

**BY AUTHORITY**

RESOLUTION NO. 52  
SERIES OF 2009

COMMITTEE OF REFERENCE:  
**Public Works**

**A RESOLUTION**

**Granting a revocable permit to Wiss, LLC to encroach into the right-of-way with various items at 1737 East Evans Avenue.**

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

**Section 1.** The City and County of Denver hereby grants to Wiss, LLC and their successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with an existing raised platform/handicap ramp and an outside platform and patio in the following described area ("Encroachment Area"):

A PART OF SOUTH WILLIAMS STREET ADJACENT TO LOTS 24 AND 25 WITHIN BLOCK 11, EVANSTON, LOCATED WITHIN THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT RECOVERED CHISELED CROSS ON TOP OF A CURB THAT IS 17.25 FEET FROM THE NORTHEAST CORNER OF SAID BLOCK 11 EXTENDED EASTERLY, THENCE TO A RECOVERED CHISELED CROSS ON TOP OF A CURB THAT IS 17.25 FEET FROM THE SOUTHEAST CORNER OF LOT 38 WITHIN SAID BLOCK 11, EXTENDED EASTERLY, WHICH BEARS, S 00°15'34" E, 224.98 FEET AS MEASURED, PER AN ASSUMED BEARING;

**THENCE** CONTINUING ON SAID 17.25 FOOT OFFSET LINE, S 00°15'34" E, A DISTANCE OF 310.20 FEET AS MEASURED ALONG SAID LINE;

**THENCE** DEPARTING SAID 17.25 FOOT OFFSET LINE AND BEING PERPENDICULAR TO THE EAST LINE OF SAID BLOCK 11, EVANSTON, S 89°44'26" W, A DISTANCE OF 15.25 FEET TO THE **POINT OF BEGINNING**;

**THENCE** BEING PARALLEL TO THE SAID EAST LINE OF BLOCK 11, S 00°15'34" E, A DISTANCE OF 35.00 FEET;

**THENCE** S 89°44'26" W, A DISTANCE OF 2.00 FEET TO THE SAID EAST LINE OF BLOCK 11, EVANSTON;

**THENCE** ALONG THE SAID EAST LINE OF BLOCK 11, EVANSTON, N 00°15'34" W, A DISTANCE OF 35.00 FEET TO A POINT THAT IS 10.25 FEET, AS MEASURED, FROM THE NORTHEAST CORNER OF LOT 25 WITHIN SAID BLOCK 11, EVANSTON;

**THENCE** DEPARTING THE SAID EAST LINE OF BLOCK 11, EVANSTON, N 89°44'26" E, A DISTANCE OF 2.00 FEET TO THE **POINT OF BEGINNING**;

CONTAINING AN AREA OF 70 SQUARE FEET OR 0.002 ACRES, MORE OR LESS.

**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.

1 (c) If the Permittee intends to install any underground facilities in or near a public road,  
2 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification  
3 Association of Owners and Operators of Underground Facilities by contacting the Utility  
4 Notification Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado  
5 80215, at 303-232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-  
6 922-1987 to locate underground facilities prior to commencing any work under this permit.

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

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

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

32 (g) The sidewalk and street/alley over the Encroachment Area shall be capable of  
33 withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The

1 installations within the Encroachment Area shall be constructed so that the paved section of the  
2 street/alley can be widened without requiring additional structural modifications. The sidewalk  
3 shall be constructed so that it can be removed and replaced without affecting structures within the  
4 Encroachment Area.

5 (h) Permittee shall pay all costs of construction and maintenance of the Encroachment.

6 Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing  
7 the Encroachment from the Encroachment Area and return the Encroachment Area to its original  
8 condition under the supervision of the City Engineer.

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

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

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

23 (l) During the existence of the Encroachments and this permit, Permittee, its  
24 successors and assigns, at its expense, and without cost to the City and County of Denver, shall  
25 procure and maintain a single limit comprehensive general liability insurance policy with a limit of  
26 not less than \$500,000.00. All coverages are to be arranged on an occurrence basis and include  
27 coverage for those hazards normally identified as X.C.U. during construction. The insurance  
28 coverage required herein constitutes a minimum requirement and such enumeration shall in no  
29 way be deemed to limit or lessen the liability of the Permittee, its successors or assigns, under the  
30 terms of this permit. All insurance coverage required herein shall be written in a form and by a  
31 company or companies approved by the Risk Manager of the City and County of Denver and  
32 authorized to do business in the State of Colorado. A certified copy of all such insurance policies  
33 shall be filed with the Manager of Public Works, and each such policy shall contain a statement



1 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §  
2 3.2.6 of the Charter.

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4 David R. Fine, City Attorney

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6 BY: , Assistant City Attorney DATE: 4-29, 2009

