

1 BY AUTHORITY

2 RESOLUTION NO. CR10-0739
3 SERIES OF 2010

COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

4 A RESOLUTION

5 **Granting a revocable permit to Engine House No. 5, LLC to encroach into the**
6 **right-of-way with various items at 1331 19th St.**

7
8 **BE IT RESOLVED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

9 **Section 1.** The City and County of Denver hereby grants to Engine House No. 5, LLC, and its
10 successors and assigns (“Permittee”), a revocable permit to encroach into the right-of-way with an
11 exterior stair and railing, a sign, awnings, exterior door swing, planters, and a 4 foot fence at 1331 19th
12 St. (“Encroachments”) in the following described area (“Encroachment Area”):

A parcel of land located in the rights-of-way of Market Street and 19th Street adjacent to Block 50, East Denver, said parcel being located in the Northwest Quarter of Section 34, Township 3 South, Range 68 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado more particularly described as follows:

Commencing at a 3 ¼” aluminum cap stamped “LS 25379” in a range box located in the intersection of 19th and Market Streets, from which another 3 ¼” aluminum cap stamped LS 25379” in a range box located in the intersection of 20th and Market Streets bears North 44°58'33” East a distance of 480.80 feet with all bearings herein relative thereto;

thence North 65°30'17” East a distance of 171.10 feet to the north corner of Lot 13, Block 50, said north corner being the **True Point of Beginning**;

thence South 44°58'33” West along the northwest line of Block 50 a distance of 100.20 feet to the west corner of Lot 16, Block 50;

thence South 45°03'00” East a distance of 100.56 feet along the southwest line of said Lot 16;

thence South 44°58'33” West a distance of 5.50 feet;

thence North 45°03'00” West a distance of 106.06 feet;

thence North 44°58'33” East a distance of 105.70 feet;

thence South 45°03'18” West a distance of 5.50 feet to the north corner of said Lot 13 being the **True Point of Beginning**.

Said parcel contains .0260 acres (1,134 square feet) more or less.

13
14 **Section 2.** The revocable permit (“Permit”) granted by this resolution is expressly granted
15 upon and subject to each and all of the following terms and conditions:

16 (a) Permittee shall obtain a street occupancy permit from Public Works Permit Operations at
17 2000 West 3rd Avenue, 303-446-3759, prior to commencing construction.

18 (b) Permittee shall be responsible for obtaining all other permits and shall pay all costs that
19 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 Notification
4 Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215, at 303-
5 232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 to locate
6 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 Water
8 Department and/or drainage facilities for water and sewage of the City and County of Denver due to
9 activities authorized by the permit. Should the relocation or replacement of any drainage facilities for
10 water and sewage of the City and County of Denver become necessary as determined by the
11 Manager of Public Works, in the Manager's sole and absolute discretion, Permittee shall pay all cost
12 and expense of the portion of the sewer affected by the permitted structure. The extent of the affected
13 portion to be replaced or relocated by Permittee shall be determined by the Manager of Public Works.

14 Any and all replacement or repair of facilities of the Water Department and/or drainage facilities for
15 water and sewage of the City and County of Denver attributed to the Permittee shall be made by the
16 Water Department and/or the City and County of Denver at the sole expense of the Permittee. In the
17 event Permittee's facilities are damaged or destroyed due to the Water Department's or the City and
18 County of Denver's repair, replacement and/or operation of its facilities, repairs will be made by the
19 Permittee at its sole expense. Permittee agrees to defend, indemnify and save the City harmless and
20 to repair or pay for the repair of any and all damages to said sanitary sewer, or those damages
21 resulting from the failure of the sewer to properly function as a result of the permitted structure.

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

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

31 (g) The sidewalk and street/alley over the Encroachment Area shall be capable of
32 withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The
33 installations within the Encroachment Area shall be constructed so that the paved section of the
34 street/alley can be widened without requiring additional structural modifications. The sidewalk shall be

1 constructed so that it can be removed and replaced without affecting structures within the
2 Encroachment Area.

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

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

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

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

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

1 All such insurance policies shall be specifically endorsed to include all liability assumed by the
2 Permittee hereunder and shall name the City and County of Denver as an additional insured.

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

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

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

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

20 COMMITTEE APPROVAL DATE: August 26, 2010 by consent.

21 MAYOR-COUNCIL DATE: August 31, 2010

22 PASSED BY THE COUNCIL: _____, 2010

23 _____ - PRESIDENT

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

27 PREPARED BY: KAREN A. AVILES, Assistant City Attorney DATE: September 2, 2010

28 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of the
29 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
30 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §
31 3.2.6 of the Charter.

32 David R. Fine, City Attorney

33 BY: _____, Assistant City Attorney DATE: _____, 2010