



DENVER
THE MILE HIGH CITY

Department of Public Works
Permit Operations and Right of Way Enforcement
201 W. Colfax Avenue, Dept. 507
Denver, CO 80202
P: 720-865-2782
F: 720-865-3280
www.denvergov.org/pwprs

REQUEST FOR RESOLUTION FOR MAJOR ENCUMBRANCE PERMIT

TO: Melinda Olivarez, City Attorney's Office
FROM: *for* Robert J. Duncanson, P.E. *Audrey H. Stankovic*
Manager 2, Development Engineering Services
ROW NO.: 2010-0315-01
DATE: September 20, 2010
SUBJECT: Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to Sawaya, Rose, Kaplan, Wilkinson & McClure, P.C. their successors and assigns, to encroach into the right-of-way with 3 ground boxes and fiber optic lines located in the alley at 16th Avenue and 16th Avenue between Ogden Street and Emerson Street.

It is requested that the above subject item be placed on the next available Mayor Council Agenda.

This office has investigated the request from Kyle Godwin of Vision Land Consultants, Inc. dated July 13, 2010, on behalf of Sawaya, Rose, Kaplan, Wilkinson & McClure, P.C. for the granting of the above-subject permit.

This matter has been checked by this office and has been coordinated with Asset Management; Colorado Department of Transportation (if required); Comcast Corporation; Commission For People With Disabilities; Councilperson Carla Madison; CPD: Building & Construction Services, Planning Services, and Zoning & Development Review; Denver Water Board; Environmental Services (if required); Fire Department (if required); Metro Wastewater Reclamation District; Office of Emergency Management; Office of Telecommunications; Parks and Recreation; Public Works: City Engineer, DES Construction Engineering, DES Engineering, DES Survey, IPP Infrastructure Engineering, and Street Maintenance; Qwest Corporation; Regional Transportation District; and Xcel Energy, all of whom have returned our questionnaires indicating their agreement.

As a result of the investigations, it has been determined that there is no objection to the granting of the revocable permit.

Therefore, you are requested to initiate Council action for the granting of a revocable permit, subject to certain terms and conditions, to Sawaya, Rose, Kaplan, Wilkinson & McClure, P.C., their successors and assigns, to encroach with 3 ground boxes and fiber optic located in the alley at 16th Avenue and 16th Avenue between Ogden Street and Emerson Street.

INSERT PARCEL DESCRIPTION ROW 2010-0315-01 HERE



STANDARD PROVISIONS

The revocable permit ("Permit") granted by this resolution is expressly granted upon and subject to each and all of the following terms and conditions:

- (a) Permittee shall obtain a street occupancy permit from Public Works Permit Operations at 2000 West 3rd Avenue, 303.446.3759, and prior to commencing construction.
- (b) Permittee shall be responsible for obtaining all other permits and shall pay all costs that are necessary for installation and construction of items permitted herein.
- (c) If the Permittee intends to install any underground facilities in or near a public road, street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification Association of Owners and Operators of Underground Facilities by contacting the Utility Notification Center of Colorado, 12600 West Colfax Ave, Suite B-310, Lakewood, Colorado, 80215 at 303.232.1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 to locate underground facilities prior to commencing any work under this permit.
- (d) Permittee is fully responsible for any and all damages incurred to facilities of the Water Department and/or drainage facilities for water and sewage of the City and County of Denver due to activities authorized by the permit. Should the relocation or replacement of any drainage facilities for water and sewage of the City and County of Denver become necessary as determined by the Manager of Public Works, in the Manager's sole and absolute discretion, Permittee shall pay all cost and expense of the portion of the sewer affected by the permitted structure. The extent of the affected portion to be replaced and relocated by Permittee shall be determined by the Manager of Public Works. Any and all replacement or repair of facilities of the Water Department and/or drainage facilities for water and sewage of the City and County of Denver attributed to the Permittee shall be made by the Water Department and/or the City and County of Denver at the sole expense of the Permittee. In the event Permittee's facilities are damaged or destroyed due to the Water Department's or the City and County of Denver's repair, replacement and/or operation of its facilities, repairs will be made by Permittee at its sole expense. Permittee agrees to defend, indemnify and save the City harmless and to repair or pay for the repair of any and all damages to said sanitary sewer, or those damages resulting from the failure of the sewer to properly function as a result of the permitted structure.
- (e) Permittee shall comply with all requirements of affected utility companies and pay for all costs of removal, relocation, replacement or rearrangement of utility company facilities. Existing telephone facilities shall not be utilized, obstructed or disturbed.
- (f) All construction in, under, on or over the Encroachment Area shall be accomplished in accordance with the Building Code of the City and County of Denver. Plans and Specifications governing the construction of the Encroachments shall be approved by the Manager of Public Works and the

Director of the Building Inspection Division prior to construction. Upon completion, a reproducible copy of the exact location and dimensions of the Encroachments shall be filed with the Manager of Public Works.

- (g) The sidewalk and street/alley over the Encroachment Area shall be capable of withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The installations within the Encroachment Area shall be constructed so that the paved section of the street/alley can be widened without requiring additional structural modifications. The sidewalk shall be constructed so that it can be removed and replaced without affecting structures within the Encroachment Area.
- (h) Permittee shall pay all costs of construction and maintenance of the Encroachment. Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing the Encroachment from the Encroachment Area, and return the Encroachment Area to its original condition under the supervision of the City Engineer.
- (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that become broken, damaged or unsightly during the course of construction. In the future, Permittee shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that become broken or damaged when, in the opinion of the City Engineer, the damage has been caused by the activity of the Permittee within the Encroachment Area. All repair work shall be accomplished without cost to the City and under the supervision of the City Engineer.
- (j) The City reserves the right to make an inspection of the Encroachments contained within the Encroachment Area. An annual fee, subject to change, of \$200.00 shall be assessed.
- (k) This revocable permit shall not operate or be construed to abridge, limit or restrict the City and County of Denver in exercising its right to make full use of the Encroachment Area and adjacent rights-of-way as public thoroughfares nor shall it operate to restrict the utility companies in exercising their rights to construct, remove, operate and maintain their facilities within the Encroachment Area and adjacent rights-of-way.
- (l) During the existence of the Encroachments and this permit, Permittee, its successors and assigns, at its expense, and without cost to the City and County of Denver, shall procure and maintain a single limit comprehensive general liability insurance policy with a limit of not less than \$500,000.00. All coverage's are to be arranged on an occurrence basis and include coverage for those hazards normally identified as X.C.U. during construction. The insurance coverage required herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit or lessen the liability of the Permittee, its successors or assigns, under the terms of this permit. All insurance coverage required herein shall be written in a form and by a company or companies approved by the Risk Manager of the City and County of Denver and authorized to do business in the State of Colorado. A certified copy of all such insurance policies shall be filed with

the Manager of Public Works, and each such policy shall contain a statement therein or endorsement thereon that it will not be canceled or materially changed without written notice, by registered mail, to the Manager of Public Works at least thirty (30) days prior to the effective date of the cancellation or material change. All such insurance policies shall be specifically endorsed to include all liability assumed by the Permittee hereunder and shall name the City and County of Denver as an additional insured.

- (m) Permittee shall comply with the provisions of Article IV (Prohibition of Discrimination in Employment, Housing and Commercial Space, Public Accommodations, Educational Institutions and Health and Welfare Services) of Chapter 28 (Human Rights) of the Revised Municipal Code of the City and County of Denver. The failure to comply with any such provision shall be a proper basis for revocation of this permit.
- (n) The right to revoke this permit is expressly reserved to the City and County of Denver.
- (o) Permittee shall agree to indemnify and always save the City and County of Denver harmless from all costs, claims or damages arising, either directly or indirectly, out of the rights and privileges granted by this permit.

SPECIAL CONDITIONS FOR THIS PERMIT

- (p) The contractor shall properly locate and avoid all private storm and sanitary sewers, connections and appurtenances prior to commencement of boring. The contractor shall avoid all private storm sewers, inlets, connector pipes and appurtenances ("private storm sewers") and all private sanitary sewers, private sanitary sewer service lines and appurtenances ("private sanitary sewers"). The contractor shall promptly repair any damages to private storm and sanitary sewers and any damage to private storm and sanitary sewers and the effects thereof shall be the responsibility of the contractor.

A map of the area is attached hereto.

RJD: LRA

cc: Asset Management, Steve Wirth
City Councilperson, Carla Madison
City Council Aides, Lynne Lombard-Hunt
and Stephanie Cross
City Council Office, Gretchen Williams
Department of Law, Arlene Dykstra
Department of Law, Karen Aviles
Department of Law, Melinda Olivarez
Public Works, Christine Downs
Public Works, Daelene Mix
Project File # 2010-0315-01

Property Owner:
Jennifer J. Spradlin
Sawaya Law Firm
1600 Ogden Street
Denver, CO 80218

Agent:
Kyle Godwin
Vision Land Consultants, Inc.
2345 S. Platte River Dr.
Denver, CO 80223

ORDINANCE/RESOLUTION REQUEST

Please email requests to the Mayor's Legislative Team
at MileHighOrdinance@DenverGov.org by NOON on Tuesday.

**All fields must be completed.*
Incomplete request forms will be returned to sender which may cause a delay in processing.*

Date of Request: September 17, 2010

Please mark one: Bill Request or Resolution Request

1. Has your agency submitted this request in the last 12 months?

Yes No

If yes, please explain:

2. **Title:** (Include a concise, one sentence description - include name of company or contractor and contract control number - that clearly indicates the type of request: grant acceptance, contract execution, amendment, municipal code change, supplemental request, etc.)

Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to Sawaya, Rose, Kaplan, Wilkinson & McClure, P.C. their successors and assigns, to encroach into the right-of-way with 3 ground boxes and fiber optic lines located in the alley at 16th Avenue and 16th Avenue between Ogden Street and Emerson Street.

3. **Requesting Agency:** PW-Right-of-Way Engineering Services

4. **Contact Person:** (with actual knowledge of proposed ordinance)

- **Name:** Lisa R. Ayala
- **Phone:** 720-865-3153
- **Email:** lisa.ayala@denvergov.org

5. **Contact Person:** (with actual knowledge of proposed ordinance who will present the item at Mayor-Council and who will be available for first and second reading, if necessary)

- **Name:** Daelene Mix
- **Phone:** 720-865-8720
- **Email:** daelene.mix@denvergov.org

6. **General description of proposed ordinance including contract scope of work if applicable:**

Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to Sawaya, Rose, Kaplan, Wilkinson & McClure, P.C. their successors and assigns, to encroach into the right-of-way with 3 ground boxes and fiber optic lines located in the alley at 16th Avenue and 16th Avenue between Ogden Street and Emerson Street.

Please include the following:

- a. **Duration:** n/a
- b. **Location:** Alley at 16th Avenue and 16th Avenue between Ogden Street and Emerson Street
- c. **Affected Council District:** # 8, Carla Madison
- d. **Benefits:** n/a
- e. **Costs:** n/a

7. **Is there any controversy surrounding this ordinance?** (groups or individuals who may have concerns about it?) **Please explain.** None

To be completed by Mayor's Legislative Team:

SIRE Tracking Number: _____

Date: _____

Ordinance Request Number: _____

Date: _____

EXHIBIT "A"
LEGAL DESCRIPTION

A PARCEL OF LAND, BEING A PORTION OF 16TH AVENUE RIGHT-OF-WAY AND PART OF A 16 FOOT ALLEY LOCATED IN BLOCK 23, PARK AVENUE ADDITION TO DENVER, A SUBDIVISION PLAT RECORDED IN BOOK 1, PAGE 66 IN THE OFFICE OF THE CLERK AND RECORDER OF ARAPAHOE COUNTY, COLORADO ON OCTOBER 19, 1874, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE CITY AND COUNTY OF DENVER, STATE OF COLORADO, SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 19, BLOCK 23, OF SAID SUBDIVISION, WHENCE THE SOUTH BOUNDARY OF SAID LOT 19 BEARS NORTH 90°00'00" EAST WITH ALL BEARINGS HEREON REFERENCED THERETO;

THENCE ALONG SAID SOUTH BOUNDARY AND THE NORTH RIGHT-OF-WAY OF 16TH AVENUE, NORTH 90°00'00" EAST, A DISTANCE OF 145.00 FEET;

THENCE CONTINUING ALONG THE EXTENSION OF SAID SOUTH BOUNDARY AND SAID NORTH RIGHT-OF-WAY, NORTH 90°00'00" EAST, A DISTANCE OF 70.00 FEET TO THE WEST BOUNDARY OF LOT 20, BLOCK 24 OF SAID SUBDIVISION AND THE EAST RIGHT-OF-WAY OF OGDEN STREET;

THENCE ALONG SAID WEST BOUNDARY AND SAID EAST RIGHT-OF-WAY, SOUTH 00°05'00" EAST, A DISTANCE OF 0.50 FEET TO THE SOUTHWEST CORNER OF SAID LOT 20 AND THE NORTHERLY RIGHT-OF-WAY OF 16TH AVENUE;

THENCE ALONG THE SOUTH BOUNDARY OF SAID LOT 20 AND SAID NORTH RIGHT-OF-WAY, NORTH 90°00'00" EAST, A DISTANCE OF 70.60 FEET;

THENCE DEPARTING SAID SOUTH BOUNDARY AND SAID NORTH RIGHT-OF-WAY, SOUTH 00°00'00" EAST, A DISTANCE OF 10.00 FEET TO A LINE PARALLEL WITH AND 10.00 FEET SOUTHERLY FROM SAID SOUTH BOUNDARY AND SAID NORTH RIGHT-OF-WAY;

THENCE ALONG SAID PARALLEL LINE, SOUTH 90°00'00" WEST, A DISTANCE OF 70.59 FEET;

THENCE DEPARTING SAID PARALLEL LINE, NORTH 00°05'00" WEST, A DISTANCE OF 0.50 FEET TO A LINE PARALLEL WITH AND 10.00 FEET SOUTHERLY OF THE EXTENSION OF THE SOUTH BOUNDARY OF SAID LOT 19 AND SAID THE NORTH RIGHT-OF-WAY OF 16TH AVENUE;

THENCE ALONG SAID PARALLEL LINE, SOUTH 90°00'00" WEST, A DISTANCE OF 231.00 FEET;

THENCE DEPARTING SAID PARALLEL LINE, NORTH 00°05'00" WEST, A DISTANCE OF 10.00 FEET TO THE SOUTHEAST CORNER OF LOT 20, BLOCK 23 OF SAID SUBDIVISION AND THE WEST BOUNDARY OF THAT CERTAIN 16 FOOT ALLEY, BLOCK 23 OF SAID SUBDIVISION;

THENCE ALONG SAID WEST BOUNDARY, NORTH 00°05'00" WEST, A DISTANCE OF 268.66 FEET;

EXHIBIT "A"
LEGAL DESCRIPTION

THENCE DEPARTING SAID WEST BOUNDARY, NORTH 89°55'00" EAST, A DISTANCE OF 16.00 FEET TO THE EAST BOUNDARY OF SAID ALLEY;

THENCE ALONG SAID EAST BOUNDARY, SOUTH 00°05'00" EAST, A DISTANCE OF 268.68 FEET TO THE **POINT OF BEGINNING**.

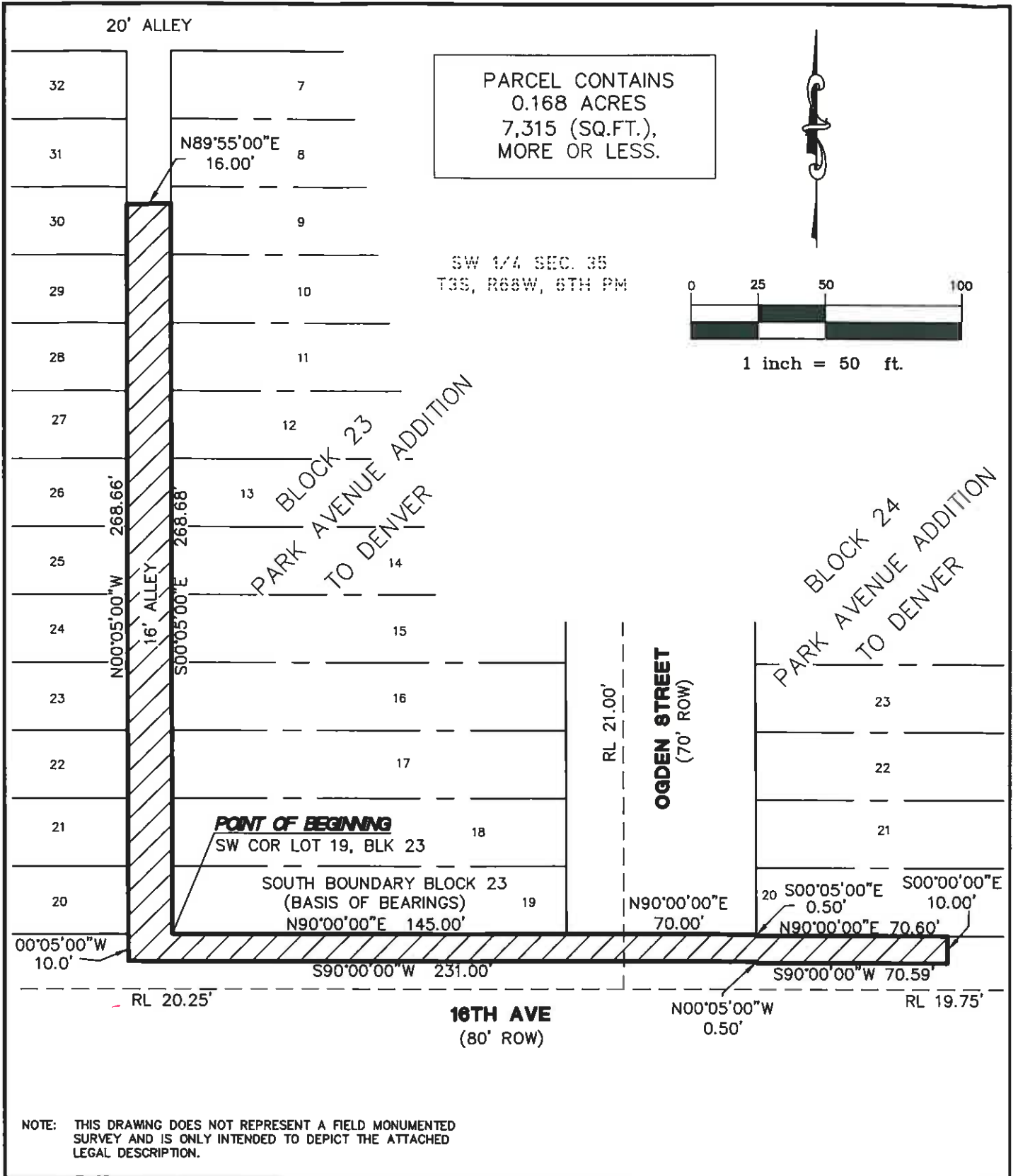
CONTAINING 0.168 ACRES (7,315 SQ. FT.), MORE OR LESS.

EXHIBIT ATTACHED AND MADE A PART HEREOF.



DALE C. RUSH
COLORADO LICENSED PROFESSIONAL LAND SURVEYOR, P.L.S. 33204
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.
300 E. MINERAL AVENUE, SUITE 1, LITTLETON, CO 80122

ILLUSTRATION TO EXHIBIT A



PATH: P:\23710-08\DWG
 DWG NAME: SAWAYA LEGAL A
 DWG: J.J.P. CHK: DCR
 DATE: 8/11/2010
 SCALE: 1" = 50'

AZTEC
CONSULTANTS, INC.

300 East Mineral Ave., Suite 1
 Littleton, Colorado 80122
 Phone: (303)713-1898
 Fax: (303)713-1897
 www.aztecconsultants.com

EXHIBIT
 PART OF THE SW 1/4 SEC 35, T3S, R68W, 6TH PM
 CITY & COUNTY OF DENVER, COLORADO
 JOB NUMBER 23710-08 3 OF 3 SHEETS