

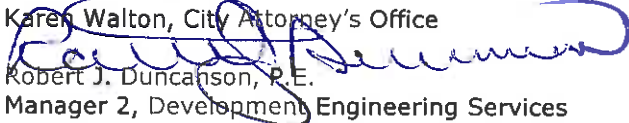


DENVER
THE MILE HIGH CITY

Department of Public Works
Permit Operations and Right of Way Enforcement
201 W. Colfax Avenue, Dept. 507
Denver, CO 80202
P: 720-865-2782
F: 720-865-3280
www.denvergov.org/pwprs

REQUEST FOR REVOCATION OF MAJOR ENCUMBRANCE PERMIT

TO: Karen Walton, City Attorney's Office

FROM: 
Robert J. Duncan, P.E.
Manager 2, Development Engineering Services

ROW NO.: 2005-0313-02

DATE: May 10, 2013

SUBJECT: Request for revocation of Ordinance # 11, Series of 2005 which granted a revocable permit to Denver Public Schools, their successors and assigns, to encroach into the right of way with remediation system consisting of (4) 1" pipes, and (2) 5" pipes, at 2880 W 8th Ave

It is requested that the above subject item be placed on the next available Mayor Council Agenda.

This office has investigated the request from Tyler Sparks, dated 12/14/2012, on behalf of Denver Public Schools for revocation of the above-subject permit. The reason for the revocation is the items are abandoned, and no longer in use.

This matter has been checked by this office and has been coordinated with DES Construction Engineering to ensure the encumbrance in question has been removed.

As a result of the investigations, it has been determined that there is no objection to revocation of the revocable permit.

Therefore, you are requested to initiate Council action for the revocation of a revocable permit granted by Ordinance # 11, Series of 2005.

RJD: VLH

cc: City Councilperson & Aides
City Council Staff, Gretchen Williams
Department of Law, Karen Aviles,
Department of Law, Brent Eisen
Department of Law, Karen Walton
Department of Law, Arlene Dykstra
Public Works, Alba Castro
Public Works, Stacie Loucks
Public Works Survey, Jeff Jones,
Project File

Owner:
Denver Public Schools
Joni Rix
2880 W 7th Ave
Denver, Co 80204

Agent:
Pinyon Environmental
Tyler Sparks
9100 W Jewell Ave Suite 200
Lakewood, Co 80232

ORDINANCE/RESOLUTION REQUEST

Please email requests to Daelene Mix at Nancy.khun@denvergov.org by **NOON on Monday.**

**All fields must be completed.*
Incomplete request forms will be returned to sender which may cause a delay in processing.*

Date of Request: May 10, 2013

Please mark one: Bill Request or Resolution Request

1. Has your agency submitted this request in the last 12 months?

Yes No

If yes, please explain:

2. Title: (Include a concise, one sentence description – please include name of company or contractor and contract control number - that clearly indicates the type of request: grant acceptance, contract execution, amendment, municipal code change, supplemental request, etc.)

Request for revocation of Ordinance # 11, Series of 2005 which granted a revocable permit to Denver Public Schools, their successors and assigns, to encroach into the right of way with remediation system consisting of (4) 1" pipes, and (2) 5" pipes, at 2880 W 8th Ave

3. Requesting Agency: PW Right of Way Engineering Services

4. Contact Person: (With actual knowledge of proposed ordinance/resolution.)

- Name: Vanessa Herman
- Phone: 720-913-0719
- Email: vanessa.hernan@denvergov.org

5. Contact Person: (With actual knowledge of proposed ordinance/resolution who will present the item at Mayor-Council and who will be available for first and second reading, if necessary.)

- Name: Nancy Kuhn
- Phone: 720-865-8720
- Email: nancy.kuhn@denvergov.org

6. General description of proposed ordinance including contract scope of work if applicable:

Revoke Ordinance # 11, Series of 2005

***Please complete the following fields: (Incomplete fields may result in a delay in processing. If a field is not applicable, please enter N/A for that field.)*

- a. Contract Control Number: N/A
- b. Duration: Permanent Dist # 9, Judy Montero
- c. Location: 2880 W 8th Ave
- d. Affected Council District:
- e. Benefits: N/A
- f. Costs: N/A

7. Is there any controversy surrounding this ordinance? (Groups or individuals who may have concerns about it?) Please explain.

None

To be completed by Mayor's Legislative Team:

SIRE Tracking Number: _____

Date Entered: _____



EXECUTIVE SUMMARY

DENVER
THE MILE HIGH CITY

Project Title: 2005-0313-02 Revocation of MEP for Denver Public Schools Hilltop Transportation Facility 2880 W 8th Ave

Description of Proposed Project: Revoke Ordinance 11, Series of 2005 which was granting a revocable to encroach with a remediation system consisting of (4) 1" pipes, and (2) 5" pipes.

Explanation of why the public right-of-way must be utilized to accomplish the proposed project: The items are abandoned and no longer in use

Has a Temp MEP been issued, and if so, what work is underway: N/A

What is the known duration of an MEP: N/A

Will land be dedicated to the City if the vacation goes through: N/A

Will an easement be placed over a vacated area, and if so explain: N/A

Will an easement relinquishment be submitted at a later date: N/A

Additional information: N/A

BY AUTHORITY

1
2 ORDINANCE NO. 11
3 SERIES OF 2005

COUNCIL BILL NO. 1013
COMMITTEE OF REFERENCE:
Public Works

4
5
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12
13
A BILL

For an ordinance granting a revocable permit to Denver Public Schools to encroach into W. 8th Avenue with various items.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. The City and County of Denver hereby grants to Denver Public Schools, its successors and assigns ("Permittee"), a revocable permit to encroach with a Remediation System consisting of four-1" diameter high density polyethylene (HDPE) pipes and two-5" diameter HDPE pipes in the following described area ("Encroachment Area"):

A TEN FOOT WIDE STRIP OF LAND LOCATED IN THE SE ¼ OF SECTION 5, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY & COUNTY OF DENVER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT COMMON TO THE NORTH LINE OF THE 5.00 FOOT WIDE STRIP OF LAND DEEDED TO THE CITY AND COUNTY OF DENVER AT BOOK 833, PAGE 201 ON FEBRUARY 12, 1974 AND THE WEST LINE OF LOT 55, FISK'S ADDITION TO SOUTH FAIRVIEW SUBDIVISION AS RECORDED IN BOOK 10, PAGE 18 ON JUNE 12, 1890, FROM WHENCE THE SAID WEST LINE EXTENDED TO A 16' DEDICATED R.O.W. (ORDINANCE NO. 26-1901) BEARS N00°36'55"W, A DISTANCE OF 134.92 FEET AND ARE BOTH MONUMENTED BY A NO. 5 REBAR WITH YELLOW PLASTIC CAP, "BURDICK, PE LS 9010" AND IS THE BASIS OF BEARINGS FOR THIS LAND DESCRIPTION; THENCE N89°42'12"E, ON THE NORTH LINE OF SAID 5.00 FOOT WIDE STRIP OF LAND A DISTANCE OF 87.19 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING ON SAID NORTH LINE N89°42'12"E, A DISTANCE OF 10.00 FEET; THENCE S00°00'00"E, A DISTANCE OF 77.49 FEET TO THE SOUTH LINE OF THE 12.00 FOOT WIDE STRIP OF LAND DEDICATED AS 8TH AVENUE RIGHT-OF-WAY BY CITY ORDINANCE NO. 961-2001; THENCE ON SAID SOUTH LINE S89°45'17"W, A DISTANCE OF 10.00 FEET; THENCE N00°00'00"W, A DISTANCE OF 77.48 FEET TO THE POINT OF BEGINING. SAID 10.00 FOOT STRIP OF LAND CONTAINS 774 SQUARE FEET OR 0.017 ACRES, MORE OR LESS.

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

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

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

7 (c) If the Permittee intends to install any underground facilities in or near a public road,
8 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification
9 Association of Owners and Operators of Underground Facilities by contacting the Utility Notification
10 Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215, at 303-
11 232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 to
12 locate underground facilities prior to commencing any work under this permit.

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

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

32 (f) All construction in, under, on or over the Encroachment Area shall be accomplished in
33 accordance with the Building Code of the City and County of Denver. Plans and Specifications

1 governing the construction of the Encroachments shall be approved by the Manager of Public Works
2 and the Director of Building Inspection Division prior to construction. Upon completion, a
3 reproducible copy of the exact location and dimensions of the Encroachments shall be filed with the
4 Manager of Public Works.

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

11 (h) Permittee shall pay all costs of construction and maintenance of the Encroachment.
12 Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing the
13 Encroachment from the Encroachment Area and return the Encroachment Area to its original
14 condition under the supervision of the City Engineer.

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

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

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

29 (l) During the existence of the Encroachments and this permit, Permittee, its successors
30 and assigns, at its expense, and without cost to the City and County of Denver, shall procure and
31 maintain a single limit comprehensive general liability insurance policy with a limit of not less than
32 \$500,000.00. All coverages are to be arranged on an occurrence basis and include coverage for
33 those hazards normally identified as X.C.U. during construction. The insurance coverage required

1 herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit
2 or lessen the liability of the Permittee, its successors or assigns, under the terms of this permit. All
3 insurance coverage required herein shall be written in a form and by a company or companies
4 approved by the Risk Manager of the City and County of Denver and authorized to do business in
5 the State of Colorado. A certified copy of all such insurance policies shall be filed with the Manager
6 of Public Works, and each such policy shall contain a statement therein or endorsement thereon
7 that it will not be canceled or materially charged without written notice, by registered mail, to the
8 Manager of Public Works at least thirty (30) days prior to the effective date of the cancellation or
9 material change. All such insurance policies shall be specifically endorsed to include all liability
10 assumed by the Permittee hereunder and shall name the City and County of Denver as an
11 additional insured.

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

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

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

21 (p) For the duration of the revocable permit Permittee shall be responsible for repair of
22 any damage to street caused by failure of the utility, including cave-ins. Markers identifying
23 ownership shall be placed at each edge of the roadway or right-of-way and shall include contact
24 information for the Permittee; and shall be maintained by the owner.

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

33

1 COMMITTEE APPROVAL DATE: N/A MAYOR-COUNCIL DATE: December 20, 2005
2 PASSED BY THE COUNCIL January 9 2006
3 James E. Z... - PRESIDENT
4 APPROVED: [Signature] - MAYOR JANUARY 10 2006
5
6 ATTEST: [Signature] - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER
9

10 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2005; _____ 2005
11 PREPARED BY: KAREN A. AVILES, ASSISTANT CITY ATTORNEY; 12/20/05

12 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
13 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
14 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
15 3.2.6 of the Charter.
16
17

18 Cole Finegan, City Attorney

19
20 BY: [Signature] Asst City Attorney DATE: 22 Dec 05