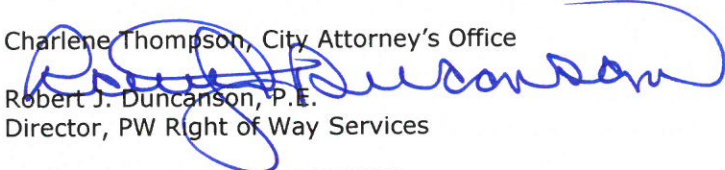


**REQUEST TO AMEND A CURRENT RESOLUTION FOR
AN ENCROACHMENT IN THE RIGHT OF WAY**

TO: Charlene Thompson, City Attorney's Office

FROM: 
Robert J. Duncan, P.E.
Director, PW Right of Way Services

ROW NO.: 2015-ENCROACHMENT-0000038

DATE: March 29, 2016

SUBJECT: Request to **amend** Resolution No. 53, Series of 2006, subject to certain terms and conditions, to 2620 Walnut Street, LLC, their successors and assigns, to include the following items: awnings with poles, bike racks, blade sign, roof drain, and downspouts at 2620 Walnut St.

NOTE: No additional legal description is provided for this amendment. The original legal description is still valid, and has no changes. This amendment adds encroaching items.

It is requested that the above subject item be placed on the next available Mayor Council Agenda.

This office has investigated the request from Kyle Godwin of Wilson & Company, Inc. dated 12/18/2015, on behalf of 2620 Walnut Street LLC for the granting of the above-subject permit.

This matter has been checked by this office and has been coordinated with Asset Management; Colorado Department of Transportation (if required); Comcast Corporation; Commission For People With Disabilities; Councilperson Brooks; CPD: Building & Construction Services, Planning Services, and Zoning & Development Review; Denver Water Board; Environmental Services (if required); Fire Department (if required); Metro Wastewater Reclamation District; Office of Emergency Management; Office of Telecommunications; Parks and Recreation; Public Works: City Engineer, DES Construction Engineering, DES Engineering, DES Survey, IPP Infrastructure Engineering, and Street Maintenance; Qwest Corporation; Regional Transportation District; and Xcel Energy, all of whom have returned our questionnaires indicating their agreement.

As a result of the investigations, it has been determined that there is no objection to the granting of the revocable permit.

Therefore, you are requested to initiate Council action for the granting of a revocable permit, subject to certain terms and conditions, to 2620 Walnut Street LLC, their successors and assigns, to encroach with additional items: awnings with poles, bike racks, blade sign, roof drain, and downspouts into 2620 Walnut Street.

NO PARCEL DESCRIPTION NECESSARY

STANDARD PROVISIONS

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 3rd Avenue, 303.446.3759, and 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 Ave, 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 and 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 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 the 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 Encroachment. Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing the Encroachment 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 coverage's are to be arranged on an occurrence basis and include coverage for those hazards normally identified as X.C.U. during construction. The insurance coverage required herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit or lessen the liability of the Permittee, its successors or assigns, under the terms of this permit. All insurance coverage required herein shall be written in a form and by a company or companies approved by the Risk Manager of the City and County of Denver and authorized to do business in the State of Colorado. A certified copy of all such insurance policies shall be filed with the Manager of Public Works, and each such policy shall contain a statement therein or

endorsement thereon that it will not be canceled or materially changed without written notice, by registered mail, to the Manager of Public Works at least thirty (30) days prior to the effective date of the cancellation or material change. All such insurance policies shall be specifically endorsed to include all liability assumed by the Permittee hereunder and shall name the City and County of Denver as an additional insured.

- (m) Permittee shall comply with the provisions of Article IV (Prohibition of Discrimination in Employment, Housing and Commercial Space, Public Accommodations, Educational Institutions and Health and Welfare Services) of Chapter 28 (Human Rights) of the Revised Municipal Code of the City and County of Denver. The failure to comply with any such provision shall be a proper basis for revocation of this permit.
- (n) The right to revoke this permit is expressly reserved to the City and County of Denver.
- (o) Permittee shall agree to indemnify and always save the City and County of Denver harmless from all costs, claims or damages arising, either directly or indirectly, out of the rights and privileges granted by this permit.

SPECIAL CONDITIONS FOR THIS PERMIT

- (p) None

A map of the area is attached hereto.

RJD: vlw

cc: Asset Management, Steve Wirth
City Council Office, Shelley Smith
Councilperson Brooks and Aides
Department of Law, Karen Aviles
Department of Law, Brent Eisen
Department of Law, Shaun Sullivan
Department of Law, Caroline Martin
Department of Law, Adam Hernandez
City Attorney Office, Angela Garcia
Public Works, Alba Castro
Public Works, Angela Casias
Project File

Property Owner:
Ari Stutz
2620 Walnut Street LLC
2660 Walnut Street
Denver, CO 80205

Agent:
Kyle Godwin, PE
Wilson & Company, Inc.
1675 Broadway, Suite 200
Denver, CO 80202

ORDINANCE/RESOLUTION REQUEST

Please email requests to Angela Casias
at angela.casias@DenverGov.org by **12:00 pm on Monday**.

**All fields must be completed.*
Incomplete request forms will be returned to sender which may cause a delay in processing.*

Date of Request: 3/29/16

Please mark one: Bill Request or Resolution Request

1. Has your agency submitted this request in the last 12 months?

Yes No

If yes, please explain:

2. Title: (Include a concise, one sentence description – please include name of company or contractor and contract control number - that clearly indicates the type of request: **grant acceptance, contract execution, contract amendment, municipal code change, supplemental request, etc.**)

Request to amend Resolution No. 53, Series of 2006, subject to certain terms and conditions, to 2620 Walnut Street, LLC, their successors and assigns, to include the following items: awnings with poles, bike racks, blade sign, roof drain, and downspouts at 2620 Walnut St.

3. Requesting Agency: Public Works Engineering and Regulatory & Analytics

4. Contact Person: (With actual knowledge of proposed ordinance/resolution.)

- Name: Vanessa West
- Phone: 720-913-0719
- Email: Vanessa.west@denvergov.org

5. Contact Person: (With actual knowledge of proposed ordinance/resolution who will present the item at Mayor-Council and who will be available for first and second reading, if necessary.)

- Name: Angela Casias
- Phone: 720-913-8529
- Email: angela.casias@denvergov.org

6. General description/background of proposed ordinance including contract scope of work if applicable:

This is only an amendment to the items in the Right-of-Way, the legal is not changing. This amendment is to include additional encroaching items to include awnings with poles, bike racks, blade sign, roof drain, and downspouts.

****Please complete the following fields:** (Incomplete fields may result in a delay in processing. If a field is not applicable, please enter N/A for that field – please do not leave blank.)

- a. Contract Control Number: N/A
- b. Contract Term: Renewed annually
- c. Location: 2620 Walnut Street
- d. Affected Council District: D9, Brooks
- e. Benefits: N/A
- f. Contract Amount (indicate amended amount and new contract total): N/A

7. Is there any controversy surrounding this ordinance? (Groups or individuals who may have concerns about it?) Please explain.

None

To be completed by Mayor's Legislative Team:

SIRE Tracking Number: _____

Date Entered: _____



TIER III ENCROACHMENT EXECUTIVE SUMMARY

What is an Encroachment: A privately owned improvement that is located in, or project over or under the public Right-of-Way.

Project Title: 2015-ENCROACHMENT-0000038, 10 Barrel Denver, 2620 Walnut Street.

Business name: 2620 Walnut Street LLC

Description of Encroachment: To amend and existing encroachment; Resolution #53, Series of 2006, to include the following additional items: awnings with poles, bike racks, blade sign, roof drain, and downspouts at 2620 Walnut Street

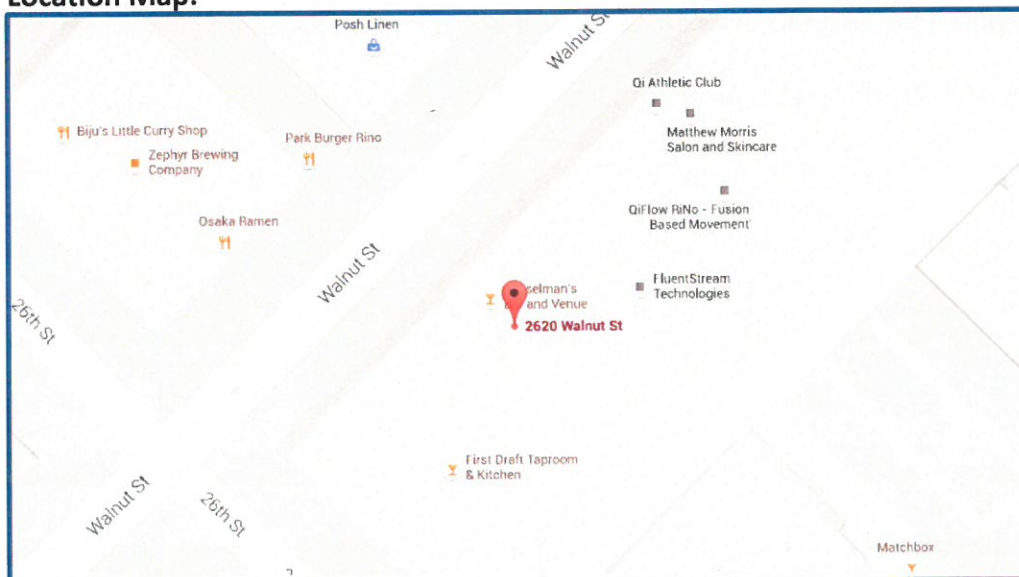
Explanation of why the Public Right of Way must be utilized for a private improvement: The public right-of-way is needed for these private improvements due to site limitations with the existing building taking up the entire area of the zone lot and not having any area to provide these necessary items within the zone lot boundary, and for the stairs, ramp and existing raised loading platform, the finish floor elevation is raised in the air for access to the building.

Duration of the Encroachment: Permanent

Annual Fees: Annual fees for this project will be billed under 2006-ENCROACHMENT-0003705

Additional Information: They currently have a resolution, but they are modifying it to include additional encroaching items that were not in the original resolution.

Location Map:



BY AUTHORITY

COMMITTEE OF REFERENCE:
Public Works

RESOLUTION NO. 53
SERIES OF 2006

A RESOLUTION

Granting a revocable permit to 2620 Walnut, LLC to encroach into Walnut Street with various items.

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

Section 1. The City and County of Denver hereby grants to 2620 Walnut, LLC, its successors and assigns ("Permittee"), a revocable permit to encroach with handicap ramp and landing, 2 sets of concrete stairs, expansions of existing dock and gas meters in the following described area ("Encroachment Area"):

A parcel of land located in the SE1/4 of Section 27, Township 3 South, Range 68 West of the 6th P.M., City and County of Denver, State of Colorado, more particularly described as follows:

Beginning at the most westerly corner of Lot 12, Block 28, CASE AND EBERT'S ADDITION recorded April 7, 1868, in the Book of Plats Page 5; thence northeasterly along the northwesterly property line of Lots 12, 11, 10, and 9 also known as the southeasterly right of way line of Walnut Street, a distance of 100.20 feet; thence on a deflection angle to the left of 90°00'00", a distance of 11.50 feet; thence on a deflection angle to the left of 90°00'00" parallel with the northwesterly line of Lots 12, 11, 10, and 9, a distance of 100.20 feet; thence on a deflection angle to the left of 90°00'00", 11.50 feet to the POINT OF BEGINNING. The above described parcel contains 1,152 square feet or 0.02645 acres more or less

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (l) During the existence of the Encroachments and this permit, Permittee, its successors
30 and assigns, at its expense, and without cost to the City and County of Denver, shall procure and
31 maintain a single limit comprehensive general liability insurance policy with a limit of not less than
32 \$500,000.00. All coverages are to be arranged on an occurrence basis and include coverage for
33 those hazards normally identified as X.C.U. during construction. The insurance coverage required

1 herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit
2 or lessen the liability of the Permittee, its successors or assigns, under the terms of this permit. All
3 insurance coverage required herein shall be written in a form and by a company or companies
4 approved by the Risk Manager of the City and County of Denver and authorized to do business in
5 the State of Colorado. A certified copy of all such insurance policies shall be filed with the Manager
6 of Public Works, and each such policy shall contain a statement therein or endorsement thereon
7 that it will not be canceled or materially changed without written notice, by registered mail, to the
8 Manager of Public Works at least thirty (30) days prior to the effective date of the cancellation or
9 material change. All such insurance policies shall be specifically endorsed to include all liability
10 assumed by the Permittee hereunder and shall name the City and County of Denver as an
11 additional insured.

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

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

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

21 (p) Permittee shall retain a natural gas easement until such time as the gas facilities are
22 abandoned or relocated.

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

31

1 COMMITTEE APPROVAL DATE: N/A MAYOR-COUNCIL DATE: August 29, 2006
2 PASSED BY THE COUNCIL _____ 2006

3 [Signature] - PRESIDENT
4 ATTEST: [Signature] - CLERK AND RECORDER,
5 EX-OFFICIO CLERK OF THE
6 CITY AND COUNTY OF DENVER
7

8 PREPARED BY: ^{KA} KAREN A. AVILES, ASSISTANT CITY ATTORNEY; 8/30/06
9

10 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of the
11 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
12 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §
13 3.2.6 of the Charter.
14

15 Cole Finegan, City Attorney

16
17 BY: [Signature], Asst City Attorney DATE: 31 Aug 06

