

1 BY AUTHORITY

2 RESOLUTION NO. CR11-0480
3 SERIES OF 2011

COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

4 A RESOLUTION

5 **Granting a revocable permit to West Colfax Business Improvement District to**
6 **encroach into the right-of-way with various items along Colfax Ave. between**
7 **approximately Sheridan Blvd. and Federal Blvd.**

8
9 **BE IT RESOLVED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

10 **Section 1.** The City and County of Denver hereby grants to West Colfax Business
11 Improvement District and its successors and assigns (“Permittee”), a revocable permit to encroach
12 into the right-of-way with art sculptures and pedestrian lighting (“Encroachments”) along Colfax Ave.
13 between approximately Sheridan Blvd. and Federal Blvd. in the following described area
14 (“Encroachment Area”):

1. Sculpture: 30’ East of East flowline of Zenobia St, centered on the median
2. Ped light: 82’ West of NW corner of W Colfax and Winnona Ct
3. Ped light: 45’ West of NW corner of W Colfax and Tennyson St
4. Ped light: 48.6’ West of NW corner of W Colfax and Perry St
5. Ped light: 44.6’ East of NE corner of W Colfax and Perry St
6. Ped light: 100’ East of NE corner of W Colfax and Perry St
7. Ped light: 45’ East of NE corner of W Colfax and King St
8. Ped light: 46’ West of SW corner of W Colfax and Knox Ct.
9. Ped light: 30’ West of NW corner of W Colfax and Julian St.
10. Ped light: 65’ East of NE corner of W Colfax and Julian St.
11. Ped light: 49’ West of SW corner of W Colfax and Irving St.
12. Ped light: 160’ West of NW corner of Colfax and Irving St.
13. Sculpture: 225’ West of the West flowline of Irving St, centered in the median

15
16 **Section 2.** The revocable permit (“Permit”) granted by this resolution is expressly granted
17 upon and subject to each and all of the following terms and conditions:

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

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

22 (c) If the Permittee intends to install any underground facilities in or near a public road,
23 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification
24 Association of Owners and Operators of Underground Facilities by contacting the Utility Notification

1 Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215, at 303-
2 232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 to locate
3 underground facilities prior to commencing any work under this permit.

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

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

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

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

1 (h) Permittee shall pay all costs of construction and maintenance of the Encroachments.
2 Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing the
3 Encroachments 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 curb
6 and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that become
7 broken, damaged or unsightly during the course of construction. In the future, Permittee shall also
8 remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that become broken
9 or damaged when, in the opinion of the City Engineer, the damage has been caused by the activity of
10 the Permittee within the Encroachment Area. All repair work shall be accomplished without cost to
11 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 the
28 State of Colorado. A certified copy of all such insurance policies shall be filed with the Manager of
29 Public Works, and each such policy shall contain a statement therein or endorsement thereon that it
30 will not be canceled or materially changed without written notice, by registered mail, to the Manager of
31 Public Works at least thirty (30) days prior to the effective date of the cancellation or material change.

32 All such insurance policies shall be specifically endorsed to include all liability assumed by the
33 Permittee hereunder and shall name the City and County of Denver as an additional insured.

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

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

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

10 (p) An inspection of the Encroachments for possible corrosion or cracks and a check on
11 structural and weld support capacity shall be performed by the Permittee at least annually. If such
12 inspection finds any sign of cracking of welds, metal tubing, attachment of tubing to base plate or
13 concrete, or attachment of fiberglass flange to tubing Permittee shall obtain a full evaluation by a
14 registered structural professional engineer licensed in the State of Colorado within one week of such
15 finding. Permittee shall make all repairs required by the structural engineer. Repairs shall be
16 supervised and inspected and verified adequate by the Permittee's engineer. A letter summarizing
17 the inspection, the engineer's findings and the repairs made, shall be sent to the City at PWPRS, 201
18 W. Colfax Ave., Dept 507, Denver, CO 80202 within 1 week of such activity.

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

27

1 COMMITTEE APPROVAL DATE: June 30, 2011 by consent

2 MAYOR-COUNCIL DATE: July 5, 2011.

3 PASSED BY THE COUNCIL: _____, 2011

4 _____ - PRESIDENT

5 ATTEST: _____ - CLERK AND RECORDER,
6 EX-OFFICIO CLERK OF THE
7 CITY AND COUNTY OF DENVER

8 PREPARED BY: KAREN A. AVILES, Assistant City Attorney DATE: July 7, 2011

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

13 David W. Broadwell, Denver City Attorney

14 BY: _____, City Attorney DATE: _____, 2011