

1 BY AUTHORITY

2 RESOLUTION NO. CR10-0993  
3 SERIES OF 2010

COMMITTEE OF REFERENCE:  
Land Use, Transportation & Infrastructure

4 A RESOLUTION

5 **Granting a revocable permit to Larimer Square Management to encroach into**  
6 **the right-of-way with various items at 1423 Larimer Street.**

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 Larimer Square Management  
10 and its successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way  
11 with stair handrails, guardrails, and stair treads and risers, ("Encroachments") in the following  
12 described area ("Encroachment Area"):

A PORTION OF LARIMER STREET, BEING A PARCEL OF LAND SITUATED IN THE NE 1/4  
OF SECTION 33, TOWNSHIP 3  
SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, SAID PARCEL BEING  
MORE  
PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE MOST SOUTHERLY CORNER OF LOT 22, BLOCK 45, EAST  
DENVER;  
THENCE NORTHEASTERLY ALONG THE ROW OF LARIMER STREET A DISTANCE OF  
20.02 FEET  
TO THE POINT OF BEGINNING;

THENCE DEPARTING SAID ROW PERPINDICULARLY A DISTANCE OF 5.08 FEET;  
THENCE AT RIGHT ANGLES PARALLEL WITH SAID ROW A DISTANCE OF 8.28 FEET;  
THENCE AT RIGHT ANGLES PERPINDICULAR TO SAID ROW A DISTANCE OF  
5.08 FEET;  
THENCE SOUTHWESTERLY ALONG SAID ROW A DISTANCE OF 8.28 FEET TO THE  
POINT OF BEGINNING.

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  
17 Operations at 2000 West 3<sup>rd</sup> Avenue, 303-446-3759, prior to commencing construction.

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

20 (c) If the Permittee intends to install any underground facilities in or near a public road,  
21 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification  
22 Association of Owners and Operators of Underground Facilities by contacting the Utility Notification  
23 Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215, at 303-

1 232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 to  
2 locate underground facilities prior to commencing any work under this permit.

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

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

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

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

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

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

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

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

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

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

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

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

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

19 COMMITTEE APPROVAL DATE: November 10, 2010 by consent.

20 MAYOR-COUNCIL DATE: November 16, 2010

21 PASSED BY THE COUNCIL: \_\_\_\_\_, 2010  
22 \_\_\_\_\_ - PRESIDENT

23 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
24 EX-OFFICIO CLERK OF THE  
25 CITY AND COUNTY OF DENVER

26 PREPARED BY: KAREN A. AVILES, Assistant City Attorney DATE: November 18, 2010

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

31 David R. Fine, City Attorney

32 BY: \_\_\_\_\_, Assistant City Attorney DATE: \_\_\_\_\_, 2010

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