the Original DA in connection with Developer's submittal of a site development plan, for a total of 7981 vehicular trips (collectively, such 7981 vehicular trips described in subsections (i) and (ii) shall be referred to herein as the "**ED Vested Trips**"). Developer, and Developer's successors and assigns in fee simple ownership of the Property, may, as of the Effective Date, utilize the ED Vested Trips in satisfaction of vertical site development plan, building permits and Certificate of Occupancy requirements for the Property. For avoidance of doubt, the City agrees and acknowledges that the Property is not subject to the Rules and Regulations Governing Public Infrastructure Management at 41st & Fox Station East dated November 26, 2018 ("**Rules**"), and the terms and conditions of this Agreement shall govern infrastructure management at the Property. The Parties agree and acknowledge that the process for assigning ED Vested Trips and Available Vehicle Trips (defined below) to the Property shall be as set forth in **Exhibit F** attached hereto and incorporated herein by this reference ("**Trip Reservation Rules**"); provided, however, upon the City's elimination of the Rules, neither the Developer nor the Property shall be subject to the Trip Reservation Rules.

ii. Offsite Improvements; Potential Trip Allocation. As of the Effective Date, the City and Developer agree and acknowledge that, based on that certain 41st & Fox Next Steps Study, finalized in 2021 ("**Next Steps Study**"), additional vehicular trips in excess of the ED Vested Trips reserved to Developer and the Property under Section 5.b.i of this Agreement, can be allocated to Developer and the Property in the amounts described below upon completion of construction of one of the following:

(1) construction of a Full Modal (defined below) connection from the Property over the railroad and Regional Transportation District ("**RTD**") lines on the western boundary of the Property to 47th Avenue at Jason Street (the "**Full Modal 47th Avenue Bridge**"), as such Full Modal 47th Avenue Bridge scope is more particularly described in the Next Steps Study and in **Exhibit G** attached hereto and incorporated herein by this reference, construction of which shall result in a minimum of 8000 vehicular trips allocated to the Property;

(2) subject to the requirements of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 *et seq*., construction of a tunnel under I-70 connecting the Property to the at grade portion of 48th Avenue north of I-70 ("**Northern Tunnel**" and together with the Full Modal 47th Avenue Bridge, collectively referred to herein as the "**Northern Connection**"), as such Northern Tunnel is more particularly described in the Next Steps Study and **Exhibit H** attached hereto and incorporated herein by this reference, construction of which shall result in a minimum of 8000 vehicular trips allocated to the Property;

(3) construction of that certain bridge which will allow the future Huron Street to span the 38th Avenue underpass and connect back to the existing street grid south of 38th Avenue ("**Huron Bridge**") as such Huron Bridge scope is more particularly described in the Next Steps Study and **Exhibit I** attached hereto and incorporated herein by this reference, construction of which shall result in a minimum of 8000 vehicular trips allocated to the Property; and

(4) full reconstruction of the intersection of Fox Street, 38th Avenue, Park Avenue and the I-25 access ramps ("**38th & Fox Connection**"), as such 38th & Fox Connection scope is more particularly described in the Next Steps Study and **Exhibit J** attached hereto and incorporated herein by this reference, reconstruction of which would result in allocation of a minimum of 8000 vehicular trips to Developer and the Property.

(5) The Parties agree and acknowledge that construction of planned bicycle and pedestrian improvements to 44th Avenue, extending from Fox Street to Broadway ("**44th Avenue Improvements**"), as such 44th Avenue Improvements scope is more particularly described in the Next Steps Study and **Exhibit K** attached hereto and incorporated herein by this reference, would serve important City objectives related to transportation demand management, result in a benefit to the Property and reduce the required vehicle trips necessary to receive approval from the City in connection with site development plans, building permits and Certificates of Occupancy for the Property.

(6) For avoidance of doubt, the City and Developer agree and acknowledge that the definition and description of the 38th & Fox Connection does not include any design or construction obligations with respect to the Huron Bridge. The Full Modal 47th Avenue Bridge, Northern Tunnel, 38th & Fox Connection, and Huron Bridge may each be referred to herein as an "**Offsite Improvement**", and shall be collectively referred to in this Agreement as the "**Offsite Improvements**". "**Full Modal**" shall mean and refer to any Offsite Improvement which may be used by motorized vehicles, bikes, and pedestrians.

iii. Scoping Period.

(1) Scoping Period; Feasibility Study.

(A) During the period commencing on the Effective Date and ending not later than six (6) months after the Effective Date (the "**Scoping Period**"), the Developer, with cooperation of the City, shall undertake a scoping exercise with respect to design of the Offsite Improvements. The scoping exercise shall include determination of the geographic scope, contingencies, budget, timeline, process for design, any necessary community outreach and

other relevant choices mutually determined by the City and Developer and related to the design and construction of the Offsite Improvements.

(B) During the Scoping Period, Developer, with the cooperation of the City shall undertake a feasibility study to determine feasibility of design, construction and maintenance of both the Full Modal 47th Avenue Bridge and Northern Tunnel ("**Feasibility Study**"). City and Developer agree and acknowledge that considerations with respect to (i) determination of whether the Northern Connection should be the Full Modal 47th Avenue Bridge or Northern Tunnel and (ii) scope and intent of the Feasibility Study shall include, without limitation: ability to procure third party approvals, consents and permissions; budget for design, construction and maintenance; engineering requirements; and construction timeline. On the date which is not later than thirty (30) days after the earlier of (a) completion of the Feasibility Study, or (b) expiration of the Scoping Period, the City shall determine, in consultation with the Developer, and provide written notice of such determination to the Developer ("**Northern Connection Notice** "), whether the Northern Connection should be the Full Modal 47th Avenue Bridge or the Northern Tunnel, which such determination shall be based upon, *inter alia*, the Feasibility Study and the public outreach referenced in Section 5.b.iii(2) below.

(C) If, after the City delivers to the Developer the Northern Connection Notice, in the sole discretion of the Executive Director of DOTI, based on information provided and analyzed by Developer and DOTI staff, the results of the Feasibility Study and the recommendation of the Developer, the City determines that the Northern Connection is infeasible, the City shall provide notice to the Developer of such infeasibility ("**Northern Connection Infeasibility Notice**"). City agrees to deliver the Northern Connection Infeasibility Notice, if at all, on or prior to the date which is sixty (60) days after the delivery by the City of the Northern Connection Notice. Upon issuance of the Northern Connection Infeasibility Notice, the Developer shall have sixty (60) days to elect to construct the Huron Bridge, and provide notice of the same to the City on or before the date which is sixty (60) days after the City's delivery of the Northern Connection Infeasibility Notice ("**Huron Bridge Election Notice**"). In the event the Developer delivers the Huron Bridge Election Notice, Developer shall be entitled to design, permit and construct the Huron Bridge in accordance with Section 5.b.iv, and the City shall not, and shall not allow any third party to, design, permit or construct the Huron Bridge for a period of three and one-half (3.5) years after the date of Developer's delivery of the Huron Bridge Election Notice (such period, the "**Huron Bridge Hold Period**"). If, upon expiration of the Huron Bridge Hold Period, either the City or a third party desires to permit or construct the Huron Bridge, and Developer has not commenced construction of the Huron Bridge, the City shall provide the Developer with written notice that either the City or a third party desires to permit and construct the Huron Bridge ("**Huron Trigger Notice**"), and the Developer shall have sixty (60) days to provide the City with written notice of Developer's intention to permit and construct the Huron Bridge ("**Huron Build Notice**"), in which event the Developer shall have a period not to exceed three and one-half (3.5) years after the date of delivery of the Huron Build Notice to complete construction of the Huron Bridge.

(2) Northern Connection Public Outreach. In the interest of full disclosure and public transparency, the City and Developer agree and acknowledge that a public outreach process to engage necessary stakeholders in order to gauge public support for

construction of either the Full Modal 47th Avenue Bridge or Northern Tunnel is appropriate, and shall be undertaken by the Developer.

(3) City Design Obligations. In connection with Developer's design obligations set forth in this Agreement, the City shall sustain its current development review timelines, and make every reasonable and diligent effort to facilitate in order to expedite problem solving and decision making with respect to the same, in particular as it relates to procuring approvals, information and permissions from the Colorado Department of Transportation ("**CDOT**"), RTD, any freight railway companies owning real property or operating freight lines in the vicinity of the Project, and any third party property owners with real property in the vicinity of the Project and other stakeholders ("**City Design Obligations**"). During the Scoping Period, the Developer and the City shall coordinate and finalize design scope, project specifications, schedule and professional services procurement for design of the Offsite Improvements, and cooperate to work with all required regulatory agencies to confirm Offsite Improvement feasibility prior to commencement of design by the Developer.

iv. Design and Construction.

(1) Design of 38th & Fox Connection, Huron Bridge and 44th Avenue Improvements. Developer shall design, and the City shall cooperate and assist with review of such design consistent with the City Design Obligations: (x) engineered, stamped drawings for the design for the 38th & Fox Connection, and (y) engineered, stamped drawings for the design for the 44th Avenue Improvements and (z) engineered, stamped drawings for the design for the Huron Bridge. Upon completion of the design obligation in this Section 5.b.iv(1), 10% of the Available Vehicle Trips for the 38th & Fox Connection, 44th Avenue Improvements and Huron Bridge shall be allocated and assigned to the Developer, but the Developer shall only be able to utilize such Available Vehicle Trips in furtherance of the site development plan and Certificate of Occupancy for Vertical Projects upon completion of construction of the applicable Offsite Improvement (whether such construction is completed by Developer, the City or a third party). As used in this Section 5, "**engineered, stamped drawings**" shall mean completed design drawings for construction.

(2) Design of Northern Connection. Once City provides the Northern Connection Notice and the deadline for delivery of the Northern Connection Infeasibility Notice has expired, Developer shall design, and the City shall cooperate and assist with review of such design, either the Northern Tunnel or Full Modal 47th Avenue Bridge, as determined in the Northern Connection Notice, which such obligation shall include the preparation by Developer of engineered stamped drawings for the applicable Northern Connection. Upon completion of the design obligation in this Section 5.b.iv(2), the Available Vehicle Trips for the Offsite Improvements designed pursuant to this Section 5.b.iv(2) shall be allocated and assigned to the Developer, but the Developer shall only be able to utilize such 10% Available Vehicle Trips in furtherance of the site development plan and Certificate of Occupancy for Vertical Projects upon Developer's or another third party's completion of construction of the same.

(3) Construction Obligations. Developer shall (A) either permit and construct the Northern Connection Offsite Improvement, as identified in the Northern Connection Notice, or permit and construct the Huron Bridge, if the City delivers a Northern Connection

Infeasibility Notice and Developer delivers the Huron Bridge Election Notice in accordance with Section 5.b.iii(1)(C), and (B) permit and construct the 38th & Fox Connection. Nothing in this Agreement shall preclude Developer from electing to obtain permits and approvals for and otherwise to construct the 44th Avenue Improvements or Huron Bridge (if the Developer does not elect to construct the Huron Bridge pursuant to Section 5.b.iii(1)(C)). Any failure of the Developer to comply with this Section 5.b.iv(3) shall not be a default hereunder.

(A) Developer shall be entitled to design, permit and construct the 38th & Fox Connection in accordance with Section 5.b.iv, and the City shall not, and shall not allow any third party to, design, permit or construct the 38th & Fox Connection for a period of three (3) years after the Effective Date (such period, the "**38th & Fox Connection Hold Period**"). If, upon expiration of the 38th & Fox Connection Hold Period, either the City or a third party desires to permit or construct the 38th & Fox Connection, and Developer has not commenced construction of the 38th & Fox Connection, the City shall provide the Developer with written notice that either the City or a third party desires to permit and construct the 38th & Fox Connection ("**38th & Fox Trigger Notice**"), and the Developer shall have sixty (60) days to provide the City with written notice of Developer's intention to permit and construct the 38th & Fox Connection ("**38th & Fox Build Notice**"), in which event the Developer shall have a period not to exceed two (2) years after the date of delivery of the 38th & Fox Build Notice to complete construction of the 38th & Fox Connection.

(B) The City shall not, and shall not allow any third party to, design, permit or construct the Northern Connection for a period of ten (10) years after the City's delivery of the Northern Connection Notice (assuming the City does not deliver a Northern Connection Infeasibility Notice pursuant to Section 5.b.iii(1)(C)) (such period, the "**NC Hold Period**"). If, upon expiration of the NC Hold Period, either the City or a third party desires to permit or construct the Northern Connection option identified in the Northern Connection Notice, and Developer has not commenced construction of the Northern Connection, the City shall provide the Developer with written notice that either the City or a third party desires to permit and construct the Northern Connection ("**NC Trigger Notice**"), and the Developer shall have sixty (60) days to provide the City with written notice of Developer's intention to permit and construct the Northern Connection ("**NC Build Notice**"), in which event the Developer shall have a period not to exceed four (4) years after the date of delivery of the NC Build Notice to complete construction of the Northern Connection.

(4) Northern Connection Right of Way Preservation. In the event the Developer is obligated to permit and construct the Huron Bridge instead of the Northern Connection based on the City's delivery of the Northern Connection Infeasibility Notice and Developer's delivery of the Huron Bridge Election Notice, and a third party or the City elects to move forward with permitting and construction of the Northern Connection (as determined in the Northern Connection Notice and in substantial conformance with the IMP), then Developer shall convey to the City all reasonable necessary portions of the Property at no cost to the City, as required pursuant to the design of the Northern Connection in accordance with Section 5.b.iv(2) and the IMP. The Executive Director of DOTI (or successor agency) shall release Developer (in writing) from the aforementioned obligation at such time as the City determines that it will not be feasible at a later date for the City, a third party or Developer to build the Northern Connection identified in the Northern Connection Notice. 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 Developer 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.

v. Determination of Available Vehicle Trips. On the earlier of (i) date which is eighteen (18) months after the Effective Date, or (ii) such earlier date as the Developer completes not less than 30% of the design of the applicable Offsite Improvements (such date, the "**Design Deadline**"), the Developer shall propose the number of vehicular trips that will be available upon completion of construction of each of the Offsite Improvements, and the City will review and certify in writing the number of vehicular trips that will actually be available upon completion of construction of each of the Offsite Improvements (upon City certification, such trips shall be deemed "**Available Vehicle Trips**"). The final certification and determination of Available Vehicle Trips shall be based upon commissioned traffic studies and assessments using information determined in connection with the design of the applicable Offsite Improvements, as of the Design Deadline, which such traffic studies and assessments shall be performed by engineers and consultants, the identity of which shall be mutually agreed upon by the Parties. As used in this Section 5.b, "**commenced construction**" or words of similar import shall mean that with respect to each applicable Offsite Improvement, the Developer has obtained the necessary permits to begin earthwork and graining, and "**completion of construction**" or words of similar import shall mean that with respect to each applicable Offsite Improvement or construction milestone, the City has accepted the specific Offsite Improvement. For avoidance of doubt, the City shall assign and allocate Available Vehicle Trips to each of the individual Offsite Improvements, rather than to the collective Offsite Improvements as a whole. Developer and the City agree that final determination of Available Vehicle Trips shall be based upon actual commissioned traffic studies and assessments as of the Design Deadline. The City shall maintain a publicly available resource showing the Available Vehicle Trips, and assignment and allocation of the same to the Property, together with an accounting of which Available Vehicle Trips have been utilized to satisfy vertical site development plan requirements.

vi. Allocation of Available Vehicle Trips. Upon completion of construction of any Offsite Improvement by Developer, Developer shall be permitted to use 100% of the Available Vehicle Trips for each such Offsite Improvement so constructed by Developer in furtherance of site development plan and Certificate of Occupancy for Vertical Projects as noted below.

vii. Use of Allocated Available Vehicle Trips. Notwithstanding anything in this Section 5.b to the contrary, Developer, or its successors and assigns in fee simple ownership of all or any portion of the Property shall be entitled to use the ED Vested Trips on any portion of the Property in furtherance of obtaining an approved site development plan, building permits or Certificates of Occupancy for any Vertical Project. Once Developer has utilized 100% of the ED Vested Trips on the Property, Developer, or its successors and assigns in fee simple ownership of all or any portion of the Property, shall be entitled to utilize Available Vehicle Trips allocated to Developer under this Agreement in furtherance of site development plan and Certificate of Occupancy for Vertical Projects as noted below:

(1) A Developer of any vertical development projects for any portion of the Property ("**Vertical Projects**") may initiate site planning and design permitting at any time after the Effective Date, except for any permanent vertical development projects located in the area shown as the "Printing Plant Phase B" in the Phasing Plan, and generally located to the north and west of the existing Denver Post building (such projects, the "**Phase 4 Vertical Projects**"), which such Phase 4 Vertical Projects may only proceed to design and permitting once a Norther Connection option has been sufficiently designed to identify the physical geometric alignments for the improvement and the Available Vehicle Trips have been verified by the City in accordance with Section 5.b.v.

(2) Horizontal infrastructure improvements for the Property, including any Offsite Improvements ("**Horizontal Infrastructure Improvements**"), shall not be limited or restricted based on availability of Available Vehicle Trips, and the Developer may construct the Horizontal Infrastructure Improvements, once approved and permitted by the City, at any time, notwithstanding the terms, conditions or restrictions in this Section 5.

(3) Developers of any Vertical Projects, after receiving site development plan approval, may proceed to pull building permits once (a) design of the applicable Offsite Improvement providing Available Vehicle Trips to the applicable Vertical Project ("**Contributing Infrastructure**") is approved, (b) funding for the Contributing Infrastructure is secured by the Developer, and the Developer has provided the City with the required form of security for the same, which such form of security may include the following: establishment of an escrow account with the City funded with immediately available funds, a performance bond or bonds or a letter of credit, and (c) construction permitting for the applicable Contributing Infrastructure has been initiated (subsections (a) through (c), the "**Building Conditions**").

(4) Upon satisfaction of the (i) Building Conditions, and (ii) together with commencement of construction of the Contributing Infrastructure (collectively, (i) and (ii) shall be the "**Occupancy Conditions**"), any Vertical Project may receive a Certificate of Occupancy. Further, any Vertical Project or Vertical Projects may receive a Certificate of Occupancy even if the Contributing Infrastructure delivering the Available Vehicle Trips for such Vertical Project has not been completed or accepted by the City, as long as the number of trips required in connection with the applicable Vertical Project(s) is 1500 or less.

viii. If and to the extent Available Vehicle Trips are assigned and allocated to Developer and the Property pursuant to this Section 5.b, such Available Vehicle Trips shall remain with the Developer and the Property until the date of issuance of the last Certificate of Occupancy for the last parcel of the Property intended for development (such date, the "**Final Build Out Date**").

6. Vesting. In recognition of the size and nature of the development contemplated under this Agreement, the substantial investment and time required to complete the development of the Project, the phased development of the Project, and the possible impact of economic cycles and varying market conditions during the course of development, Developer and the City agree that the vested property rights established under this Agreement shall commence on the Effective Date and shall continue for a term of ten (10) years (the "**Vesting Period**"). After the expiration of the Vesting Period, the provisions of this Section 6 shall be deemed terminated and of no further force

or effect; provided, however, that such termination shall not affect (a) any common-law vested rights obtained prior to such termination, or (b) any right arising from City permits, approvals or other entitlements for the Property or the Project which were granted or approved prior to, concurrent with, or subsequent to the approval of this Agreement. Developer and the City agree that each of: (i) this Section 6, (ii) the Vested Zoning and Vested OS Requirements, (iii) the IMP and (iv) Section 5 of this Agreement, constitute an approved "Site-specific development plan" as defined in the Vesting Statute, and shall constitute a vested property right pursuant to the Vesting Statute.

a. Vested Zoning: 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 2018-0171 ("**Zoning Definitions**"). The City Council, pursuant to Council Bill No. 2018-0446, 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 2018-0171.

b. The City hereby grants the following amended and extended vested property rights for the Vesting Period:

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

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

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

iv. 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; and

v. The Vested OS Requirements shall apply to the Project for the Vesting Period.

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

c. Notwithstanding the Vesting Period or anything to the contrary set forth in this Agreement, the City hereby grants amended and extended vested property rights with respect to Section 8.a.viii and Section 8.c ("**Affordable Vested Rights**") from the Effective Date of this Agreement until the date which is twelve (12) years after the Effective Date. Notwithstanding the Vesting Period or anything to the contrary set forth in this Section 6, the City hereby grants the amended and extended vested property rights for the Vested Trips (defined below) from the date

of this Agreement until the Final Build Out Date regardless of whether the Final Build Out Date occurs before or after expiration of the Vesting Period.

d. Notwithstanding anything to the contrary in this Agreement (but subject to the City's police powers as set forth in Subsection 10.a, and provided that Developer materially complies with the terms and conditions of Section 5 of this Agreement, the City agrees that the ED Vested Trips and Available Vehicle Trips (as and when certified by the City) shall be a vested property right of Developer until the Final Build Out Date as set forth in Subsection 6.c ("**Vested Trips**" and together with the Affordable Vested Rights and Vested Development Right, the "**Vested Rights**").

e. Provisions Related to Vested Rights.

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

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

iii. "Vested," as used in this Section 6 means the right to develop, plan and engage in land uses within the Property in the manner and to the extent set forth in, and in accordance with the parameters set forth in this Section 6 and the IMP.

iv. Except as set forth below in Subsection 6.e.vi, the City agrees that any conditions, standards, requirements and dedications imposed on the Property shall not have the effect of materially and adversely altering, impairing, preventing, diminishing, imposing a moratorium on development, delaying or otherwise adversely affecting any of the Vested Rights.

v. Except as set forth below in Subsection 6.e.vi, the City shall not initiate any zoning, land use or other legal or administrative action that would have the effect of materially and adversely altering, impairing, preventing, diminishing, imposing a moratorium on development, delaying or otherwise adversely affecting any of the Vested Rights.

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

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

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

a. Following Developer's initial construction of each parcel of Other Open Space, each 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**" and together with the Other Open Space and any roads or roadways within the Property to be owned by the District, the "**Non-City Owned Property**"), Developer shall elect to do one of the following:

i. Transfer title to the applicable portions of Non-City Owned Property 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 Non-City Owned Property. 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 Non-City Owned Property located within or without such District's boundaries, and shall maintain, repair, replace, and operate such parcel of Non-City Owned Property, including any public improvements located therein which are to be maintained by the District(s), 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 Non-City Owned Property. Any public improvement conveyed to the District(s), including, without limitation, applicable Non-City Owned Property, 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 Non-City Owned Property.

ii. Transfer title to such parcel of Non-City Owned Property to one or more "common interest communities" (as defined in the Colorado Common Interest Community Act) or an entity or person either (X) having a verifiable net worth of $20,000,000 or more or (Y) having its equity traded on a public stock exchange, or (Z) an entity that is controlled by, controlling, or under common control with any entity satisfying the creditworthiness test stated in subsection (X) or (Y) of this Subsection 7.a.ii (either the common interest community or private entity, a "**Private Owner**"). Any such transfer shall be conditioned on such Private Owner agreeing to accept ownership and maintenance of such Non-City Owned Property and be bound by the terms and conditions of any existing or required easements related to the Non-City Owned Property. The Parties acknowledge and agree that should Developer elect to transfer ownership of any Non-City Owned Property to a Private Owner pursuant to this Agreement, that Developer 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 L** and incorporated into this Agreement by this reference (such form, the "**PNEE**"). The Private Owner shall own each parcel of Non-City Owned Property and shall maintain, repair, replace, and operate such parcel of Non-City Owned Property, including any public improvements located therein, in accordance with the OS Easement granted by Developer.

b. Following the construction of such Non-City Owned Property and once the election is made above by Developer (with respect to ownership and maintenance responsibilities, as

applicable) 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 Property by the responsible party, such areas shall be permanently operated, maintained, repaired and replaced by such respective party or its successor. Developer shall also grant such additional permanent non-exclusive easement interests to such parties, in mutually agreed-upon form between Developer and such party, as may be required to allow such party to provide such maintenance, repair and replacement services for the Non-City Owned Property, to the extent that Developer remains in ownership of a portion or all of such Non-City Owned Property, 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.

8. Affordable Housing Requirements. Developer agrees that, consistent with the goals of Comprehensive Plan 2040, Blueprint Denver, and Housing an Inclusive Denver, the Property shall be subject to the affordable housing requirements described in this Section 8 of this Agreement. The Parties agree and acknowledge that Developer shall assign (which such assignment shall be subject to Section 10.g hereunder) to any entity purchasing all or a portion of the Property, and any third party purchasing all or a portion of the Property shall assume, the obligations set forth in this Section 8 with respect to the portion of the Property so conveyed to any such third party.

a. IRUs Constructed on the Property.

i. At least seven percent (7%) of the total residential (for sale or for rent) units on the Property shall be income-restricted ("**IRUs**") for a period of no less than ninety nine (99) years. The Parties agree and acknowledge that any reference in this section to "residential units" shall mean and refer to any residential units constructed on the Property, whether those residential units are for sale or for rent.

ii. Of the total IRUs on the Property, not less than the greater of (i) twenty five percent (25%), or (ii) fifty nine (59) of the total IRUs, shall be reserved for households with incomes no greater than 60% of the area median income, adjusted for household size, for the Denver metropolitan area as determined by the U.S. Department of Housing and Urban Development (such IRUs, the "**60% IRUs**"), and the remainder of the total IRUs shall be reserved for households with incomes no greater than 80% of the area median income, adjusted for household size, for the Denver metropolitan area as determined by the U.S. Department of Housing and Urban Development (such IRUs, the "**80% IRUs**").

iii. Developer is not required to complete construction of the 60% IRUs on a pro rata basis with completing construction of the 80% IRUs or the market rate residential units on the Subject Property, but Developer must complete construction of all 60% IRUs by the time Developer has completed construction and obtained certificates of occupancy for 100% of the residential units on the Property and in the amounts described below for each of the 4 phases of construction on the Property:

(1) The Developer is not required to deliver any 60% IRUs during Phase 1 of the Project, which will create a deficit equal to the greater of (i) twenty one (21) 60% IRUs, or (ii) twenty five percent (25%) of seven percent (7%) of the total residential units constructed on

Phase 1 of the Project ("**P1 60% IRU Deficit**"). For purposes of this Section 8, Phase 1 includes construction at the former Denver Post Building, and Parcels B, C, D and E, each as shown on Exhibit 4.2 of the IMP).

(2) For Phase 2, Developer shall deliver an amount of 60% IRUs greater than or equal to 52% of the P1 60% IRU Deficit. For purposes of this Section 8, Phase 2 includes construction at Parcels H, I, J and K, as shown on Exhibit 4.2 of the IMP.

(3) For Phase 3, Developer shall deliver an amount of 60% IRUs greater than or equal to 29% of the P1 60% IRU Deficit. For purposes of this Section 8, Phase 3 includes Parcels F and G on Exhibit 4.2 of the IMP

(4) For Phase 4, Developer shall deliver an amount of 60% IRUs greater than or equal to 19% of the P1 60% IRU Deficit. For purposes of this Section 8, Phase 4 incudes Parcel A (excluding that portion of Parcel A which includes the Denver Post Building and real property to the west of the Denver Post Building and adjacent to the Gold Line), as shown in Exhibit 4.2 of the IMP).

By way of example, if the total residential units to be constructed in Phase 1 is equal to one thousand (1000) residential units, then Phase 2 shall include nine (9) 60% IRUs, Phase 3 shall include six (6) 60% IRUs, and Phase 4 shall include three (3) 60% IRUs.

iv. Developer agrees that the IRUs will be subject to all requirements of Build Alternative Units, as defined in the Rules and Regulations promulgated under the City's Affordable Housing Permanent Funds Ordinance adopted pursuant to Article V, Chapter 27 of the DRMC ("**Rules and Regulations**"), including with respect to the concurrent construction of IRUs and market rate residential units. Subject to Section 8.a.iii above, as the phasing of the development of the Subject Property occurs, the total number of IRUs constructed at any one time shall be not less than 7% of the overall number of units constructed at any one time, with all IRUs required pursuant to this Agreement being completed by full buildout of the Subject Property.

v. Developer will offer the IRUs for rent or for sale in accordance with the requirements of the Rules and Regulations, with the following exception: none of the Property, improvements located thereon, or IRUs shall be subject to a right of first refusal in favor of the City as set forth in Chapter 27 of the DRMC or the Rules and Regulations.

vi. Developer and the City agree that prior to and as a condition of the issuance of the first Certificate of Occupancy on any portion of the Property for any building that contains IRUs, Developer will record a covenant in the form attached to this Agreement as **Schedule 8** ("**Rental and Occupancy Covenant**"), which will run with the land and encumber the building on the subject Property for a period of not less than sixty (99) years in order to ensure that certain rent limitations, occupancy limitations and administrative requirements for the IRUs as described in this Section 8 are satisfied and imposed in connection with the applicable portion of the subject Property. The Parties agree and acknowledge that the Rental and Occupancy Covenant shall not be recorded upon approval of this Agreement, but prior to issuance of the first Certificate of Occupancy on portions of the Property.

vii. Prior to approval of each site development plan for any phase of construction on the subject Property that includes residential units, Developer will provide a compliance plan to the Department of Housing Stability ("**HOST**") and Community Planning and Development ("**CPD**") for each department's review and approval. The compliance plan will demonstrate how that phase of construction contributes to requirements of this Section 8.a and Section 8.c. In accordance with Section 8.a above, buildings containing only market rate residential dwelling units are allowed in the development of the Property, so long as the milestones established in Section 8.a.iii are being met. HOST and CPD must approve each compliance plan before approving any site development plan.

viii. The City agrees that, in consideration of the obligations of Developer set forth in this Section 8.a, the Property is exempt from payment of any fee required under DRMC Sec. 27-153(a)(1) or (2) with respect to issuance of building permits on the Property, and, if the City approves any future ordinances or regulations requiring different affordable housing requirements in the City from those in effect as of the Effective Date, then this Agreement shall supersede and govern with respect to any such future ordinances or regulations for a period of 12 years from the Effective Date.

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

b. Developer Financial Contributions to Off Site Affordable Housing.

i. As of the Effective Date, Developer has executed and is bound by that certain Community Contribution Agreement dated November 1, 2021 ("**CCA 1**") in favor of Habitat for Humanity of Metro Denver, Inc., a Colorado nonprofit corporation ("**Habitat**") pursuant to which Developer is obligated to contribute $4,250,000.00 to Habitat ("**Habitat Financial Contribution**"), in accordance with Exhibit B to the CCA 1, attached to and incorporated in the CCA 1. The CCA 1 obligates Habitat to deliver to Developer reports detailing the use of the Habitat Financial Contribution, and Developer shall share those reports with the Executive Director ("**HOST ED**") of HOST after receipt of the same from Habitat. If the CCA 1 is amended or modified as between Developer and Habitat, Developer shall provide written notice to HOST and the HOST ED detailing the terms and conditions of such amendment or modification.

ii. As of the Effective Date, Developer has executed and is bound by that certain Community Contribution Agreement dated October 15, 2021 ("**CCA 2**") in favor of Birdseed Collective, a Colorado nonprofit corporation ("**Birdseed**") pursuant to which Developer is obligated to contribute $2,000,000.00 to Habitat ("**Birdseed Financial Contribution**"), in accordance with Exhibit B to the CCA 2, attached to and incorporated in the CCA 2. The CCA 2 obligates Birdseed to deliver to Developer reports detailing the use of the Birdseed Financial Contribution, and Developer shall share those reports with the HOST ED after receipt of the same from Birdseed If the CCA 2 is amended or modified as between Developer and Birdseed, Developer shall provide written notice to HOST and the HOST ED detailing the terms and conditions of such amendment or modification.

c. Linkage Fee. In 2016, the City adopted a linkage fee on development in the City ("**Linkage Fee**") to fund affordable housing through Council Bill No. 2015-0535 (Ordinance No. 20160625), which such Ordinance was codified in the DRMC at Chapter 27, Division 2, Sections 27-151 through 27-157 ("**Linkage Fee Ordinance**"). So long as the current Linkage Fee Ordinance is not repealed, terminated, or eliminated such that payment of Linkage Fee is no longer required in order to commence construction of development in the City, Developer (or its successors and assigns in ownership of all or a portion of the Property pursuant to Section 10.g of this Agreement) shall pay, concurrently with issuance of building permits for any development containing non-residential gross floor area an amount equal to one hundred twenty-five percent (125%) of the Linkage Fee due pursuant to the Linkage Fee Ordinance in effect as of the Effective Date. The Parties agree and acknowledge that the Linkage Fee amounts in effect as of the Effective Date are:

Product Type	Linkage Fee Amount
Commercial Sales, Services and Repair	$1.86/Square foot
Civic, Public or Institutional	$1.86/Square foot
Industrial, manufacturing and wholesale	$0.44
Agricultural	$0.44

The Parties agree and acknowledge that on the date which is twelve (12) years after the Effective Date, construction of development containing non-residential gross floor area on the Property shall be obligated to pay Linkage Fee in accordance with and otherwise subject to the terms and conditions of the Linkage Fee Ordinance in effect as of the date which is twelve (12) years after the Effective Date, rather than as provided in this Section 8.c.

d. Modification of this Section. The HOST ED is authorized on behalf of the City to modify the requirements of this Section 8, except for modifications that propose to change the mix of affordability levels set forth in Section 8.a, decrease the seven percent (7%) affordability percentage, or decrease the 99-year affordability restriction requirement. Any and all such modifications shall require a written document, in form agreed to by each Party, signed by an authorized representative of Developer and the HOST ED, or HOST ED's designee, and recorded in the real property records of the City.

e. If the City approves any future ordinances or regulations requiring different affordable housing requirements in the City, this Section 8 shall supersede and govern the same, other than as noted in Section 8.c.

9. Environmental Standards and Requirements for City Ownership and Maintenance of Horizontal Infrastructure; Liability. The City shall not be responsible for costs of materials management, including any associated costs of off-site disposal of soils, imported fill, or groundwater treatment or disposal incurred in connection with construction of: transportation, water, wastewater, and storm water infrastructure and dry utilities ("**Horizontal Infrastructure**") or parks or open space ("**Parks/Open Space Infrastructure**" and together with the Horizontal Infrastructure, the "**Required Infrastructure**"), all as required to be constructed pursuant to this Agreement or as otherwise required to meet the Environmental Remediation requirements. The

Parties acknowledge the mutual benefit to the City and Developer of meeting the environmental standards set forth in Section 9.a.i(1) below in all parcels of the Property where Horizontal Infrastructure is intended for City ownership and operation, and to the extent Developer elects to develop the Project, Developer shall use commercially reasonable efforts to complete Environmental Remediation necessary to meet such standards. However, the Parties acknowledge that, notwithstanding any other provision of this Agreement, the City's ability to accept any real property interest in a parcel where Required Infrastructure is located is subject to the City's ability to obtain, to the City's satisfaction, certain liability protections under the federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 *et seq.*, which the City commits to seek in good faith. The Parties acknowledge, and the City's standards reflect, the Developer's intent to remediate the Property, including soils within all parcels where Required Infrastructure will be located to residential standards set forth in the Remediation Standards defined above. Subject to compliance with all other requirements for City acceptance of Required Infrastructure established in this Agreement, as well as DOTI design and construction standards, and the requirements of City and County of Denver Executive Order 100 ("**XO 100**"), City real property interest and access requirements for parcels where Required Infrastructure is located shall depend on the environmental condition of the parcels where such infrastructure is located according to the standards set forth below.

a. Environmental Standards for Horizontal Infrastructure.

i. Fee Title. The City may accept fee title to a parcel where the Developer demonstrates that the following requirements have been met:

(1) Soils within the parcel meet the residential standards set forth as the Remediation Standards defined above in effect at the time of conveyance, as determined in accordance Section 9.d herein (the "**Environmental Standards and Protocols**");

(2) Groundwater beneath the parcel meets the CGWQS for groundwater in effect at the time of conveyance;

(3) The parcel is not subject to an environmental covenant; and

(4) If the parcel is subject to the CDPHE Voluntary Cleanup Program ("**VCUP**"), a "no action determination" letter for all media or comparable letter from CDPHE indicating that the environmental remediation performed under the VCUP for such parcel is complete.

ii. Exclusive Permanent Easement to Depth. The City may accept an exclusive permanent easement to depth in a form substantially similar to the form of easement attached hereto as **Exhibit M** ("**PE to Depth**") where the Developer demonstrates that the following requirements have been met:

(1) Soils within the parcel meet the residential standards set forth as the Remediation Standards defined above in effect at the time of conveyance, as determined in accordance with Section 9.d of this Agreement; and

(2) If the parcel is subject to the VCUP, a "no action determination letter for all media" or a comparable letter from CDPHE indicating that the environmental remediation performed under the VCUP for such parcel is complete.

iii. District Ownership and Maintenance. Any parcels that do not meet the standards set forth in Sections 9.a.i or 9.a.ii of this Agreement shall be owned and maintained by a District. The City shall not own Horizontal Infrastructure located within such parcels and the District must provide to the City a non-exclusive permanent public access easement in a form substantially similar to the form of easement attached hereto as **Exhibit N** ("**PA Easement**"), to allow public access and a PNEE in a form substantially similar to the form of easement attached hereto as **Exhibit L**, to allow City maintenance of such Horizontal Infrastructure if the District fails to maintain such Horizontal Infrastructure.

b. Environmental Standards for Parks/Open Space Infrastructure.

i. District Ownership and Maintenance. Any parcels intended for use as Parks/Open Space Infrastructure shall be constructed in accordance with the Environmental Standards and Protocols set forth in Section 9.d and shall be owned and maintained by a District. The District must provide an OS Easement to allow public access as provided in Section 4.b.ii of this Agreement. The real property interest in favor of the City described as fee title (in Section 9.a.i), PE to Depth, PA Easement or OS Easement may be referred to herein as a "**City Property Interest**" and collectively as the "**City Property Interests**".

c. Acceptance and Conveyance.

i. The City may observe and inspect Required Infrastructure improvements in parcels where the City may take a City Property Interest pursuant to this Agreement, and the parcels where such Required Infrastructure is to be located, during the course of site investigation, construction, and upon completion of construction. Further, the Developer shall provide to the City copies of all environmental reports in connection with Environmental Remediation and Required Infrastructure improvements. Prior to the commencement of construction of Required Infrastructure improvements on parcels where the City may accept a City Property Interest pursuant to this Agreement, the Developer will identify the locations of such infrastructure and provide a preliminary construction schedule to the Department of Public Health and Environment ("**DDPHE**"). In addition, the Developer will notify DDPHE via email at environmentalquality@denvergov.org at least two (2) weeks in advance of planned site investigation and commencement of construction of such infrastructure so that DDPHE may have staff available on short notice. If Developer, the District, or their contractor(s) encounter(s) any suspected environmental contamination during construction of Required Infrastructure where the City may accept a City Property Interest pursuant to this Agreement, Developer or the District shall provide notice to the City's designee within DDPHE as soon as reasonably possible and also shall provide the results of any analytical analysis of samples collected by Developer upon receipt. DDPHE may observe any associated Environmental Remediation and may collect samples for laboratory analyses; provided, however, if DDPHE does not schedule a site visit within five (5) business days following DDPHE's receipt of such notice, Developer may continue work in such location to avoid further delay or interference with construction. However, nothing in the foregoing

sentence will limit Developer's obligation to comply with the Environmental Standards and Protocols.

ii. Parcels containing Required Infrastructure where the City may accept a City Property Interest pursuant to this Agreement shall, subject to the City's XO 100 process and the determination of appropriate City Property Interest under Sections 9.a through 9.b above, be accepted by the City pursuant to this Section 9.c, provided that such parcels and associated infrastructure meet all City standards for acceptance set forth in this Agreement. Developer or the District may seek acceptance by the City in phases and is not required to complete all improvements prior to providing a notice of completion as provided below, so long as the construction plans contain phasing plans that outline such phasing. Upon completion of Required Infrastructure within a parcel or parcels where the City may accept a City Property Interest pursuant to this Agreement, a notice of completion ("**Notice of Completion**") shall be provided to the City's designees within the CPD and DDPHE. In addition to submittal requirements set forth in this Agreement, such Notice of Completion shall include: (a) MMP Records (as defined in Section 9.d.ii(4)) and any other environmental records that relate to the environmental condition or regulatory status of such parcel, (b) analytical data verifying that the environmental standards for acceptance have been met, (c) as-built drawings for utility and roadway improvements, (d) identification of which City ownership scenario the Developer believes applies, as identified in this Agreement and based on the environmental conditions of the parcel as set forth in this Agreement, (e) for any parcels subject to the VCUP, a copy of a "no action determination" letter or comparable letter from CDPHE indicating that the Environmental Remediation of such parcel for all environmental media is complete; and (f) as applicable, a draft special warranty deed or form of easement, including a legal description.

iii. Upon receipt of the Notice of Completion, the City shall arrange for review of the Notice of Completion by the appropriate City departments, including DDPHE and the City Attorney's Office, and provide a notice of acceptance ("**Notice of Acceptance**") following receipt of such Notice of Completion if the parcel and associated infrastructure meet all City standards for acceptance set forth in this Agreement. If the City does not provide a Notice of Acceptance, the City shall provide written comments identifying the reasons the parcel and associated infrastructure do not meet all City standards for acceptance. Developer and/or the District and the City shall work in good faith to resolve any such comments and the Notice of Completion shall be resubmitted.

iv. Fee title and/or easements, as applicable, to such parcels and associated infrastructure shall be conveyed to the City within fifteen (15) business days following receipt of Notice of Acceptance from the City.

v. Conveyance of such parcels and associated infrastructure to the City must comply with XO 100 and the City Real Estate Division's clearance and review process for acquisition of property, including, but not limited to, the requirement that such parcels be conveyed free of encumbrances, except those encumbrances permitted by the City.

d. Environmental Protocols.

i. The Parties acknowledge that, (i) pursuant to the BFPPA, Developer will undertake the Environmental Remediation in conjunction with the construction of Required Infrastructure; (ii) Environmental Remediation may be required to meet the standards for City acceptance of Required Infrastructure on parcels where the City may accept a City Property Interest pursuant to this Agreement; (iii) such Environmental Remediation will include additional remedial design soil and groundwater characterization in areas planned for horizontal development ("**Additional Site Characterization**") and implementation of a materials management plan approved by DDPHE and EPA ("**Approved MMP**"), for purposes of conducting necessary Environmental Remediation of the Property, including parcels where Required Infrastructure that the City may accept a City Property Interest in pursuant to this Agreement are located; and (iv) such Approved MMP will prescribe procedures for screening, removal, reuse and disposal of impacted soils, and debris, as well as management of impacted groundwater, from the Property, and for implementation of any associated institutional or engineering controls, consistent with standards protective of human health and the environment.

ii. Unless otherwise approved by the City:

(1) All soil disturbing activities on portions of the Property where the City may accept a City Property Interest pursuant to this Agreement shall be conducted in accordance with the Approved MMP using the environmental standards for reuse of soils specified or allowed for such location in this Agreement. In addition to Approved MMP procedures, Developer and the District shall take commercially reasonable measures to mitigate any odor, visible staining, and debris present in soils that are within four (4) feet from ground surface and within four (4) feet from subsurface utilities, and that otherwise meet standards for reuse under this Agreement.

(2) Imported fill material used on portions of the Property where the City may accept a City Property Interest pursuant to this Agreement shall meet the residential soils Remediation Standards defined above in effect at the time of conveyance, as determined pursuant to the Approved MMP, and the City's Guidance for Reuse of Soil on City Projects dated October 5, 2017, as amended on May 8, 2019. The City will not accept imported soil that looks impacted, smells impacted, or contains debris irrespective of analytical results. "**Imported fill material**" for purposes of this Section 9.d.ii(2) means soil and other fill material originating outside the Property.

(3) Water quality ponds, constructed wetlands, and other water quality facilities must be lined with an impermeable material or otherwise constructed so that any water collected does not come into contact with soil containing contamination above RSL Summary Table standards for protection of groundwater in effect at the time of conveyance, or groundwater contamination above CGWQS in effect at the time of conveyance, and so that the facility does not adversely alter groundwater quality or flow.

(4) The City acknowledges the Developer's intent to undertake Additional Site Characterization. Accordingly, subject to City and EPA review and approval of such Site Characterization Plan (including City approval of any phased sampling to the extent provided in such plan), the City agrees that the data generated pursuant to the Additional Site Characterization and the various prior site investigations, together with materials management records and laboratory testing results from samples collected pursuant to the Approved MMP and

from any other samples collected in Developer's discretion ("**MMP Records**"), and any information collected at the City's discretion, shall be sufficient to demonstrate that the land within the Property to be conveyed to the City meets standards set forth in this Agreement. MMP Records shall include, at a minimum, maps identifying sample locations and depths; field notes; groundwater data collected or submitted for any discharge permit applications or executed permits; analytical data and laboratory records for soils and groundwater sampling, if any; and copies of all environmental analytical data included in or concerning reports that Developer provides to EPA or CDPHE regarding the Property, requests made to EPA or CDPHE concerning the Property, and decisions made by EPA or CDPHE regarding the Property. During the sampling phase, the Developer shall provide the City with advance notice of its sampling schedule and allow the City to be present and obtain split samples of all soil and groundwater samples. The City may observe construction and conduct additional confirmation sampling in its discretion prior to accepting a City Property Interest in parcels containing Required Infrastructure where the City may accept a City Property Interest pursuant to this Agreement, provided that Developer and the City will cooperate to assure that any such observation or sampling does not unreasonably delay or interfere with construction or property conveyance timeframes. Developer agrees to provide the City with copies of all environmental analytical data reports regarding the Property that it provides to EPA or CDPHE, includes in requests made to EPA or CDPHE, and relate to decisions by EPA or CDPHE regarding the Property, on an ongoing basis.

(5) The Approved MMP shall not be amended without approval from DDPHE and EPA, and any amendment to the Approved MMP shall require no less stringent procedures or standards than the MMP approved pursuant to this Agreement. Any amendment to the Approved MMP that meets the requirements of this paragraph shall also be considered an "Approved MMP" for purposes of this Agreement.

e. Developer and District Release. The Developer and the Districts hereby waive and release any and all liabilities, claims, judgments, suits or demands for damages to persons or property against the City, its appointed and elected officials, agents and employees, arising out of, resulting from, or relating to any portion of the Property subject to a City Property Interest under Environmental Laws ("**Claims**"), including, without limitation, Claims for cost recovery or contribution arising out of the costs of remediation, or injunctive relief requiring remediation, of Hazardous Materials present in, on, or under or migrating from the Property, incurred by the Developer or the Districts under Environmental Laws; provided, however, in no event shall the foregoing release apply to Claims that have been specifically determined by a trier of fact to be the sole negligence or willful misconduct of the City or to Claims arising from environmental conditions introduced or caused by the City after it accepts a City Property Interest from Developer or a District. "**Environmental Laws**" for purposes of this Agreement shall mean and include without limitation (i) the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984, as now or hereafter amended (42 U.S.C. § 6901, et seq.), (ii) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, as now or hereafter amended (42 U.S.C. § 9601, et seq.), (iii) the Clean Water Act, as now or hereafter amended (33 U.S.C. § 1251, et seq.), (iv) the Toxic Substances Control Act of 1976, as now or hereafter amended (15 U.S.C. § 2601, et seq.), (v) the Clean Air Act, as now or hereafter amended (42 U.S.C. § 7401, et seq.), (vi) the Safe Drinking Water Act, (42 U.S.C. § 300f, et seq.), (vii) the Hazardous Materials Transportation Act, as now or hereafter amended (49 U.S. § 5101, et seq.),

(viii) all regulations promulgated under any of the foregoing, (ix) any local or state law, statute, regulation or ordinance analogous to any of the foregoing, including, but not limited to, Colorado Revised Statutes, Title 25, Articles 15 and 16, as now or hereafter amended, and (x) any other federal, state, or local law (including any common law), statute, regulation, or ordinance regulating, prohibiting, or otherwise restricting the pollution, protection of the environment, or the use, storage, discharge, or disposal of Hazardous Materials. "**Hazardous Materials**" means any toxic substances or hazardous wastes, substance, product matter, material, waste, solid, liquid, gas, or pollutant, the generation, storage, disposal, handling, recycling, release, treatment, discharge, or emission of which is regulated, prohibited, or limited under any Environmental Law, and shall also include, without limitation: (i) gasoline, diesel, diesel fuel, fuel oil, motor oil, waste oil, and any other petroleum products or hydrocarbons, including any additives or other by-products associated therewith, (ii) asbestos and asbestos-containing materials in any form, and (iii) lead-based paint, radon, or polychlorinated biphenyls. The term "**toxic substances**" means and includes any materials present on the Property that are subject to regulation under the Toxic Substance Control Act ("**TSCA**"), 15 U.S.C. § 2601, et seq., applicable state law, or any other applicable federal or state law now in force or later enacted relating to toxic substances.

f. Defense and Indemnification.

i. To the fullest extent permitted by applicable law, Districts hereby agree to defend, indemnify, and hold harmless the City, its appointed and elected officials, agents and employees against all 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 of the Developer or the Districts or their subcontractors either passive or active, irrespective of fault, including the City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of the City or to Claims arising from environmental conditions introduced or caused by the City after it accepts the City Property Interest from Developer or the Districts. The Parties understand and acknowledge that Colorado law does not currently enforce indemnity clauses in contracts entered into by Colorado local governments. The Districts are Colorado local governments and are not providing any assurance or warranty that the indemnification provided herein would be enforced in any Colorado court or in any proceeding under Colorado law. Further, the Districts do not waive nor relinquish any protections, limitations, immunities or defenses established under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended, as a consequence of entering into this Agreement.

ii. The Districts' duties to defend and indemnify the City shall arise at the time written notice of the Claim is first provided to the City regardless of whether claimant has filed suit on the Claim. The Districts' duties to defend and indemnify the City shall arise even if the 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.

iii. The Districts will defend any and all Claims which may be brought or threatened against the City and will pay on behalf of the 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 the City shall be in addition to any other legal remedies available to the City and shall not be considered the City's exclusive remedy.

iv. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Districts under the terms of this indemnification obligation. The Districts shall obtain, at their own expense, any additional insurance that it deems necessary for the City's protection.

v. This defense and indemnification obligation shall survive the expiration or termination 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. Developer does not waive its right to oppose the enactment or amendment of any such regulations or to challenge the validity of such regulations through proper 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. Below is a list of Exhibits attached hereto and incorporated herein by this reference:

#	**Exhibit __**	**Description**
	Exhibit A	Legal Description of the Property
	Exhibit A-1	Depiction of the Property
	Exhibit B	IMP Exhibit (Before and After Defined Terms from IMP re Open Spaces)

	Exhibit C	Open Space Plan (Exhibit 4.3 of the IMP)
	Exhibit D	Phasing Plan (Exhibit 4.2 of the IMP)
	Exhibit E	Form of OS Easement
	Exhibit F	Trip Reservation Rules
	Exhibit G	Full Modal 47th Ave. Bridge
	Exhibit H	Northern Tunnel
	Exhibit I	Huron Bridge
	Exhibit J	38th & Fox Connection
	Exhibit K	44th Ave. Improvements
	Exhibit L	Form of PNEE
	Exhibit M	Form of PE to Depth
	Exhibit N	Form of PA Easement

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. Developer or either District 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 or partial assignment of Developer's or the applicable District's rights and duties hereunder, including but not limited to, the Districts or any party acquiring an interest or estate in the Property, the Project, or any improvements constructed thereon, provided that to the extent Developer or either District assigns any of its obligations under this Agreement, the assignee of such obligations shall expressly assume such obligations. The express assumption of any of Developer's or Districts' obligations under this Agreement concerning the Property and/or rights and duties subject to such assignment by its assignee or transferee shall thereby relieve Developer or the applicable District of any further obligations under this Agreement concerning such property and/or rights and duties and shall release the City from further obligation to Developer or the applicable District, with respect to the matter so assumed. Developer or the applicable District shall provide the City with a copy of any such assignment or partial assignment or notify the City of any such assignment or partial assignment with a certification that Developer or either District 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 Developer or the applicable District or any other assignee under this Agreement that were not assigned to or assumed by such defaulting assignee, nor shall Developer or the applicable District 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 Developer may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability; and the Developer shall insert the foregoing provision in subcontracts.

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 Developer shall be charged personally or held contractually liable by or to any 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 any Party of their obligations under this Agreement, the non-defaulting Party may seek specific performance, but not damages. Each of the City and the Districts hereby expressly consent to the remedy of specific performance in the event of any breach of their respective obligations hereunder. 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 any 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 the Department of Transportation Infrastructure ("**DOTI**") 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 or reputable overnight courier (such as Federal Express or UPS), 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 DDPHE:

Executive Director of Dept. of Public Health & Environment
101 W. Colfax Ave, Suite 800
Denver, Colorado 80202

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

If to DOTI:
Executive Director of Dept. of Transportation Infrastructure
201 W. Colfax Avenue, Dept. 506
Denver, Colorado 80202

If to Developer:

Vita Fox North, L.P.
Attention: Jose Carredano
1801 Wewatta Street, 11th Floor
Denver, Colorado 80202

With a copy to:

Vita Fox North, L.P.
c/o Pure Development
Attention: Elizabeth Brier
815 East 65th Street, Suite 200,
Indianapolis, Indiana 46220

If to either of the District(s):

West Globeville Metropolitan District Nos. 1 & 2
c/o Collins Cockrel & Cole
390 Union Blvd. Suite 400
Denver, CO 80228-1556
Attention: Matthew Ruhland, Esq.

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

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

o. No Obligation to Develop. Developer shall have the right to develop the Property and the Project 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 a City obligation, Developer shall have no obligation to construct public or private improvements on all or any portion of the Project and shall have no liability to the City for any failure to construct public or private improvements on all or any part of the Project. Developer and the City contemplate that the Site will be developed in phases.

p. No Third-Party Beneficiary. It is the intent of the Parties that no third party beneficiary interest is created in 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. Utility Easements. In the event Developer elects to enter into easements (or licenses) for 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. PDF signatures shall be accepted as originals. The City consents 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 Agreement on the date set forth below by the Parties' signatures, but effective on the Effective Date:

DEVELOPER:

Vita Fox North, L.P.,
a Delaware limited partnership

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

IN WITNESS WHEREOF, the Parties hereto have executed this 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

_____
Chair

ATTEST:

_____

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

_____
Chair

ATTEST:

_____

APPROVED AS TO FORM:

COLLINS, COCKREL & COLE
Attorneys at Law

_____
General Counsel to the District(s)

Exhibit A to
Fox North Development Agreement

Legal Description of Developer 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 DISTANCE OF 381.53 FEET TO A POINT, THE CHORD OF SAID ARC BEARS SOUTH 46 DEGREES 46 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, A DISTANCE 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 NORTH 89 DEGREES 53 MINUTES 55 SECONDS EAST, ALONG THE NORTH LINE OF WEST 43RD AVENUE, A DISTANCE OF 346.00 FEET TO A POINT OF BEGINNING.

EXCEPT THOSE PORTIONS CONVEYED TO CITY AND COUNTY OF DENVER BY DEEDS RECORDED JULY 14, 1986 UNDER RECEPTION NO. 794972 AND JULY 14, 1986 UNDER RECEPTION NO. 794973, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

PARCEL 2:

ALL THAT PART OF THE WEST ONE HALF OF SECTION 22, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, IN THE CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 22, THENCE SOUTH 0 DEGREES 01 MINUTES 05 SECONDS EAST ALONG THE WEST LINE OF SAID SOUTHWEST ONE-QUARTER, A DISTANCE OF 384.00 FEET TO THE CENTERLINE OF VACATED WEST 43RD AVENUE, BY ORDINANCE NO. 30, SERIES OF 1943, BEING THE POINT OF BEGINNING OF THE PARCEL DESCRIBED HEREIN;

THENCE NORTH 89 DEGREES 53 MINUTES 55 SECONDS EAST, ALONG SAID CENTERLINE, A DISTANCE OF 182.03 FEET TO A SOUTHWESTERLY CORNER OF

THAT PARCEL DESCRIBED IN INSTRUMENT RECORDED IN BOOK 2739 AT PAGE 28 OF THE RECORDS OF THE CITY AND COUNTY OF DENVER; THENCE NORTH 25 DEGREES 26 MINUTES 32 SECONDS EAST ALONG A WESTERLY LINE OF SAID PARCEL, A DISTANCE OF 293.48 FEET;

THENCE, CONTINUING ALONG SAID WESTERLY LINE, NORTH 44 DEGREES 55 MINUTES 55 SECONDS EAST A DISTANCE OF 176.88 FEET;

THENCE NORTH 45 DEGREES 16 MINUTES 33 SECONDS EAST A DISTANCE OF 1250.55 FEET TO INTERSECT THE EAST LINE OF THE SOUTHWEST ONE-QUARTER NORTHWEST ONE-QUARTER OF SAID SECTION 22;

THENCE NORTH 0 DEGREES 01 MINUTES 42 SECONDS WEST ALONG SAID EAST LINE, A DISTANCE OF 91.55 FEET TO AN EASTERLY CORNER OF THAT PARCEL DESCRIBED IN INSTRUMENT RECORDED IN BOOK 2739 AT PAGE 28 OF THE RECORDS OF THE CITY AND COUNTY OF DENVER;

THENCE, CONTINUING ALONG THE SOUTHEASTERLY AND SOUTHERLY LINES OF SAID PARCEL, THE FOLLOWING SIX COURSES:

THENCE SOUTH 43 DEGREES 39 MINUTES 41 SECONDS WEST A DISTANCE OF 1082.61 FEET TO INTERSECT THE WEST RIGHT OF WAY LINE OF VACATED FOX STREET;

THENCE SOUTH 45 DEGREES 19 MINUTES 28 SECONDS WEST A DISTANCE OF 360.97 FEET TO A POINT OF CURVATURE;

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 FEET;

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, NON- TANGENT 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, NON-TANGENT 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/NSPS Survey of the Property

[See Attached]

Exhibit B to
Fox North Development Agreement

IMP Exhibit

Exhibit C to
Fox North Development Agreement

Open Space Plan
(Exhibit 4.3 of the IMP)

Exhibit D to
Fox North Development Agreement

Phasing Plan
(Exhibit 4.2 of the IMP)

Exhibit E 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 _____, 20___, between **[INSERT REFERENCE TO APPLICABLE DISTRICT]**, 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 [Great Lawn/Other Open Spaces][1] and the open space requirements as set forth in Section 4 of the Fox North Amended and Restated 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 surface of the parcel(s) described in Exhibit A up to and including two feet (2') below the surface of such parcel(s) (collectively, the "Easement Area(s)") for the purpose of using such Easement Area(s) for publicly accessible and usable open space as required by the Development Agreement.

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

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

SEE EXHIBIT A
ATTACHED HERETO AND INCORPORATED HEREIN

The Grantor does hereby covenant with the Grantee that it is lawfully seized and possessed of the real property consisting of the Easement Area(s), and that it has a good and lawful right to grant this permanent Open Space Easement in the Easement Area(s).

[1] May need to be revised depending on which open space the developer will be granting the easement for.

Grantor further covenants and agrees that, unless otherwise authorized by a site development plan approved by the City, no building, structure, or other above 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); provided, however, Grantor has the right to develop, construct, install and permit below ground/subsurface improvements below the Easement Area, including without limitation, below grade parking structures and facilities. 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 reasonable costs or expenses incurred by the City in enforcing the terms of this paragraph.

Notwithstanding the foregoing and the grant of this Easement to Grantee pursuant to this Easement, Grantee hereby agrees and acknowledges that Grantor, and Grantor's employees, agents, contractors, subcontractors, successors, assigns, lessees, and licensees, reserve the right to use the Easement Area(s), including, but without limitation, for the purposes of performing construction activities related to the development of the Easement Area(s) and adjacent parcels of Grantor's property, 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); installing open space improvements within the Easement Area(s); and otherwise maintaining and operating the Easement Area(s); provided that such uses will not unreasonably interfere with the public's or Grantee's use of the Easement Area(s) for the purposes described herein.

Grantor further understands and agrees that with respect to the Easement Area(s), 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.

To the fullest extent permitted under applicable law, Grantor shall indemnify, defend and hold harmless the City from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses arising from the environmental condition of the Easement Area(s), including the existence of any hazardous material, substance or waste, unless (i) such hazardous material, substance or waste are introduced or caused after the date of this Easement by the City, or (ii) such claims, damages, fines, judgments, penalties, costs, liabilities or losses have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. The parties hereto understand and acknowledge that Colorado law does not currently enforce indemnity clauses in contracts entered into by Colorado local governments. Grantor is a Colorado local government and is not providing any assurance or warranty that the indemnification provided herein would be enforced in any Colorado court or in any proceeding under Colorado law. Further, Grantor does not waive nor relinquish any protections, limitations, immunities or defenses established under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended, as a consequence of entering into this Easement.

Grantee shall not be liable for, and Grantor hereby releases all claims against the City arising out of any environmental conditions existing on Grantor's property adjacent to the Easement Area and in the property within and underyling the Easement Area, unless (i) such environmental conditions are introduced or caused after the date of this Easement by the City, or (ii) such claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City.

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

(To Be Inserted)

Exhibit F to
Fox North Development Agreement

Trip Reservation Rules

1. The "reservation" of a trip from the Available Vehicle Trips shall occur at the time of the City's release of a site development plan from the "concept" phase as further detailed in Section 4 below. The "allocation" of a trip from the Available Vehicle Trips shall occur at the approval by the City of a formal site development plan. Once a trip is reserved or allocated from the Available Vehicle Trips, then it is unavailable for use by any other development. As part of this system, the City will make publicly available the number of trips that have been reserved and allocated from the Available Vehicle Trips.

2. Each concept site development plan for a Vertical Project within the Property shall submit a transportation demand management plan to be reasonably reviewed and approved by the City.

3. Each concept site development plan for a Vertical Project within the Property 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. Each Vertical Project must submit complete formal site development plan application and associated engineering documents no later than one hundred twenty (120) days after the receipt of written notification from the City notifying the applicant for the Vertical Project 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 Vertical 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 Vertical Project and upon receipt of any subsequent round of formal comments from the City, the

applicant 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 Vertical Project 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 Vehicle Trips.

Exhibit G to
Fox North Development Agreement

Full Modal 47th Ave. Bridge

[See Attached]

Exhibit H to
Fox North Development Agreement

Northern Tunnel

[See Attached]

Exhibit I to
Fox North Development Agreement

Huron Bridge

[See Attached]

Exhibit J to
Fox North Development Agreement

38th & Fox Connection

[See Attached]

Exhibit K to
Fox North Development Agreement

44th Ave. Improvements

[See Attached]

Exhibit L to
Fox North Development Agreement

Form of Permanent Non-Exclusive Easement

Project Number:

PERMANENT NON-EXCLUSIVE EASEMENT FOR DISTRICT OWNED INFRASTRUCTURE

(District Owned Utilities on District Property)

This Permanent Non-Exclusive Easement for District-Owned Infrastructure ("Easement"), made _____ Day of _____, 20___ between **[INSERT APPLICABLE DISTRICT]** _____ whose address is _____ ("Grantor(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 _____, described in **Exhibit A** attached hereto and incorporated herein (the "Property"), 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) hereby grant(s) and convey(s) a permanent non-exclusive easement to the City under, in, upon, across and over the portion of the Property 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.

3. Subject to the provisions set forth herein, the owner of the Easement Area from time to time ("Easement Owner", which definition shall include Grantor, jointly and severally, together with any future owner of all or any part of the Property and/or the Easement Area) is responsible for the maintenance and service of such Facilities to ensure conformance with all applicable plans and standards approved by the City. If the Easement Area is sold, in whole or in part, the Grantor, and the successor owner(s) of the Property and/or the Easement Area shall have joint and several responsibility for the obligations set forth herein.

4. The Grantor(s) shall pay for and be responsible for all costs to construct, reconstruct, repair and maintain 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. Except to the extent that any portion of the Property, the Easement Area or the Facilities may become property of the City through a subsequent conveyance, 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 Executive Director of the Department of Transportation and Infrastructure ("Executive Director"), the Facilities are not properly maintained, constructed, repaired, or serviced by Easement Owner, the City shall give notice to the Easement Owner 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 such 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 Easement Owner. However, in cases of emergency, as solely determined by the Executive Director, the City may choose to make immediate maintenance, servicing, repairs or corrections and to collect the cost thereof from the Easement Owner without notice.

6. Neither the Grantor(s) nor the Easement Owner shall in any 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. To the fullest extent permitted under applicable law, Grantor(s) and Easement Owner each 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. The parties hereto understand and acknowledge that Colorado law does not currently enforce indemnity clauses in contracts entered into by Colorado local governments. Grantor is a Colorado local government and is not providing any assurance or warranty that the indemnification provided herein would be enforced in any Colorado court or in any proceeding under Colorado law. Further, Grantor does not waive nor relinquish any protections, limitations, immunities or defenses established under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended, as a consequence of entering into this Easement. The 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 and the 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) and Easement Owner 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. The City shall not be liable for, and Grantor and Easement Owner(s) hereby release all claims against the City arising out of environmental conditions existing on Grantor or Easement Owner(s)'s property immediately adjacent to the Easement Area and in the property within and underlying the Easement Area unless (i) such environmental conditions are introduced or caused after the date of this Easement by the City, or (ii) such claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City.

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

9. This Easement shall be recorded in the 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: Executive Director of Department of Transportation Infrastructure

201 W. Colfax, Department 608

Denver, CO 80202

If to Grantor(s): Company

Address

Address

10. 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.

11. Grantor reserves to itself and its successors and assigns, all rights and privileges in and to the Easement Area not otherwise granted to the City hereunder, including the right to use the Easement Area and grant additional easements on, over, under and through the Easement Area for its own purposes so long as said use does not violate the terms hereof or any of the rights conveyed hereby.

[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 to
Permanent Non-Exclusive Easement

Property Legal Description

(To Be Inserted)

Exhibit B to
Permanent Non-Exclusive Easement

Easement Area Legal Description

(To Be Inserted)

Exhibit M to
Fox North Development Agreement

Form of Exclusive Permanent Right of Way Easement to Depth

EXCLUSIVE PERMANENT RIGHT OF WAY EASEMENT TO DEPTH
(City Infrastructure on District-Owned Property)

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

1. In consideration of the sum of ___ DOLLARS ($___.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants and conveys unto Grantee an exclusive perpetual easement in, on, over, or through the easement areas which are legally described and depicted in **Exhibit A**, attached hereto and incorporated herein by this reference, and which is limited in depth to the elevations shown on **Exhibit B**, attached hereto and incorporated herein (the "Easement Areas"), which real property is located in the City and County of Denver, State of Colorado, for the purpose of the use and maintenance, operation, repair, replacement, or reconstruction of a road, curb, gutter, sidewalk, landscaping, utilities, and all appurtenances to such road (the "Improvements") within the Easement Areas and the dedication and use of the Easement Areas as public right-of-way for use and access by the public.

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

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

4. Grantor reserves for itself the right to use and enjoy the Easement Areas, subject to the rights herein granted. If allowed by, and if in full compliance with, the laws, rules, and regulations of the City and County of Denver, Colorado, and other entities having jurisdiction over the Easement Areas, the Easement Areas may be used for set-back, density, and open space purposes and for access to Grantor's remaining property; provided, however, Grantor agrees not to otherwise build, create, construct, or permit to be built, created, or constructed, any obstruction,

building, fence, or other structures over, under, on, or across the Easement Areas without prior written consent of Grantee's Executive Director of the Department of Transportation and Infrastructure. Nothing herein shall impair Grantee's police powers.

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

6. To the fullest extent permitted under applicable law, Grantor shall indemnify, defend and hold harmless the Grantee from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses arising from the environmental condition of the Easement Area(s) ("**Claims**"), including the existence of any hazardous material, substance or waste; unless (i) such environmental conditions are introduced or caused after the date of this Easement by the City, or (ii) such claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. The parties hereto understand and acknowledge that Colorado law does not currently enforce indemnity clauses in contracts entered into by Colorado local governments. Grantor is a Colorado local government and is not providing any assurance or warranty that the indemnification provided herein would be enforced in any Colorado court or in any proceeding under Colorado law. Further, Grantor does not waive nor relinquish any protections, limitations, immunities or defenses established under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended, as a consequence of entering into this Easement. 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.

7. Grantee shall not be liable for, and Grantor hereby releases all claims against Grantee arising out of any environmental conditions existing on Grantor's property adjacent to the Easement Area and in the property within and underlying the Easement Area unless introduced or caused after the date of this Easement by Grantee, unless (i) such environmental conditions are introduced or caused after the date of this Easement by the City, or (ii) such claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City.

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

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

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

GRANTOR:

_____

By:_____

Its:_____

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

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

Witness my hand and official seal.

My commission expires:_____

_____
Notary Public

GRANTEE:

CITY AND COUNTY OF DENVER,

A home rule City and Colorado Municipal Corporation

ATTEST

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

By: _____
MAYOR

APPROVED AS TO FORM:
Denver City Attorney

By: _____
Assistant City Attorney

REGISTERED AND COUNTERSIGNED

By: _____
Manager of Finance

By:_____
Auditor

STATE OF _____)
) ss
COUNTY OF _____)

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

Witness my hand and official seal.

My commission expires:_____

_____
Notary Public

Exhibit A to
Form of Exclusive Permanent Right of Way Easement to Depth

Legal Descriptions and Depictions of the Easement Area

(To Be Inserted)

Exhibit B to
Form of Exclusive Permanent Right of Way Easement to Depth

Easement Depth Elevations

(To Be Inserted)

Exhibit N to
Fox North Development Agreement

Form of Public Access Easement for District-Owned Right of Way

After recording return to:
Denver City Attorney's Office
201 W. Colfax Avenue, Dept. 1207
Denver, Colorado 80202

PUBLIC ACCESS EASEMENT
FOR DISTRICT-OWNED RIGHT OF WAY

(Fox North Development)

THIS PUBLIC ACCESS EASEMENT ("**Easement**") is made as of the date set forth below by and [INSERT APPLICABLE DISTRICT], a _____ ("**Grantor**")[2] for the benefit of the **CITY AND COUNTY OF DENVER**, a Colorado municipal corporation and home rule city ("**Grantee**").

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

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

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

To the fullest extent permitted under applicable law, Grantor shall indemnify, defend and hold harmless the Grantee from any and all claims, damages, fines, judgments, penalties, costs,

[2] Note to City: Grantor will be District

liabilities or losses arising from the environmental condition of the Easement Area(s) ("**Claims**"), including the existence of any hazardous material, substance or waste; unless (i) such environmental conditions are introduced or caused after the date of this Easement by the City, or (ii) such claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. The parties hereto understand and acknowledge that Colorado law does not currently enforce indemnity clauses in contracts entered into by Colorado local governments. Grantor is a Colorado local government and is not providing any assurance or warranty that the indemnification provided herein would be enforced in any Colorado court or in any proceeding under Colorado law. Further, Grantor does not waive nor relinquish any protections, limitations, immunities or defenses established under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended, as a consequence of entering into this Easement. 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.

Grantee shall not be liable for, and Grantor hereby releases all claims against Grantee arising out of any environmental conditions existing on Grantor's property adjacent to the Easement Area and in the property within and underlying the Easement Area unless introduced or caused after the date of this Easement by Grantee, unless (i) such environmental conditions are introduced or caused after the date of this Easement by the City, or (ii) such claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City.

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

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

SIGNATURES ON FOLLOWING PAGE

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

GRANTOR:

_____

By:_____
Its:_____

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

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

Witness my hand and official seal.

My commission expires:_____

_____
Notary Public

Exhibit A to
Form of Public Access Easement for District-Owned Right of Way

Legal Description

(To Be Inserted)

Schedule 4 to
Fox North Development Agreement

Vested OS Requirements

For the purposes of this Schedule 4, "Net Development Area" shall be calculated as provided in the IMP and has been determined 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 general location of that open space is identified in the IMP.

Division 10.8 OPEN SPACE STANDARDS

Section 10.8.1 OPEN SPACE IN LARGE DEVELOPMENTS

10.8.1.1 Purpose

To ensure Large Developments (defined below) provide open space within their boundaries that is publicly accessible, usable, and provides community benefit, including but not limited to pedestrian areas, courtyards, plazas, and natural, pervious areas.

10.8.1.2 Applicability

A. General Applicability

This section shall apply to all development in all zone districts where the total gross land area for the development is either greater than 5 acres or 3 or more Blocks ("Large Development").

B. Exceptions

A Large Development may be exempt from providing the minimum open space set forth in this Section 10.8.1 if:

1. The proposed Development is subject to a previously approved General Development Plan ("GDP"), and when the design review committee ("DRC") determines that the previous GDP was approved with minimum open space consistent with the minimum amount and design standards set forth in this Section 10.8.1; or

2. When the DRC determines that the proposed Development is located in an approved Large Development Framework, Infrastructure Master Plan, Subdivision under Denver Revised Municipal Code Chapter 50, or other approved regulatory document that has established minimum open space that is consistent with the minimum amount and design standards set forth in this Section 10.8.1.

10.8.1.3 Minimum Amount Required

A minimum of 10% of the Net Development Area as defined above, Open Space in Large Developments Rules of Measurement, shall be provided as open space in accordance with this section ("Open Space in Large Developments").

A. For Large Developments equal to or under 10 acres and subject to this section, City park land, or land required to be dedicated to the City by the Department of Parks and Recreation, located within the Large Development boundaries, may count towards the 10% minimum requirement for Open Space in Large Developments, provided the DRC finds that the land complies with:

    1. The minimum design standards in Section 10.8.1.6; and

    2. Applicable design standards adopted by the Department of Parks and Recreation.

B. For Large Developments over 10 acres and subject to this section, City park land, or land dedicated to the City for City park, conservation, or recreation public purposes, located within the Large Development boundaries, may count towards the 10% minimum requirement for Open Space in Large Developments, provided the DRC finds that the land:

    1. Complies with the minimum design standards in Section 10.8.1.6;

    2. Complies with any applicable design standards adopted by the Department of Parks and Recreation; and

    3. Is in addition to any minimum land area required for City park land, or land required to be dedicated to the Department of Parks and Recreation ("**DPR**") in accordance with adopted DPR standards, and located within the Large Development boundaries.

10.8.1.4 Easement Required

The required Open Space in Large Developments shall be subject to a perpetual easement granted to the City and/or the general public. All required easements shall be in a form approved by the City.

10.8.1.5 Public Access Required

The required Open Space in Large Developments shall remain open to the public at all times, or from sunrise to sunset.

10.8.1.6 Design Standards

The required Open Space in Large Developments shall comply with the following design standards.

A. The required open space shall be provided in 1 or more contiguous areas measuring at least 15 feet wide and 30 feet deep, and abutting:

1. A street; or

2. An area with direct pedestrian access to a street, provided such area is subject to a perpetual easement, or similar mechanism, granted to the City and/or the general public.

B. The required minimum Open Space in Large Developments shall remain publicly accessible and usable in accordance with the following design standards:

1. Shall not be covered by an Off-Street Parking Area or a completely or partially enclosed structure, but may include open structures excluding exterior balconies. The required open space may include user amenities such as tables, chairs, benches, sculptures, and similar elements.

2. Shall be visible from at least one public named or numbered street.

3. Shall not be permanently enclosed by railings, fences, gates, or walls.

4. Shall be within 2 feet of grade at edge of Street or where the open space is accessible to the public.

5. Shall have barrier-free access to the open space from the abutting Street or the point the open space abuts a zone lot line accessible to the public, designed in accordance with the Americans with Disabilities Act or Denver Accessibility Standards.

6. The required open space design may be, but is not limited to, any of the following types:

   a. A courtyard, enhanced streetscape, or pedestrian area with connections to transit facilities, plazas, or streets; and/or

   b. Natural, pervious areas landscaped with trees and vegetation.

C. The Zoning Administrator may approve an Administrative Adjustment to the Open Space in Large Development design standards in this Section 10.8.1.6, according to Section 12.4.5 of the Denver Zoning Code, with effective date June 25, 2010 as restated in its entirety on July 1, 2021 and amended on July 26, 2021 (Administrative Adjustment), and upon finding that the proposed adjustment would meet or exceed the intent and purpose of this Section 10.8.1.

Schedule 8 to
Fox North Development Agreement

Rental and Occupancy Covenant

WHEN RECORDED MAIL TO:

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

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

RENTAL AND OCCUPANCY COVENANT

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

RECITALS:

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

[fill in]

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

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

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

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

1. **Definitions**.

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

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

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

   iv. "Eligible Household" means a natural person who, at the time of entering into the lease for a IRU or a renewal of such lease, verifies to Owner on the Income Verification that the total gross income earned by such person is [XX]%, [YY]%, or [FILL IN AS NECESSARY]%) or less of the of AMI for the tenant's household size.

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

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

2. **Rent Limitations**. The rent limitation for the IRUs are as follows:

i. (##) of the IRUs (the "XX% Units") will have rents not exceeding the amount posted on the website of the City and County of Denver's Department of Housing Stability ("HOST"), or any successor agency which is assigned responsibility for the City's AHDF Ordinance, for households earning [XX]% or less of AMI.

ii. (##) of the IRUs (the "YY% Units") will have rents not exceeding the amount posted on the website of HOST for households earning [YY]% or less of AMI.

iii. [REPEAT AS NECESSARY]

iv. The maximum allowable rents posted on HOST's website are based upon the Low Income Housing Tax Credit rent by AMI threshold published by the Colorado Housing and Finance Authority ("CHFA"). Any tenant association fees shall be included in the rent calculation. The maximum rent shall deduct utility allowance costs which are published periodically by HUD or CHFA.

3. **Occupancy/Income Limitations**. The occupancy and income limitations for the IRUs are as follows:

i. The XX% Units shall be occupied by tenants whose incomes are at or below [XX]% of AMI.

ii. The YY% Units shall be occupied by tenants whose incomes are at or below [YY]% of AMI.

iii. [REPEAT AS NECESSARY]

iv. Owner shall have responsibility to assure that a household or individual is an Eligible Household before executing a lease contract, and shall complete an Income Verification for each Eligible Household. Owner shall also offer the IRUs to Eligible Households through a fair and equitable system and use good-faith efforts to enter into leases with and marketing to Eligible Households.

4. **Amount of Income Restricted Units**. Owner shall provide no less than () IRUs on the Subject Property. All of the IRUs are floating and are designated as follows:

BEDROOMS	**XX% Units**	**XX% Units**	**XX% Units**	**XX% Units**	**XX% Units**	**XX% Units**
Studio						
1 Bedroom						
2 Bedroom						
3 Bedroom						
TOTAL						

5. **Compliance and Reporting.**

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

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

iii. Owner shall demonstrate continued compliance with this Covenant after the Initial Leasing Period by submitting to the City a Compliance Report on a semi-annual basis during the Term. Each such Compliance Report shall be accompanied by copies of Income

Verifications for any Eligible Household that entered into a new lease or lease renewal during that half year.

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

v. Upon reasonable notice and during the normal business hours maintained by Owner at the management office at the Subject Property or such other place where the requested books and records are kept in the Denver metropolitan area, Owner shall permit any duly authorized representative of the City to inspect any books or records of Owner pertaining to the project at the Subject Property containing IRUs which reasonably relate to Owner's compliance with the terms and conditions of this Covenant.

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

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

7. **Term**. This Covenant shall encumber the Subject Property for a period of ninety nine (99) years from the date of recording hereof and shall not be amended or modified without the express written consent of the City and County of Denver. As such the Subject Property will not be subject to any right of first refusal in favor of the City as provided in the AHDF Rules.

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

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

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

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

12. **Memorandum of Acceptance**. Upon any sale of the Subject Property, Owner shall require the grantee of the Subject Property to execute a Memorandum of Acceptance, and shall deliver a copy of such Memorandum of Acceptance to the Executive Director of HOST not less than thirty (30) days after such sale is consummated.

BALANCE OF PAGE INTENTIONALLY LEFT BLANK

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

OWNER: _____,

a _____ _____

By: _____

Name: _____

Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

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

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

_____
Notary Public

ACCEPTANCE BY THE CITY AND COUNTY OF DENVER

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

CITY AND COUNTY OF DENVER, COLORADO

By:_____
Name:_____
Title:_____

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

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

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

_____
Notary Public

EXHIBIT A

COMPLIANCE REPORT

DENVER
OFFICE OF ECONOMIC DEVELOPMENT

DEPARTMENT OF HOUSING STABILITY
Rental Restriction Compliance Report

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

Project: _____ **Address:** _____

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

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

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

CERTIFICATION

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

Completed by: _____ _____ _____

Printed Name *Signature* *Date*

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

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EXHIBIT B

INCOME VERIFICATION

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

INCOME VERIFICATION & ELIGIBILITY FORM

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

Project Information:

Name of Project: _____

Project Address: _____

Contact: _____

Telephone: _____

E-Mail: _____

Household Information:

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

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

Projected Annual Income:

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

DENVER ECONOMIC DEVELOPMENT & OPPORTUNITY Income verification should tie to the period of the property's lease/renewal	**INCOME VERIFICATION & ELIGIBILITY FORM** *Return completed application to:* Department of Housing Stability Attn: Affordable Housing Program Coordinator 201 W. Colfax Avenue - Dept. 204 Denver, CO 80202 E-Mail: housingcompliance@denvergov.org
Other Income can include but is not limited to:	*Periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, unemployment, disability compensation, welfare (or other similar type of government payments), alimony, child support, pay associated with the armed forces or any other similar type of periodic payments received.*

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Assets:

If any household member has any net income of any kind from assets, being real or personal property, provide the following:

	Name:	Name:	Name:	Name:	Name:	Name:
Interest						
Dividends						
Total Amount of Income (expected in next 12 months)						

Certifications:

I, the undersigned, state that I have read and answered fully and truthfully each of the preceding questions for all members of the household who are to occupy the unit in the above named development for which application is made, all of whom are listed in this application.

I have attached one of the following for each household member to support the information supplied in this Income Verification and I certify that what is attached is a true and accurate copy of what it purports to be. *(please check which document submitted)*

_____ Copy of signed, submitted most recent year of federal tax return (including all attachments - such as W-2, etc.)

Only if income information is current; if not, please provide either of the following:

_____ Two (2) months of most recent pay stubs from current employer.

_____ Letter from each current employer regarding current salary - must include average weekly hours worked and at what rate or yearly salary, including bonuses, commissions, etc. (An OED Verfification of Employment form may be used as an alternative.)

NOTE:
If additional income is denoted, provide supporting documentation.
If household member is unemployed, provide copy of unemployment award.
If no income is denoted for a household member, provide signed written explanation

I acknowledge that I have been advised that the making of any misrepresentation or misstatement in this declaration will constitute a material breach of my/our agreement with the owner of the above named project to lease a unit in the same project and will entitle the owner of said project to prevent or terminate my/our occupancy of the unit by institution of an action of ejection or other appropriate proceedings.

Signatures:

_____ Applicant Date

_____ Co-Applicant Date

Optional Information:

This information is requested for demographic and statistical purposes only. It is not used in determining your eligibility

EQUAL HOUSING OPPORTUNITY

Race: ☐ Black/African ☐ White ☐ Asian ☐ AIAN* ☐ Pacific Islander ☐ Other

Ethnicity: ☐ Hispanic/Latino

*American Indian and Alaska Native

Referred By: ☐ Developer ☐ Newspaper ☐ Website ☐ Brochure ☐ Word of Mouth ☐ Other

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