

BY AUTHORITY

RESOLUTION NO. **38**
SERIES OF 2009

COMMITTEE OF REFERENCE:

Public Works

A RESOLUTION

Granting a revocable permit to Trison Development Corp., to encroach into the right-of-way with an 8" PVC drain pipe at 1284 Downing Street.

BE IT RESOLVED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. The City and County of Denver hereby grants to Trison Development Corp. and their successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with an 8" PVC drain pipe in the following described area ("Encroachment Area"):

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF DOWNING STREET (60' ROW) AND THE SOUTH LINE OF 13TH AVENUE AS ESTABLISHED BY ORDINANCE 800, SERIES OF 2005 (60' ROW) LOCATED IN SECTION 2, TOWNSHIP 4 SOUTH, RANGE 68 WEST, 6TH P.M., CITY AND COUNTY OF DENVER, STATE OF COLORADO.:

THENCE ALONG THE EAST LINE OF SAID DOWNING STREET SOUTH 00°46'21" EAST, A DISTANCE OF 99.00 FEET;
THENCE DEPARTING SAID EAST LINE, SOUTH 89°13'39" WEST, A DISTANCE OF 15.00 FEET;
THENCE NORTH 00°46'21" WEST, A DISTANCE OF 99.00 FEET;
THENCE NORTH 89°13'39" EAST, A DISTANCE OF 15.00 FEET, TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 1,485 S.F. OR 0.034 ACRES.

Section 2. 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, 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 Avenue, 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

1 determined by the Manager of Public Works, in the Manager's sole and absolute discretion,
2 Permittee shall pay all cost and expense of the portion of the sewer affected by the permitted
3 structure. The extent of the affected portion to be replaced or relocated by Permittee shall be
4 determined by the Manager of Public Works. Any and all replacement or repair of facilities of the
5 Water Department and/or drainage facilities for water and sewage of the City and County of
6 Denver attributed to the Permittee shall be made by the Water Department and/or the City and
7 County of Denver at the sole expense of the Permittee. In the event Permittee's facilities are
8 damaged or destroyed due to the Water Department's or the City and County of Denver's repair,
9 replacement and/or operation of its facilities, repairs will be made by the Permittee at its sole
10 expense. Permittee agrees to defend, indemnify and save the City harmless and to repair or pay
11 for the repair of any and all damages to said sanitary sewer, or those damages resulting from the
12 failure of the sewer to properly function as a result of the permitted structure.

13 (e) Permittee shall comply with all requirements of affected utility companies and pay for
14 all costs of removal, relocation, replacement or rearrangement of utility company facilities.
15 Existing telephone facilities shall not be utilized, obstructed or disturbed.

16 (f) All construction in, under, on or over the Encroachment Area shall be accomplished
17 in accordance with the Building Code of the City and County of Denver. Plans and Specifications
18 governing the construction of the Encroachments shall be approved by the Manager of Public
19 Works and the Director of Building Inspection Division prior to construction. Upon completion, a
20 reproducible copy of the exact location and dimensions of the Encroachments shall be filed with
21 the Manager of Public Works.

22 (g) The sidewalk and street/alley over the Encroachment Area shall be capable of
23 withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The
24 installations within the Encroachment Area shall be constructed so that the paved section of the
25 street/alley can be widened without requiring additional structural modifications. The sidewalk
26 shall be constructed so that it can be removed and replaced without affecting structures within the
27 Encroachment Area.

28 (h) Permittee shall pay all costs of construction and maintenance of the Encroachment.
29 Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing
30 the Encroachment from the Encroachment Area and return the Encroachment Area to its original
31 condition under the supervision of the City Engineer.

32 (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and
33 curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that

1 become broken, damaged or unsightly during the course of construction. In the future, Permittee
2 shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that
3 become broken or damaged when, in the opinion of the City Engineer, the damage has been
4 caused by the activity of the Permittee within the Encroachment Area. All repair work shall be
5 accomplished without cost to the City and under the supervision of the City Engineer.

6 (j) The City reserves the right to make an inspection of the Encroachments contained
7 within the Encroachment Area. An annual fee, subject to change, of \$200.00 shall be assessed.

8 (k) This revocable permit shall not operate or be construed to abridge, limit or restrict
9 the City and County of Denver in exercising its right to make full use of the Encroachment Area
10 and adjacent rights-of-way as public thoroughfares nor shall it operate to restrict the utility
11 companies in exercising their rights to construct, remove, operate and maintain their facilities
12 within the Encroachment Area and adjacent rights-of-way.

13 (l) During the existence of the Encroachments and this permit, Permittee, its
14 successors and assigns, at its expense, and without cost to the City and County of Denver, shall
15 procure and maintain a single limit comprehensive general liability insurance policy with a limit of
16 not less than \$500,000.00. All coverages are to be arranged on an occurrence basis and include
17 coverage for those hazards normally identified as X.C.U. during construction. The insurance
18 coverage required herein constitutes a minimum requirement and such enumeration shall in no
19 way be deemed to limit or lessen the liability of the Permittee, its successors or assigns, under the
20 terms of this permit. All insurance coverage required herein shall be written in a form and by a
21 company or companies approved by the Risk Manager of the City and County of Denver and
22 authorized to do business in the State of Colorado. A certified copy of all such insurance policies
23 shall be filed with the Manager of Public Works, and each such policy shall contain a statement
24 therein or endorsement thereon that it will not be canceled or materially changed without written
25 notice, by registered mail, to the Manager of Public Works at least thirty (30) days prior to the
26 effective date of the cancellation or material change. All such insurance policies shall be
27 specifically endorsed to include all liability assumed by the Permittee hereunder and shall name
28 the City and County of Denver as an additional insured.

29 (m) Permittee shall comply with the provisions of Article IV (Prohibition of Discrimination
30 in Employment, Housing and Commercial Space, Public Accommodations, Educational
31 Institutions and Health and Welfare Services) of Chapter 28 (Human Rights) of the Revised
32 Municipal Code of the City and County of Denver. The failure to comply with any such provision
33 shall be a proper basis for revocation of this permit.

1 (n) The right to revoke this permit is expressly reserved to the City and County of
2 Denver.

3 (o) Permittee shall agree to indemnify and always save the City and County of Denver
4 harmless from all costs, claims or damages arising, either directly or indirectly, out of the rights
5 and privileges granted by this permit.

6 **Section 3.** That the Permit hereby granted shall be revocable at any time that the
7 Council of the City and County of Denver shall determine that the public convenience and
8 necessity or the public health, safety or general welfare require such revocation, and the right to
9 revoke the same is hereby expressly reserved to the City and County of Denver; provided
10 however, at a reasonable time prior to Council action upon such revocation or proposed
11 revocation, opportunity shall be afforded to Permittee, its successors and assigns, to be present at
12 a hearing to be conducted by the Council upon such matters and thereat to present its views and
13 opinions thereof and to present for consideration action or actions alternative to the revocation of
14 such Permit.

15 COMMITTEE APPROVAL DATE: N/A MAYOR-COUNCIL DATE: March 3, 2009

16 PASSED BY THE COUNCIL March 9 2009

17 Jeanne Robb - PRESIDENT

18 ATTEST: Stephanie G. O'Malley - CLERK AND RECORDER,
19 J. Hayes EX-OFFICIO CLERK OF THE
20 CITY AND COUNTY OF DENVER

21 144
22 PREPARED BY: KAREN A. AVILES, ASSISTANT CITY ATTORNEY, March 5, 2009

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24 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of
25 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
26 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §
27 3.2.6 of the Charter.

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29 David R. Fine, City Attorney

30 BY: [Signature], Assistant City Attorney DATE: March 5, 2009
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