



*****AMEND RESOLUTION*****

REQUEST FOR RESOLUTION FOR MAJOR ENCUMBRANCE PERMIT

TO: Karen Walton, City Attorney's Office

FROM: Robert J. Duncanson, P.E.
Robert J. Duncanson
Manager 2, Development Engineering Services

ROW NO.: 2012-0360-05

DATE: September 23, 2013

SUBJECT: Request **amend** Resolution No. 59, Series of 2013, subject to certain terms and conditions, to 1550 W 17th Ave LLC, their successors and assigns, to include the following encroachments: steel roof with 5 columns, heating lamps and ceiling fans at 1550 E 17th Ave

****NOTE**:** This is to amend a current Resolutions. We are just adding to the area. The legal description does not change, thus we do not have legal description number or exhibit

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

This office has investigated the request from David Kurtz of Neenan Company dated 8/12/2013, on behalf of 1550 W 17th Ave LLC 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 Brooks; 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 **amending** Resolution No. 59, Series of 2013, subject to certain terms and conditions, to 1550 W 17th Ave LLC, their successors and assigns, to include the following encroachments: steel roof with 5 columns, heating lamps and ceiling fans at 1550 E 17th Ave

PARCEL DESCRIPTION -NONE

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) None

A map of the area is attached hereto.

RJD: vlh

cc: Asset Management, Steve Wirth
City Council Office, Gretchen Williams
Councilperson Brooks 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 # 2012-0360-05

Property Owner:
15507 E 17th Ave, LLC
c/o Patrick Henry
1515 Arapahoe St
Denver, CO 80202

Agent:
Neenan Architecture
c/o David Kurtz
2607 Midpoint Dr
Fort Collins, Co 80525



EXECUTIVE SUMMARY

DENVER
THE MILE HIGH CITY

Project Title:2012-0360-05 Amend a MEP 17th and Franklin

Description of Proposed Project:Request amend Resolution No. 59, Series of 2013, subject to certain terms and conditions, to 1550 W 17th Ave LLC, their successors and assigns, to include the following encroachments: steel roof with 5 columns, heating lamps and ceiling fans at 1550 E 17th Ave

Explanation of why the public right-of-way must be utilized to accomplish the proposed project:This is to add to the current encroachment

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:They currently have an active MEP by Resolution #59, Series of 2013. They just want to add to that Resolution. There is not a new legal description for all of the new items are within the current legal description in the active resolution.

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: September 23, 2013

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: They currently have a Resolution #59, Series 2013 for other items. This is just to add to that Resolution.

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 amend Resolution No. 59, Series of 2013, subject to certain terms and conditions, to 1550 W 17th Ave LLC, their successors and assigns, to include the following encroachments: steel roof with 5 columns, heating lamps and ceiling fans at 1550 E 17th Ave

3. Requesting Agency: Public Works 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 Resolution #59, Series of 2013 to include a steel roof with 5 columns, heating lamps and ceiling fans

****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:** 1550 E 17th Ave
- d. **Affected Council District:** Dist # 8 Brooks
- 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: _____

BY AUTHORITY

RESOLUTION NO. *CC Res 59* CR13-0291
SERIES OF 2013

COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

A RESOLUTION

Granting a revocable permit to 1550 East 17th Avenue, LLC, to encroach into the right-of-way at 17th Avenue and Franklin Street.

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

Section 1. The City and County of Denver hereby grants to 1550 East 17th Avenue, LLC and its successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with a raised patio and stairs, two doors which swing out, raised concrete ramp, 3 foot railing, planters, tables and chairs ("Encroachments") at 17th Avenue and Franklin Street in the following described area ("Encroachment Area"):

PARCEL DESCRIPTION ROW 2012-0360-04-001

A PARCEL OF LAND LOCATED IN THE S1/2 OF SECTION 35, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M., CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF 17TH AVENUE AND THE WEST RIGHT OF WAY LINE OF FRANKLIN STREET, WHICH IS THE NE CORNER OF LOT 1, BLOCK 18, WYMAN'S ADDITION TO THE CITY OF DENVER; THENCE N89°57'43"W ALONG SAID SOUTH RIGHT OF WAY LINE OF 17TH AVENUE WHICH IS THE NORTH LINE OF SAID LOT 1, BLOCK 18, WYMAN'S ADDITION TO THE CITY OF DENVER AND SAID LINE EXTENDED, 125.17 FEET TO THE NW CORNER OF LOT 1, BLOCK 28, PARK AVENUE ADDITION TO THE CITY OF DENVER, WHICH IS A NO. 5 REBAR WITH RED CAP STAMPED L.S. NO. 18546; THENCE N00°02'17"E, 12.58 FEET; THENCE S89°57'43"E, 125.17 FEET; THENCE S00°02'17"W, 12.58 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 1575 SQUARE FEET OR 0.0362 ACRES MORE OR LESS.

BASIS OF BEARINGS: AN ASSUMED BEARING OF N00°00'00"E BETWEEN TWO FOUND MONUMENTS 189.90 FEET APART BEING THE WEST LINE OF LOTS 1 TO 7, BLOCK 28, PARK AVENUE ADDITION TO THE CITY OF DENVER. ONE MONUMENT BEING A NO. 5 REBAR WITH RED CAP STAMPED L.S. NO. 18546 AT THE NW CORNER OF SAID LOT 1 AND THE OTHER BEING A NO. 5 REBAR WITH RED CAP—ILLEGIBLE AT THE SW CORNER OF SAID LOT 7.

Section 2. 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, prior to commencing construction.

1 (b) Permittee shall be responsible for obtaining all other permits and shall pay all costs that
2 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 Notification
6 Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215, at 303-
7 232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 to locate
8 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 Water
10 Department and/or drainage facilities for water and sewage of the City and County of Denver due to
11 activities authorized by the permit. Should the relocation or replacement of any drainage facilities for
12 water and sewage of the City and County of Denver become necessary as determined by the
13 Manager of Public Works, in the Manager's sole and absolute discretion, Permittee shall pay all cost
14 and expense of the portion of the sewer affected by the permitted structure. The extent of the
15 affected portion to be replaced or relocated by Permittee shall be determined by the Manager of
16 Public Works. Any and all replacement or repair of facilities of the Water Department and/or drainage
17 facilities for water and sewage of the City and County of Denver attributed to the Permittee shall be
18 made by the Water Department and/or the City and County of Denver at the sole expense of the
19 Permittee. In the event Permittee's facilities are damaged or destroyed due to the Water
20 Department's or the City and County of Denver's repair, replacement and/or operation of its facilities,
21 repairs will be made by the Permittee at its sole expense. Permittee agrees to defend, indemnify and
22 save the City harmless and to repair or pay for the repair of any and all damages to said sanitary
23 sewer, or those damages resulting from the failure of the sewer to properly function as a result of the
24 permitted structure.

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

28 (f) All construction in, under, on or over the Encroachment Area shall be accomplished in
29 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 Works
31 and the Director of Building Inspection Division prior to construction. Upon completion, a reproducible
32 copy of the exact location and dimensions of the Encroachments shall be filed with the Manager of
33 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 shall
5 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 curb
12 and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that become
13 broken, damaged or unsightly during the course of construction. In the future, Permittee shall also
14 remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that become broken
15 or damaged when, in the opinion of the City Engineer, the damage has been caused by the activity of
16 the Permittee within the Encroachment Area. All repair work shall be accomplished without cost to
17 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 the
21 City and County of Denver in exercising its right to make full use of the Encroachment Area and
22 adjacent rights-of-way as public thoroughfares nor shall it operate to restrict the utility companies in
23 exercising their rights to construct, remove, operate and maintain their facilities within the
24 Encroachment Area and adjacent rights-of-way.

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

1 State of Colorado. A certified copy of all such insurance policies shall be filed with the Manager of
2 Public Works, and each such policy shall contain a statement therein or endorsement thereon that it
3 will not be canceled or materially changed without written notice, by registered mail, to the Manager of
4 Public Works at least thirty (30) days prior to the effective date of the cancellation or material change.

5 All such insurance policies shall be specifically endorsed to include all liability assumed by the
6 Permittee hereunder and shall name the City and County of Denver as an additional insured.

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

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

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

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

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1 COMMITTEE APPROVAL DATE: May 2, 2013 [by consent]
2 MAYOR-COUNCIL DATE: May 7, 2013
3 PASSED BY THE COUNCIL: May 13, 2013
4 Mary Bobb Susan - PRESIDENT
5 ATTEST: Debra Johnson - CLERK AND RECORDER,
6 EX-OFFICIO CLERK OF THE
7 CITY AND COUNTY OF DENVER
8
9 PREPARED BY: Brent A. Eisen, Assistant City Attorney DATE: May 9, 2013
10
11 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of the
12 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
13 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §
14 3.2.6 of the Charter.
15
16 Douglas J. Friednash, Denver City Attorney
17 BY: [Signature], Assistant City Attorney DATE: 9 May, 2013
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