

1 **BY AUTHORITY**

2 RESOLUTION NO. CR22-0565
3 SERIES OF 2022

COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

4 **A RESOLUTION**

5 **Granting a revocable permit to HCA-Healthone LLC, to encroach into the right-**
6 **of-way at 880 North Cherry Street.**

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

8 **Section 1.** The City and County of Denver (“City”) hereby grants to HCA-Healthone LLC,
9 the owner of the Benefitted Property, and their successors and assigns (“Permittee”), a revocable
10 permit to encroach into the right-of-way with twenty linear feet of 12-inch PVC roof drain and (3) 1-
11 inch schedule 80 PVC conduits (“Encroachment(s)”) at 880 North Cherry Street in the following
12 described area (“Encroachment Area”):

13 **PARCEL DESCRIPTION ROW NO. 2021-ENCROACHMENT-0000140-002:**

14 A PARCEL OF LAND BEING A PORTION OF THE ALLEY DEDICATED AT RECEPTION
15 NUMBER 2021180029, BEING A PORTION OF LOT 42, BLOCK 3, CHAMBERLIN’S COLFAX
16 PLACE LOCATED IN THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 4 SOUTH,
17 RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER,
18 STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

19 COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 42, THENCE ALONG THE
20 NORTH LINE OF SAID LOT 42, S89°39’43”W A DISTANCE OF 67.14 FEET TO THE POINT OF
21 BEGINNING;

22 THENCE S00°20’17”E A DISTANCE OF 20.00 FEET, THENCE ALONG A LINE THAT IS 20.00
23 FEET SOUTH OF AND PARALLEL TO SAID NORTH LINE OF LOT 42, S89°39’43”W A
24 DISTANCE OF 20.00 FEET, THENCE N00°20’17”W A DISTANCE OF 20.00 FEET, TO A POINT
25 ON SAID NORTH LINE OF LOT 42: THENCE ALONG SAID NORTH LINE, N89°39’43”E A
26 DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING;

27 SAID PARCEL CONTAINS 0.009 ACRES OR 400 SQUARE FEET MORE OR LESS.

28 ALL LINEAR DIMENSIONS ARE IN U.S. SURVEY FEET.

29 **BASIS OF BEARINGS:**

30 BEARINGS ARE BASED ON THE 21’ RANGE LINE, IN EAST 9TH AVENUE ASSUMED TO
31 BEAR N89°39’14”E BEING MONUMENTED BY A FOUND REBAR WITH 3-1/4” ALLOY CAP IN
32 RANGE BOX ILLEGIBLE AT THE INTERSECTION OF CHERRY STREET AND EAST 9TH
33 AVENUE AND A FOUND REBAR WITH 3-1/4” ALUMINUM CAP IN RANGE BOX PLS #38141 AT
34 THE INTERSECTION OF DAHLIA STREET AND EAST 9TH AVENUE

1 and benefitting the following described parcel of property:

2 **PARCEL DESCRIPTION ROW NO. 2021-ENCROACHMENT-0000140-001:**

3

4 FOUR PARCELS OF LAND LOCATED IN BLOCK 3, CHAMBERLIN'S COLFAX PLACE LOCATED
5 IN THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 67 WEST OF
6 THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO
7 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

8

9 PARCEL A1:

10

11 LOTS 35 AND 36, EXCEPT THE REAR 8 FEET OF SAID LOTS, BLOCK 3, CHAMBERLIN'S
12 COLFAX PLACE, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

13

14 PARCEL A2:

15

16 LOTS 37 THROUGH 40, INCLUSIVE, EXCEPT THE REAR 8 FEET OF SAID LOTS, BLOCK 3,
17 CHAMBERLIN'S COLFAX PLACE, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

18

19 PARCEL B:

20

21 LOTS 41 THROUGH 48, INCLUSIVE, EXCEPT THE REAR 8 FEET OF SAID LOTS, BLOCK 3,
22 CHAMBERLIN'S COLFAX PLACE, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

23

24 PARCEL C:

25

26 LOTS 1 THROUGH 6, INCLUSIVE, EXCEPT THE REAR 8 FEET OF SAID LOTS, BLOCK 3,
27 CHAMBERLIN'S COLFAX PLACE, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

28

29 EXCEPTING THEREFROM A PORTION OF PARCELS A1, A2 AND B, BEING THE ALLEY
30 CONVEYED TO THE CITY AND COUNTY OF DENVER RECORDED AT RECEPTION NUMBER
31 2021180029.

32

33 ALL LINEAR DIMENSIONS ARE IN U.S. SURVEY FEET.

34

35 **Section 2.** The revocable permit ("Permit") granted by this Resolution is expressly granted
36 upon and subject to each and all of the following terms and conditions (terms not defined herein are
37 defined in the Rules and Regulations Governing Encroachments & Encumbrances in the Public Right
38 of Way):

39 (a) Permittee shall obtain a street occupancy permit, street cut permit, and/or ROW
40 construction permit from the City's Department of Transportation and Infrastructure ("DOTI") Permit
41 Operations through www.denvergov.org/dotipermits prior to commencing construction.

42 (b) Permittee shall be responsible for obtaining all necessary permits and shall pay all
43 costs 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, ROW or utility easement, the Permittee shall join the Statewide Notification Association
3 of Owners and Operators of Underground Facilities by contacting the Utility Notification Center of
4 Colorado (Colorado 811) through <https://colorado811.org/> or at 303-232-1991, 16361 Table
5 Mountain Pkwy, Golden, Colorado, 80403. Further, Permittee shall contact the Utility Notification
6 Center (Colorado 811) at <https://colorado811.org/> or 303-232-1991 to request locates for existing
7 underground facilities prior to commencing excavation.

8 (d) Permittee is fully responsible for any and all damages incurred to facilities of Denver
9 Water and any other Utility Company, and/or drainage facilities for water and sewage of the City and
10 County of Denver due to activities authorized by the Permit. Should the relocation or replacement of
11 any drainage facilities for water and sewage of the City and County of Denver become necessary as
12 determined by the City's Executive Director of DOTI ("Executive Director"), in the Executive
13 Director's sole and absolute discretion, Permittee shall pay all cost and expense of the portion of the
14 water and/or sewer facilities affected by the Encroachment(s). The extent of the affected portion to
15 be replaced and relocated by Permittee shall be determined by the Executive Director. Any and all
16 replacement or repair of facilities of Denver Water and any other Utility Company, and/or drainage
17 facilities for water and sewage of the City and County of Denver attributed to the Permittee shall be
18 made by Denver Water, Utility Company, and/or the City and County of Denver at the sole expense
19 of the Permittee. In the event the Permittee's facilities are damaged or destroyed due to Denver
20 Water's, Utility Company's, or the City and County of Denver's repair, replacement and/or operation
21 of its facilities, repairs will be made by Permittee at its sole expense. Permittee agrees to defend,
22 indemnify and hold the City harmless and to repair or pay for the repair of any and all damages to
23 said water, storm, sanitary sewer facilities or other Utility Company facilities, or those damages
24 resulting from the failure of the water, storm, sanitary sewer facilities or other Utility Company
25 facilities to properly function because of the Encroachment(s).

26 (e) Permittee shall comply with all requirements of affected Utility Companies and pay for
27 all costs of removal, relocation, replacement or rearrangement of Utility Company facilities. Existing
28 utility facilities shall not be utilized, obstructed or disturbed.

29 (f) All construction in, under, on or over the Encroachment Area shall be accomplished in
30 accordance with the Building Code and [City and County of Denver Department of Transportation &
31 Infrastructure Transportation Standards and Details for the Engineering Division.](#)

32 (g) Permittee shall observe and comply with all Federal, State and local laws, regulations,
33 ordinances, and public safety requests regarding the use of the Encroachment Area.

1 (h) Plans and Specifications governing the construction of the Encroachment(s) shall be
2 approved by DOTI prior to construction.

3 (i) Permittee shall pay all costs of construction and maintenance of the Encroachment(s).
4 Upon revocation of the Permit or upon abandonment, Permittee shall pay all costs of removing the
5 Encroachment(s) from the Encroachment Area and restore the Encroachment Area to a condition in
6 accordance with [City and County of Denver Department of Transportation & Infrastructure](#)
7 [Transportation Standards and Details for the Engineering Division](#) under the supervision of DOTI.

8 (j) Permittee shall remove and replace any and all street/alley paving, Sidewalks,
9 Streetscapes, Amenity Zones, and curb and gutter, both inside the Encroachment Area and in the
10 rights-of-way adjacent thereto, that become broken, damaged or unsightly during, in the opinion of
11 DOTI, the course of construction or maintenance of the Encroachment(s). 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 DOTI, the damage has been caused by the
14 Encroachment(s) or the activity of the Permittee within the Encroachment Area. All repair work shall
15 be accomplished without cost to the City and under the supervision of DOTI.

16 (k) The City reserves the right to make an inspection of the Encroachment(s) and the
17 Encroachment Area.

18 (l) During the existence of the Encroachment(s) and the Permit, Permittee, its successors
19 and assigns, at its expense, and without cost to the City, shall procure and maintain Commercial
20 General Liability insurance policy with a limit of not less than \$1,000,000 per occurrence. All
21 coverages are to be arranged on an occurrence basis and include coverage for those hazards
22 normally identified as X.C.U. during construction. The insurance coverage required herein
23 constitutes a minimum requirement and such enumeration shall in no way be deemed to limit or
24 lessen the liability of the Permittee, its successors or assigns, under the terms of this Permit. All
25 insurance coverage required herein shall be written in a form and by a company or companies
26 approved by the Risk Manager of the City and authorized to do business in the State of Colorado. A
27 certified copy of all such insurance policies shall be filed with the Executive Director, and each such
28 policy shall contain a statement therein or endorsement thereon that it will not be canceled or
29 materially changed without written notice, by registered mail, to the Executive Director at least thirty
30 (30) days prior to the effective date of the cancellation or material change. The City and County of
31 Denver, its Elected and Appointed Officials, Employees and Volunteers shall be included as
32 Additional Insured.

33 (m) In addition to the requirement herein to comply with all laws, Permittee shall comply

1 with the provisions of Article IV (Prohibition of Discrimination in Employment, Housing and
2 Commercial Space, Public Accommodations, Educational Institutions and Health and Welfare
3 Services) of Chapter 28 (Human Rights) of the DRMC. The failure to comply with any such provision
4 shall be a proper basis for revocation of the Encroachment(s).

5 (n) The right to revoke the Permit at any time for any reason and require the removal of
6 the Encroachment(s) is expressly reserved to the City.

7 (o) By Permittee's use of this Permit and the Encroachment Area, Permittee agrees to the
8 following:

9 i. Permittee agrees to defend, indemnify, reimburse and hold harmless City, its
10 appointed and elected officials, agents and employees for, from and against all liabilities, claims,
11 judgments, suits or demands for damages to persons or property arising out of, resulting from, or
12 relating to this Permit and the Encroachment(s) ("Claims"). This indemnity shall be interpreted in the
13 broadest possible manner to indemnify City for any acts or omissions of Permittee or its agents either
14 passive or active, irrespective of fault, including City's negligence whether active or passive.

15 ii. Permittee's duty to defend and indemnify City shall arise at the time written notice
16 of the Claim is first provided to City regardless of whether claimant has filed suit on the Claim.
17 Permittee's duty to defend and indemnify City shall arise even if City is the only party sued by
18 claimant and/or claimant alleges that City's negligence or willful misconduct was the sole cause of
19 claimant's damages.

20 iii. Permittee will defend any and all Claims which may be brought or threatened
21 against City and will pay on behalf of City any expenses incurred by reason of such Claims including,
22 but not limited to, court costs and attorney fees incurred in defending and investigating such Claims
23 or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition
24 to any other legal remedies available to City and shall not be considered City's exclusive remedy.

25 iv. Insurance coverage requirements specified in this Encroachment Permit shall in no
26 way lessen or limit the liability of Permittee under the terms of this indemnification obligation.
27 Permittee shall obtain, at its own expense, any additional insurance that it deems necessary for the
28 City's protection.

29 v. This defense and indemnification obligation shall survive the expiration or
30 termination of this Permit.

31 (p) Pursuant to Chapter 49 of the DRMC, DOTI is authorized to remove or to order the
32 removal of any article, vehicle, object or thing whatsoever encroaching into any street, alley,
33 Sidewalk, or other public way or place.

1 (q) No third party, person or agency, except for an authorized Special District, may place
2 the Encroachment(s) in front of a property without written permission of the adjacent property owner.

3 (r) Permittee's use of the ROW for placement of the Encroachment(s) does not create a
4 property right or ownership interest of any kind in the Encroachment Area to the Permittee.

5 (s) All Encroachment(s) in Amenity Zones containing existing Public Trees and/or with the
6 potential to impact tree roots or tree canopy must be pre-approved by the Office of the City Forester
7 (OCF), by contacting them at forestry@denvergov.org or 720-913-0651. Encroachment(s) cannot
8 be attached to or damage any Public Tree, and any damage shall be reported to the OCF
9 immediately for mitigation. All trenching, excavation and grading activities within the Dripline of any
10 Public Tree must be pre-approved by the OCF. City permits are required for the planting or removal
11 of any Public Trees and can be obtained by emailing forestry@denvergov.org.

12 (t) All disturbances associated with construction of the Encroachment(s) shall be
13 managed as required by City standards for erosion control which may require standard notes or
14 CASDP permitting depending on location and scope of project.

15 (u) Encroachment(s) proposed adjacent to a designated park or within a dedicated
16 parkway shall require the City's Department of Parks and Recreation approval prior to installation.

17 (v) Encroachment(s) attached to a building may require building and/or zoning permits
18 from the City's Department of Community Planning and Development.

19 (w) Encroachment(s) in the regulatory floodplain shall require a SUDP and comply with
20 Chapter 4 Floodplain Regulations of the "Storm Drainage Design and Technical Criteria", Chapter
21 12 Floodplain Management of the "DOTI Rules and Regulations Governing Sewerage Charges and
22 Fees and Management of Wastewater" and the City Floodplain Ordinance in DRMC Section 56-200
23 through 56-206. Above ground Encroachment(s) in a Floodway require a No-Rise Certification
24 sealed and signed by a Professional Engineer licensed in the State of Colorado. If there is any rise
25 in Base Flood Elevations, a Conditional Letter of Map Revision (CLOMR) and LOMR will be required.

26 (x) Only clean soil may be brought onto an Encroachment Area. Verification of soil quality
27 must be provided if requested. Material removed from an Encroachment Area must be properly
28 disposed and is the responsibility of the Permittee.

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