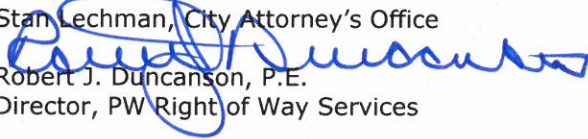


REQUEST FOR RESOLUTION FOR MAJOR ENCUMBRANCE PERMIT

TO: Stan Lechman, City Attorney's Office
FROM: 
Robert J. Duncanson, P.E.
Director, PW Right of Way Services
ROW NO.: 2014-ENCROACHMENT-0102601
DATE: July 30, 2015
SUBJECT: Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to Tim Paynter, their successors and assigns, to encroach into the right-of-way with an enclosed patio/building at 1130 South Federal Boulevard.

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

This office has investigated the request from Tim Paynter dated November 13, 2014, on behalf of the tenant Taqueria la Veracruzana 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; Comcast Corporation; Commission For People With Disabilities; Councilperson Paul Lopez; CPD: Building & Construction Services, Planning Services, and Zoning & Development Review; Denver Water Board; Fire Department; 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 Tim Paynter, their successors and assigns, to encroach with an enclosed deck into 1130 South Federal Boulevard.

INSERT PARCEL DESCRIPTION ROW 2014-ENCROACHMENT-0102601-001 HERE

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:

- (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) insert special conditions if any

A map of the area is attached hereto.

RJD: acp

cc: Asset Management, Steve Wirth
City Council Office, Shelley Smith
Councilperson Jolon Clark and Aides
Department of Law, Karen Aviles
Department of Law, Brent Eisen
Department of Law, Shaun Sullivan
Department of Law, Caroline Martin
Department of Law, Adam Hernandez
City Attorney Office, Angela Garcia
Public Works, Alba Castro
Public Works, Angela Casias
Project File

Property Owner:
Tim Paynter
1130 South Federal Blvd
Denver, CO 80202

Agent:
Tim Paynter
120 South Kalamath Street
Denver, CO 80223

ORDINANCE/RESOLUTION REQUEST

Please email requests to the Mayor's Legislative Team
at MileHighOrdinance@DenverGov.org by 3:00pm on Monday.

Date of Request: 7/31/2015

Please mark one: Bill Request or Resolution Request

Is this request: A new contract* A contract amendment* or Neither

*If this request is a contract or an amendment, is it:

A revenue agreement or An expenditure agreement

Contract Control Number:

Contract Terms/Dates:

Costs (if this is a contract amendment please include the original cost, additional cost and new total. *Failure to provide this information may delay processing*):

1. **Bill Description for the City Council Agenda:** (please give a one sentence description of the ordinance request. Describe if the request is a contract, amendment, lease, grant, change to code, rezoning, etc. and any other information that Council needs to approve the request)

Granting a revocable permit, subject to certain terms and conditions, to Tim Paynter, their successors and assigns, to encroach into the right-of-way with an enclosed patio/building at 1130 South Federal Boulevard.

2. **Requesting Agency:** Public Works Engineering Regulatory & Analytics

3. **Contact Person:** (Subject Matter Expert on the request)

- **Name:** Adam Perkins
- **Phone:** 720-865-3036
- **Email:** Adam.Perkins@denvergov.org

4. **Contact Person:** (Please list the person who will read this item at Mayor Council and attend first and second reading to answer questions)

- **Name:** Angela Casias
- **Phone:** 720.913.8529
- **Email:** angela.casias@denvergov.org

5. **Background on the request:**

A resolution granting to encroach into the right-of-way with an enclosed patio/building at 1130 South Federal Boulevard.

6. **Please complete the following fields:**

- A. **Location:** 1130 South Federal Boulevard
- B. **Affected Council District:** D7 Clark
- C. **Benefits:** None

7. **Is there any controversy surrounding this ordinance? Please explain.**

To be completed by Mayor's Legislative Team:

SIRE Tracking Number: _____

Date Entered: _____



DENVER
THE MILE HIGH CITY

EXECUTIVE SUMMARY

Project Title:2014-ENCROACHMENT-0102601 Taqueria la Veracruzana

Description of Proposed Project:Encroach into the right-of-way with an enclosed patio/building at 1130 South Federal Boulevard.

Explanation of why the public right-of-way must be utilized to accomplish the proposed project:The enlarged structure would provide a front entrance from Federal. Currently, the entrance to the building is via a side door along the South walk way; the enclosure protects patrons from wandering into deadly traffic or being hit by rubbish, including pebbles, thrown from passing vehicles on the very busy South Federal Boulevard, while the patrons are sitting on the front deck which is concrete; the use allows my tenants a more effective operation of their approximate 600 square foot restaurant. The property is a tiny 600 square foot building on a 25 foot lot in the middle of the block on South Federal. The enclosure helps make this business on a challenging center lot more practical. I had trouble finding any tenant who was able to make this property viable until it became a restaurant. An enclosure of this nature provides an attraction to patrons of the South Federal Boulevard corridor. The enclosure adds charm and appeal to people, especially the warm glow of the lighting at night which invites people to stop for a taco.

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:

PARCEL 1

A PORTION OF SOUTH FEDERAL BOULEVARD ADJACENT TO LOT 12, BLOCK 1,
McCLINTOCK SUBDIVISION, BEING LOCATED IN THE NORTHWEST 1/4 OF THE
NORTHEAST 1/4 OF SECTION 20, T4S, R68W, OF THE 6TH P.M.
CITY AND COUNTY OF DENVER
SHEET 1 OF 2

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF SOUTH FEDERAL BOULEVARD ADJACENT TO LOT 12, BLOCK 1, McCLINTOCK SUBDIVISION, CITY AND COUNTY OF DENVER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE 6.00 FEET OFFSET REFERENCE POINT FOR THE NORTHWEST CORNER OF SAID LOT 12 SAID POINT BEING A NAIL AND BRASS TAG LS NO. 23518 IN CHISELED "X" IN CONCRETE SIDEWALK; THENCE S89°35'12"E, 6.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 12; WHENCE THE SOUTHWEST CORNER OF SAID LOT 12 BEARS S00°00'00"E 25.02 FEET (25.00') AND FORMS THE BASIS OF BEARING FOR THIS LEGAL DESCRIPTION, SAID SOUTHWEST CORNER BEING MARKED BY A 6.00 FEET OFFSET REFERENCE POINT SAID POINT BEARS N89°35'01"W, 6.01 FEET TO A NAIL AND BRASS TAG LS NO. 23518 IN CHISELED "X" IN CONCRETE SIDEWALK; THENCE LEAVING SAID NORTHWEST CORNER AND FOLLOWING ALONG THE WESTERLY BOUNDARY LINE OF SAID LOT 12 S00°00'00"E, 3.13 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY BOUNDARY LINE S00°00'00"E 20.33 FEET TO A POINT; THENCE LEAVING SAID WESTERLY BOUNDARY LINE S89°48'57"W, 3.98 FEET TO A POINT ON THE EASTERLY EDGE OF AN EXISTING CONCRETE SIDEWALK; THENCE FOLLOWING ALONG SAID EASTERLY LINE N00°19'36"W, 20.33 FEET TO A POINT; THENCE LEAVING SAID EASTERLY LINE N89°19'36"E, 4.09 FEET MORE OR LESS TO THE POINT OF BEGINNING SAID EASEMENT CONTAINING 82.00 SQUARE FEET MORE OR LESS.

AUTHORED BY:


JAMES W. ROGERS
PRLS 23518
P.O. BOX 841 EVERGREEN, CO 80437
303-674-0099



PREPARED BY:
ADVANCED SURVEYING SERVICES INC.
LAND SURVEYORS •

ASS INC.

P.O. BOX 841
EVERGREEN, CO 80437

INSIGHT ENGINEERING

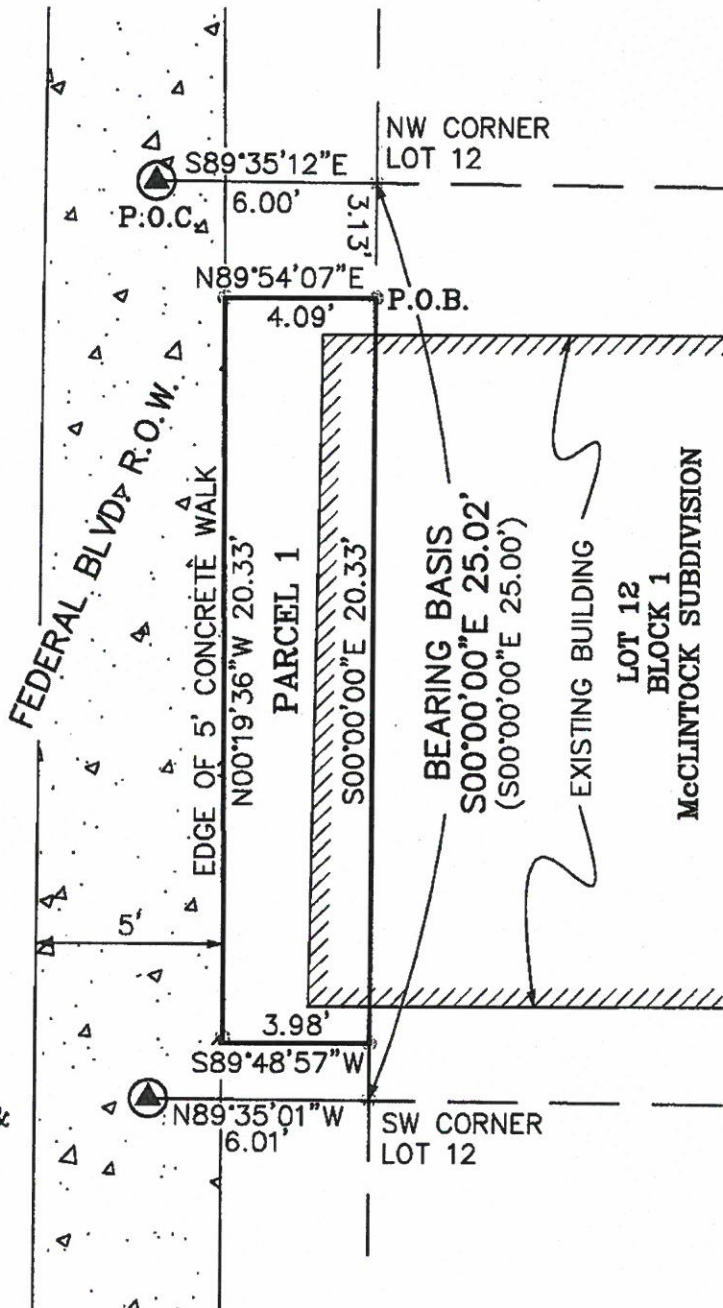
Date: 05/01/15

Job No. E-15-1001

(303) 674-0099
FAX (303) 674-0099

PARCEL 1

A PORTION OF SOUTH FEDERAL BOULEVARD ADJACENT TO LOT 12, BLOCK 1, McCLINTOCK SUBDIVISION, BEING LOCATED IN THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 20, T4S, R68W, OF THE 6TH P.M. CITY AND COUNTY OF DENVER
SHEET 2 OF 2



LEGEND

- ⊙ FND CHISELED "X" IN CONCRETE SET NAIL & BRASS TAG LS NO. 23518
- ⊕ CALCULATED CORNER

PREPARED BY:
ADVANCED SURVEYING SERVICES INC.
LAND SURVEYORS •

ASS INC.

P.O. BOX 841
EVERGREEN, CO 80437

INSIGHT ENGINEERING

Date: 05/01/15

Job No. E-15-1001

(303) 674-0099
FAX (303) 674-0099