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04/17/2017 11:19:50 AM 16 Page(s) JEFFERSON COUNTY, Colorado

\$188, 3/4 This property is subject to a Notice of Environmental Use Restrictions imposed by the Colorado Department of Public Health and Environment pursuant to section 25-15-321.5 of the Colorado Revised Statutes

NOTICE OF ENVIRONMENTAL USE RESTRICTIONS

WHEREAS, the United States of America, acting through the General Services Administration ("GSA"), is the owner of certain property commonly referred to as the Northwest Corner Sale Area, located in the City of Lakewood, Jefferson County, State of Colorado, more particularly described in the legal description and survey map attached hereto as Attachment A, and incorporated herein by reference as though fully set forth (hereinafter referred to as "the Property"); and

WHEREAS, the Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and the Environment (the "Department"), which is located at 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530, is authorized to approve Notices of Environmental Use Restriction (a/k/a "Restrictive Notices) pursuant to § 25-15-320(4)(a) of the Colorado Hazardous Waste Act, Colorado Revised Statutes (C.R.S) §§ 25-15-101, et seq. ("CHWA"); and

WHEREAS, for purposes of indexing in the County Clerk and Recorder's office Grantor-Grantee index only, United States of America shall be considered the **Grantor**, and the Department shall be considered the **Grantee**. Nothing in the preceding sentence shall be construed to create or transfer any right, title or interest in the Property; and

WHEREAS, pursuant to Compliance Order on Consent Number 97-07-18-01 (the "Compliance Order"), which the Department issued to GSA in 1997, the Property is the subject of enforcement and remedial action pursuant to the CHWA;

WHEREAS, the purpose of this Restrictive Notice is to ensure protection of human health and the environment by restricting certain uses of the Property. The use of groundwater beneath the entire Property is restricted as described in Paragraph 1.a of this covenant. In addition, for the portion of the Property hereinafter referred to as the "NW Corner Landfill Cover," depicted in Attachment B and described in Attachment C, the Restrictive Notice will ensure continued operation, maintenance and monitoring of the final corrective measures selected under the Compliance Order and as described in Paragraph Nos. 1.b and 1.c of this covenant; and

WHEREAS, GSA has requested that the Department approve this Restrictive Notice as provided in Article 15 of Title 25, C.R.S.

NOW, THEREFORE, the Department approves this Restrictive Notice pursuant to § 25-15-321.5 C.R.S. The Property as described in Attachment A shall hereinafter be subject to the following requirements set forth in paragraphs 1 through 12, below, which shall be binding on all parties now or subsequently having any right, title or interest in the Property, or any part thereof, and any persons using the land, as described herein. As used in this Restrictive Notice, the term OWNER means the then current record owner of the Property and, if any, any other person or entity otherwise legally authorized to make decisions regarding the transfer of the Property or placement of encumbrances on the Property, other than by the exercise of eminent domain.

1) Use restrictions.

a) Restriction on Use of Groundwater. No groundwater beneath the Property as described in Attachment A from the ground surface to a depth of 100 feet below ground surface may be withdrawn for any purpose, except as authorized in a remedial decision document or environmental sampling plan approved by the Department.

Nothing in the preceding shall prohibit the installation or use of monitoring or remedial wells as authorized in a remedial decision document or environmental sampling plan approved by the Department.

Nothing in the preceding shall prohibit groundwater extraction/management arising from construction dewatering which is conducted in compliance with applicable wastewater discharge regulations.

So long as the Property is owned by the federal government, the OWNER shall conduct construction dewatering in accordance with U.S. Environmental Protection Agency Clean Water Act National Pollutant Discharge Elimination System (NPDES) permit program requirements.

If the Property is not owned by the federal government, OWNER shall secure a Construction Dewatering Permit in accordance with the Colorado Water Quality Control Act (§ 25-8-101 *et. seq.* C.R.S) prior to any dewatering activities. Any person applying for a construction dewatering permit on the Property must notify the Department's Water Quality Control Division that the groundwater is contaminated and that a restrictive notice has been imposed.

- b) <u>Protection of the Integrity of the Corrective Measures.</u> No excavation, grazing, drilling, grading, digging, tilling or any other soil disturbing activity is permitted within the NW Corner Landfill Cover as depicted in Attachment B and described in Attachment C unless conducted in accordance with:
 - i) The most recent version of the Department-approved *Northwest Corner Landfill Cover Materials Handling Plan* ("NW Corner Landfill Cover MHP"), which is incorporated by reference as if set forth in full herein; or
 - ii) A remedial decision document or environmental sampling plan that has been approved by the Department.

c) Inspection and Maintenance of the Corrective Measure. The OWNER maintains an affirmative obligation to monitor and maintain the corrective measures in the NW Corner Landfill Cover as depicted in Attachment B and described in Attachment C in accordance with the most recent version of the Department-approved Northwest Corner Landfill Cover Operations and Maintenance Plan (NW Corner Landfill Cover O&M Plan), which is incorporated by reference as if set forth in full herein. Maintenance activities performed in accordance with the NW Corner Landfill Cover O&M Plan could result in encountering waste material. Waste material encountered during intrusive activities shall be managed and disposed of in accordance with the most recent Department-approved NW Corner Landfill Cover MHP.

Note: The most recent Department-approved versions of the NW Corner Landfill Cover O&M Plan and the NW Corner Landfill Cover MHP are on file at the Record Center for the Department's Hazardous Materials and Waste Management Division. The Record Center is located at the address provided in Paragraph 12, and may be reached at 303-692-3331 or https://www.colorado.gov/pacific/cdphe/hmwmd-records-review.

- 2) Modifications. This Restrictive Notice shall remain in full force and effect unless modified or terminated in accordance with this paragraph and pursuant to § 25-15-321.5, C.R.S. or any successor statute. OWNER may request that the Department approve a modification or termination of the Restrictive Notice. The request shall contain information showing that the proposed modification or termination shall, if implemented, ensure protection of human health and the environment. The Department shall review any submitted information, and may request additional information. If the Department determines that the proposal to modify or terminate the Restrictive Notice will ensure protection of human health and the environment, it shall approve the proposal. No modification or termination of this Restrictive Notice shall be effective unless the Department has approved such modification or termination in writing. Information to support a request for modification or termination may include one or more of the following:
 - a) a proposal to perform additional remedial work;
 - b) new information regarding the risks posed by the residual contamination;
 - c) information demonstrating that residual contamination has diminished;
 - d) information demonstrating that an engineered feature or structure is no longer necessary;
 - e) information demonstrating that the proposed modification would not adversely impact the remedy and is protective of human health and the environment; and
 - f) other appropriate supporting information.
- 3) <u>Conveyances.</u> OWNER shall notify the Department at least fifteen (15) days prior to any conveyance of any interest in any or all of the Property. Within thirty (30) days after any such conveyance, OWNER shall provide the Department with the name, mailing address, and telephone number of the new OWNER.
- 4) <u>Notice to Lessees.</u> OWNER agrees to incorporate either in full or by reference the restrictions of this Restrictive Notice in any leases, licenses, or other instruments granting a right to use the Property.

- 5) <u>Notification for proposed construction and land use.</u> OWNER shall notify the Department simultaneously when submitting any application to a local government for a building permit or change in land use.
- 6) <u>Inspections.</u> The Department, including its authorized employees, agents, representatives and independent contractors, shall have the right of entry to the Property at reasonable times with prior notice for the purpose of determining compliance with the terms of this Restrictive Notice. Nothing in this Restrictive Notice shall impair any other authority the Department may otherwise have to enter and inspect the Property.
- 7) Third Party Beneficiary. The OWNER of the Property is a third party beneficiary with the right to enforce the provisions of this Restrictive Notice as provided in § 25-15-322, C.R.S.
- 8) No Liability. The Department does not acquire any liability under State law by virtue of approving this Restrictive Notice.
- 9) Enforcement. The Department may enforce the terms of this Restrictive Notice pursuant to § 25-15-322, C.R.S. OWNER may file suit in district court to enjoin actual or threatened violations of this Restrictive Notice.
- 10) Owner's Compliance Certification. OWNER shall execute and return a certification form provided by the Department, on an annual basis, detailing OWNER's compliance, and any lack of compliance, with the terms of this Restrictive Notice.
- 11) <u>Severability.</u> If any part of this Restrictive Notice shall be decreed to be invalid by any court of competent jurisdiction, all of the other provisions hereof shall not be affected thereby and shall remain in full force and effect.
- 12) <u>Notices.</u> Any document or communication required under this Restrictive Notice shall be sent or directed to:

If to the Department:

Hazardous Waste Corrective Action Unit Leader Hazardous Materials and Waste Management Division Colorado Department of Public Health and the Environment 4300 Cherry Creek Drive South Denver, Colorado 80246-1530

If to GSA:

Regional Environmental Program Manager Office of Facilities Management United States General Services Administration Public Building Service Region 8 Building 41, Rm 240 Denver, Colorado, 80225

[Remainder of Page Intentionally Blank]

This Notice of Environmental Use Restrictions is approved by the Colorado Department of Public Health and Environment this 12 day of, 2017.		
The United States of America, acting by and through the Administrator of General Services has caused this instrument to be executed on this 13th day of April , 2017.		
United States of America, acting by and through the Administrator of General Services		
By: Leigh an Buretta Title: Acting Regional Administrator		
STATE OF <u>Colorado</u>) ss: COUNTY OF Jefferson)		
The foregoing instrument was acknowledged before me this 13th day of 12017, by 12012 on behalf of the United States of America, acting by and through the Administrator of General Services.		
NICOLE LOPEZ Notary Public - State of Colorado Notary ID 20174006857 My Commission Expires Feb 14, 2021 Notary Public Notary Public		

My commission expires: Feb. 14th 2021

Approved by the Colorado Department of Public Health April, 2017. By: Tournel Double Management of Public Health Title: Director, Hazardous Materials and Waste Management of Public Health		
STATE OF <u>COURAGO</u>) ss: COUNTY OF <u>DERWER</u>)		
The foregoing instrument was acknowledged before me this 12 day of 149212, 2017 by 1424 w. BAUGHMA on behalf of the Colorado Department of Public Health and Environment.		
No	Caudette M. Juris otary Public	
A	4300 Cherry Creek in So	
	ender, CO 80246	

My commission expires: October 21, 2019

CLAUDETTE M FERRIS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19874061504
MY COMMISSION EXPIRES OCTOBER 21, 2019

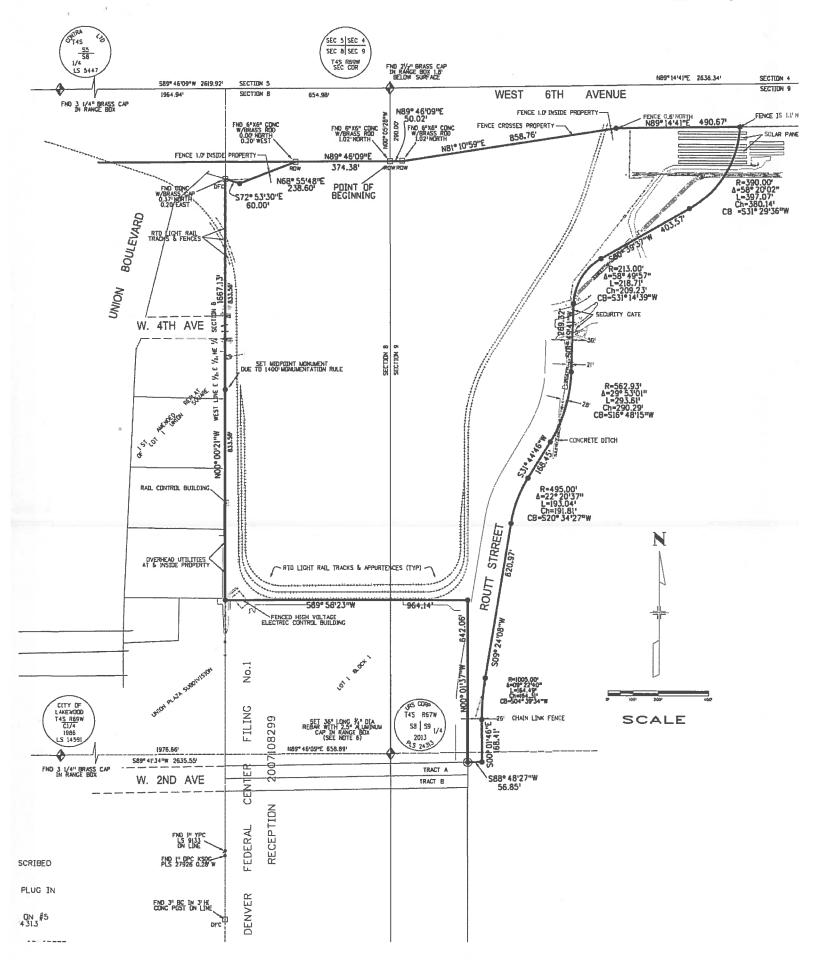
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ATTACHMENT "A" to the NOTICE OF ENVIRONMENTAL USE RESTRICTIONS

DATE: February 6, 2017

LEGAL DESCRIPTION OF THE NORTHWEST CORNER SALE AREA

COUNTY OF JEFFERSON, STA



PROPERTY DESCRIPTION

A Parcel of Land located in the West One-Half (W 1/2) of Section 9 and in the East One-Half (E 1/2) of the East One-Half (E 1/2) of the Northeast Quarter (NE 1/4) of Section 8, Township 4 South, Range 69 West, of the Sixth Principal Meridian, City of Lakewood, County of Jefferson, State of Colorado, being more particularly described as follows:

COMMENCING at the Northeast corner of said Section 8, from which the North One Quarter Corner of said Section 8 Bears S 89°46'09" W, a distance of 2619.92 feet; Thence S 00°05'28" E, along the east line of said Section 8, a distance of 290.00 feet to the South Right of Way of West 6" Avenue and the POINT OF BEGINNING;

Thence along said South Right of Way the following 3 (three) courses:

- 1. Thence N 89° 46'09" E. a distance of 50.02 feet;
- Thence N 81°10'59" E, a distance of 858.76 feet;
- Thence N 89° 14'41" E, a distance of 490.67 feet to a point of curvature non-tangent with this course;
- Thence along the arc of a curve to the right, having a radius of 390.00 feet, a central angle of 58° 20'02", an arc length of 397.07 feet, (a chord bearing S 31° 29'36" W, 380.14 feet);
- Thence S 60° 39'37" W, a distance of 403.57 feet to a point of curvature; 5.
- Thence along the arc of a curve to the left, having a radius of 213.00 feet, a central angle of 58° 49'57", an arc length of 218.71 feet, (a chard which bears S 31°14'39" W, 209.23' feet);
- Thence S 01°49'41" W, a distance of 269.32 feet to a point of curvature; 7.
- Thence along the arc of a curve to the right, having a radius of 562.93 feet, central angle of $29^{\circ}53^{\circ}01^{\circ}$, on arc length of 293.61 feet, (a chard which bears 5 $16^{\circ}48^{\circ}15^{\circ}$ W, 290.29 feet);
- Thence S 31° 44'46" W, a distance of 168.45 feet to a point of curvature;
- Thence along the arc of a curve to the left, having a radius of 495.00 feet, a central angle of 22°20'37", an arc length of 193.04 feet, (a chord which bears S 20°34'27" W, 191.81 feet);
- 11. Thence S 09° 24'08" W, a distance of 620.97 feet to a point of curvature;
- Thence along the arc of a curve to the left, having a radius of 1005.00 feet, a central angle of $09^{\circ}22'40"$, an arc length of 164.49 feet, (a chard which bears S $04^{\circ}39'34"$ W, 164.31' feet);
- 13. Thence S 00°01'46" E, a distance of 168.41 feet to the intersection with the easterly extension of the North line of Tract A as shown on the plat of Denver Federal Center Subdivision Filing No. 1, as recorded at Reception No. 2007108299 in the Office of the Jefferson County Clerk and Recorder;
- 14. Thence S 88° 48'27" W, along said extension and along said North line, a distance of 56.85 feet to the Southeast corner of Lot 1, Block 1 of said Denver Federal Center Subdivision Filing No. 1;
- 15. Thence N 00°01'37" W, along the East line of said Lot 1, a distance of 642.06 feet to the Northeast corner of said Lot 1;
- Thence S 89°58'23" W, along the North line of said Lot 1, a distance of 964.14 feet to the Northwest corner of said Lot1, said point also being on the West line of the East One-Half (E 1/2) of the East One-Half (E 1/2) of the Northwest Quarter (NE 1/4) of said Section 8;
- 17. Thence N 00°00'21" W, along said West line, a distance of 1667.13 feet to said South Right of Way of West 6" Avenue;

Thence along said South Right of Way the following 3 (three) courses:

- 18. Thence S 72° 53'30" E, a distance of 60.00 feet;
- 19. Thence N 68° 55'48" E, a distance of 238.60 feet;
- 20. Thence N 89° 46'09" E, a distance of 374.38 feet, more or less, to the POINT OF BEGINNING.

The above described Parcel of Land contains (59.049 acres), more or less,

BASIS OF BEARINGS

Bearings are based on the North line of the North East Quarter of Section 8, Township 4 South, Range 69 West of the Sixth Principal Meridian as being N 89° 46'09" E a distance of 2619.92 feet. The North Quarter Corner of Section 8 being a 3½" Brass Cap in a Range Box Stamped Contro LTD, ½ Corner LS 5447 and the Northeast Section Corner being 2½" Brass Cap in Range Box 1.8 feet below surface stamped appropriately.

NOTES

1. THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY URS CORPORATION TO DETERMINE OWNERSHIP OR EASEMENTS OF RECORD FOR ALL INFORMATION REGARDING OWNERSHIP, RIGHTS OF WAY, TITLE OF RECORD, URS RELIED UPON TITLE COMMITMENT ORDER NUMBER 05494A2013 PREPARED BY WESTCOR LAND TITLE INSURANCE COMPANY, EFFECTIVE DECEMBER 5, 2012.

2. THE PURPOSE OF THIS LAND SURVEY PLAT IS TO CREATE THE EASTERLY LINE OF THIS PROPERTY AS SHOWN. THAT LINE WAS DEVELOPED BY PARALLELING THE PRELIMINARY DESIGN OF ROUTT STREET TO QUAIL STREET NORTH OF 6TH AVENUE.

3. AT THE REQUEST OF THE OWNER AND CLIENT, THE UNITED STATES GOVERNMENT SERVICES ADMINISTRATION, ONLY ENCROACHING FEATURES ALONG THE PROPERTY LINE ARE INDICATED AND EXISTING EASEMENTS HAVE NOT BEEN SHOWN HEREIN.

4. TOPOGRAPHIC FEATURES INSIDE THE IMMEDIATE BOUNDARY ARE SHOWN FOR GRAPHICAL PURPOSES DNLY, AND MAY OR NOT REFLECT THE ACTUAL CONDITIONS. 5. THESE LANDS ARE SUBJECT TO THE DEVELOPMENT AGREEMENT WITH THE CITY OF LAKEWOOD, ORDINANCE 0-2007-25 AND RECORDED AT RECEPTION 2007/08298, THE DEVELOPMENT PLAN RECORDED AT RECEPTION 2007/08296 AND THE ANNEXATION AGREEMENT WITH THE CITY OF LAKEWOOD, RECORDED AT RECEPTION 2007/08298

6. THE EAST QUARTER CORNER OF SECTION 8, WAS TIED PRIOR TO IT'S DESTRUCTION AND RE-SET IN THE SAME POSITION AS INDICATED.

NOTICE: ACCORDING TO COLORADO STATE LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS TER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS YOM THE DATE OF THE CERTIFICATION SHOWN HEREON.

8. ALL DISTANCES SHOWN ARE U.S. SURVEY FEET. SURVEYOR'S

CERTIFICATION

I HEREBY STATE TO THE UNITED STATES GENERAL SERVICES ADMINISTRATION THAT THIS SURVEY PERFORMED IN JANUARY 2013, AND UNDER MY DIRECT SUPERVISION IS A TRUE AND CORRECT SURVEY OF THE HEREON DESCRIBED PROPERTY AND THAT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, BELIEF AND OPINION, THIS SURVEY CORRECTLY SHOWS THE PROPERTY LINES OF THE LAND INDICATED HEREON AND ALL IMPROVEMENTS IN SAID LAND ARE ENTIRELY WITHIN THE BOUNDARIES THEREOF, EXCEPT AS INDICATED. THAT THERE IS NO EVIDENCE OF IMPROVEMENTS OF ADJOINING PROPERTIES ENCROACHING ONTO SAID PROPER EXCEPT AS INDICATED.

For and on Behalf of URS Corporation Ronald E. Ilk, PLS 24313 URS Center, 8181 East Tufts Avenue Denver, CD. 80237 Ph (303)740–2600



ATTACHMENT "B" to the NOTICE OF ENVIRONMENTAL USE RESTRICTION

SURVEY MAP OF NW CORNER LANDFILL COVER

Denver Federal Center, Lakewood, Colorado

General Services Administration

Projection: Colorado State Plane, Central Zone

Horizontal Datum: North American, 1983 (NAD83)

February 2017

C:\Files\DFCFO\NwComerSale\NW Comer Sale Survey\Projects\Fig02 NW Corner MELCA State Plane_Revised.mxd

Maintain Existing Land Cover Area (MELCA)

RTD Guideway Permanent Easement

Landfill Cover Area (LCA)

Parcel Boundary

ATTACHMENT "C" to the NOTICE OF ENVIRONMENTAL USE RESTRICTIONS

LEGAL DESCRIPTION OF THE NW LANDFILL COVER AREA

EXHIBIT "A"

DATE: February 6, 2017

LEGAL DESCRIPTION

A tract or parcel of land containing 691,869 square feet (15.883 acres) more or less, being situated in the West One-Half (W 1/2) of Section 9 and in the East One-Half (E 1/2) of the East One-Half (E 1/2) of the Northeast Quarter (NE 1/4) of Section 8, Township 4 South, Range 69 West, of the Sixth Principal Meridian, City of Lakewood, County of Jefferson, State of Colorado, being more particularly described as follows: COMMENCING at the Northeast corner of said Section 8, from which the North One Quarter Corner of said Section 8 Bears S 89"46'09" W, a distance of 2619.92 feet; Thence S 00"05'28" E, along the east line of said Section 8, a distance of 290.00 feet to the South Right of Way of West 6th Avenue and the POINT OF BEGINNING;

- 1. Thence N 89°46'09" E, along said South Right of Way of West 6th Avenue, a distance of 50.02 feet;
- Thence S 36°29'58" E, a distance of 127.36 feet to a northerly corner of the Denver Federal Center Landfill Cap description prepared on October 15, 2015 by Brian LeFebre, for and on behalf of Zylstra Baker Surveying, Inc.;
- 3. Thence S 37°28'29"" E along the northerly line of said Landfill Cap, a distance of 79.52 feet;
- 4. Thence S 49°39'28"" E, continuing along the northerly line of said Landfill Cap, a distance of 89.41 feet;
- 5. Thence S 87°28'10"" E, continuing along the northerly line of said Landfill Cap, a distance of 55.86 feet;
- Thence S 78°08'14"" E continuing along the northerly line of said Landfill Cap, a distance of 41.46 feet;
- 7. Thence S 72°03'46"" E continuing along the northerly line of said Landfill Cap, a distance of 63.30 feet,
- 8. Thence S 58°41'15"" E continuing along the northerly line of said Landfill Cap, a distance of 24.03 feet to the easterly line of said Landfill Cap;
- 9. Thence S 8°13'45"" W continuing along the east line of said Landfill Cap, a distance of 146.51 feet;
- 10. Thence S 10°56'44"" W continuing along the east line of said Landfill Cap, a distance of 48.90 feet;
- 11. Thence S 17"26'58" W, continuing along the east line of said Landfill Cap, a distance of 80.53 feet;
- 12. Thence S 55"48'23" W, continuing along the east line of said Landfill Cap, a distance of 37.75 feet to the southeast corner of said Landfill Cap;
- 13. Thence S 20°25'13" W, a distance of 183.40 feet to the south side of a concrete ditch

- 14. Thence S 86°09'30" W, along the south side of a concrete ditch, a distance of 176.54 feet;
- 15. Thence S 89°25'22" W, continuing along the south side of a concrete ditch, a distance of 74.26 feet;
- 16. Thence S 89"10'04" W, continuing along the south side of a concrete ditch, a distance of 138.25 feet;
- 17. Thence S 89"09'41" W, continuing along the south side of a concrete ditch, a distance of 152.43 feet;
- 18. Thence S 89°12'51" W, continuing along the south side of a concrete ditch, a distance of 202.93 feet;
- 19. Thence S 78°58'11" W, continuing along the south side of a concrete ditch, a distance of 42.72 feet;
- 20. Thence S 78°23'08" W, continuing along the south side of a concrete ditch, a distance of 41.41 feet;
- 21. Thence S 59°04'40" W, continuing along the south side of a concrete ditch, a distance of 10.15 feet;
- 22. Thence S 80°57'08" W, continuing along the south side of a concrete ditch, a distance of 73.25 feet;
- 23. Thence S 88°20'44" W, continuing along the south side of a concrete ditch, a distance of 16.63 feet to the West line of the East One-Half (E 1/2) of the East One-Half (E 1/2) of the Northeast Quarter (NE 1/4) of said Section 8;
- 24. Thence N 00°00'21" W, along said West line, a distance of 712.75 feet to said South Right of Way of West 6th Avenue;
- 25. Thence along said South Right of Way the following 3 (three) courses:
- 26. Thence S 72°53'30" E, a distance of 60.00 feet;
- 27. Thence N 68°55'48" E, a distance of 238.60 feet;
- 28. Thence N 89°46'09" E, a distance of 374.38 feet, more or less, to the POINT OF BEGINNING.

The above described tract or parcel of Land contains 691,869 square feet (15.883 acres), more or less.

Bearings are based on the North line of the North East Quarter of Section 8, Township 4 South, Range 69 West of the Sixth Principal Meridian as being N 89°46'09" E a distance of 2619.92 feet. The North Quarter Corner of Section 8 being a 31#4" Brass Cap in a Range Box Stamped Contra LTD, 1/4 Corner LS 5447 and the Northeast Section Corner being 2 1/2" Brass Cap in Range Box 1.8 feet below surface stamped appropriately. As shown on the Land Survey Plat of a portion of the Denver Federal Center prepared by URS Corporation dated 1/29/2015.

For and on Behalf of AECOM Stan Vermilyea, P.L.S. #25381 6200 S. Quebec Street, Greenwood Village, Colorado 80111

