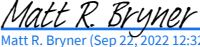


REQUEST FOR RESOLUTION FOR TIER III ENCROACHMENT PERMIT

TO: Ivone Avila-Ponce, City Attorney's Office

FROM: Matt Bryner, P.E.
Director, Right of Way Services 
Matt R. Bryner (Sep 22, 2022 12:32 MDT)

ROW NO.: 2022-ENCROACHMENT-0000001

DATE: September 21, 2022

SUBJECT: Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to Mid-America Apartments, L.P. c/o Bart French, their successors and assigns, to encroach into the right-of-way with private storm and sanitary sewer pipes at 3865 Cherry Creek North Drive.

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

This office has investigated the request(s), from Bart French of Mid-America Apartments, L.P. dated December 6, 2021 and January 4, 2022, respectively, on behalf of self 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; Comcast Corporation; Division of Disability Rights; Councilperson Hinds, District 10; City Forester; Historic Preservation/Landmark; Community Planning and Development: Building & Construction Services, Planning Services; Denver Water Board; Denver Fire Department; Metro Wastewater Reclamation District; Office of Emergency Management; Parks and Recreation; DOTI: Construction Engineering, Policy and Planning, DES Transportation and Wastewater, Survey, TES Signing and Striping, and Street Maintenance; CenturyLink Corporation; Regional Transportation District; and Xcel Energy, all of whom have indicated no objection for the proposed encroachment.

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 Mid-America Apartments, L.P., their successors and assigns, to encroach with private storm and sanitary sewer pipes into 3865 Cherry Creek North.

INSERT ENCROACHMENT LEGAL DESCRIPTION ROW 2022-ENCROACHMENT-0000001-002 HERE

And benefitting the following described parcel of property:

INSERT PARCEL LEGAL DESCRIPTION ROW 2022-ENCROACHMENT-0000001-001 HERE

City and County of Denver Department of Transportation & Infrastructure
Right-of-Way Services / Engineering & Regulatory
201 W Colfax Ave, Dept 507 | Denver, CO 80202
www.denvergov.org/doti
Phone: 720-865-3003

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 (terms not defined herein are defined in the Rules and Regulations Governing Encroachments & Encumbrances in the Public Right of Way):

(a) Permittee shall obtain a street occupancy permit, street cut permit, and/or ROW construction permit from the City's Department of Transportation and Infrastructure ("DOTI") Permit Operations through www.denvergov.org/dotipermits prior to commencing construction.

(b) Permittee shall be responsible for obtaining all necessary permits and shall pay all costs 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, ROW 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 (Colorado 811) through <https://colorado811.org/> or at 303-232-1991, 16361 Table Mountain Pkwy, Golden, Colorado, 80403. Further, Permittee shall contact the Utility Notification Center (Colorado 811) at <https://colorado811.org/> or 303-232-1991 to request locates for existing underground facilities prior to commencing excavation.

(d) Permittee is fully responsible for any and all damages incurred to facilities of Denver Water and any other Utility Company, and/or drainage facilities for water and sewage of the City and County of Denver due to activities authorized by the Permits. 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 City's Executive Director of DOTI ("Executive Director"), in the Executive Director's sole and absolute discretion, Permittee shall pay all cost and expense of the portion of the water and/or sewer facilities affected by the Encroachment(s). The extent of the affected portion to be replaced and relocated by Permittee shall be determined by the Executive Director. Any and all replacement or repair of facilities of Denver Water and any other Utility Company, and/or drainage facilities for water and sewage of the City and County of Denver attributed to the Permittee shall be made by Denver Water, Utility Company, and/or the City and County of Denver at the sole expense of the Permittee. In the event the Permittee's facilities are damaged or destroyed due to Denver Water's, Utility Company'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 hold the City harmless and to repair or pay for the repair of any and all damages to said water, storm, sanitary sewer facilities or other Utility Company facilities, or those damages resulting from the failure of the water, storm, sanitary sewer facilities or other Utility Company facilities to properly function because of the Encroachment(s).

(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 utility facilities shall not be utilized, obstructed or disturbed.

City and County of Denver Department of Transportation & Infrastructure

Right-of-Way Services / Engineering & Regulatory
201 W Colfax Ave, Dept 507 | Denver, CO 80202

www.denvergov.org/doti

Phone: 720-865-3003

(f) All construction in, under, on or over the Encroachment Area shall be accomplished in accordance with the Building Code and [City and County of Denver Department of Transportation & Infrastructure Transportation Standards and Details for the Engineering Division](#).

(g) Permittee shall observe and comply with all Federal, State and local laws, regulations, ordinances, and public safety requests regarding the use of the Encroachment Area.

(h) Plans and Specifications governing the construction of the Encroachment(s) shall be approved by DOTI prior to construction.

(i) Permittee shall pay all costs of construction and maintenance of the Encroachment(s). Upon revocation of the Permit or upon abandonment, Permittee shall pay all costs of removing the Encroachment(s) from the Encroachment Area and restore the Encroachment Area to a condition in accordance with [City and County of Denver Department of Transportation & Infrastructure Transportation Standards and Details for the Engineering Division](#) under the supervision of DOTI.

(j) Permittee shall remove and replace any and all street/alley paving, Sidewalks, Streetscapes, Amenity Zones, and curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that become broken, damaged or unsightly during, in the opinion of DOTI, the course of construction or maintenance of the Encroachment(s). 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 DOTI, the damage has been caused by the Encroachment(s) or 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 DOTI.

(k) The City reserves the right to make an inspection of the Encroachment(s) and the Encroachment Area.

(l) During the existence of the Encroachment(s) and the Permit, Permittee, its successors and assigns, at its expense, and without cost to the City, shall procure and maintain Commercial General Liability insurance policy with a limit of not less than \$1,000,000 per occurrence. All coverages 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 authorized to do business in the State of Colorado. A certified copy of all such insurance policies shall be filed with the Executive Director, 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 Executive Director at least thirty (30) days prior to the effective date of the

cancellation or material change. The City and County of Denver, its Elected and Appointed Officials, Employees and Volunteers shall be included as Additional Insured.

(m) In addition to the requirement herein to comply with all laws, 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 DRMC. The failure to comply with any such provision shall be a proper basis for revocation of the Encroachment(s).

(n) The right to revoke the Permit at any time for any reason and require the removal of the Encroachment(s) is expressly reserved to the City.

(o) By Permittee's use of this Permit and the Encroachment Area, Permittee agrees to the following:

i. Permittee agrees 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 this Permit and the Encroachment(s) ("Claims"). This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Permittee or its subcontractors either passive or active, irrespective of fault, including City's negligence whether active or passive.

ii. Permittee's 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. Permittee's 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.

iii. Permittee 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.

iv. Insurance coverage requirements specified in this Encroachment Permit shall in no way lessen or limit the liability of Permittee under the terms of this indemnification obligation. Permittee shall obtain, at its 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 Permit.

(p) Pursuant to Chapter 49 of the DRMC, DOTI is authorized to remove or to order the removal of any article, vehicle, object or thing whatsoever encroaching into any street, alley, Sidewalk, or other public way or place.

(q) No third party, person or agency, except for an authorized Special District, may place the Encroachment(s) in front of a property without written permission of the adjacent property owner.

(r) Permittee's use of the ROW for placement of the Encroachment(s) does not create a property right or ownership interest of any kind in the Encroachment Area to the Permittee.

(s) All Encroachment(s) in Amenity Zones containing existing Public Trees and/or with the potential to impact tree roots or tree canopy must be pre-approved by the Office of the City Forester (OCF), by contacting them at forestry@denvergov.org or 720-913-0651. Encroachment(s) cannot be attached to or damage any Public Tree, and any damage shall be reported to the OCF immediately for mitigation. All trenching, excavation and grading activities within the Dripline of any Public Tree must be pre-approved by the OCF. City permits are required for the planting or removal of any Public Trees and can be obtained by emailing forestry@denvergov.org.

(t) All disturbances associated with construction of the Encroachment(s) shall be managed as required by City standards for erosion control which may require standard notes or CASDP permitting depending on location and scope of project.

(u) Encroachment(s) proposed adjacent to a designated park or within a dedicated parkway shall require the City's Department of Parks and Recreation approval prior to installation.

(v) Encroachment(s) attached to a building may require building and/or zoning permits from the City's Department of Community Planning and Development.

(w) Encroachment(s) in the regulatory floodplain shall require a SUDP and comply with Chapter 4 Floodplain Regulations of the "Storm Drainage Design and Technical Criteria", Chapter 12 Floodplain Management of the "DOTI Rules and Regulations Governing Sewerage Charges and Fees and Management of Wastewater" and the City Floodplain Ordinance in DRMC Section 56-200 through 56-206. Above ground Encroachment(s) in a Floodway require a No-Rise Certification sealed and signed by a Professional Engineer licensed in the State of Colorado. If there is any rise in Base Flood Elevations, a Conditional Letter of Map Revision (CLOMR) and LOMR will be required.

(x) Only clean soil may be brought onto an Encroachment Area. Verification of soil quality must be provided if requested. Material removed from an Encroachment Area must be properly disposed and is the responsibility of the Permittee.

SPECIAL CONDITIONS FOR THIS PERMIT

(a) none



A map of the area is attached hereto.

MB: bw

cc: Asset Management, Steve Wirth
City Council Office, Zach Rothmier
Councilperson and Aides
Department of Law, Bradley Beck
Department of Law, Deanne Durfee
Department of Law, Maureen McGuire
Department of Law, Martin Plate
Department of Law, Ivone Avila-Ponce
DOTI, Alba Castro
DOTI, Jason Gallardo
Project File

Property Owner:
Mid-America Apartments,
L.P.
5040 Addison Circle,
Suite 200
Addison, TX 75001

City and County of Denver Department of Transportation & Infrastructure
Right-of-Way Services / Engineering & Regulatory
201 W Colfax Ave, Dept 507 | Denver, CO 80202
www.denvergov.org/doti
Phone: 720-865-3003

311 | POCKETGOV.COM | DENVERGOV.ORG | DENVER 8 TV

ORDINANCE/RESOLUTION REQUEST

Please email requests to Jason Gallardo
at Jason.Gallardo@denvergov.org by **12:00pm on Monday**. Contact her with questions.

Date of Request: **September 21, 2022**

Please mark one: Bill Request or Resolution Request

1. Type of Request:

- Contract/Grant Agreement Intergovernmental Agreement (IGA) Rezoning/Text Amendment
 Dedication/Vacation Appropriation/Supplemental DRMC Change
 Other: Tier III Resolution

2. Title: (Start with *approves*, *amends*, *dedicates*, etc., include name of company or contractor and indicate the type of request: grant acceptance, contract execution, contract amendment, municipal code change, supplemental request, etc.)

Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to Mid-America Apartments, L.P. c/o Bart French, their successors and assigns, to encroach into the right-of-way with private storm and sanitary sewer pipes at 3865 Cherry Creek North Drive.

3. Requesting Agency: DOTI, Right-of-Way Services, Engineering and Regulatory

4. Contact Person:

Contact person with knowledge of proposed ordinance/resolution	Contact person to present item at Mayor-Council and Council
Name: Brianne White	Name: Jason Gallardo
Email: Brianne.white@denvergov.org	Email: Jason.Gallardo@denvergov.org

5. General description or background of proposed request. Attach executive summary if more space needed:

Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to Mid-America Apartments, L.P. c/o Bart French, their successors and assigns, to encroach into the right-of-way with private storm and sanitary sewer pipes at 3865 Cherry Creek North Drive.

6. City Attorney assigned to this request (if applicable): Martin Plate

7. City Council District: Councilperson Hinds, District 10

8. ****For all contracts, fill out and submit accompanying Key Contract Terms worksheet****

Key Contract Terms

To be completed by Mayor's Legislative Team:

Resolution/Bill Number: _____

Date Entered: _____

Type of Contract: (e.g. Professional Services > \$500K; IGA/Grant Agreement, Sale or Lease of Real Property):

Vendor/Contractor Name:

Contract control number:

Location:

Is this a new contract? Yes No Is this an Amendment? Yes No If yes, how many? _____

Contract Term/Duration (for amended contracts, include existing term dates and amended dates):

Contract Amount (indicate existing amount, amended amount and new contract total):

<i>Current Contract Amount (A)</i>	<i>Additional Funds (B)</i>	<i>Total Contract Amount (A+B)</i>
<i>Current Contract Term</i>	<i>Added Time</i>	<i>New Ending Date</i>

Scope of work:

Was this contractor selected by competitive process?

If not, why not?

Has this contractor provided these services to the City before? Yes No

Source of funds:

Is this contract subject to: W/MBE DBE SBE XO101 ACDBE N/A

WBE/MBE/DBE commitments (construction, design, Airport concession contracts):

Who are the subcontractors to this contract?

To be completed by Mayor's Legislative Team:

Resolution/Bill Number: _____

Date Entered: _____



TIER III ENCROACHMENT EXECUTIVE SUMMARY

What is an Encroachment: A privately owned improvement that is located in, or projects over or under the public Right-of-Way.

Project Title: 2022-ENCROACHMENT-0000001 - Tier III 3865 Cherry Creek N Dr Private Sanitary and Storm Sewers

Business name: Mid-America Apartments, L.P.

Description of Encroachment: Proposing to install private storm and sanitary sewer pipes.

Applicant's explanation of why the Public Right of Way must be utilized for a private improvement: There is limited existing infrastructure adjacent to the development parcel. The only sanitary sewer main adjacent to the site is Metro Wastewater Reclamation District sewer and reusing the existing service pipe alignment via pipe-bursting will limit the total area impacted by excavation. The proposed storm sewer line will convey stormwater flows from a pumped, underground detention facility to a proposed public storm sewer inlet.

Annual Fees: \$200 per year

Additional Information: None

Location Map: See next page

TIER III ENCROACHMENT EXECUTIVE SUMMARY

What is an Encroachment: A privately owned improvement that is located in, or projects over or under the public Right-of-Way.



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Right-of-Way Services / Engineering & Regulatory
201 W Colfax Ave, Dept 507 | Denver, CO 80202
www.denvergov.org/dotj
Phone: 720-865-3003

EXHIBIT A
LAND DESCRIPTION
SHEET 1 OF 4

PARCEL 1

A PARCEL OF LAND BEING A PORTION OF CHERRY CREEK NORTH DRIVE AS DESCRIBED BY ORDINANCE NUMBER 108, SERIES OF 1954, SITUATED IN THE NORTHEAST 1/4 OF SECTION 13, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 13, AS MONUMENTED BY A 3-1/4" ALUMINUM CAP IN MONUMENT BOX STAMPED: CDOT/ PLS 11434;
THENCE SOUTH 34°15'46" WEST, A DISTANCE OF 1202.87 FEET TO THE NORTHEAST RIGHT-OF-WAY LINE OF SAID CHERRY CREEK NORTH DRIVE AND THE **POINT OF BEGINNING**;

THENCE SOUTH 43°10'10" EAST, ALONG SAID NORTHEAST RIGHT-OF-WAY LINE, A DISTANCE OF 3.44 FEET;
THENCE NORTH 78°42'29" WEST, A DISTANCE OF 34.10 FEET;
THENCE NORTH 47°01'45" EAST, A DISTANCE OF 2.46 FEET;
THENCE SOUTH 78°42'29" EAST, A DISTANCE OF 29.86 FEET TO THE **POINT OF BEGINNING**.

SAID PARCEL CONTAINS 64 SQUARE FEET, MORE OR LESS.

PARCEL 2

A PARCEL OF LAND BEING A PORTION OF CHERRY CREEK NORTH DRIVE AS DESCRIBED BY ORDINANCE NUMBER 108, SERIES OF 1954 AND A PORTION OF CHERRY CREEK AS DESCRIBED BY ORDINANCE NUMBER 3, SERIES OF 1954, SITUATED IN THE NORTHEAST 1/4 OF SECTION 13, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 13, AS MONUMENTED BY A 3-1/4" ALUMINUM CAP IN MONUMENT BOX STAMPED: CDOT/ PLS 11434;
THENCE SOUTH 31°13'48" WEST, A DISTANCE OF 1218.96 FEET TO THE NORTHEAST RIGHT-OF-WAY LINE OF SAID CHERRY CREEK NORTH DRIVE AND THE **POINT OF BEGINNING**;

THENCE SOUTH 12°57'34" WEST, A DISTANCE OF 5.09 FEET;
THENCE NORTH 77°02'26" WEST, A DISTANCE OF 7.00 FEET;
THENCE NORTH 12°57'34" EAST, A DISTANCE OF 2.50 FEET;
THENCE NORTH 77°02'26" WEST, A DISTANCE OF 219.97 FEET;
THENCE NORTH 12°57'34" EAST, A DISTANCE OF 2.00 FEET;
THENCE SOUTH 77°02'26" EAST, A DISTANCE OF 219.97 FEET;

EXHIBIT A
LAND DESCRIPTION
SHEET 2 OF 4

THENCE NORTH 12°57'34" EAST, A DISTANCE OF 2.50 FEET;
THENCE SOUTH 77°02'26" EAST, A DISTANCE OF 4.16 FEET TO SAID
NORTHEAST RIGHT-OF-WAY LINE;
THENCE SOUTH 43°08'58" EAST ALONG SAID NORTHEAST RIGHT-OF-WAY
LINE, A DISTANCE OF 3.42 FEET TO THE **POINT OF BEGINNING**.

SAID PARCEL CONTAINS 486 SQUARE FEET OR 0.01 ACRES, MORE OR LESS.

BASIS OF BEARINGS: BEARINGS ARE BASED ON THE ASSUMPTION THAT THE
EAST LINE OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 4
SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN BEARS SOUTH
00°19'42" EAST WITH ALL BEARINGS REFERENCED HEREIN RELATIVE
THERE TO. BOTH THE NORTHEAST CORNER AND EAST QUARTER CORNER OF
SAID SECTION ARE MONUMENTED BY A 3-1/4" ALUMINUM CAP IN RANGE BOX
STAMPED; CDOT, 1990, PLS 11434.

PREPARED BY: AARON MURPHY
PLS 38162

ON BEHALF OF: HARRIS KOCHER SMITH
1120 LINCOLN STREET, SUITE 1000
DENVER, CO 80203
303.623.6300

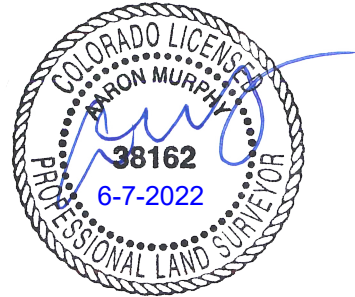
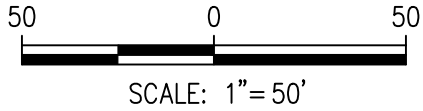


ILLUSTRATION FOR EXHIBIT A

SITUATED IN THE 1/4 OF SECTION 13,
TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH P.M.,
CITY & COUNTY OF DENVER, STATE OF COLORADO



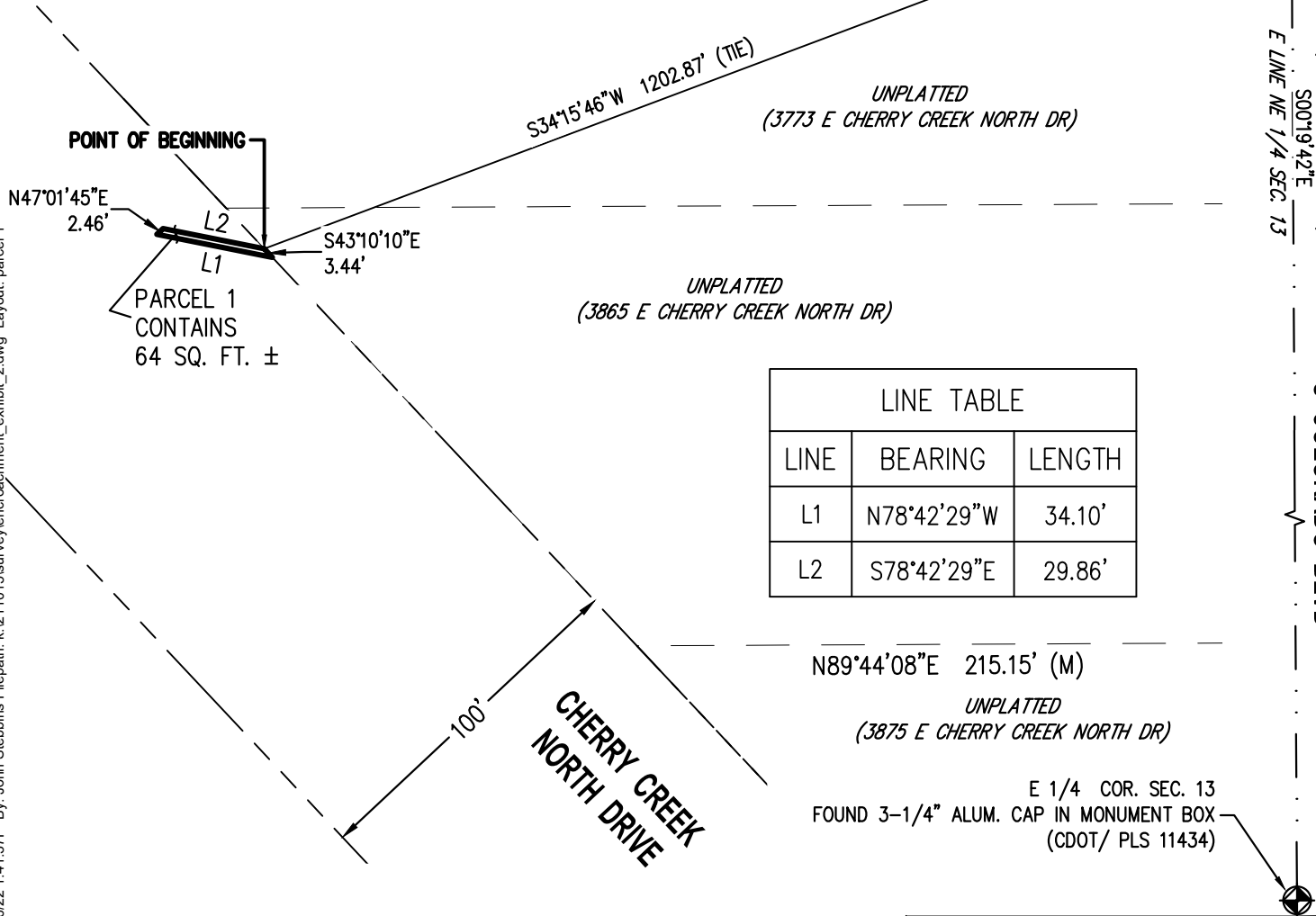
POINT OF COMMENCEMENT
NE COR. SEC. 13
FOUND 3-1/4" ALUM. CAP IN MONUMENT BOX
(CDOT/ PLS 11434)

ALAMEDA AVE

E LINE NE 1/4 SEC. 13
S00°19'42"E

(BASIS OF BEARINGS)
NO CHANGES ARE TO BE MADE TO THIS DRAWING WITHOUT WRITTEN PERMISSION OF HARRIS KOCHER SMITH.

S COLORADO BLVD



LINE TABLE		
LINE	BEARING	LENGTH
L1	N78°42'29"W	34.10'
L2	S78°42'29"E	29.86'

N89°44'08"E 215.15' (M)
UNPLATTED
(3875 E CHERRY CREEK NORTH DR)

E 1/4 COR. SEC. 13
FOUND 3-1/4" ALUM. CAP IN MONUMENT BOX
(CDOT/ PLS 11434)

ISSUE DATE: 6-6-2022	PROJECT #: 211015
DATE	REVISION COMMENTS

NOTE:
THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED LAND SURVEY.
IT IS INTENDED TO DEPICT ONLY THE ATTACHED DESCRIPTION.

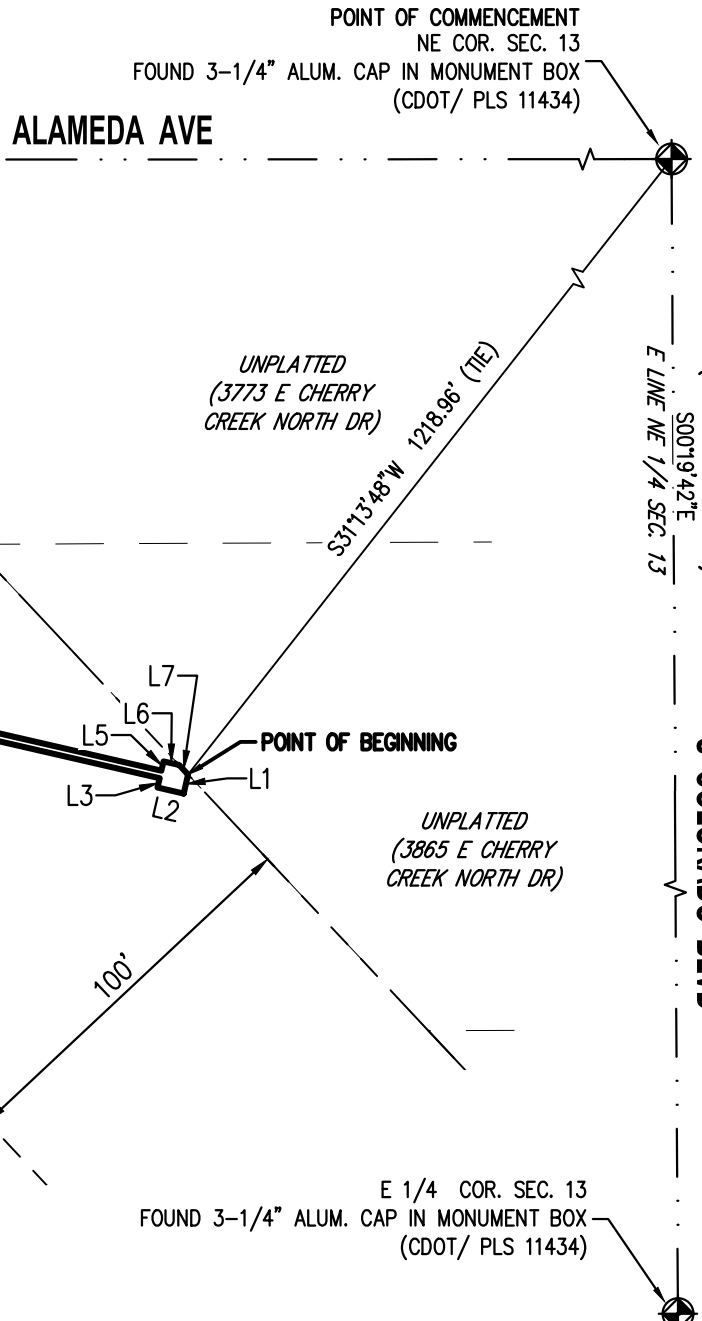
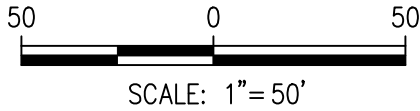
Plotted: MON 06/06/22 1:41:37P By: John Stebbins Filepath: k:\211015survey\encroachment_exhibit_2.dwg Layout: parcel 1

ILLUSTRATION
FOR EXHIBIT A

PROJECT #: 211015
CHECKED BY: AWM
DRAWN BY: JHS
SHEET NUMBER
3
3 OF 4

ILLUSTRATION FOR EXHIBIT A

SITUATED IN THE 1/4 OF SECTION 13,
TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH P.M.,
CITY & COUNTY OF DENVER, STATE OF COLORADO



PARCEL 2
CONTAINS
486 SQ. FT.
OR 0.01 AC ±

LINE TABLE		
LINE	BEARING	LENGTH
L1	S12°57'34"W	5.09'
L2	N77°02'26"W	7.00'
L3	N12°57'34"E	2.50'
L4	N12°57'34"E	2.00'
L5	N12°57'34"E	2.50'
L6	S77°02'26"E	4.16'
L7	S43°08'58"E	3.42'

NOTE:
THIS EXHIBIT DOES NOT REPRESENT A
MONUMENTED LAND SURVEY. IT IS
INTENDED TO DEPICT ONLY THE
ATTACHED DESCRIPTION.

ISSUE DATE: 6-6-2022		PROJECT #: 211015
DATE	REVISION COMMENTS	

Plotted: MON 06/06/22 1:41:37P By: John Stebbins Filepath: k:\211015survey\encroachment_exhibit_2.dwg Layout: parcel 2

NO CHANGES ARE TO BE MADE TO THIS DRAWING WITHOUT WRITTEN PERMISSION OF HARRIS KOCHER SMITH.

S COLORADO BLVD

ILLUSTRATION FOR EXHIBIT A

PROJECT #: 211015
CHECKED BY: AWM
DRAWN BY: JS
SHEET NUMBER
4
4 OF 4



11/21/2016 09:52 AM
City & County of Denver
Electronically Recorded

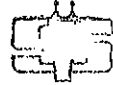
R \$21.00

WD

D \$700.00

**RECORDATION REQUESTED BY AND
WHEN RECORDED MAIL TO:**

Post Properties, Inc.
Attn: Trey McGowan
4401 Northside Pkwy, Suite 800
Atlanta, GA 30327

 16000310488
\$21.00
DOC Fee \$700.00

**SPACE ABOVE THIS LINE IS FOR
RECORDER'S USE ONLY**

SPECIAL WARRANTY DEED

This SPECIAL WARRANTY DEED ("Deed") is dated as of November 17, 2016 (the "Effective Date"), and is made and given by FROST FAMILY PARTNERSHIP, CHERRY TERRACE, LLLP, a Colorado limited liability limited partnership ("Grantor"), to POST APARTMENT HOMES, L.P., a Georgia limited partnership, whose legal address is 4401 Northside Pkwy, Suite 800, Atlanta, GA 30327 ("Grantee").

WITNESSETH, that Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto Grantee, its successors and assigns forever, all the real property, together with improvements, if any, situate, lying and being in the City and County of Denver, State of Colorado, as more particularly described on Exhibit A attached to and made a part of this Deed (the "Real Estate"), together with any and all hereditaments, easements, appendages, ways, privileges and appurtenances, if any, belonging to or inuring to the benefit of Grantor or the Real Estate or pertaining to the Real Estate (collectively, together with the Real Estate, the "Property"); subject to (i) building codes, zoning regulations and all other applicable laws heretofore or hereafter adopted by any public authority relating to the Real Property; (ii) taxes and assessments for the year 2016 and subsequent years; (iii) any matters arising by, through, or under Grantee; and (iv) all matters of record (the "Permitted Exceptions").

TO HAVE AND TO HOLD the said Property above bargained and described with the appurtenances, unto Grantee, its successors and assigns forever. Grantor, for itself, its successors and assigns, does covenant and agree that it shall and will WARRANT AND FOREVER DEFEND the Property in the quiet and peaceable possession of Grantee, its successors and assigns, against all and every person or persons claiming or to claim the whole or any part thereof by, through or under Grantor, except for the Permitted Exceptions.

[Signature Page Follows]

IN WITNESS WHEREOF, the Grantor is executing this Special Warranty Deed to be effective as of its Effective Date.

GRANTOR:

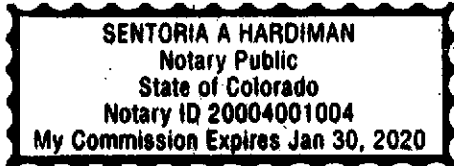
FROST FAMILY PARTNERSHIP, CHERRY TERRACE, LLLP, a Colorado limited liability limited partnership

By: [Signature]
Name: Edmund B. Frost
Title: General Partner

STATE OF COLORADO)
) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me on NOVEMBER 16, 2016 by EDMUND B. FROST as GENERAL PARTNER of Frost Family Partnership, Cherry Terrace, LLLP, a Colorado limited liability limited partnership.

Witness my hand and official seal.



[Signature]
Notary Public

EXHIBIT A
TO
SPECIAL WARRANTY DEED

LEGAL DESCRIPTION

A parcel of land located in the South 1/2 Northeast 1/4 Northeast 1/4 of Section 13, Township 4 South, Range 68 West of the 6th P.M., in the City and County of Denver, State of Colorado, being more particularly described as follows, to wit:

Beginning at the point of intersection of the North line of said South 1/2 Northeast 1/4 Northeast 1/4, which is the South line of Dakota Avenue and the Northeasterly line of Cherry Creek North Drive;
Thence South 42°54' East along the Northeasterly line of Cherry Creek North Drive, a distance of 607.34 feet to a point 216.55 feet North of the South line of said South 1/2 Northeast 1/4 Northeast 1/4 and measured at right angles thereto, said point being the true point of beginning; from said true point of beginning,
Thence East parallel with the South line of said South 1/2 Northeast 1/4 Northeast 1/4, a distance of 215.42 feet to a point 360.0 feet West of the East line of said South 1/2 Northeast 1/4 Northeast 1/4;
Thence North, parallel with the East line of said South 1/2 Northeast 1/4 Northeast 1/4, a distance of 127.0 feet;
Thence West, parallel with the South line of said South 1/2 Northeast 1/4 Northeast 1/4, a distance of 333.4 feet to a point on the Northeasterly line of Cherry Creek North Drive;
Thence South 42°54' East, along the Northeasterly line of Cherry Creek North Drive, a distance of 173.4 feet, more or less to the true point of beginning.

City and County of Denver,
State of Colorado.