

1 BY AUTHORITY

2 RESOLUTION NO. CR14-0701  
3 SERIES OF 2014  
4

COMMITTEE OF REFERENCE:  
Infrastructure & Culture

5 A RESOLUTION

6 **Granting a revocable permit to 2535 Walnut, LLC, to encroach into the right-of-**  
7 **way at 2535 Walnut Street.**  
8

9 **NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY AND COUNTY**  
10 **OF DENVER:**

11 **Section 1.** The City and County of Denver hereby grants to 2535 Walnut, LLC and its  
12 successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with a  
13 2.5'-3.0' raised patio and seat wall, an ADA ramp and equipment screening ("Encroachments") at  
14 2535 Walnut Street in the following described area ("Encroachment Area"):  
15

16 **PARCEL LEGAL DESCRIPTION ROW NO. 2013-0039-03**

17 A STRIP OF LAND BEING 9.25 FEET IN WIDTH, LOCATED WITHIN THE RIGHT-  
18 OF-WAY OF WALNUT STREET, SITUATED IN THE SOUTHEAST ONE-QUARTER  
19 OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6<sup>TH</sup> P.M., CITY  
20 AND COUNTY OF DENVER, STATE OF COLORADO, BEING MORE  
21 PARTICULARLY DESCRIBED AS FOLLOWS:

22 **COMMENCING** AT A 3.25 INCH ALUMINUM CAP IN CONCRETE STAMPED  
23 "COLORADO DEPT OF TRANSPORTATION TOW 8021 PLS 29420 3PO 0010-059"  
24 MARKING THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF  
25 BROADWAY (WIDTH VARIES) AND THE NORTHWESTERLY RIGHT-OF-WAY  
26 LINE OF WALNUT STREET (80 FEET IN WIDTH), WHICH POINT BEARS  
27 S07°39'48"E A DISTANCE OF 336.65 FEET FROM A 3.25 ALUMINUM CAP IN  
28 CONCRETE STAMPED "COLORADO DEPT OF TRANSPORTATION ROW 8021  
29 PLS 29420" MARKING THE INTERSECTION OF SAID BROADWAY EAST RIGHT-  
30 OF-WAY LINE AND THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF BLAKE  
31 STREET (ALL BEARINGS HEREIN BEING RELATIVE TO SAID BASIS OF  
32 BEARING); THENCE ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF  
33 WALNUT STREET N44°35'33"E A DISTANCE OF 145.42 FEET TO THE TRUE  
34 **POINT OF BEGINNING** OF THE STRIP OF LAND DESCRIBED HEREIN;

35 THENCE LEAVING SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF  
36 WALNUT STREET S45°20'15"E A DISTANCE OF 9.25 FEET; THENCE PARALLEL  
37 WITH SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF WALNUT STREET  
38 N44°35'33"E A DISTANCE OF 63.18 FEET; THENCE N45°20'15"W A DISTANCE  
39 OF 9.25 FEET TO SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF WALNUT  
40 STREET; THENCE ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF  
41 WALNUT STREET S44°35'33"W A DISTANCE OF 63.18 FEET TO THE **POINT OF**  
42 **BEGINNING.**

43 CONTAINS 584 SQUARE FEET OR 0.013 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 3<sup>rd</sup> 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 determined by the Manager of Public Works, in the Manager's sole and absolute discretion, Permittee shall pay all cost and expense of the portion of the sewer affected by the permitted structure. The extent of the affected portion to be replaced or relocated by Permittee shall be determined by the Manager of Public Works. Any and all replacement or repair of facilities of the Water Department and/or drainage facilities for water and sewage of the City and County of Denver attributed to the Permittee shall be made by the Water Department and/or the City and County of Denver at the sole expense of the Permittee. In the event Permittee's facilities are damaged or destroyed due to the Water Department's or the City and County of Denver's repair, replacement and/or operation of its facilities, repairs will be made by the Permittee at its sole expense. Permittee agrees to defend, indemnify and save the City harmless and to repair or pay for the repair of any and all damages to said sanitary sewer, or those damages resulting from the failure of the sewer to properly function as a result of the permitted structure.

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

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

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

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

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

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

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

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

(l) During the existence of the Encroachments and this permit, Permittee, its successors and assigns, at its expense, and without cost to the City and County of Denver, shall procure and maintain a single limit comprehensive general liability insurance policy with a limit of not less than \$500,000.00. All coverages are to be arranged on an occurrence basis and include 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 **[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**  
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1 COMMITTEE APPROVAL DATE: September 25, 2014 [by consent]  
2 MAYOR-COUNCIL DATE: September 30, 2014  
3 PASSED BY THE COUNCIL: \_\_\_\_\_, 2014  
4 \_\_\_\_\_ - PRESIDENT  
5 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
6 EX-OFFICIO CLERK OF THE  
7 CITY AND COUNTY OF DENVER  
8  
9 PREPARED BY: Brent A. Eisen, Assistant City Attorney DATE: October 2, 2014  
10  
11 Pursuant to section 14-12, D.R.M.C., this proposed resolution has been reviewed by the office of  
12 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
13 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §  
14 3.2.6 of the Charter.  
15  
16 D. Scott Martinez, Denver City Attorney  
17 BY: \_\_\_\_\_, Assistant City Attorney DATE: \_\_\_\_\_, 2014