

BY AUTHORITY

RESOLUTION NO. 109
SERIES OF 2009

COMMITTEE OF REFERENCE:
FasTracks

A RESOLUTION

Granting a revocable permit to Denver Union Station Project Authority to encroach into the right-of-way with various items at 18th Street and Chestnut Place.

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

Section 1. The City and County of Denver hereby grants to Denver Union Station Project Authority, its successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with a below grade private utility duct bank, connection vault, and numerous concrete encased conduits, in the following described area ("Encroachment Area"):

A PARCEL OF LAND CONTAINING 1,605 SQUARE FEET, MORE OR LESS, BEING A PORTION OF THE 18TH STREET RIGHT-OF-WAY AS SHOWN ON "THE COMMONS SUBDIVISION – FILING NO. 4", A SUBDIVISION PLAT RECORDED AT RECEPTION NO. 2003197650, CITY AND COUNTY OF DENVER RECORDS, LOCATED WITHIN THE SOUTHEAST ONE-QUARTER OF SECTION 28, TOWNSHIP 3 SOUTH, RANGE 68 WEST, 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 28, A FOUND 3-1/4" ALUMINUM CAP IN A RANGE BOX;

THENCE N69°50'38"W, A DISTANCE OF 1409.79 FEET TO THE SOUTHWEST RIGHT-OF-WAY OF 18TH STREET AND THE TRUE POINT OF BEGINNING;

THENCE ALONG SAID RIGHT-OF-WAY, N45°10'34"W, A DISTANCE OF 105.02 FEET;

THENCE DEPARTING SAID RIGHT-OF-WAY, N44°49'26"E, A DISTANCE OF 5.89 FEET;

THENCE S56°25'58"E, A DISTANCE OF 73.07 FEET

THENCE ON A LINE PARALLEL TO AND 20.15 FEET NORTHEAST OF THE SOUTHWEST RIGHT-OF-WAY OF 18TH STREET, S45°10'34"E A DISTANCE OF 33.36 FEET;

THENCE S44°49'26"W, A DISTANCE OF 20.15 FEET TO A POINT ON THE SOUTHWEST RIGHT-OF-WAY OF 18TH STREET AND THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 1,605 SQUARE FEET OR 0.0368 ACRES, MORE OR LESS.

BASIS OF BEARINGS: FOR THE PURPOSE OF THIS DESCRIPTION, THE BEARINGS ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF SECTION 28, TOWNSHIP 3 SOUTH, RANGE 68 WEST, OF THE 6TH PRINCIPAL MERIDIAN, AS MONUMENTED BY A FOUND 3-1/4" ALUMINUM CAP IN A RANGE BOX, AT THE SOUTHEAST CORNER OF SAID SECTION 28, AND BY A FOUND 3-1/4" ALUMINUM CAP IN A RANGE BOX, LS 23881 (W.C.) AT THE SOUTH QUARTER CORNER OF SAID SECTION 28, BEARING N 89°55'41" W. 6

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

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

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

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

14 (d) Permittee is fully responsible for any and all damages incurred to facilities of the Water
15 Department and/or drainage facilities for water and sewage of the City and County of Denver due to

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

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

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

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

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

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

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

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

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

1 Manager of Public Works at least thirty (30) days prior to the effective date of the cancellation or
2 material change. All such insurance policies shall be specifically endorsed to include all liability
3 assumed by the Permittee hereunder and shall name the City and County of Denver as an
4 additional insured.

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

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

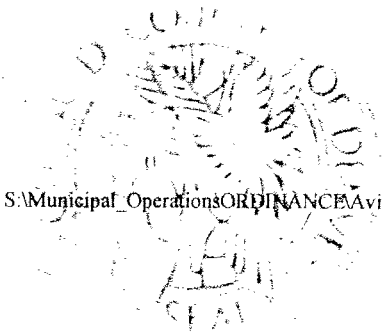
11 (o) Permittee shall agree to indemnify and always save the City and County of Denver
12 harmless from all costs, claims or damages arising, either directly or indirectly, out of the rights and
13 privileges granted by this permit.

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

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23 COMMITTEE APPROVAL DATE: N/A MAYOR-COUNCIL DATE: September 29, 2009

24
25 PASSED BY THE COUNCIL October 5 2009
26 Jeanne Robb - PRESIDENT

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28 ATTEST: Anthony Mally - CLERK AND RECORDER,
29 EX-OFFICIO CLERK OF THE
30 CITY AND COUNTY OF DENVER

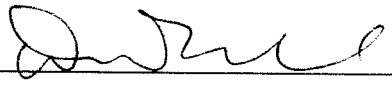


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1 PREPARED BY: KAREN A. AVILES, ASSISTANT CITY ATTORNEY, September 28, 2009

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3 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of the
4 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
5 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §
6 3.2.6 of the Charter.

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8 David R. Fine, City Attorney:

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10 BY: , Assistant City Attorney DATE: January 31, 2008