

REQUEST FOR RESOLUTION FOR TIER III ENCROACHMENT PERMIT

TO: Caroline Martin, City Attorney's Office

FROM: Matt Bryner
Senior Engineer Manager
Public Works, Right of Way Services

ROW NO.: 2017-ENCROACHMENT-0000060

DATE: September 14, 2018

SUBJECT: Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to 32V LLC c/o Brent Kimball, their successors and assigns, to encroach into the right-of-way with an underground parking garage, including foundation walls, thirty-nine (39) soldier beams without tiebacks, and associated lagging at W 32nd Ave and Vallejo St.

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 August 16, 2017, on behalf of 32V LLC c/o Brent Kimball 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 Espinoza – District 1; 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 32V LLC c/o Brent Kimball, their successors and assigns, to encroach with an underground parking garage, including foundation walls, thirty-nine (39) soldier beams without tiebacks, and associated lagging adjacent to W 32nd Ave and Vallejo St.

INSERT PARCEL DESCRIPTION ROW 2017-ENCROACHMENT-0000060-001 HERE

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.

MB: bp

cc: Asset Management, Steve Wirth
City Council Office, Zach Rothmier
Councilperson Espinoza and Aides
Department of Law, Karen Aviles
Department of Law, Brent Eisen
Department of Law, Deanne Durfee
Department of Law, Caroline Martin
Public Works, Alba Castro
Public Works, Sarah Stanek
Project File

Property Owner:
Brent Kimball
32V LLC
1430 Larimer Square
STE 200
Denver, CO 80202

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

ORDINANCE/RESOLUTION REQUEST

Please email requests to Sarah Stanek

at Sarah.Stanek@DenverGov.org by **12:00pm on Monday**. Contact her with questions.

Date of Request: September 14, 2018

Please mark one: Bill Request or Resolution Request

1. Type of Request:

- Contract/Grant Agreement Intergovernmental Agreement (IGA) Rezoning/Text Amendment
- Dedication/Vacation Appropriation/Supplemental DRMC Change
- Other: Tier III Encroachment

2. Title: (Start with *approves, amends, dedicates*, etc., include name of company or contractor and indicate the type of request: grant acceptance, contract execution, contract amendment, municipal code change, supplemental request, etc.)

Kyle Godwin of Wilson & Company, Inc. on behalf of 32V LLC c/o Brent Kimball requests for a Resolution granting a revocable permit, subject to certain terms and conditions, to 32V LLC c/o Brent Kimball, their successors and assigns, to encroach into the right-of-way with an underground parking garage, including foundation walls, thirty-nine (39) soldier beams without tiebacks, and associated lagging at W 32nd Ave and Vallejo St.

3. Requesting Agency: Public Works, Engineering & Regulatory Dept.

4. Contact Person:

Contact person with knowledge of proposed ordinance/resolution	Contact person to present item at Mayor-Council and Council
Name: Brittany Pirtle	Name: Sarah Stanek
Email: Brittany.Pirtle@denvergov.org	Email: Sarah.Stanek@denvergov.org

5. General description or background of proposed request. Attach executive summary if more space needed:

Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to 32V LLC c/o Brent Kimball, their successors and assigns, to encroach into the right-of-way with an underground parking garage, including foundation walls, thirty-nine (39) soldier beams without tiebacks, and associated lagging at W 32nd Ave and Vallejo St.

6. City Attorney assigned to this request (if applicable): Brent Eisen

7. City Council District: District 1; Councilman Rafael Espinoza

8. **For all contracts, fill out and submit accompanying Key Contract Terms worksheet**

To be completed by Mayor's Legislative Team:

Resolution/Bill Number: _____

Date Entered: _____

Key Contract Terms

Type of Contract: (e.g. Professional Services > \$500K; IGA/Grant Agreement, Sale or Lease of Real Property):

Vendor/Contractor Name:

Contract control number:

Location:

Is this a new contract? Yes No Is this an Amendment? Yes No If yes, how many? _____

Contract Term/Duration (for amended contracts, include existing term dates and amended dates):

Contract Amount (indicate existing amount, amended amount and new contract total):

<i>Current Contract Amount</i> (A)	<i>Additional Funds</i> (B)	<i>Total Contract Amount</i> (A+B)
<i>Current Contract Term</i>	<i>Added Time</i>	<i>New Ending Date</i>

Scope of work:

Was this contractor selected by competitive process?

If not, why not?

Has this contractor provided these services to the City before? Yes No

Source of funds:

Is this contract subject to: W/MBE DBE SBE XO101 ACDBE N/A

WBE/MBE/DBE commitments (construction, design, Airport concession contracts):

Who are the subcontractors to this contract?

To be completed by Mayor's Legislative Team:

Resolution/Bill 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: 2017-ENCROACHMENT-0000060, Tier III Underground Parking Garage at W 32nd Ave and Vallejo St

Business/Owner name: 32V LLC c/o Brent Kimball

Description of Encroachment: Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to 32V LLC c/o Brent Kimball, their successors and assigns, to encroach into the right-of-way with an underground parking garage, including foundation walls, thirty-nine (39) soldier beams without tiebacks, and associated lagging at W 32nd Ave and Vallejo St.

Explanation of why the Public Right of Way must be utilized for a private improvement: Redevelopment

Duration of the Encroachment: Permanent

Annual Fees: \$200.00 per year.

Additional Information: N/A

Location Map:

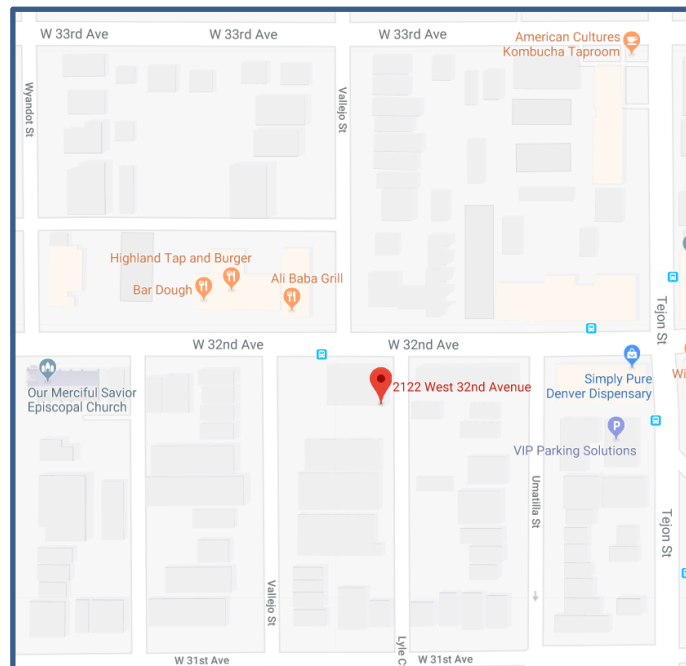


EXHIBIT "A"
PAGE 1 OF 2

LAND DESCRIPTION

A TRACT OR PARCEL OF LAND LOCATED IN THE NORTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 28, TOWNSHIP 3 SOUTH, RANGE 68 WEST, OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, BEING A PORTION OF VALLEJO STREET, WEST 32ND AVENUE AND LYLE COURT ADJACENT TO BLOCK 3, UNION ADDITION, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 1, BLOCK 3, UNION ADDITION;

THENCE ALONG THE WESTERLY LINE OF LOTS 1 THROUGH 5, BLOCK 3, UNION ADDITION, S00°08'08"W, 101.96 FEET;

THENCE S89°50'37"W, 2.75 FEET TO A POINT IN VALLEJO STREET;

THENCE ALONG A LINE PARALLEL WITH AND 2.75 FEET DISTANT THE WESTERLY LINE OF SAID LOTS 1 THROUGH 5, BLOCK 3, UNION ADDITION, N00°08'08"E, 105.96 FEET TO A POINT IN WEST 32ND AVENUE;

THENCE ALONG A LINE PARALLEL WITH AND 4.00 FEET DISTANT FROM THE NORTHERLY LINE OF LOT 1, BLOCK 3, UNION ADDITION, N89°54'44"E, 148.44 FEET;

THENCE ALONG LINE PARALLEL WITH AND 5.71 FEET DISTANT FROM THE EASTERLY LINE OF LOTS 1 THROUGH 4, BLOCK 3, UNION ADDITION, S00°04'24"W, 103.78 FEET;

THENCE S89°50'37"W, 5.71 FEET TO A POINT ON THE EASTERLY LINE OF LOT 4, BLOCK 3, UNION ADDITION;

THENCE ALONG THE EASTERLY LINE OF SAID LOTS 1 THROUGH 4, BLOCK 3, UNION ADDITION, N00°04'24"E, 99.79 FEET TO THE NORTHEASTERLY CORNER OF LOT 1, BLOCK 3, UNION ADDITION;

THENCE ALONG THE NORTHERLY LINE OF LOT 1, BLOCK 3, UNION ADDITION, S89°54'44"W, 139.98 FEET TO THE POINT OF BEGINNING.

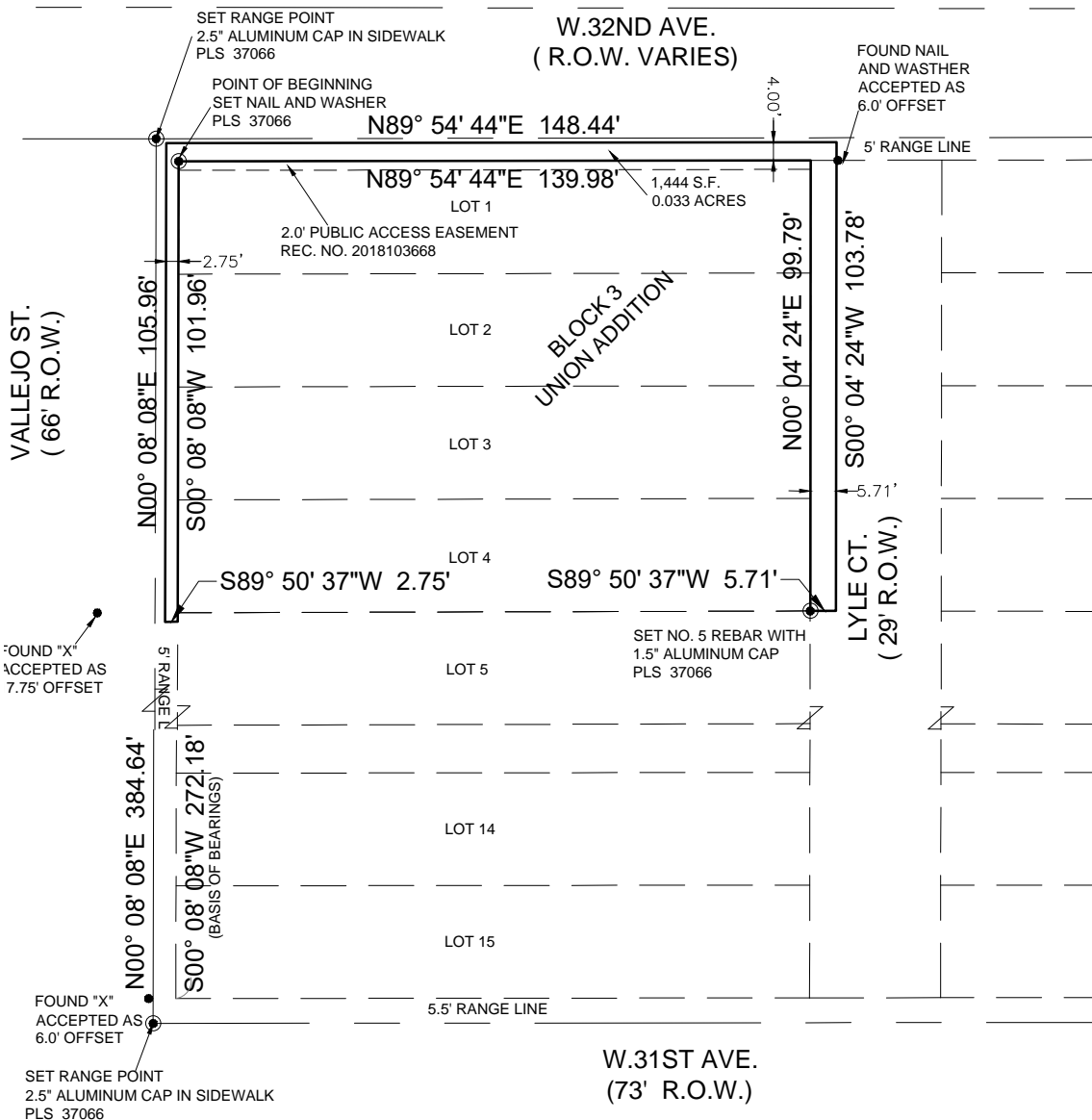
CONTAINING 1,444 SQUARE FEET OR 0.033 ACRES, MORE OR LESS.

BASIS OF BEARINGS: BEARINGS USED HEREIN ARE BASED ON WEST LINE OF LOTS 5-15 OF BLOCK 3 UNION ADDITION. BEING S00°08'08"W AS MEASURED USING THE CITY AND COUNTY OF DENVER CONTROL COORDINATES, AS MONUMENTED AT THE NORTH BY A FOUND "X" IN CURB ACCEPTED AS A 17.75 WITNESS CORNER AND ON THE SOUTH BY A FOUND "X" ACCEPTED AS A 6.00' WITNESS CORNER.

PREPARED UNDER THE SUPERVISION OF:
DOUGLAS H. ORT III, PLS 37066
(303) 501-1221
1675 BROADWAY, SUITE 200
DENVER, CO 80202

LAND DESCRIPTION

A PARCEL OF LAND LOCATED THE SOUTHWEST 1/4 OF SECTION 28 , TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M.,
 LOTS 1-4,BLOCK 3, UNION ADDITION, CITY AND COUNTY OF DENVER, STATE OF COLORADO
 PAGE 2 OF 2



BASIS OF BEARINGS: BEARINGS USED HEREIN ARE BASED ON WEST LINE OF LOTS 5-15 OF BLOCK 3 UNION ADDITION. BEING S00°08'08"W AS MEASURED USING THE CITY AND COUNTY OF DENVER CONTROL COORDINATES, AS MONUMENTED AT THE NORTH BY A FOUND "X" IN CURB ACCEPTED AS A 17.75' WITNESS CORNER AND ON THE SOUTH BY A FOUND "X" ACCEPTED AS A 6.00' WITNESS CORNER.

NOTE:
 THIS DRAWING IS MEANT TO DEPICT THE ATTACHED LEGAL DESCRIPTION AND IS FOR INFORMATIONAL PURPOSES ONLY. IT DOES NOT REPRESENT A MONUMENTED LAND SURVEY.

16-600-435

						SHT. NO: 1 OF 2		1675 Broadway Suite 200 Denver, CO 80202 Phone: 303-297-2976 Fax: 303-297-2693	
						SCALE: 1" = 40'			
						DWN. BY: TJB		DATE: 1-30-2018	
						CHK. BY:			
						PROJ. MGR: DHO		1-30-2018	
						CLIENT APP:			
1	ADD 2.0' PUBLIC ACCESS EASEMENT	TJB	8-17-2018			32ND AND VALLEJO CITY AND COUNTY OF DENVER STATE OF COLORADO			
NO.	REVISION-DESCRIPTION	BY	DATE	CHK'D	APP'D				