

**BY AUTHORITY**

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2010

COUNCIL BILL NO. CB10-0737  
COMMITTEE OF REFERENCE:

Land Use, Transportation & Infrastructure

**A BILL**

**For an ordinance vacating nine (9) feet of 43<sup>rd</sup> Ave. at 43<sup>rd</sup> Ave. and Delaware St., with reservations.**

**WHEREAS**, the Manager of Public Works of the City and County of Denver has found and determined that the public use, convenience and necessity no longer require that certain area in the system of thoroughfares of the municipality hereinafter described and, subject to approval by ordinance, has vacated the same with the reservations hereinafter set forth;

**NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

**Section 1.** That the action of the Manager of Public Works in vacating the following described area in the City and County of Denver and State of Colorado, to wit:

ALL THAT PORTION OF WEST 43RD AVENUE  
LYING 9.00 FEET ADJACENT TO THE SOUTH  
LINE OF LOT 16, BLOCK 8  
VIADUCT ADDITION TO THE CITY OF DENVER,  
CITY AND COUNTY OF DENVER,  
STATE OF COLORADO.

CONTAINING 1,336.50 SQUARE FEET, MORE OR LESS.

be and the same is hereby approved and the described area is hereby vacated and declared vacated; PROVIDED, HOWEVER, said vacation shall be subject to the following reservations covering the land described below:

A perpetual, non-exclusive easement is hereby reserved by the City and County of Denver, its successors and assigns, over, under, across, along, and through the vacated area for the purposes of constructing, operating, maintaining, repairing, upgrading and replacing public or private utilities including storm drainage and sanitary sewer facilities and all appurtenances to said utilities. A hard surface shall be maintained by the property owner over the entire easement area. The City reserves the right to authorize the use of the reserved easement by all utility providers with existing facilities in the easement area. No trees, fences, retaining walls, landscaping or structures shall be allowed over, upon or under the easement area. Any such obstruction may be removed by the City or the utility provider at the property owner's expense. The property owner shall not re-grade or alter the ground cover in the easement area without permission from the City and County of Denver. The

1 property owner shall be liable for all damages to such utilities, including their repair and  
2 replacement, at the property owner's sole expense. The City and County of Denver, its successors,  
3 assigns, licensees, permittees and other authorized users shall not be liable for any damage to  
4 property owner's property due to use of this reserved easement.

5 COMMITTEE APPROVAL DATE: August 26, 2010 by consent.

6 MAYOR-COUNCIL DATE: August 31, 2010

7 PASSED BY THE COUNCIL: \_\_\_\_\_, 2010

8 \_\_\_\_\_ - PRESIDENT

9 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_, 2010

10 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
11 EX-OFFICIO CLERK OF THE  
12 CITY AND COUNTY OF DENVER

13 NOTICE PUBLISHED IN THE DAILY JOURNAL: \_\_\_\_\_, 2010; \_\_\_\_\_, 2010

14 PREPARED BY: KAREN A. AVILES, ASSISTANT CITY ATTORNEY DATE: September 1, 2010

15 Pursuant to section 13-12, D.R.M.C., this proposed ordinance 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 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §  
18 3.2.6 of the Charter.

19 David R. Fine, City Attorney

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