



*****Resolution Amendment*****
(Please review entire request)

REQUEST FOR RESOLUTION FOR MAJOR ENCUMBRANCE PERMIT

TO: Karen Walton, City Attorney's Office
FROM: Robert J. Duncanson, P.E.
Manager 2, Development Engineering Services
ROW NO.: 2008-0098-04
DATE: October 23, 2012
SUBJECT: Request to **amend** Ordinance No 315, Series of 2000, to Dawn Food Products Inc, their successors and assigns, to encroach into the right-of-way with a new private 6" sanitary sewer and 2 cleanouts above existing sewer at 45th Ave and Lipan St.

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

This office has investigated the request from Brian Knadle of Burns and McDonnell dated 6/20/2012, on behalf of Dawn Food Products Inc for the granting of the above-subject permit.

This matter has been checked by this office and has been coordinated with Asset Management; Colorado Department of Transportation (if required); Comcast Corporation; Commission For People With Disabilities; Councilperson Montero; CPD: Building & Construction Services, Planning Services, and Zoning & Development Review; Denver Water Board; Environmental Services (if required); Fire Department (if required); Metro Wastewater Reclamation District; Office of Emergency Management; Office of Telecommunications; Parks and Recreation; Public Works: City Engineer, DES Construction Engineering, DES Engineering, DES Survey, IPP Infrastructure Engineering, and Street Maintenance; Qwest Corporation; Regional Transportation District; and Xcel Energy, all of whom have returned our questionnaires indicating their agreement.

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

Therefore, you are requested to initiate Council action for the granting of a revocable permit, subject to certain terms and conditions, to Dawn Food Products Inc, their successors and assigns, to encroach into the right-of-way with a new private 6" sanitary sewer and 2 cleanouts above existing sewer at 45th Ave and Lipan St.

PARCEL DESCRIPTION IS THE SAME AS ORDINANCE 315, SERIES 2000
(NO CHANGE IN LEGAL DESCRIPTION)

STANDARD PROVISIONS

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

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- (a) Permittee shall obtain a street occupancy permit from Public Works Permit Operations at 2000 West 3rd Avenue, 303.446.3759, and 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, 12600 West Colfax Ave, Suite B-310, Lakewood, Colorado, 80215 at 303.232.1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 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 and County of Denver due to activities authorized by the permit. Should the relocation or replacement of any drainage facilities for water and sewage of the City and County of Denver become necessary as determined by the Manager of Public Works, in the Manager'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 and relocated by Permittee shall be determined by the Manager of Public Works. Any and all replacement or repair of facilities of the Water Department and/or drainage facilities for water and sewage of the City and County of Denver attributed to the Permittee shall be made by the Water Department and/or the City and County of Denver at the sole expense of the Permittee. In the event Permittee's facilities are damaged or destroyed due to the Water Department's or the City and County of Denver's repair, replacement and/or operation of its facilities, repairs will be made by Permittee at its sole expense. Permittee agrees to defend, indemnify and save the City harmless and to repair or pay for the repair of any and all damages to said sanitary sewer, or those damages resulting from the failure of the sewer to properly function as a result of the permitted structure.
- (e) Permittee shall comply with all requirements of affected utility companies and pay for all costs of removal, relocation, replacement or rearrangement of utility company facilities. Existing telephone facilities shall not be utilized, obstructed or disturbed.
- (f) All construction in, under, on or over the Encroachment Area shall be accomplished in accordance with the Building Code of the City and County of Denver. Plans and Specifications governing the construction of the Encroachments shall be approved by the Manager of Public Works and the Director of the Building Inspection Division prior to construction. Upon completion, a reproducible copy of the exact location and dimensions of the Encroachments shall be filed with the Manager of Public Works.
- (g) The sidewalk and street/alley over the Encroachment Area shall be capable of withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The installations within the

Encroachment Area shall be constructed so that the paved section of the street/alley can be widened without requiring additional structural modifications. The sidewalk shall be constructed so that it can be removed and replaced without affecting structures within the Encroachment Area.

- (h) Permittee shall pay all costs of construction and maintenance of the Encroachment. Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing the Encroachment from the Encroachment Area, and return the Encroachment Area to its original condition under the supervision of the City Engineer.
- (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that become broken, damaged or unsightly during the course of construction. In the future, Permittee shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that become broken or damaged when, in the opinion of the City Engineer, the damage has been caused by the activity of the Permittee within the Encroachment Area. All repair work shall be accomplished without cost to the City and under the supervision of the City Engineer.
- (j) The City reserves the right to make an inspection of the Encroachments contained within the Encroachment Area. An annual fee, subject to change, of \$200.00 shall be assessed.
- (k) This revocable permit shall not operate or be construed to abridge, limit or restrict the City and County of Denver in exercising its right to make full use of the Encroachment Area and adjacent rights-of-way as public thoroughfares nor shall it operate to restrict the utility companies in exercising their rights to construct, remove, operate and maintain their facilities within the Encroachment Area and adjacent rights-of-way.
- (l) During the existence of the Encroachments and this permit, Permittee, its successors and assigns, at its expense, and without cost to the City and County of Denver, shall procure and maintain a single limit comprehensive general liability insurance policy with a limit of not less than \$500,000.00. All coverage's are to be arranged on an occurrence basis and include coverage for those hazards normally identified as X.C.U. during construction. The insurance coverage required herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit or lessen the liability of the Permittee, its successors or assigns, under the terms of this permit. All insurance coverage required herein shall be written in a form and by a company or companies approved by the Risk Manager of the City and County of Denver and authorized to do business in the State of Colorado. A certified copy of all such insurance policies shall be filed with the Manager of Public Works, and each such policy shall contain a statement therein or endorsement thereon that it will not be canceled or materially changed without written notice, by registered mail, to the Manager of Public Works at least thirty (30) days prior to the effective date of the cancellation or material change. All such insurance policies shall be specifically

endorsed to include all liability assumed by the Permittee hereunder and shall name the City and County of Denver as an additional insured.

- (m) Permittee shall comply with the provisions of Article IV (Prohibition of Discrimination in Employment, Housing and Commercial Space, Public Accommodations, Educational Institutions and Health and Welfare Services) of Chapter 28 (Human Rights) of the Revised Municipal Code of the City and County of Denver. The failure to comply with any such provision shall be a proper basis for revocation of this permit.
- (n) The right to revoke this permit is expressly reserved to the City and County of Denver.
- (o) Permittee shall agree to indemnify and always save the City and County of Denver harmless from all costs, claims or damages arising, either directly or indirectly, out of the rights and privileges granted by this permit.

SPECIAL CONDITIONS FOR THIS PERMIT

- (p) None

A map of the area is attached hereto.

RJD: VLH

cc: Asset Management, Steve Wirth
City Council Office, Gretchen Williams
Councilperson Montero and Aides
Department of Law, Karen Aviles
Department of Law, Brent Eisen
Department of Law, Shaun Sullivan
Department of Law, Karen Walton
Public Works, Alba Castro
Public Works, Nancy Kuhn
Project File # 2008-0098-04

Property Owner:
Dawn Food Product Inc
c/o Brian Alleman
4500 Lipan St
Denver, Co 80211

Agent:
Burns and McDonnell
c/o Brian Knadle
9785 Maroon Cir Suite 400
Centennial Co 80112

ORDINANCE/RESOLUTION REQUEST

Please email requests to Nancy Kuhn at
Nancy.Kuhn@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: October 23, 2012

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 to **amend** Ordinance No 315, Series of 2000, to Dawn Food Products Inc, their successors and assigns, to encroach into the right-of-way with a new private 6" sanitary sewer and 2 cleanouts above existing sewer at 45th Ave and Lipan St.

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.herman@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:**

To **amend** Ordinance No 315, Series of 2000, to encroach into the right-of-way with a new private 6" sanitary sewer and 2 cleanouts above existing sewer at 45th Ave and Lipan St.

****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
- c. **Location:** 45th Ave and Lipan St
- d. **Affected Council District:** Dist # 9 Montero
- 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: _____



DENVER
THE MILE HIGH CITY

EXECUTIVE SUMMARY

Project Title:2008-0098-04 AMEND MEP for Dawn Foods

Description of Proposed Project:to amend Ordinance No 315, Series of 2000, to Dawn Food Products Inc, their successors and assigns, to encroach into the right-of-way with a new private 6" sanitary sewer and 2 cleanouts above existing sewer at 45th Ave and Lipan St.

Explanation of why the public right-of-way must be utilized to accomplish the proposed project:wastewater improvements

Has a Temp MEP been issued, and if so, what work is underway:No

What is the known duration of an MEP:permanent

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:This is an amendment of Ordinance No 315, Series of 2000. They are just adding items to the previous Ordinance. The area described in the original ordinance is not changing. They are still in the same amount of area.

BY AUTHORITY

ORDINANCE NO. 315
SERIES OF 2000

COUNCIL BILL NO. 263
COMMITTEE OF REFERENCE:
PUBLIC WORKS AND AMENITIES

A BILL

FOR AN ORDINANCE GRANTING A REVOCABLE PERMIT SUBJECT TO CERTAIN TERMS AND CONDITIONS, TO DAWN FOOD PRODUCTS, INC., THEIR SUCCESSORS AND ASSIGNS, TO ENCROACH WITH A PRIVATE SIX INCH SANITARY SEWER, MANHOLE, AND CLEANOUTS INTO LIPAN STREET ADJACENT TO PROPERTY AT 4500 LIPAN STREET.

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

Section 1. The City and County of Denver hereby grants to Dawn Food Products Inc., their successors and assigns ("Permittee"), a revocable permit to encroach with a private six (6) inch sanitary sewer, control manhole for sampling, and cleanouts into Lipan Street adjacent to property at 4500 Lipan Street ("Encroachments") in the following described area ("Encroachment Area"):

A parcel of land 15 feet in width lying in Lipan Street between W. 45th Avenue and W. 46th Avenue, being a portion of the northeast one-quarter (NE ¼) of Section 21, Township 3 South, Range 68 West of the 6th Principal Meridian, City and County of Denver, State of Colorado, described as follows:

Beginning at the northwest corner of Block 20, RICHARDSON'S SUBDIVISION, City and County of Denver Records; thence southerly 304 feet along the west line of said Block 20 and the east right-of-way line of Lipan Street to the True Point of Beginning;

thence continuing southerly 220 feet along said west line and said east right-of-way line;
thence westerly 15 feet at right angles to said west line;
thence northerly 205 feet along a line 15 feet west of and parallel with said west line;
thence westerly 19 feet at right angles to said west line;
thence northerly 15 feet at right angles along a line 34 feet west of and parallel with said west line;
thence easterly 34 feet at right angles to said west line to the TRUE POINT OF BEGINNING.

Said parcel of land contains 3,585 square feet, more or less.

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

3 (a) Permittee shall obtain a street occupancy permit from the Right of Way Permit
4 Counter at 200 West 14th Avenue, First Floor, Denver, Colorado prior to commencing
5 construction.

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

8 (c) Permittee shall join the Statewide Notification Association of Owners and
9 Operators of Underground Facilities by contacting the Utility Notification Center of Colorado,
10 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215.

11 (d) Permittee is fully responsible for any and all damages incurred to facilities of the
12 Water Department and/or drainage facilities for water and sewage of the City and County of
13 Denver due to activities authorized by the permit. Any and all replacement or repair of facilities
14 of the Water Department and/or drainage facilities for water and sewage of the City and County
15 of Denver attributed to the Permittee shall be made by the Water Department and/or the City and
16 County of Denver at the sole expense of the Permittee. In the event Permittee's facilities are
17 damaged or destroyed due to the Water Department's or the City and County of Denver's repair,
18 replacement and/or operation of its facilities, repairs will be made by the Permittee at its sole
19 expense.

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

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

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

1 shall be constructed so that it can be removed and replaced without affecting structures within
2 the Encroachment Area.

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

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

14 (j) The City reserves the right to make an inspection of the Encroachments contained
15 within the Encroachment Area. An annual fee of \$100.00 shall be assessed.

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

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

1 effective date of the cancellation or material change. All such insurance policies shall be
2 specifically endorsed to include all liability assumed by the Licensee hereunder and shall name
3 the City and County of Denver as an additional insured.

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

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

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

14 (p) Provide two (2) inch riser ring on manhole for adjustments during future
15 rotomill/overlay operations by Street Maintenance.

16 (q) A sewer use and drainage permit must be obtained from the Wastewater
17 Management Division Permit Counter for the private sanitary sewer line. Call Allen Cridlebaugh
18 at (303) 446-3575.

19 (r) Facilities must meet Wastewater Management Division standards and/or be
20 designed and approved by a Colorado Professional Engineer licensed to practice in the state of
21 Colorado.

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

31 **Section 4.** That this Permit shall be of no force or effect until the following things have
32 been done and performed:

(a) Licensee shall have filed with the Manager of Public Works a written acceptance of the terms and conditions of this ordinance together with a fee for filing with the Clerk and Recorder in and for the City and County of Denver. The acceptance shall be in substantially the following form:

Date: _____

We, the undersigned do hereby accept all of the terms and conditions recited in Ordinance No. _____, Series of 20____.

Signed by: _____
(Licensee)

By: _____
(Name of Officer)

(b) Licensee shall have filed with the Manager of Public Works all insurance policies and certificates required herein; and

(c) The Manager of Public Works shall have certified in writing that the foregoing requirements have been performed.

PASSED BY THE COUNCIL April 24 2000

Happy Hayman - PRESIDENT

APPROVED: Walter C. Smith - MAYOR April 25 2000

ATTEST: [Signature] - CLERK AND RECORDER,
EX-OFFICIO CLERK OF THE
CITY AND COUNTY OF DENVER

PUBLISHED IN THE DEN. ROCKY MTN. NEWS April 21, 2000 April 28, 2000

PREPARED BY: KAREN A. AVILES, ASSISTANT CITY ATTORNEY 4/12/00

REVIEWED BY: Walter C. Smith for CITY ATTORNEY 4/13 2000

SPONSORED BY COUNCIL MEMBER(S) _____

