

1 **BY AUTHORITY**

2 RESOLUTION NO. CR19-0458
3 SERIES OF 2019

COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

4 **A RESOLUTION**

5 **Granting a revocable permit to Revesco UPVF1 - 17th Street, LLLP, to encroach**
6 **into the right-of-way at 2721 17th Street.**

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

8 **Section 1.** The City and County of Denver ("City") hereby grants to Revesco UPVF1 - 17th
9 Street, LLLP and its successors and assigns ("Permittee"), a revocable permit to encroach into the
10 right-of-way with a 4' - 6" deep x 17' - 4 3/4" wide x 9' - 0 1/2" tall steel awning with supports atop an
11 elevated entrance with railings, measuring 3' - 5 1/4" high at the steepest incline, for a total height of
12 12' - 5 3/4", projecting 3' - 9 3/4" into the right-of-way (located in 2019-ENCROACHMENT-0000005-
13 01); and, two (2) detached, elevated concrete patios measuring 385 square feet with heights of 1' -
14 8" and 1' - 6" (located in 2019-ENCROACHMENT-0000005-02), respectively, ("Encroachments") at
15 2721 17th Street in the following described areas ("Encroachment Area"):

16 **PARCEL DESCRIPTION ROW NO. 2019-ENCROACHMENT-0000005-01:**

17 A PARCEL OF LAND BEING A PORTION OF THE 17th STREET RIGHT OF WAY ADJACENT
18 TO LOT 14, BLOCK 22, KASSERMANS ADDITION, WHEELER RESUBDIVISION, AS FILED IN
19 THE CITY AND COUNTY OF DENVER CLERK AND RECORDER'S OFFICE ON JANUARY 31,
20 1891 IN PLAT BOOK 11 AT PAGE 19A; SITUATED IN THE SOUTHWEST QUARTER OF
21 SECTION 28, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN,
22 CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY
23 DESCRIBED AS FOLLOWS:

24 COMMENCING AT THE WEST CORNER OF SAID LOT 14; THENCE S45°06'42"E, ALONG THE
25 SOUTHWEST BOUNDARY OF SAID LOT 14, A DISTANCE OF 40.03 FEET TO THE POINT OF
26 BEGINNING;

27 THENCE S45°06'42"E, CONTINUING ALONG THE SOUTHWEST BOUNDARY OF SAID LOT 14,
28 A DISTANCE OF 18.42 FEET; THENCE S44°46'36"W A DISTANCE OF 3.90 FEET; THENCE
29 N35°28'03"W A DISTANCE OF 18.69 FEET; THENCE N44°53'18"E A DISTANCE OF 0.77 FEET
30 TO THE POINT OF BEGINNING.

31 THE ABOVE DESCRIPTION CONTAINS 43 SQUARE FEET OR 0.001 ACRES MORE OR LESS
32 and

33 **REMAINDER OF PAGE INTENTIONALLY BLANK**

PARCEL DESCRIPTION ROW NO. 2019-ENCROACHMENT-0000005-02:

A PARCEL OF LAND BEING A PORTION OF THE 17th STREET RIGHT OF WAY ADJACENT TO LOT 14, BLOCK 22, KASSERMANS ADDITION, WHEELER RESUBDIVISION, AS FILED IN THE CITY AND COUNTY OF DENVER CLERK AND RECORDER'S OFFICE ON JANUARY 31, 1891 IN PLAT BOOK 11 AT PAGE 19A; SITUATED IN THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST CORNER OF SAID LOT 14; THENCE S45°06'42"E, ALONG THE SOUTHWEST BOUNDARY OF SAID LOT 14, A DISTANCE OF 32.00 FEET; THENCE S45°05'42"W A DISTANCE OF 11.38 FEET TO THE POINT OF BEGINNING;

THENCE S44°54'51"E A DISTANCE OF 31.00 FEET; THENCE S45°05'45"W A DISTANCE OF 10.04 FEET; THENCE N44°54'15"W A DISTANCE OF 31.00 FEET; THENCE N45°05'45"W A DISTANCE OF 10.04 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIPTION CONTAINS 311 SQUARE FEET OR 0.0071 ACRES MORE OR LESS

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

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

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

(c) If the Permittee intends to install any underground facilities in or near a public road, street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification Association of Owners and Operators of Underground Facilities by contacting the Utility Notification Center of Colorado, 16361 Table Mountain Parkway, Golden, Colorado 80403, at 303-232-1991. Further, Permittee shall contact the Utility Notification Center at 811 to locate underground facilities prior to commencing any work under this Permit.

(d) Permittee is fully responsible for any and all damages incurred to facilities of the Water Department and/or drainage facilities for water and sewage of the City due to activities authorized by the Permit. Should the relocation or replacement of any drainage facilities for water and sewage of the City become necessary as determined by the City's Executive Director of Public Works ("Executive Director"), in the Executive Director's sole and absolute discretion, Permittee shall pay all cost and expense of the portion of the sewer affected by the permitted structure. The extent of the affected portion to be replaced or relocated by Permittee shall be determined by the Executive

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

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

12 (f) All construction in, under, on or over the Encroachment Area shall be accomplished in
13 accordance with the Building Code of the City. Plans and specifications governing the construction
14 of the Encroachments shall be approved by the Executive Director and the Director of Building
15 Inspection Division prior to construction. Upon completion, a reproducible copy of the exact location
16 and dimensions of the Encroachments shall be filed with the Executive Director.

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

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

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

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

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

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

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

28 (n) The right to revoke this Permit is expressly reserved to the City.

29 (o) Permittee shall agree to indemnify and always save the City harmless from all costs,
30 claims or damages arising, either directly or indirectly, out of the rights and privileges granted by this
31 Permit.

32 **Section 3.** That the Permit hereby granted shall be revocable at any time that the Council
33 of the City and County of Denver shall determine that the public convenience and necessity or the

1 public health, safety or general welfare require such revocation, and the right to revoke the same is
2 hereby expressly reserved to the City; provided however, at a reasonable time prior to City Council
3 action upon such revocation or proposed revocation, opportunity shall be afforded to Permittee, its
4 successors and assigns, to be present at a hearing to be conducted by the City Council upon such
5 matters and thereat to present its views and opinions thereof and to present for consideration action
6 or actions alternative to the revocation of such Permit.

7 COMMITTEE APPROVAL DATE: May 14, 2019 by Consent

8 MAYOR-COUNCIL DATE: May 21, 2019 by Consent

9 PASSED BY THE COUNCIL: June 3, 2019 _____


10 _____ - PRESIDENT

11 ATTEST: _____ - CLERK AND RECORDER,
12 EX-OFFICIO CLERK OF THE
13 CITY AND COUNTY OF DENVER

14 PREPARED BY: Martin A. Plate, Assistant City Attorney DATE: May 23, 2019

15 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the Office of
16 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
17 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §
18 3.2.6 of the Charter.

19
20 Kristin M. Bronson, Denver City Attorney

21 BY:  _____, Assistant City Attorney DATE: May 22, 2019
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