

REQUEST FOR RESOLUTION FOR TIER III ENCROACHMENT PERMIT

TO: Caroline Martin, City Attorney's Office

FROM: Matt Bryner, P.E.
Director, Right of Way Services

ROW NO.: 2020-ENCROACHMENT-0000235

DATE: 6/26/2020

SUBJECT: Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to West Lot, LLC, their successors and assigns, to encroach into the right-of-way with the Evolution of Ball Sculpture, a baseball-themed arch, located near 1901 Wazee 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 John Yonushewski of Stantec Architecture dated April 24, 2020, on behalf of Hal Roth of West Lot, LLC for the granting of the above-subject permit.

This matter has been checked by this office and has been coordinated with Asset Management; Comcast Corporation; Division of Disability Rights; Councilperson Candi CdeBaca; Community Planning & Development; Building & Construction Services, Planning Services; Denver Water Board; Environmental Services; Fire Department; Metro Wastewater Reclamation District; Office of Emergency Management; Office of Telecommunications; Parks and Recreation; DOTI: City Engineer, Construction Engineering, DES Engineering, Survey, IPP Infrastructure Engineering, 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 West Lot, LLC, their successors and assigns, to encroach with the Evolution of Ball Sculpture, a baseball-themed arch, located near 1901 Wazee St.

INSERT PARCEL DESCRIPTION ROW 2020-ENCROACHMENT-0000235-001 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 DOTI Permit Operations at 2000 West 3rd Avenue, 303.446.3759, and prior to commencing construction.

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

- (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, 16361 Table Mountain Pkwy, Golden, Colorado, 80403 at 303.232.1991. Further, Permittee shall contact the Utility Notification Center, at 811 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 DOTI, 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

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

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,

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

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.

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, Caroline Martin
DOTI, Alba Castro
DOTI, Jason Gallardo
Project File

Property Owner:
Hal Roth
West Lot, LLC
2001 Blake St.
Denver, CO 80205

Agent:
John Yonushewski
Stantec Architecture
1050 17th St. Ste A200
Denver, CO 80265

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

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: 6/26/2020 _____

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 Encroachment

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 West Lot, LLC, their successors and assigns, to encroach into the right-of-way with the Evolution of Ball Sculpture, a baseball-themed arch, located near 1901 Wazee St.

3. Requesting Agency: Department of Transportation and Infrastructure

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 West Lot, LLC, their successors and assigns, to encroach into the right-of-way with the Evolution of Ball Sculpture, a baseball themed arch, located near 1901 Wazee St.

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

7. City Council District: Councilperson Cdebaca, District 9

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> <i>(A)</i>	<i>Additional Funds</i> <i>(B)</i>	<i>Total Contract Amount</i> <i>(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: 2020-ENCROACHMENT-0000235- Tier III Baseball Arch at 1901 Wazee St.

Business name: West Lot, LLC

Description of Encroachment: Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to West Lot, LLC, their successors and assigns, to encroach into the right-of-way with the Evolution of Ball Sculpture, a baseball-themed arch, located near 1901 Wazee St.

Explanation of why the Public Right of Way must be utilized for a private improvement: The applicant is requesting to move the existing Evolution of Ball Sculpture from private property onto public right-of-way to accommodate the West Lot Development Project. The sculpture is proposed to be located closer to the existing pedestrian bridge to provide a similar gateway as now between the West Lot (McGreggor Square) project and the baseball field.

Annual Fees: \$200

Location Map: Continued on next page.

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/dot
Phone: 720-865-3003

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.



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/dot
Phone: 720-865-3003

EXHIBIT A
LAND DESCRIPTION
SHEET 1 OF 2

LAND DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF 20TH STREET RIGHT-OF-WAY AS CONVEYED IN RECEPTION NUMBER 93-0043076, LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHERLY MOST CORNER OF THE 1901 WAZEE STREET PROPERTY ALSO BEING THE EASTERLY MOST POINT OF THE THERMO HEAD LLC PROPERTY RECORDED AT RECEPTION NO. 1994156352 BEING A POINT ON THE SOUTHWESTERLY LINE OF 20TH STREET AS CONVEYED TO THE CITY AND COUNTY OF DENVER RECORDED AT RECEPTION NUMBER 1993043076; THENCE N79°20'00"E A DISTANCE OF 23.95 FEET TO THE POINT OF BEGINNING;

THENCE N44°20'41"E A DISTANCE OF 12.00 FEET;

THENCE S45°39'19"E A DISTANCE OF 60.00 FEET;

THENCE S44°20'41"W A DISTANCE OF 12.00 FEET;

THENCE N45°39'19"W A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS 0.02 ACRES (720 SQUARE FEET), MORE OF LESS.

ALL DIMENSIONS ARE IN U.S. SURVEY FEET.

BASIS OF BEARINGS:

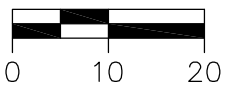
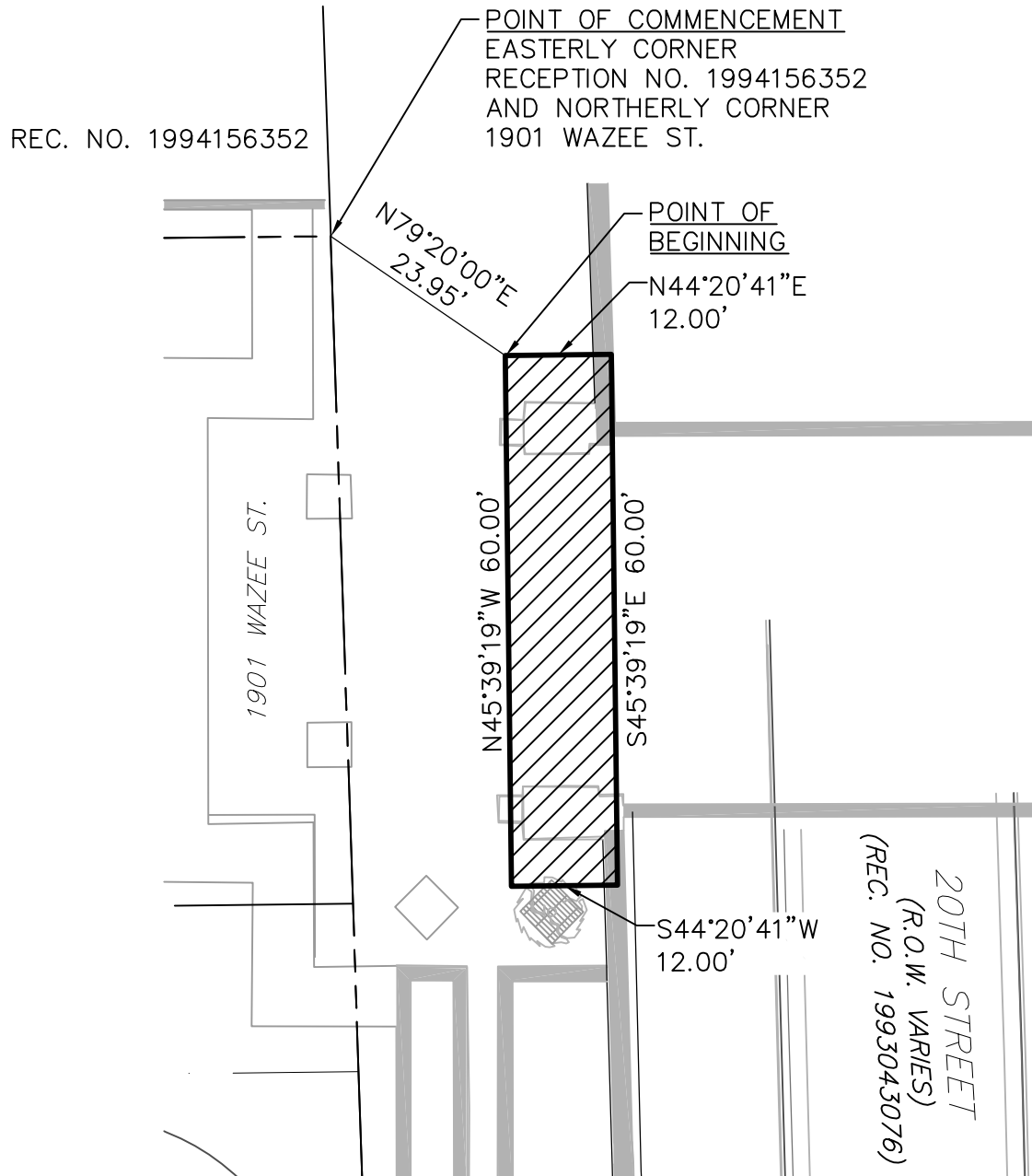
BEARINGS ARE BASED ON THE 20' RANGE LINE IN WAZEE STREET BETWEEN 19TH ST. AND 20TH ST. BEARING N44°57'11"E, BEING MONUMENTED BY A 3 ¼" ALUMINUM CAP PLS ILLEGIBLE IN RANGE BOX AT 19TH AND WAZEE AND A 3 ¼" ALUMINUM CAP NO PLS NUMBER IN RANGE BOX AT 20TH AND WAZEE PER ALTA SURVEY PREPARED R&R ENGINEERS – SURVEYORS JOB NUMBER RN17165.

PREPARED BY JESUS DIAZ
REVIEWED BY RICHARD A. NOBBE, PLS
FOR AND ON BEHALF OF MARTIN/MARTIN, INC.
12499 WEST COLFAX AVENUE
LAKEWOOD, COLORADO 80215
APRIL 24, 2020

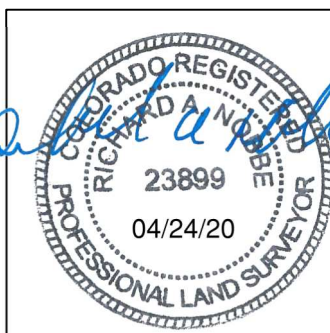
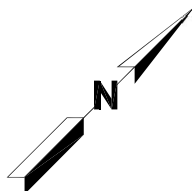


EXHIBIT A

SHEET 2 OF 2



SCALE: 1"=20'
ALL LINEAL
DIMENSIONS ARE IN
U.S. SURVEY FEET



04/24/20

MARTIN/MARTIN
CONSULTING ENGINEERS

12499 WEST COLFAX AVENUE, LAKEWOOD, COLORADO 80215
303.431.6100 MARTINMARTIN.COM

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

No	Bearing	Chord	Radius	M Arc	C Arc	Delta
001	N44-20-41E	12.000				
002	S45-39-19E	60.000				
003	S44-20-41W	12.000				
004	N45-39-19W	60.000				

CLOSURE = 0.000 N05-11-40W

PERIMETER = 144.000 PRECISION = 1: 1000000

AREA = 720.00 SQ. FEET OR 0.016529 ACRES