

1 **BY AUTHORITY**

2 RESOLUTION NO. CR15-0986  
3 SERIES OF 2016

COMMITTEE OF REFERENCE:  
Infrastructure & Culture

4 **A RESOLUTION**

5 **Granting a revocable permit to Downing NP Tower, LLC, to encroach into the**  
6 **right-of-way at 1600 Downing Street.**

7  
8 **NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY AND COUNTY**  
9 **OF DENVER:**

10 **Section 1.** The City and County of Denver hereby grants to Downing NP Tower, LLC,  
11 and its successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way  
12 with an exterior elevator shaft ("Encroachments") at 1600 Downing Street in the following  
13 described area ("Encroachment Area"):

14 **PARCEL DESCRIPTION ROW NO. 2015-ENCROACHMENT-0006501-001:**

15 A PARCEL OF LAND IN THE SW 1/4, SECTION 35, TOWNSHIP 3 SOUTH, RANGE 68 WEST  
16 OF THE 6TH PRINCIPAL MERIDIAN IN THE CITY AND COUNTY OF DENVER, COLORADO.  
17 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

18  
19 **COMMENCING** AT THE SOUTHEAST CORNER OF LOT 20, BLOCK 25, PARK AVENUE  
20 ADDITION TO DENVER;  
21 THENCE N89°44'01"W ALONG THE SOUTH LINE OF SAID LOT 20, BLOCK 25, PARK AVENUE  
22 ADDITION TO DENVER A DISTANCE OF 71.93 FEET TO **THE POINT OF BEGINNING**;  
23 THENCE S00°15'59"W, A DISTANCE OF 3.13 FEET;  
24 THENCE N89°44'01"W, A DISTANCE OF 13.50 FEET;  
25 THENCE N00°15'59"E, A DISTANCE OF 3.13 FEET;  
26 THENCE S89°44'01"E, A DISTANCE OF 13.50 FEET TO THE **POINT OF BEGINNING**;

27  
28 SAID PARCEL OF LAND CONTAINING 42.26 SF MORE OR LESS.

29  
30 BASIS OF BEARING: THE BASIS OF BEARING IS THE SOUTH LINE OF LOT 20, BLOCK 25,  
31 PARK AVENUE ADDITION TO DENVER ASSUMED TO BEAR N89°44'01"W.  
32

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

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

37 (b) Permittee shall be responsible for obtaining all other permits and shall pay all costs  
38 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 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  
6 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. Existing  
25 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 the  
19 City and County of Denver in exercising its right to make full use of the Encroachment Area and  
20 adjacent rights-of-way as public thoroughfares nor shall it operate to restrict the utility companies in  
21 exercising their rights to construct, remove, operate and maintain their facilities within the  
22 Encroachment Area and adjacent rights-of-way.

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

1 endorsement thereon that it will not be canceled or materially changed without written notice, by  
2 registered mail, to the Manager of Public Works at least thirty (30) days prior to the effective date  
3 of the cancellation or material change. All such insurance policies shall be specifically endorsed to  
4 include all liability assumed by the Permittee hereunder and shall name the City and County of  
5 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 Institutions  
8 and Health and Welfare Services) of Chapter 28 (Human Rights) of the Revised Municipal Code of  
9 the City and County of Denver. The failure to comply with any such provision shall be a proper  
10 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 and  
15 privileges granted by this permit.

16 (p) Proposed elevator shaft is located adjacent to existing tree in public right of way. Per  
17 City Code, existing trees in public right of way shall be protected per Forestry standards &  
18 practices. Tree protection shall be installed prior to issue of demolition permit, approved by  
19 Forestry, and shall remain in place throughout construction. No construction shall take place within  
20 tree protection zones without prior written authorization from the Office of the City Forester. Per  
21 City Code, all tree work in Denver limits (including trimming) shall be performed by a tree  
22 contractor licensed by the Office of the City Forester. If existing ROW tree needs to be trimmed for  
23 elevator shaft clearance, a Forestry-licensed tree contractor must perform the work. Contact  
24 Forestry office (Forestry@denvergov.org or 720-913-0651) for a copy of most current licensed tree  
25 contractors.

26 (q) If there is not at least 5' of ADA compliant sidewalk around the encroachment, then  
27 the sidewalk will need to be widened per CCD standards as directed by the ROW inspector.

28 **Section 3.** That the Permit hereby granted shall be revocable at any time that the Council  
29 of the City and County of Denver shall determine that the public convenience and necessity or the  
30 public health, safety or general welfare require such revocation, and the right to revoke the same is  
31 hereby expressly reserved to the City and County of Denver; provided however, at a reasonable  
32 time prior to Council action upon such revocation or proposed revocation, opportunity shall be  
33 afforded to Permittee, its successors and assigns, to be present at a hearing to be conducted by

- 1 the Council upon such matters and thereat to present its views and opinions thereof and to present
- 2 for consideration action or actions alternative to the revocation of such Permit.

1 COMMITTEE APPROVAL DATE: December 30, 2015 by Consent

2 MAYOR-COUNCIL DATE: January 5, 2016

3 PASSED BY THE COUNCIL: \_\_\_\_\_, 2016

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

5 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
6 EX-OFFICIO CLERK OF THE  
7 CITY AND COUNTY OF DENVER  
8

9 PREPARED BY: Brent A. Eisen, Assistant City Attorney DATE: January 7, 2016

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11 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of  
12 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
13 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to  
14 § 3.2.6 of the Charter.

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16 D. Scott Martinez, Denver City Attorney

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18 BY: \_\_\_\_\_, Assistant City Attorney DATE: \_\_\_\_\_, 2016