



**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:** Karen Walton, City Attorney's Office

**FROM:** Robert J. Duncanson, P.E.  
Manager 2, Development Engineering Services

**ROW NO.:** 2011-0293-01

**DATE:** April 17, 2012

**SUBJECT:** Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to BNSF Railway Company, their successors and assigns, to encroach into the right-of-way with a private storm sewer and man hole in 44th Ave, just east of Sherman St

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

This office has investigated the request from Brent Paulsen of TKDA dated 1/17/2012, on behalf of BNSF Railway Company 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 Montero; 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 BNSF Railway Company, their successors and assigns, to encroach into the right-of-way with a private storm sewer and man hole in 44th Ave, just east of Sherman St

**INSERT PARCEL DESCRIPTION ROW 2011-0293-01-001 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 3<sup>rd</sup> 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) None

A map of the area is attached hereto.

RJD: VLH 

cc: Asset Management, Steve Wirth  
City Council Office, Gretchen Williams  
Councilperson Montero and Aides  
Department of Law, Karen Aviles  
Department of Law, Arlene Dykstra  
Department of Law, Karen Walton  
Public Works, Alba Castro  
Public Works, Christine Downs  
Public Works, Nancy Kuhn  
Project File # 2011-0293-01

Property Owner:  
BNSF Railway Company  
c/o Dwayne Curbow  
4515 Kansas Ave  
Kansas City, Kansas 66106

Agent:  
TKDA  
c/o Brent Paulsen  
444 Cedar Street, Suite 1500  
St. Paul, MN 55101

**ORDINANCE/RESOLUTION REQUEST**

Please email requests to Nancy Kuhn at [Nancy.Kuhn@Denvergov.org](mailto:Nancy.Kuhn@Denvergov.org) by **NOON on Monday**.

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

Date of Request: April 17, 2012

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 – please 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 BNSF Railway Company, their successors and assigns, to encroach into the right-of-way with a private storm sewer and man hole in 44th Ave, just east of Sherman St

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

4. **Contact Person:** *(With actual knowledge of proposed ordinance/resolution.)*

- **Name:** Vanessa Herman
- **Phone:** 720-913-0719
- **Email:** [vanessa.herman@denvergov.org](mailto:vanessa.herman@denvergov.org)

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

- **Name:** Nancy Kuhn
- **Phone:** 720-865-8720
- **Email:** [Nancy.Kuhn@denvergov.org](mailto:Nancy.Kuhn@denvergov.org)

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

To request a resolution for a Major Encumbrance Permit for a private storm sewer and man hole in 44<sup>th</sup> Ave.

**\*\*Please complete the following fields:** *(Incomplete fields may result in a delay in processing. If a field is not applicable, please enter N/A for that field.)*

- a. **Contract Control Number:** N/A
- b. **Duration:** Permanent
- c. **Location:** 44<sup>th</sup> Ave, east of Sherman St
- d. **Affected Council District:** Dist # 9 Montero
- e. **Benefits:** N/A
- f. **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 Entered: \_\_\_\_\_



**DENVER**  
THE MILE HIGH CITY

## EXECUTIVE SUMMARY

**Project Title: 2011-0293-01 MEP BNSF Maintenance Building**

**Description of Proposed Project: Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to BNSF Railway Company, their successors and assigns, to encroach into the right-of-way with a private storm sewer and man hole in 44th Ave, just east of Sherman St**

**Explanation of why the public right-of-way must be utilized to accomplish the proposed project: The private storm sewer will be placed at this location to avoid any conflicts with existing facilities currently in that location.**

**Has a Temp MEP been issued, and if so, what work is underway: No**

**What is the known duration of an MEP: Permanent**

**Will land be dedicated to the City if the vacation goes through: N/A**

**Will an easement be placed over a vacated area, and if so explain: N/A**

**Will an easement relinquishment be submitted at a later date: N/A**

**Additional information: None**

# EXHIBIT A

PW LEGAL DESCRIPTION 2011-0293-01-001

DES PROJECT # 2010D00066

2010D00066

A PARCEL OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

THE BASIS OF BEARINGS OF THIS LEGAL DESCRIPTION IS AN ASSUMED BEARING OF S89°55'30"E BETWEEN THE RANGE POINT MONUMENTS LOCATED AT THE INTERSECTION OF WEST 45TH AVENUE AND GRANT STREET AND THE INTERSECTION OF WEST 45TH AVENUE AND PENNSYLVANIA STREET.

COMMENCING AT THE NORTHEAST CORNER OF BLOCK 9, TACOMA HEIGHTS, A SUBDIVISION FILED IN THE CITY AND COUNTY OF DENVER CLERK AND RECORDER'S OFFICE AND ACCEPTED AND APPROVED BY THE CITY AND COUNTY OF DENVER BY ORDINANCE 134 OF SERIES 1889; SAID POINT ALSO BEING S54°08'42"W A DISTANCE OF 1200.11 FEET FROM THE RANGE POINT AT THE INTERSECTION OF WEST 45TH AVENUE AND PENNSYLVANIA STREET; THENCE S89°55'38"E ALONG THE SOUTH RIGHT OF WAY LINE OF 44th AVENUE DISTANCE OF 6.00 FEET TO THE POINT OF BEGINNING; THENCE N00°41'09"E A DISTANCE OF 60.91 FEET; THENCE S89°55'38"E A DISTANCE OF 10.00 FEET; THENCE S00°41'09"W A DISTANCE OF 60.91 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 44th AVENUE; THENCE S00°41'09"W ALONG A LINE 16.00 FEET EAST OF AND PARALLEL WITH THE EAST LINE OF SAID BLOCK 9, A DISTANCE OF 10.00 FEET; THENCE N89°55'38"W A DISTANCE OF 10.00 FEET; THENCE N00°41'09"E A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS 709 SQUARE FEET, 0.016 ACRES, MORE OR LESS.

THIS LEGAL DESCRIPTION WAS PREPARED BY:

DON LAMBERT, PLS 30830  
FOR AND ON BEHALF OF FRONTIER SURVEYING, INC.  
352 NORFOLK STREET, AURORA, CO 80011



SHEET 1 OF 2



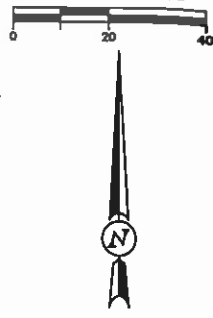
**FRONTIER  
SURVEYING, INC.**

352 Norfolk Street  
Aurora, CO 80011

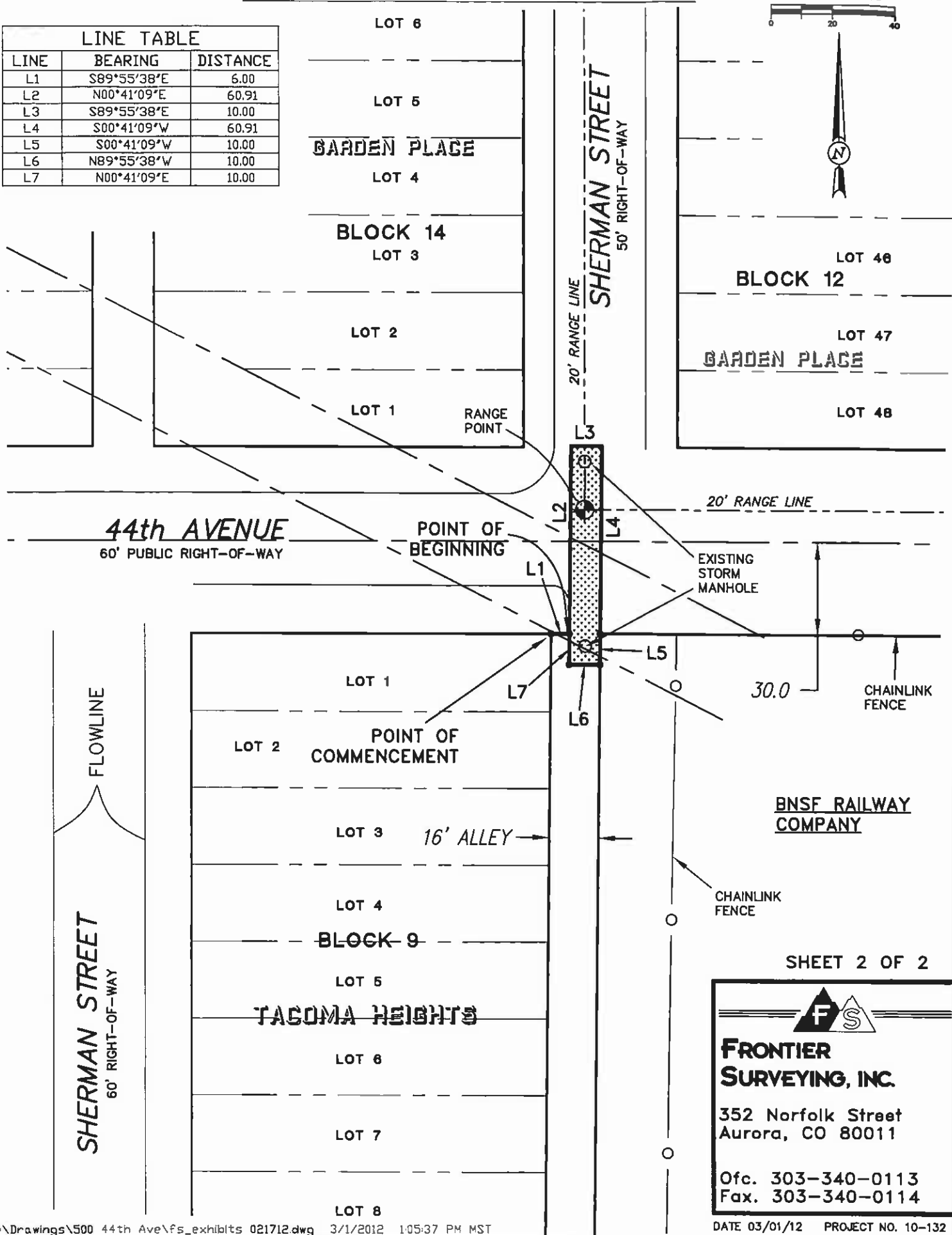
Ofc. 303-340-0113  
Fax. 303-340-0114

# EXHIBIT A

Scale: 1" = 40'



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S89°55'38"E	6.00
L2	N00°41'09"E	60.91
L3	S89°55'38"E	10.00
L4	S00°41'09"W	60.91
L5	S00°41'09"W	10.00
L6	N89°55'38"W	10.00
L7	N00°41'09"E	10.00



LOT 46  
**BLOCK 12**  
LOT 47  
**GARDEN PLACE**  
LOT 48

**44th AVENUE**  
60' PUBLIC RIGHT-OF-WAY

**SHERMAN STREET**  
60' RIGHT-OF-WAY

**BNSF RAILWAY COMPANY**

SHEET 2 OF 2

**FRONTIER SURVEYING, INC.**

352 Norfolk Street  
Aurora, CO 80011

Ofc. 303-340-0113  
Fax. 303-340-0114