

1 **BY AUTHORITY**

2 RESOLUTION NO. CR17-1053  
3 SERIES OF 2017

COMMITTEE OF REFERENCE:  
Land Use, Transportation & Infrastructure

4 **A RESOLUTION**

5 **Granting a revocable permit to Digital Cowboy, LLC, to encroach into the right-**  
6 **of-way at 101 North Broadway.**

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 Digital Cowboy, LLC  
9 and its successors and assigns (“Permittee”), a revocable permit to encroach into the right-of-way  
10 with an underground foundation system (“Encroachments”) at 101 North Broadway in the following  
11 described area (“Encroachment Area”):

12 **PARCEL DESCRIPTION ROW NO. 2017-ENCROACHMENT-0000054-001:**

13 A PARCEL OF LAND SITUATED IN THE NORTHWEST ¼ OF SECTION 10, TOWNSHIP 4  
14 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, SAID PARCEL ALSO LYING  
15 ADJACENT TO BLOCK 13 OF BROADWAY TERRACE AS RECORDED IN RESURVEY BOOK  
16 06, PAGE 100, IN THE RECORDS OF THE CITY AND COUNTY OF DENVER, STATE OF  
17 COLORADO, SAID PARCEL BEING FURTHER DESCRIBED AS FOLLOWS;

18 BEGINNING AT THE SOUTHEAST CORNER OF SAID BLOCK 13;

19 THENCE ALONG THE EAST LINE OF SAID BLOCK N.00°24'36"W., A DISTANCE OF 90.34  
20 FEET;

21 THENCE N 90°00'00” E, A DISTANCE OF 3.31 FEET TO THE OUTSIDE FACE OF THE  
22 SUBTERRANEAN WALL THEREOF;

23 THENCE S 00°08'26"W, A DISTANCE OF 18.47 FEET; THENCE N 90°00'00” E, A DISTANCE  
24 OF 0.89 FEET; THENCE S.00°09'51"W., A DISTANCE OF 75.30 FEET; THENCE N.89°51'14"W.,  
25 A DISTANCE OF 78.25 FEET;

26 THENCE DEPARTING SAID WALL N 0°00'00” E, A DISTANCE OF 3.52 FEET TO THE SOUTH  
27 LINE OF SAID BLOCK 13;

28 THENCE ALONG SAID SOUTH LINE S.89°46'43"E., A DISTANCE OF 74.96 FEET TO THE  
29 POINT OF BEGINNING.

30 CONTAINING 594 SQUARE FEET, MORE OR LESS

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

1 (a) Permittee shall obtain a street occupancy permit from City's Public Works Permit  
2 Operations at 2000 West 3<sup>rd</sup> Avenue, 303-446-3759, prior to commencing construction.

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

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

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

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 telephone facilities shall not be utilized, obstructed or disturbed.

29 (f) All construction in, under, on or over the Encroachment Area shall be accomplished  
30 in accordance with the Building Code of the City. Plans and specifications governing the  
31 construction of the Encroachments shall be approved by the Executive Director and the Director of  
32 Building Inspection Division prior to construction. Upon completion, a reproducible copy of the exact  
33 location and dimensions of the Encroachments shall be filed with the Executive Director.

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

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

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

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

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

25 (l) During the existence of the Encroachments and this Permit, Permittee, its successors  
26 and assigns, at its expense, and without cost to the City, shall procure and maintain a single limit  
27 comprehensive general liability insurance policy with a limit of not less than \$500,000.00. All  
28 coverages are to be arranged on an occurrence basis and include coverage for those hazards  
29 normally identified as X.C.U. during construction. The insurance coverage required herein  
30 constitutes a minimum requirement and such enumeration shall in no way be deemed to limit or  
31 lessen the liability of the Permittee, its successors or assigns, under the terms of this Permit. All  
32 insurance coverage required herein shall be written in a form and by a company or companies  
33 approved by the Risk Manager of the City and authorized to do business in the State of Colorado.

1 A certified copy of all such insurance policies shall be filed with the Executive Director, and each  
2 such policy shall contain a statement therein or endorsement thereon that it will not be canceled or  
3 materially changed without written notice, by registered mail, to the Executive Director at least thirty  
4 (30) days prior to the effective date of the cancellation or material change. All such insurance  
5 policies shall be specifically endorsed to include all liability assumed by the Permittee hereunder  
6 and shall name the City as an additional insured.

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

12 (n) The right to revoke this Permit is expressly reserved to the City.

13 (o) Permittee shall agree to indemnify and always save the City harmless from all costs,  
14 claims or damages arising, either directly or indirectly, out of the rights and privileges granted by  
15 this Permit.

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

24 **REMAINDER OF PAGE INTENTIONALLY BLANK**  
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1 COMMITTEE APPROVAL DATE: September 26, 2017 by Consent

2 MAYOR-COUNCIL DATE: October 3, 2017

3 PASSED BY THE COUNCIL: \_\_\_\_\_

4 \_\_\_\_\_ - PRESIDENT

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

8 PREPARED BY: Brent A. Eisen, Assistant City Attorney DATE: October 5, 2017

9 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of  
10 the 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 Kristin M. Bronson, Denver City Attorney

14 BY: *Kristin M. Bronson*, Assistant City Attorney DATE: Oct 5, 2017