

1 BY AUTHORITY

2 RESOLUTION NO. CR13-0367
3 SERIES OF 2013

COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

4
5 A RESOLUTION

6 **Granting a revocable permit to Platt Park North, LLC, to encroach into the**
7 **right-of-way with various items in three alleys south of East Mississippi**
8 **Avenue between South Lincoln Street and South Logan 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 Platt Park North LLC, and its
13 successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with
14 three (3) storm sewer crossings within Phases 1 and 2 of the Platt Park North Development
15 ("Encroachments") in the alleys south of East Mississippi Avenue between South Lincoln Street
16 and South Sherman Street [2013-0133-02-003]; South Sherman Street and South Grant Street
17 [2013-0133-02-002]; and South Grant Street and South Logan Street [2013-0133-02-001] in the
18 following described area ("Encroachment Area"):

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20 **2013-0133-02-003**

21
22 A PORTION OF BLOCK 7, SHERMAN SUBDIVISION, RECORDED IN PLAT BK 3, PG. 4 WITH THE
23 ARAPAHOE COUNTY CLERK & RECORDER; AS IT EXISTS IN THE NE1/4 of SECTION 22,
24 TOWNSHIP 4 SOUTH, RANGE 68 WEST of the 6th P.M., CITY and COUNTY OF DENVER, STATE
25 OF COLORADO, FURTHER DESCRIBED AS:

26
27 FOR PURPOSES OF THIS DESCRIPTION, BEARINGS ARE BASED ON THE NORTH LINE OF SAID
28 BLOCK 7 AS MONUMENTED ON BOTH ENDS BY A REBAR WITH YELLOW PLASTIC CAP,
29 LS24968 AND ASSUMED TO BEAR NORTH 89°54'07" EAST;

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31 BEGINNING AT A POINT WITHIN LOT 13 OF SAID BLOCK 7, WHENCE THE NORTHWEST
32 CORNER OF SAID BLOCK 7 BEARS NORTH 20°44'23" WEST, FOR A DISTANCE OF 324.81 FEET;
33 THENCE SOUTH 83°58'43" EAST, FOR 2.59 FEET;
34 THENCE NORTH 47°33'40" EAST, FOR 4.17 FEET;
35 THENCE NORTH 00°12'12" EAST, FOR 24.87 FEET;
36 THENCE NORTH 89°54'07" EAST, FOR 2.00 FEET;
37 THENCE SOUTH 00°12'12" WEST, FOR 24.82 FEET;
38 THENCE SOUTH 44°25'00" EAST, FOR 4.61 FEET;
39 THENCE NORTH 89°54'40" EAST, FOR 13.72 FEET;
40 THENCE SOUTH 00°06'05" EAST, FOR 2.00 FEET;
41 THENCE SOUTH 89°54'40" WEST, FOR 13.72 FEET;
42 THENCE SOUTH 45°35'13" WEST, FOR 4.56 FEET;

1 THENCE SOUTH 00°12'12" WEST, FOR 1.70 FEET;
2 THENCE NORTH 45°05'59" WEST, FOR 10.75 FEET TO THE POINT OF BEGINNING
3 and

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5 **2013-0133-02-002**
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7 A PORTION OF BLOCK 6, SHERMAN SUBDIVISION, RECORDED IN PLAT BK 3, PG. 4 WITH THE
8 ARAPAHOE COUNTY CLERK & RECORDER; AS IT EXISTS IN THE NE1/4 of SECTION 22,
9 TOWNSHIP 4 SOUTH, RANGE 68 WEST of the 6th P.M., CITY and COUNTY OF DENVER, STATE
10 OF COLORADO, FURTHER DESCRIBED AS:

11
12 FOR PURPOSES OF THIS DESCRIPTION, BEARINGS ARE BASED ON THE NORTH LINE OF SAID
13 BLOCK 6 AS MONUMENTED ON BOTH ENDS BY A REBAR WITH YELLOW PLASTIC CAP,
14 LS24968 AND ASSUMED TO BEAR NORTH 89°54'07" EAST;

15
16 BEGINNING AT A POINT WITHIN LOT 3 OF SAID BLOCK 6, WHENCE THE NORTHWEST
17 CORNER OF SAID BLOCK 6 BEARS NORTH 59°46'46" WEST, FOR A DISTANCE OF 137.90 FEET;
18 THENCE NORTH 87°00'35" EAST, FOR 16.02 FEET;
19 THENCE SOUTH 00°05'47" EAST, FOR 2.00 FEET;
20 THENCE SOUTH 87°00'35" WEST, FOR 16.02 FEET;
21 THENCE NORTH 00°05'47" WEST, FOR 2.00 FEET TO THE TRUE POINT OF BEGINNING

22
23 and

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25 **2013-0133-02-001**
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27 A PORTION OF BLOCK 5, SHERMAN SUBDIVISION, RECORDED IN PLAT BK 3, PG. 4 WITH THE
28 ARAPAHOE COUNTY CLERK & RECORDER; AS IT EXISTS IN THE NE1/4 of SECTION 22,
29 TOWNSHIP 4 SOUTH, RANGE 68 WEST of the 6th P.M., CITY and COUNTY OF DENVER, STATE
30 OF COLORADO, FURTHER DESCRIBED AS:

31
32 FOR PURPOSES OF THIS DESCRIPTION, BEARINGS ARE BASED ON THE NORTH LINE OF SAID
33 BLOCK 5 AS MONUMENTED ON BOTH ENDS BY A REBAR WITH YELLOW PLASTIC CAP,
34 LS24968 AND ASSUMED TO BEAR NORTH 89°54'07" EAST;

35
36 BEGINNING AT A POINT WITHIN LOT 3 OF SAID BLOCK 5, WHENCE THE NORTHWEST
37 CORNER OF SAID BLOCK 5 BEARS NORTH 59°46'21" WEST, FOR A DISTANCE OF 142.61 FEET;
38 THENCE SOUTH 89°55'28" EAST, FOR 20.00 FEET;
39 THENCE SOUTH 00°05'59" EAST, FOR 2.24 FEET;
40 THENCE NORTH 89°55'28" WEST, FOR 20.00 FEET;
41 THENCE NORTH 00°05'59" WEST, FOR 2.24 FEET TO THE TRUE POINT OF BEGINNING

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

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

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

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

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

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

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

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

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

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

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

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

25 (l) During the existence of the Encroachments and this permit, Permittee, its
26 successors and assigns, at its expense, and without cost to the City and County of Denver, shall
27 procure and maintain a single limit comprehensive general liability insurance policy with a limit of
28 not less than \$500,000.00. All coverages are to be arranged on an occurrence basis and include
29 coverage for those hazards normally identified as X.C.U. during construction. The insurance
30 coverage required herein constitutes a minimum requirement and such enumeration shall in no
31 way be deemed to limit or lessen the liability of the Permittee, its successors or assigns, under the
32 terms of this permit. All insurance coverage required herein shall be written in a form and by a
33 company or companies approved by the Risk Manager of the City and County of Denver and

1 authorized to do business in the State of Colorado. A certified copy of all such insurance policies
2 shall be filed with the Manager of Public Works, and each such policy shall contain a statement
3 therein or endorsement thereon that it will not be canceled or materially changed without written
4 notice, by registered mail, to the Manager of Public Works at least thirty (30) days prior to the
5 effective date of the cancellation or material change. All such insurance policies shall be
6 specifically endorsed to include all liability assumed by the Permittee hereunder and shall name
7 the City and County of Denver as an additional insured.

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

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

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

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

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

MAYOR-COUNCIL DATE: June 11, 2013

PASSED BY THE COUNCIL: _____, 2013

_____ - PRESIDENT

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

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

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

Douglas J. Friednash, Denver City Attorney

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