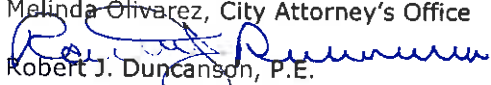




REQUEST FOR RESOLUTION FOR MAJOR ENCUMBRANCE PERMIT

TO: Melinda Olivarez, City Attorney's Office

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

ROW NO.: 2010-0168-01

DATE: May 10, 2010

SUBJECT: Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to University of Denver, their successors and assigns, to encroach into the right-of-way with (1) one 36" x 24" ground box, (1) one 4" conduit and (1) one 2" conduit for fiber optic lines into Iliff Ave. between Race St., and York 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 April 30, 2010, on behalf of University of Denver 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 Nevitt; 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 University of Denver, their successors and assigns, to encroach with (1) one 36" x 24" ground box, (1) one 4" conduit and (1) one 2" conduit for fiber optic lines into Iliff Ave. between Race St., and York Street.

INSERT PARCEL DESCRIPTION ROW 2010-0168-001 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 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) None

A map of the area is attached hereto.

RJD: LRA

cc: Councilperson Nevitt and Aldes
Karen Aviles, Department of Law
Debra Baca, Public Works
Christine Downs, Public Works
Gretchen Williams, City Council Office
Steve Wirth, Asset Management
Melinda Olivarez, Department of Law
Project File 2010-0168-01

Property Owner:
Bryon Early
University of Denver
2000 E. Asbury Ave.
Denver, CO 80208

Agent:
Kyle Godwin
Vision Land Consultants, Inc.
603 Park Point Dr., Ste. # 100
Golden, CO 80401

ORDINANCE/RESOLUTION REQUEST

- 1. Title: (Include a one sentence description that clearly indicates the type of request – grant acceptance, contract execution, municipal code change, supplemental request, etc.)**

Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to University of Denver, their successors and assigns, to encroach into the right-of-way with (1) one 36" x 24" ground box, (1) one 4" conduit and (1) one 2" conduit for fiber optic lines into Iliff Ave. between Race St., and York Street.

- 2. Requesting Agency:**

Public Works Right-of-Way Engineering Services

- 3. Contact Person with actual knowledge of proposed ordinance**

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

- 4. Contact Person with actual knowledge of proposed ordinance who will present the item at Mayor Council**

Name: Revekka Balancier
Phone: 720-865-8720
Email: Revekka.Balancier@denvergov.org

- 5. Describe the proposed ordinance, including what the proposed ordinance is intended to accomplish, who's involved, scope of work, duration, location, affected Council district, benefits, and costs. (This is intended to give a brief overview of the ordinance. For additional background and history, please attach an executive summary).**

Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to University of Denver, their successors and assigns, to encroach into the right-of-way with (1) one 36" x 24" ground box, (1) one 4" conduit and (1) one 2" conduit for fiber optic lines into Iliff Ave. between Race St., and York Street. This process type was requested by Kyle Godwin on behalf of University of Denver. This is located in Council District # 7, Chris Nevitt.

- 6. Is there any controversy surrounding this ordinance, groups or individuals who may have concerns about it? Please explain.**

None

(Completed by Mayor's Office): **Ordinance Request Number:**

Date:

EXHIBIT "A"
LEGAL DESCRIPTION

A PARCEL OF LAND, BEING A PORTION OF THE EAST ILIFF AVENUE RIGHT-OF-WAY, LOCATED IN THE EAST HALF OF SECTION 26, TOWNSHIP 4 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:

COMMENCING AT THE NORTHEAST CORNER OF LOT 1, BLOCK 42, EVANSTON – THIRD FILING, A SUBDIVISION PLAT RECORDED IN BOOK 9, PAGE 16 IN THE OFFICE OF THE CLERK AND RECORDER OF ARAPAHOE COUNTY, COLORADO ON FEBRUARY 5, 1890, WHENCE THE NORTH BOUNDARY OF SAID LOT 1 BEARS NORTH 89°57'42" WEST WITH ALL BEARINGS HEREON REFERENCED THERETO;

THENCE ALONG SAID NORTH BOUNDARY OF LOT 1 AND THE SOUTHERLY RIGHT-OF-WAY OF EAST ILIFF AVENUE, NORTH 89°57'42" WEST, A DISTANCE OF 5.23 FEET TO THE **POINT OF BEGINNING**;

THENCE CONTINUING ALONG SAID NORTH BOUNDARY AND SAID SOUTHERLY RIGHT-OF-WAY, NORTH 89°57'42" WEST, A DISTANCE OF 10.00 FEET;

THENCE DEPARTING SAID NORTH BOUNDARY AND SAID SOUTHERLY RIGHT-OF-WAY, NORTH 00°02'33" WEST, A DISTANCE OF 73.00 FEET TO THE NORTHERLY RIGHT-OF-WAY OF EAST ILIFF AVENUE;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY, SOUTH 89°57'42" EAST, A DISTANCE OF 10.00 FEET;

THENCE DEPARTING SAID NORTHERLY RIGHT-OF-WAY, SOUTH 00°02'33" EAST, A DISTANCE OF 73.00 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 0.016 ACRES (730 SQ. FT.), MORE OR LESS .

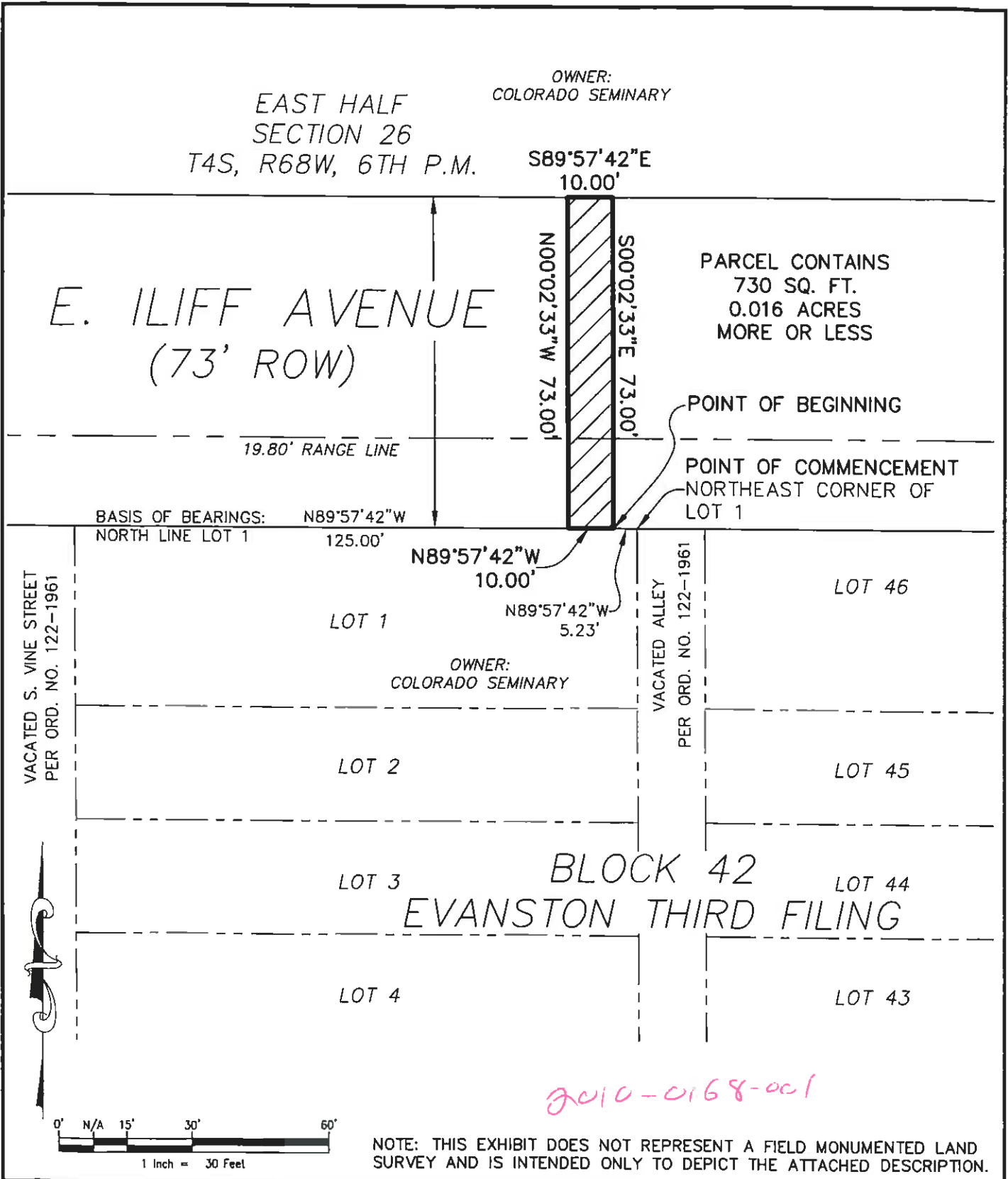
EXHIBIT ATTACHED AND MADE A PART HEREOF.



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

2010 - 0168-001

ILLUSTRATION TO EXHIBIT A



PATH: P:\23710-06\DWG
 DWG NAME: 10FT MEP LEGAL
 DWG: DCR CHK: DCR
 DATE: 5/05/2010
 SCALE: 1" = 30'

AZTEC
 CONSULTANTS, INC.

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

EXHIBIT A

PART OF THE E 1/2 SEC 26, T4S, R68W, 6TH PM
 CITY & COUNTY OF DENVER, COLORADO

JOB NUMBER 23710-06 2 OF 2 SHEETS