

BY AUTHORITY

RESOLUTION NO. 43

COMMITTEE OF REFERENCE:

SERIES OF 2009

**Public Works**

A RESOLUTION

Granting a revocable permit to the Denver Metropolitan Major League Baseball Stadium District, to encroach into the right-of-way with 163 Bollards on Blake Street from 22<sup>nd</sup> Street to 20<sup>th</sup> 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 the Denver Metropolitan Major League Baseball Stadium District and their successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with 163 Bollards on Blake Street in the following described area ("Encroachment Area"):

A PARCEL OF LAND SITUATED IN A PORTION OF THE SOUTHWEST ONE-QUARTER OF SECTION 27 AND THE NORTHWEST ONE-QUARTER OF SECTION 34, TOWNSHIP 3 SOUTH, RANGE 88 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE RANGE POINT AT BLAKE STREET AND 20<sup>TH</sup> STREET, BEING A 3 1/4" ALUMINUM CAP IN RANGE BOX PLS 25379; THENCE NORTH 42°06'29" EAST A DISTANCE OF 121.51 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 45°19'46" WEST A DISTANCE OF 2.00 FEET; THENCE NORTH 44°40'14" EAST A DISTANCE OF 589.27 FEET; THENCE NORTH 45°19'46" WEST A DISTANCE OF 2.00 FEET; THENCE NORTH 44°40'14" EAST A DISTANCE OF 7.00 FEET; THENCE SOUTH 45°19'46" EAST A DISTANCE OF 2.00 FEET; THENCE NORTH 44°40'14" EAST A DISTANCE OF 211.23 FEET TO A POINT OF CURVE; THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 16°47'25", A RADIUS OF 36.97 FEET AND AN ARC LENGTH OF 10.83 FEET, WHOSE CHORD BEARS NORTH 36°16'26" EAST A DISTANCE OF 10.79 FEET TO A POINT OF TANGENT; THENCE NORTH 27°52'48" EAST A DISTANCE OF 5.85 FEET TO A POINT OF CURVE; THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 75°51'39", A RADIUS OF 9.89 FEET AND AN ARC LENGTH OF 13.10 FEET, WHOSE CHORD BEARS NORTH 10°03'01" WEST A DISTANCE OF 12.16 FEET TO A POINT OF NON-TANGENT; THENCE NORTH 70°58'01" WEST A DISTANCE OF 5.54 FEET; THENCE NORTH 45°24'13" WEST A DISTANCE OF 6.23 FEET; THENCE NORTH 44°35'47" EAST A DISTANCE OF 2.00 FEET; THENCE SOUTH 45°24'13" EAST A DISTANCE OF 5.77 FEET; THENCE SOUTH 70°56'01" EAST A DISTANCE OF 5.47 FEET TO A POINT OF NON-TANGENT CURVE; THENCE ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 77°54'15", A RADIUS OF 11.89 FEET AND AN ARC LENGTH OF 16.17 FEET, WHOSE CHORD BEARS SOUTH 11°04'19" EAST A DISTANCE OF 14.95 FEET TO A POINT OF TANGENT; THENCE SOUTH 27°52'48" WEST A DISTANCE OF 5.85 FEET TO A POINT OF CURVE; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 16°47'25", A RADIUS OF 38.97 FEET AND AN ARC LENGTH OF 11.42 FEET, WHOSE CHORD BEARS SOUTH 36°16'26" WEST A DISTANCE OF 11.38 FEET TO A POINT OF TANGENT; THENCE SOUTH 44°40'14" WEST A DISTANCE OF 807.50 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 1,716 SQUARE FEET OR 0.0394 ACRES.

BASIS OF BEARINGS - ASSUMED ALONG THE 20<sup>TH</sup> RANGE LINE IN BLAKE STREET BETWEEN THE RANGE POINT AT 20<sup>TH</sup> ST. AND BLAKE ST., BEING A 3 1/4" ALUM. CAP IN RANGE BOX PLS 25379, AND THE RANGE POINT AT 22<sup>ND</sup> ST. AND BLAKE ST., BEING A 3 1/4" ALUM. CAP IN RANGE BOX PLS 27259. N44°35'47"E 962.84'

1           **Section 2.** The revocable permit ("Permit") granted by this resolution is expressly granted  
2 upon and subject to each and all of the following terms and conditions:

3           (a) Permittee shall obtain a street occupancy permit from Public Works Permit  
4 Operations at 2000 West 3rd Avenue, 303-446-3759, prior to commencing construction.

5           (b) Permittee shall be responsible for obtaining all other permits and shall pay all costs  
6 that are necessary for installation and construction of items permitted herein.

7           (c) If the Permittee intends to install any underground facilities in or near a public road,  
8 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification  
9 Association of Owners and Operators of Underground Facilities by contacting the Utility  
10 Notification Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado  
11 80215, at 303-232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-  
12 922-1987 to locate underground facilities prior to commencing any work under this permit.

13           (d) Permittee is fully responsible for any and all damages incurred to facilities of the  
14 Water Department and/or drainage facilities for water and sewage of the City and County of  
15 Denver due to activities authorized by the permit. Should the relocation or replacement of any  
16 drainage facilities for water and sewage of the City and County of Denver become necessary as  
17 determined by the Manager of Public Works, in the Manager's sole and absolute discretion,  
18 Permittee shall pay all cost and expense of the portion of the sewer affected by the permitted  
19 structure. The extent of the affected portion to be replaced or relocated by Permittee shall be  
20 determined by the Manager of Public Works. Any and all replacement or repair of facilities of the  
21 Water Department and/or drainage facilities for water and sewage of the City and County of  
22 Denver attributed to the Permittee shall be made by the Water Department and/or the City and  
23 County of Denver at the sole expense of the Permittee. In the event Permittee's facilities are  
24 damaged or destroyed due to the Water Department's or the City and County of Denver's repair,  
25 replacement and/or operation of its facilities, repairs will be made by the Permittee at its sole  
26 expense. Permittee agrees to defend, indemnify and save the City harmless and to repair or pay  
27 for the repair of any and all damages to said sanitary sewer, or those damages resulting from the  
28 failure of the sewer to properly function as a result of the permitted structure.

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

32           (f) All construction in, under, on or over the Encroachment Area shall be accomplished  
33 in accordance with the Building Code of the City and County of Denver. Plans and Specifications

1 governing the construction of the Encroachments shall be approved by the Manager of Public  
2 Works and the Director of Building Inspection Division prior to construction. Upon completion, a  
3 reproducible copy of the exact location and dimensions of the Encroachments shall be filed with  
4 the Manager of Public Works.

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

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

15 (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and  
16 curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that  
17 become broken, damaged or unsightly during the course of construction. In the future, Permittee  
18 shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that  
19 become broken or damaged when, in the opinion of the City Engineer, the damage has been  
20 caused by the activity of the Permittee within the Encroachment Area. All repair work shall be  
21 accomplished without cost to the City and under the supervision of the City Engineer.

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

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

29 (l) During the existence of the Encroachments and this permit, Permittee, its  
30 successors and assigns, at its expense, and without cost to the City and County of Denver, shall  
31 procure and maintain a single limit comprehensive general liability insurance policy with a limit of  
32 not less than \$500,000.00. All coverages are to be arranged on an occurrence basis and include  
33 coverage for those hazards normally identified as X.C.U. during construction. The insurance

1 coverage required herein constitutes a minimum requirement and such enumeration shall in no  
2 way be deemed to limit or lessen the liability of the Permittee, its successors or assigns, under the  
3 terms of this permit. All insurance coverage required herein shall be written in a form and by a  
4 company or companies approved by the Risk Manager of the City and County of Denver and  
5 authorized to do business in the State of Colorado. A certified copy of all such insurance policies  
6 shall be filed with the Manager of Public Works, and each such policy shall contain a statement  
7 therein or endorsement thereon that it will not be canceled or materially changed without written  
8 notice, by registered mail, to the Manager of Public Works at least thirty (30) days prior to the  
9 effective date of the cancellation or material change. All such insurance policies shall be  
10 specifically endorsed to include all liability assumed by the Permittee hereunder and shall name  
11 the City and County of Denver as an additional insured.

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

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

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

22 **Section 3.** That the Permit hereby granted shall be revocable at any time that the  
23 Council of the City and County of Denver shall determine that the public convenience and  
24 necessity or the public health, safety or general welfare require such revocation, and the right to  
25 revoke the same is hereby expressly reserved to the City and County of Denver; provided  
26 however, at a reasonable time prior to Council action upon such revocation or proposed  
27 revocation, opportunity shall be afforded to Permittee, its successors and assigns, to be present at  
28 a hearing to be conducted by the Council upon such matters and thereat to present its views and  
29 opinions thereof and to present for consideration action or actions alternative to the revocation of  
30 such Permit.

31 COMMITTEE APPROVAL DATE: N/A MAYOR-COUNCIL DATE: March 17, 2009  
32 PASSED BY THE COUNCIL March 23 2009  
33 Joanne Robb - PRESIDENT

1 ATTEST: Stephanie J. O'Malley - CLERK AND RECORDER,  
2 EX-OFFICIO CLERK OF THE  
3 CITY AND COUNTY OF DENVER  
4 *Step*

5 PREPARED BY: <sup>WM</sup> KAREN A. AVILES, ASSISTANT CITY ATTORNEY, March 19, 2009  
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7 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of  
8 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
9 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §  
10 3.2.6 of the Charter.

11  
12 David R. Fine, City Attorney

13 BY: [Signature], Assistant City Attorney DATE: March 19, 2009  
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