

1 BY AUTHORITY

2 RESOLUTION NO. CR13-0143  
3 SERIES OF 2013

COMMITTEE OF REFERENCE:  
Land Use, Transportation & Infrastructure

4  
5 A RESOLUTION

6 **Granting a revocable permit to F4, LLC to encroach into the right-of-way at**  
7 **1085 S. Gaylord 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 F4, LLC and its successors  
12 and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with a patio and  
13 awning ("Encroachments") at 1085 S. Gaylord Street in the following described area  
14 ("Encroachment Area"):

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16 ***Parcel Description No. 2012-0484-01-001***

*A PARCEL OF LAND LOCATED IN THE SW $\frac{1}{4}$  SEC.14, T4S, R68W  
OF THE 6TH P.M., BEING PART OF THE S. GAYLORD STREET RIGHT OF WAY AND BEING  
MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF LOT 28, BLOCK 11, MYRTLE HILL;  
AND THE WEST LINE OF EXCEPTED 14.9' R.O.W. PER DEED 3445;  
THENCE S 00'21'43" E, ALONG THE WESTERLY LINE OF SAID 14.9' A DISTANCE 19.70 FEET  
TO THE POINT OF BEGINNING;  
THENCE S 00'21'43" E, ALONG THE WESTERLY RIGHT-OF-WAY LINE OF S. GAYLORD STREET  
31.09 FEET TO A POINT;  
THENCE S 89'59'56" E, 3.28 FEET TO A POINT;  
THENCE N 44'01'11" E, 10.23 FEET TO A POINT;  
THENCE N 00'10'42" W, 19.46 FEET TO A POINT;  
THENCE N 44'59'13" W, 6.03 FEET TO A POINT;  
THENCE S 89'59'35" W, 6.26 FEET TO THE POINT OF BEGINNING.  
CITY AND COUNTY OF DENVER,  
STATE OF COLORADO.  
THE ABOVE DESCRIBED PARCEL CONTAINING 289.8820 SQ. FT. OR 0.0067 ACRES.*

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18  
19 **Section 2.** The revocable permit ("Permit") granted by this Resolution is expressly  
20 granted upon and subject to each and all of the following terms and conditions:

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

23 (b) Permittee shall be responsible for obtaining all other permits and shall pay all costs  
24 that are necessary 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, right-of-way or utility easement, the Permittee shall join the Statewide Notification  
3 Association of Owners and Operators of Underground Facilities by contacting the Utility  
4 Notification Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado  
5 80215, at 303-232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-  
6 922-1987 to locate underground facilities prior to commencing any work under this permit.

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

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

26 (f) All construction in, under, on or over the Encroachment Area shall be accomplished  
27 in accordance with the Building Code of the City and County of Denver. Plans and Specifications  
28 governing the construction of the Encroachments shall be approved by the Manager of Public  
29 Works and the Director of Building Inspection Division prior to construction. Upon completion, a  
30 reproducible copy of the exact location and dimensions of the Encroachments shall be filed with  
31 the Manager of Public Works.

32 (g) The sidewalk and street/alley over the Encroachment Area shall be capable of  
33 withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The

1 installations within the Encroachment Area shall be constructed so that the paved section of the  
2 street/alley can be widened without requiring additional structural modifications. The sidewalk  
3 shall be constructed so that it can be removed and replaced without affecting structures within the  
4 Encroachment Area.

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

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

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

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

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

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

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

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

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

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

25 COMMITTEE APPROVAL DATE: March 7, 2013 [by consent]

26 MAYOR-COUNCIL DATE: March 12, 2013

27 PASSED BY THE COUNCIL: \_\_\_\_\_, 2013

28 \_\_\_\_\_ - PRESIDENT

29 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
30 EX-OFFICIO CLERK OF THE  
31 CITY AND COUNTY OF DENVER  
32

33 PREPARED BY: Brent A. Eisen, Assistant City Attorney

DATE: March 14, 2013

34 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of  
35 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed

1 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §  
2 3.2.6 of the Charter.

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4 Douglas J. Friednash, Denver City Attorney

5 BY: \_\_\_\_\_, Assistant City Attorney    DATE: \_\_\_\_\_, 2013