

1 BY AUTHORITY

2 RESOLUTION NO. CR13-0368
3 SERIES OF 2013

COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

4
5 A RESOLUTION

6 **Granting a revocable permit to Broadstone Cherry Creek, LLC, to encroach**
7 **into the right-of-way at 250 South Jackson Street and 225 South Harrison**
8 **Street.**

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

12 **Section 1.** The City and County of Denver hereby grants to Broadstone Cherry Creek,
13 LLC and its successors and assigns (“Permittee”), a revocable permit to encroach into the right-
14 of-way with two (2) signs (“Encroachments”) at 250 South Jackson Street [2010-0436-07-001]
15 and 225 South Harrison Street [2010-0436-07-002] in the following described area
16 (“Encroachment Area”):

17
18 PARCEL DESCRIPTION ROW 2010-0436-07-001

19 LEGAL DESCRIPTION

20
21 A PARCEL OF LAND BEING A PORTION OF THE PUBLIC RIGHT OF WAY IN EAST ALAMEDA
22 AVENUE ADJACENT TO LOT 18, BLOCK 44, BURLINGTON CAPITOL HILL ADDITION, CITY AND
23 COUNTY OF DENVER, STATE OF COLORADO; SITUATED IN THE SOUTHEAST QUARTER OF
24 SECTION 12, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN;

25
26 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

27
28 COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 18; THENCE EASTERLY, ALONG THE
29 NORTH RIGHT OF WAY LINE OF EAST ALAMEDA AVENUE, SAID LINE ALSO BEING THE SOUTH
30 LINE OF SAID LOT 18, A DISTANCE OF 55.50 FEET TO THE POINT OF BEGINNING; THENCE
31 EASTERLY, CONTINUING ALONG THE NORTH RIGHT OF WAY LINE OF EAST ALAMEDA AVENUE,
32 SAID LINE ALSO BEING THE SOUTH LINE OF SAID LOT 18, A DISTANCE OF 14.00 FEET;
33 THENCE SOUTHERLY, AT RIGHT ANGLES TO THE PREVIOUS COURSE, A DISTANCE OF 6.00
34 FEET; THENCE WESTERLY, PARALLEL WITH THE NORTHERLY RIGHT OF WAY LINE OF EAST
35 ALAMEDA AVENUE, A DISTANCE OF 14.00 FEET; THENCE NORTHERLY, AT RIGHT ANGLES TO
36 THE PREVIOUS COURSE, A DISTANCE OF 6.00 FEET TO THE POINT OF BEGINNING;

37
38 SAID PARCEL CONTAINS 84 SQUARE FEET, MORE OR LESS.

39
40 and

41
42 **[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**

1
2
3
4 PARCEL DESCRIPTION ROW 2010-0436-07-002

5 LEGAL DESCRIPTION

6
7 A PARCEL OF LAND BEING A PORTION OF THE PUBLIC RIGHT OF WAY IN EAST CEDAR
8 AVENUE ADJACENT TO LOT 40. BLOCK 44. BURLINGTON CAPITOL HILL ADDITION, CITY AND COUNTY OF DENVER,
9 STATE OF COLORADO; SITUATED IN THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 4 SOUTH. RANGE 68
10 WEST OF THE SIXTH PRINCIPAL MERIDIAN;

11
12 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS,

13
14 BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 40; THENCE WESTERLY, ALONG THE SOUTH RIGHT OF WAY
15 LINE OF EAST CEDAR AVENUE, SAID LINE ALSO BEING THE NORTH LINE OF SAID LOT 40, A DISTANCE OF 4.00 FEET;
16 THENCE NORTHERLY, AT RIGHT ANGLES TO THE PREVIOUS COURSE, A DISTANCE OF 3.00 FEET; THENCE EASTERLY,
17 PARALLEL WITH THE SOUTHERLY RIGHT OF WAY LINE OF EAST CEDAR AVENUE, A DISTANCE OF 4.00 FEET; THENCE
18 SOUTHERLY, AT RIGHT ANGLES TO THE PREVIOUS COURSE. A DISTANCE OF 3.00 FEET TO THE POINT OF BENNING;

19
20 SAID PARCEL CONTAINS 12 SQUARE FEET, MORE OR LESS.
21

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

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

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

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

34 (d) Permittee is fully responsible for any and all damages incurred to facilities of the
35 Water Department and/or drainage facilities for water and sewage of the City and County of
36 Denver due to activities authorized by the permit. Should the relocation or replacement of any
37 drainage facilities for water and sewage of the City and County of Denver become necessary as
38 determined by the Manager of Public Works, in the Manager's sole and absolute discretion,
39 Permittee shall pay all cost and expense of the portion of the sewer affected by the permitted

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

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

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

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

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

30 (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and
31 curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that
32 become broken, damaged or unsightly during the course of construction. In the future, Permittee
33 shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that

1 become broken or damaged when, in the opinion of the City Engineer, the damage has been
2 caused by the activity of the Permittee within the Encroachment Area. All repair work shall be
3 accomplished without cost to the City and under the supervision of the City Engineer.

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

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

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

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

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

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

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

13 COMMITTEE APPROVAL DATE: June 6, 2013 [by consent]

14 MAYOR-COUNCIL DATE: June 11, 2013

15 PASSED BY THE COUNCIL: _____, 2013

16 _____ - PRESIDENT

17 ATTEST: _____ - CLERK AND RECORDER,
18 EX-OFFICIO CLERK OF THE
19 CITY AND COUNTY OF DENVER

20 PREPARED BY: Brent A. Eisen, Assistant City Attorney DATE: June 13, 2013

21 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of
22 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
23 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §
24 3.2.6 of the Charter.

25 Douglas J. Friednash, Denver City Attorney

26 BY: _____, Assistant City Attorney DATE: _____, 2013

27