



Department of Public Works
Engineering Regulatory & Analytics
201 W. Colfax Avenue, Dept. 507
Denver, CO 80202
720-865-3001
www.denvergov.org/survey

REQUEST FOR ORDINANCE TO RELINQUISH EASEMENT

TO: Caroline Martin, City Attorney's Office

FROM: Matt Bryner
Director, Public Works Right of Way Services

PROJECT NO: 2017-RELINQ-0000016

DATE: January 14, 2019

SUBJECT: Request for an Ordinance to relinquish a portion of the easement established in the Easement Agreement document recorded on February 13, 2006 with Recordation No. 200627027, located at E 45th Ave. and Tower Rd. for E 45th Ave. Apartments.

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

This office has investigated the request of Harris Kocher Smith c/o John O'Rourke, dated August 7, 2017, on behalf of E 45th Avenue Apartments, LLC c/o The Spanos Corporation for the relinquishment of said easements.

This matter has been checked by this office and has been coordinated with Asset Management; Comcast; the City Councilperson; CPD: Planning Services; Historic Preservation/Landmark; Denver Water; Denver Fire Department; City Forestry; Parks and Recreation; Engineering, Regulatory, and Analytics Transportation and Wastewater; Public Works: Construction Engineering; Public Works – Policy and Planning; Metro Wastewater Reclamation District; Survey; CenturyLink; 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 relinquishing the subject easement.

Therefore, you are requested to initiate Council action to relinquish the easements in the following described area(s):

INSERT PARCEL DESCRIPTION 2017-RELINQ-0000016-001 HERE

A map of the area and a copy of the document creating the easement are attached.

MB:bp

cc:

City Councilperson & Aides
City Council Staff – Zach Rothmier
Department of Law – Bradley Beck
Department of Law – Deanne Durfee
Department of Law – Maureen McGuire
Department of Law – Martin Plate
Public Works, Manager's Office – Alba Castro
Public Works, Legislative Services – Jason Gallardo
Public Works, Survey – Paul Rogalla

ORDINANCE/RESOLUTION REQUEST

Please email requests to Jason Gallardo

at Jason.Gallardo@denvergov.org by **12:00pm on Monday**. Contact him with questions.

Date of Request: January 14, 2019

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: Easement Relinquishment

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.)

Harris Kocher Smith c/o John O'Rourke, on behalf of E 45th Avenue Apartments, LLC c/o The Spanos Corporation requests for an Ordinance to relinquish a portion of the easement, established in the Easement Agreement document recorded on February 13, 2006 with Recordation No. 200627027, located at E 45th Ave. and Tower Rd. for E 45th Ave. Apartments.

3. Requesting Agency: Public Works; Engineering & Regulatory Dept.

4. Contact Person:

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

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

Request for an Ordinance to relinquish a portion of the easement, established in the Easement Agreement document recorded on February 13, 2006 with Recordation No. 200627027, located at E 45th Ave. and Tower Rd. for E 45th Ave. Apartments.

6. City Attorney assigned to this request (if applicable): Bradley Beck

7. City Council District: District 11; Councilwoman Gilmore

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

To be completed by Mayor's Legislative Team:

Resolution/Bill Number: _____

Date Entered: _____

Key Contract Terms

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</i> (A)	<i>Additional Funds</i> (B)	<i>Total Contract Amount</i> (A+B)
<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: _____

EASEMENT RELINQUISHMENT EXECUTIVE SUMMARY

Project Title: 2017-RELINQ-0000016 E 45th Ave Apartments at E 45th and Tower Rd

Owner name: E 45th Avenue Apartments, LLC

Description of Proposed Project: Harris Kocher Smith c/o John O'Rourke, on behalf of E 45th Avenue Apartments, LLC c/o The Spanos Corporation requests for an Ordinance to relinquish a portion of the easement, established in the Easement Agreement document recorded on February 13, 2006 with Recordation No. 200627027, located at E 45th Ave. and Tower Rd. for E 45th Ave. Apartments.

Explanation of why the public right-of-way must be utilized to accomplish the proposed project:
Redevelopment

Background: N/A

Location Map:



"EASEMENT RELINQUISHMENT"
SHEET 1 OF 2
LAND DESCRIPTION

A parcel of land being a portion of "The Easement Property" described by Easement Agreement recorded at Reception No. 2006027027, situated in the Northeast Quarter of Section 21, Township 3 South, Range 66 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado, more particularly described as follows:

Commencing at the East Quarter Corner of said Section 21, whence the Center Quarter Corner of said Section 21 bears South 89°57'32" West, as described on C.P. Bedrock Filing No. 4 recorded February 11, 2014 at Reception No. 2014015960, said line being the **BASIS OF BEARINGS** for this description;

THENCE South 89°57'32" West along the south line of the Northeast Quarter of said Section 21, a distance of 634.69 feet to the southeast corner of said easement and the **POINT OF BEGINNING**;

THENCE along the south and west lines of said easement the following two (2) courses:

- 1) Continuing South 89°57'32" West, a distance of 30.00 feet;
- 2) North 00°07'05" West, a distance of 534.98 feet to the south line of East 45th Avenue;

THENCE North 89°59'48" East along said south line, a distance of 30.00 feet to the east line of said easement;

THENCE South 00°07'05" East along said east line, a distance of 534.96 feet to the **POINT OF BEGINNING**.

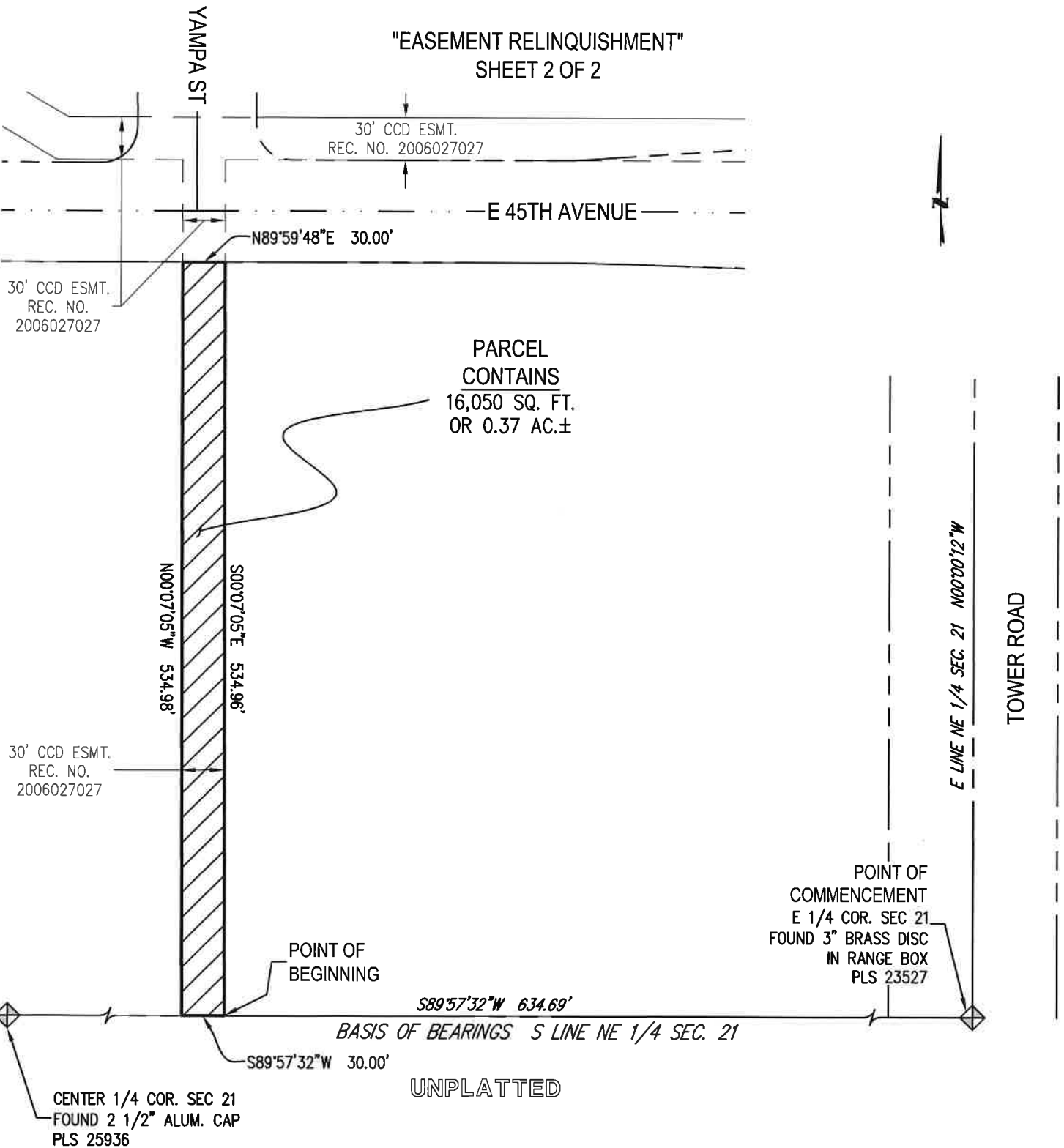
Said Parcel contains 16,050 square feet or 0.37 acres, more or less.

PREPARED BY: AARON MURPHY
PLS 38162

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

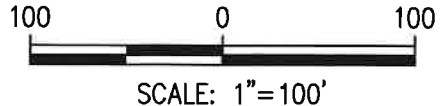


"EASEMENT RELINQUISHMENT"
SHEET 2 OF 2



PARCEL
CONTAINS
16,050 SQ. FT.
OR 0.37 AC.±

POINT OF
COMMENCEMENT
E 1/4 COR. SEC 21
FOUND 3" BRASS DISC
IN RANGE BOX
PLS 23527



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

FILEPATH: P:\170218\SURVEY\170218-STRM-RELINQ.DWG LAYOUT: LAYOUT1
NO. SHEETS: 2
PLOTTER: HPGL PLOT 12/17/18 3:06:24P BY: AMON MURPHY

ISSUE DATE: 6-1-2017	PROJECT #: 170218
DATE	REVISION COMMENTS
12-17-18	

EASEMENT RELINQUISHMENT
NE 1/4 SEC. 21, T3S, R66W, 6TH PM

ILLUSTRATION

HKS HARRIS KOCHER SMITH
1120 Lincoln Street, Suite 1000
Denver, Colorado 80203
P: 303.623.6300 F: 303.623.6311
HarrisKocherSmith.com

CHK'D BY: AWM
DRAWN BY: TWG

SHEET NO.
2

2 OF 2

EASEMENT AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

That CP Bedrock, LLC a Delaware limited liability company, whose legal address is 1675 Broadway, Suite 2100, Denver, CO 80202, hereinafter referred to as "Grantor", for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant, convey and release to the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado, its successors and assigns, hereinafter referred to as the "City", an exclusive and perpetual easement ("Easement") to locate, construct, inspect, operate, maintain, repair, remove, replace, relocate and reconstruct drainage facilities for stormwater and sewage, including related underground and surface facilities and appurtenances thereto, into, within, over, upon, across, through and under the following described parcel of land ("Easement Property"):

See Exhibit(s) A attached hereto

Grantor hereby warrants that Grantor has full right and lawful authority to grant the Easement and has fee simple title to the Easement Property, and there are no other known interests in the Easement Property that could impair the rights granted hereby.

The interest granted to City herein shall specifically include any after acquired rights of Grantor in the Easement Property, to the extent of the Easement rights herein stated.

If ingress to and egress from the Easement Property from and to a public road or highway is not available, Grantor grants to City the right of ingress to and egress from the Easement Property over and across adjacent land owned by Grantor by means of roads and lanes thereon, if such exist, otherwise by such route or routes as shall occasion the least practicable damage and inconvenience to Grantor; provided that such right of ingress and egress shall not extend to any portion of said adjacent land which is isolated from the Easement Property by any public road or highway now crossing or hereafter crossing said adjacent land; and provided further, that if any portion of said adjacent land is or shall be subdivided and dedicated roads or highways on such portion shall extend to the Easement Property, the right of ingress and egress shall be confined to such dedicated roads and highways.

Grantor further grants to City the right from time to time to trim and to cut down and clear away any and all trees and brush now or hereafter on the Easement Property and to trim and to cut down and clear away trees on either side of the Easement Property which now or hereafter in the reasonable determination of City may be a hazard to the Easement facilities, or Appurtenances thereto, or may interfere with the exercise of City's rights hereunder; provided, however, that all trees which City is hereby authorized to cut and remove, if valuable for timber or wood, shall continue to be the property of Grantor, but all tops, lops, brush and refuse wood shall be removed by City.

C P Bedrock Filing No. 1

Project No. 200407740303

File No. 1132.104-DE

Asset Mgmt. #: 06-008

Asset Management: 2-13-06
Date:

Approved: [Signature]

Project Description: DRAINAGE EASEMENT
TOWER & TOWER

Grantor releases the City and County of Denver from any and all claims for damages arising in any way or incident to the construction, reconstruction, repair, replacement, and/or maintenance by the City, or its agents, of the said facilities across the Easement Property.

Grantor, its successors and assigns, reserves the right to fully use and enjoy the Easement Property, so long as such use and enjoyment shall not interfere with the installation, construction, maintenance, repair, inspection, operation, relocation, and reconstruction of the Easement facilities installed or permitted to be installed by City, and provided that the Grantor shall not erect or place any building, structure, tree, or other below or above ground obstruction on the Easement Property, except as otherwise specifically provided herein. In the event the terms of this Easement are violated, such violation shall immediately be corrected by Grantor upon receipt of written notice from the City or the City may elect to correct or eliminate such violation at the Grantor's expense. Grantor shall promptly reimburse the City for any costs and expenses incurred by the City in enforcing the terms of this Easement Agreement.

"GRANTOR"

Signed and delivered this 9th day of FEBRUARY, 2006

GRANTOR: **C.P. Bedrock, LLC** a Delaware limited liability company

By: **Tickly Bender Development, LLC** a Delaware limited liability company

By: Christopher S. Flagg

Printed Name: CHRISTOPHER S. FLAGG

Title: V.P.

STATE OF New York)
) ss.
COUNTY OF New York)

The foregoing instrument was acknowledged before me this 9th day of FEBRUARY, 2006, by Christopher S. Flagg as Vice President of Tickly Bender Development, LLC, Manager of C.P. Bedrock, LLC

My commission expires: 12-8-07

WITNESS my hand and official seal.

Eunice Pugh
Notary Public

EUNICE PUGH
Notary Public, State of New York
No. 01PU8102701
Qualified in New York County
Commission Expires December 8, 2007

EXHIBIT "A"

LEGAL DESCRIPTION

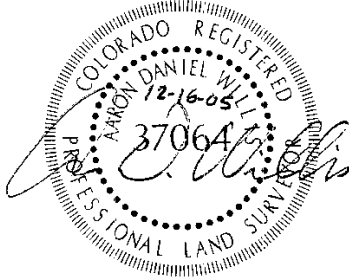
A PARCEL OF LAND BEING A PORTION OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 21, MONUMENTED BY A #6 REBAR WITH AN ILLEGIBLE 3 1/4" ALUMINUM CAP, WHENCE THE CENTER OF SAID SECTION 21, MONUMENTED BY A #6 REBAR WITH A 2 1/2" ALUMINUM CAP STAMPED "C.R. MOORE, PLS 10945" BEARS SOUTH 89°57'32" WEST, AND ALL BEARINGS ARE MADE AS A REFERENCE HEREON;

THENCE ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER, SOUTH 89°57'32" WEST 634.69 FEET TO THE **POINT OF BEGINNING**;
THENCE CONTINUING ALONG SAID SOUTH LINE, SOUTH 89°57'32" WEST 30.00 FEET;
THENCE DEPARTING SAID SOUTH LINE, NORTH 00°07'05" WEST 606.97 FEET;
THENCE SOUTH 89°59'48" WEST 88.97 FEET;
THENCE NORTH 59°53'43" WEST 110.08 FEET;
THENCE NORTH 00°00'12" WEST 34.68 FEET;
THENCE SOUTH 59°53'43" EAST 119.40 FEET;
THENCE NORTH 89°59'48" EAST 656.81 FEET;
THENCE NORTH 00°00'12" WEST 263.12 FEET;
THENCE NORTH 89°59'48" EAST 30.00 FEET TO THE WESTERLY RIGHT-OF-WAY OF TOWER ROAD, AS SHOWN IN THE DOCUMENT RECORDED AT RECEPTION NO. 2004109866 IN THE OFFICE OF THE CLERK AND RECORDED OF SAID CITY AND COUNTY;
THENCE ALONG SAID WESTERLY RIGHT-OF-WAY, SOUTH 00°00'12" EAST 268.12 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 25.00 FEET;
THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY, SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 39.27 FEET;
THENCE TANGENT TO SAID CURVE, SOUTH 89°59'48" WEST 550.90 FEET;
THENCE SOUTH 00°07'05" EAST 606.95 FEET TO THE **POINT OF BEGINNING**.

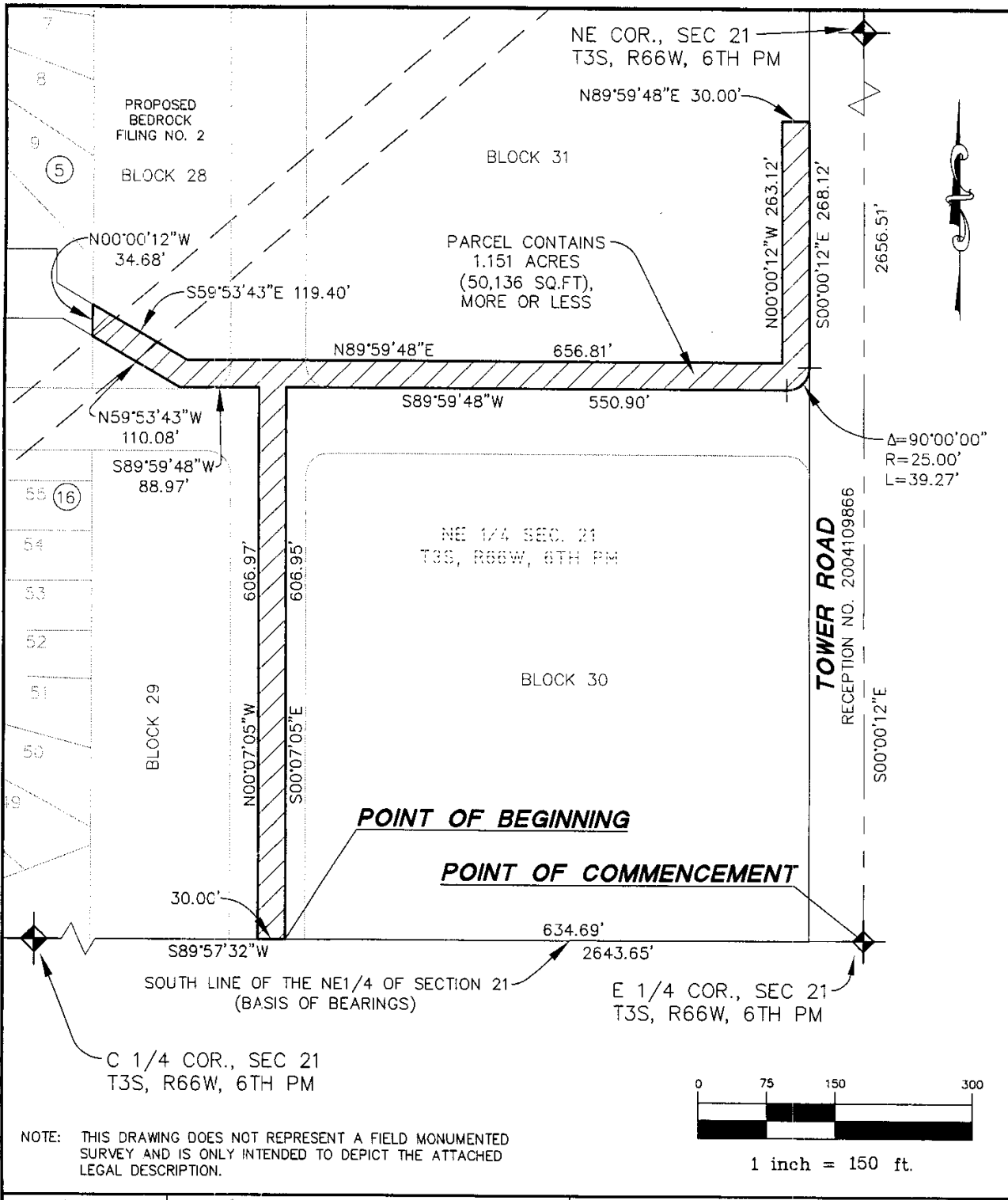
CONTAINING 1.151 ACRES (50,136 SQ. FT.), MORE OR LESS.

EXHIBIT ATTACHED AND MADE A PART HEREOF.



AARON D. WILLIS
COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR, P.L.S. 37064
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.

CEO 200407740303
FILE 1132-104-DE



NOTE: THIS DRAWING DOES NOT REPRESENT A FIELD MONUMENTED SURVEY AND IS ONLY INTENDED TO DEPICT THE ATTACHED LEGAL DESCRIPTION.

PATH: P:\25305-02\DWG
 DWG NAME: Drainage Ease C
 DWG: A.D.W. CHK: J.R.W.
 DATE: 10-14-05
 SCALE: 1" = 150'



AzTec CONSULTANTS, inc.

8000 South Lincoln Street, Unit 5
 Littleton, Colorado 80122
 Phone: (303)713-1898 Fax: (303)713-1897

LEGAL EXHIBIT
 CP BEDROCK

NE 1/4, SEC. 21, T3S, R66W, 6TH PM
 JOB NUMBER 25304-06-01 2 OF 2 SHEETS