

1 **BY AUTHORITY**

2 RESOLUTION NO. CR16-0226
3 SERIES OF 2016
4

COMMITTEE OF REFERENCE:
Infrastructure & Culture

5 **A RESOLUTION**

6 **Granting a revocable permit to Denver Bike Sharing to encroach into the right-**
7 **of-way at 1651 Wynkoop Street.**
8

9 **NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY AND COUNTY**
10 **OF DENVER:**

11 **Section 1.** The City and County of Denver hereby grants to Denver Bike Sharing and its
12 successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with a
13 one (1) bicycle docking station ("Encroachment") at 1651 Wynkoop Street in the following
14 described area ("Encroachment Area"):

15 **PARCEL DESCRIPTION ROW NO. 2016 – ENCROACHMENT – 0000012:**

16 **Location Description 26th Submittal**

17 **1651 Wynkoop St, Denver Colorado**

- 18
19
20 • **Located below curb, approximately 160 feet north of the NW corner of 16th Street and**
21 **Wynkoop Street**
22 • **Bike station footprint is 371 sq. ft**

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

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

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

29 (c) If the Permittee intends to install any underground facilities in or near a public road,
30 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification
31 Association of Owners and Operators of Underground Facilities by contacting the Utility
32 Notification Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado
33 80215, at 303-232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-
34 922-1987 to locate underground facilities prior to commencing any work under this permit.

35 (d) Permittee is fully responsible for any and all damages incurred to facilities of the
36 Water Department and/or drainage facilities for water and sewage of the City and County of

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

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

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

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

31 (h) Permittee shall pay all costs of construction and maintenance of the Encroachments.
32 Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing the

1 Encroachments from the Encroachment Area and return the Encroachment Area to its original
2 condition under the supervision of the City Engineer.

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

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

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

17 (l) During the existence of the Encroachments and this permit, Permittee, its
18 successors and assigns, at its expense, and without cost to the City and County of Denver, shall
19 procure and maintain a single limit comprehensive general liability insurance policy with a limit of
20 not less than \$500,000.00. All coverages are to be arranged on an occurrence basis and include
21 coverage for those hazards normally identified as X.C.U. during construction. The insurance
22 coverage required herein constitutes a minimum requirement and such enumeration shall in no
23 way be deemed to limit or lessen the liability of the Permittee, its successors or assigns, under the
24 terms of this permit. All insurance coverage required herein shall be written in a form and by a
25 company or companies approved by the Risk Manager of the City and County of Denver and
26 authorized to do business in the State of Colorado. A certified copy of all such insurance policies
27 shall be filed with the Executive Director of Public Works, and each such policy shall contain a
28 statement therein or endorsement thereon that it will not be canceled or materially changed
29 without written notice, by registered mail, to the Executive Director of Public Works at least thirty
30 (30) days prior to the effective date of the cancellation or material change. All such insurance
31 policies shall be specifically endorsed to include all liability assumed by the Permittee hereunder
32 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
2 in Employment, Housing and Commercial Space, Public Accommodations, Educational
3 Institutions and Health and Welfare Services) of Chapter 28 (Human Rights) of the Revised
4 Municipal Code of the City and County of Denver. The failure to comply with any such provision
5 shall be a proper basis for revocation of this permit.

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

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

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

20 COMMITTEE APPROVAL DATE: April 7, 2016 by Consent

21 MAYOR-COUNCIL DATE: April 12, 2016

22 PASSED BY THE COUNCIL: _____, 2016

23 _____ - PRESIDENT

24 ATTEST: _____ - CLERK AND RECORDER,
25 EX-OFFICIO CLERK OF THE
26 CITY AND COUNTY OF DENVER

27
28 PREPARED BY: Brent A. Eisen, Assistant City Attorney DATE: April 14, 2016

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30 Pursuant to section 14-12, D.R.M.C., this proposed resolution has been reviewed by the office of
31 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
32 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to
33 § 3.2.6 of the Charter.

34
35 D. Scott Martinez, Denver City Attorney

36
37 BY: _____, Assistant City Attorney DATE: _____, 2016