

**BY AUTHORITY**

RESOLUTION NO. 122  
SERIES OF 2009

COMMITTEE OF REFERENCE:  
**Public Works**

**A RESOLUTION**

**Granting a revocable permit to SBC Metropolitan District, to encroach into the right-of-way at the northwest and southwest corners of the intersection at 47<sup>th</sup> Avenue and North Havana 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 SBC Metropolitan District, and their successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with two monuments signs ("Encroachments") in the following described area ("Encroachment Area"):

A TRACT OF LAND LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 22, TOWNSHIP 3 SOUTH, RANGE 67 WEST OF THE 6TH P.M. CITY AND COUNTY OF DENVER, COLORADO BEING THAT PART OF THE HAVANA STREET RIGHT-OF-WAY DESCRIBED AS FOLLOWS:

COMMENCING AT A 1-INCH DIAMETER WASHER STAMPED LS 23899 MARKING THE EAST END OF THAT 20-FOOT RANGE LINE IN EAST 47TH AVENUE SHOWN ON THE PLAT OF STAPLETON BUSINESS CENTER FILING NO. 1; THENCE S. 89° 27' 36" W. ALONG THE 20-FOOT RANGE LINE A DISTANCE OF 29.88 FEET; THENCE N. 0° 32' 24" W. A DISTANCE OF 20.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF HAVANA STREET AND THE TRUE POINT OF BEGINNING; THENCE NORTHERLY ALONG THE WESTERLY RIGHT-OF-WAY ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 90° 00' 59", A CHORD BEARING N. 44° 27' 07" E. FOR A DISTANCE OF 42.43 FEET FOR AN ARC DISTANCE OF 47.13 FEET; THENCE N. 00° 33' 22" W. ALONG SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 5.00 FEET; THENCE N. 89° 26' 38" E. A DISTANCE OF 29.75 FEET; THENCE S. 00° 34' 47" E. A DISTANCE OF 27.74 FEET; THENCE S. 89° 25' 56" W. A DISTANCE OF 6.56 FEET; THENCE S. 00° 01' 18" W. A DISTANCE OF 7.98 FEET; THENCE N. 89° 46' 42" W. A DISTANCE OF 53.14 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING AN AREA OF 1.206 SQUARE FEET.

THE BASIS FOR BEARINGS IN THE ABOVE DESCRIPTION IS THE ASSUMPTION THAT THE 20-FOOT RANGE LINE IN EAST 47TH AVENUE BEARS S. 89° 27' 36" W. THE LINE IS MARKED BY A 1-INCH DIAMETER WASHER STAMPED LS 23899 AT THE EAST LINE AND A REBAR WITH CAP STAMPED URS CORP PLS 20683 IN A RANGE POINT BOX AT THE WEST END.

1 and

A TRACT OF LAND LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 22, TOWNSHIP 3 SOUTH, RANGE 67 WEST OF THE 6TH P.M. CITY AND COUNTY OF DENVER, COLORADO BEING THAT PART OF THE HAVANA STREET RIGHT-OF-WAY DESCRIBED AS FOLLOWS:

COMMENCING AT A 1-INCH DIAMETER WASHER STAMPED LS 23899 MARKING THE EAST END OF THAT 20-FOOT RANGE LINE IN EAST 47TH AVENUE SHOWN ON THE PLAT OF STAPLETON BUSINESS CENTER FILING NO. 1; THENCE S. 89° 27' 36" W. ALONG THE 20-FOOT RANGE LINE A DISTANCE OF 29.82 FEET; THENCE S. 00° 32' 24" E. A DISTANCE OF 110.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF HAVANA STREET AND THE TRUE POINT OF BEGINNING; THENCE SOUTHERLY ALONG THE WESTERLY RIGHT-OF-WAY ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 89° 59' 01", A CHORD BEARING S. 45° 32' 43" E. FOR A DISTANCE OF 42.42 FEET, FOR AN ARC DISTANCE OF 47.13 FEET; THENCE S. 00° 33' 22" E. A DISTANCE OF 6.00 FEET; THENCE S. 89° 26' 38" E. A DISTANCE OF 29.96 FEET; THENCE N. 00° 08' 43" W. A DISTANCE OF 29.52 FEET; THENCE N. 89° 36' 21" W. A DISTANCE OF 6.54 FEET; THENCE N. 00° 13' 52" E. A DISTANCE OF 7.68 FEET; THENCE S. 88° 40' 08" W. A DISTANCE OF 53.73 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 1,259 SQUARE FEET, MORE OR LESS.

THE BASIS FOR BEARINGS IN THE ABOVE DESCRIPTION IS THE ASSUMPTION THAT THE 20-FOOT RANGE LINE IN EAST 47TH AVENUE BEARS S. 89° 27' 36" W. THE LINE IS MARKED BY A 1-INCH DIAMETER WASHER STAMPED LS 23899 AT THE EAST LINE AND A REBAR WITH CAP STAMPED URS CORP PLS 20683 IN A RANGE POINT BOX AT THE WEST END.

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

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

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

9 (c) If the Permittee intends to install any underground facilities in or near a public road,  
10 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification  
11 Association of Owners and Operators of Underground Facilities by contacting the Utility  
12 Notification Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado  
13 80215, at 303-232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-  
14 922-1987 to locate underground facilities prior to commencing any work under this permit.

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

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

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

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

32 (h) Permittee shall pay all costs of construction and maintenance of the Encroachment.s  
33 Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing

1 the Encroachments from the Encroachment Area and return the Encroachment Area to its original  
2 condition under the supervision of the City Engineer.

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

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

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

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

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

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

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

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

20 COMMITTEE APPROVAL DATE: N/A MAYOR-COUNCIL DATE: October 27, 2009  
21 PASSED BY THE COUNCIL November 2 2009

22 Jeannette Robb - PRESIDENT

23 ATTEST: Stephanie J. O'Malley - CLERK AND RECORDER,  
24 O'Malley EX-OFFICIO CLERK OF THE  
25 CITY AND COUNTY OF DENVER  
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27 PREPARED BY: JO ANN WEINSTEIN, ASSISTANT CITY ATTORNEY, October 27, 2009  
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29 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of  
30 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
31 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §  
32 3.2.6 of the Charter.  
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34 David R. Fine, City Attorney

35 BY: [Signature], Assistant City Attorney DATE: 28 Oct, 2009  
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