

**BY AUTHORITY**

RESOLUTION NO. CR15-0572  
SERIES OF 2015

COMMITTEE OF REFERENCE:  
Infrastructure & Culture

**A RESOLUTION**

**Granting a revocable permit to Tim Paynter, to encroach into the right-of-way at 1130 South Federal Boulevard.**

**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 Tim Paynter and his successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with an enclosed patio structure ("Encroachments") at 1130 South Federal Boulevard in the following described area ("Encroachment Area"):

**PARCEL DESCRIPTION ROW NO. 2014-ENCROACHMENT-0102601-001:**

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 SOO°OO'OO"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'ofw, 6.01 FEET TO A NAIL AND BRASS TAG LS NO. 23518 IN CHISELED "X" IN CONCRETIE SIDEWALK; THENCE LEAVING SAID NORTHWEST CORNER AND FOLLOWING ALONG THE WESTERLY BOUNDARY LINE OF SAID LOT 12 SOO°OO'OO"E, 3.13 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTIERL Y BOUNDARY LINE SOO°OO'OO"E 20.33 FEET TO A POINT; THENCE LEAVING SAID WESTIERL Y 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 EASTIERLY 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.

1           **Section 2.** The revocable permit (“Permit”) granted by this Resolution 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 Public Works Permit  
4 Operations at 2000 West 3<sup>rd</sup> Avenue, 303-446-3759, prior to commencing construction.

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

7           (c) If the Permittee intends to install any underground facilities in or near a public road,  
8 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification  
9 Association of Owners and Operators of Underground Facilities by contacting the Utility Notification  
10 Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215, at 303-  
11 232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 to  
12 locate underground facilities prior to commencing any work under this permit.

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

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

32           (f) All construction in, under, on or over the Encroachment Area shall be accomplished  
33 in accordance with the Building Code of the City and County of Denver. Plans and Specifications

1 governing the construction of the Encroachments shall be approved by the Manager of Public  
2 Works and the Director of Building Inspection Division prior to construction. Upon completion, a  
3 reproducible copy of the exact location and dimensions of the Encroachments shall be filed with  
4 the Manager of Public Works.

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

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

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

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

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

29 (l) During the existence of the Encroachments and this permit, Permittee, its successors  
30 and assigns, at its expense, and without cost to the City and County of Denver, shall procure and  
31 maintain a single limit comprehensive general liability insurance policy with a limit of not less than  
32 \$500,000.00. All coverages are to be arranged on an occurrence basis and include coverage for  
33 those hazards normally identified as X.C.U. during construction. The insurance coverage required

1 herein constitutes a minimum requirement and such enumeration shall in no way be deemed to  
2 limit or lessen the liability of the Permittee, its successors or assigns, under the terms of this  
3 permit. All insurance coverage required herein shall be written in a form and by a company or  
4 companies approved by the Risk Manager of the City and County of Denver and authorized to do  
5 business in the State of Colorado. A certified copy of all such insurance policies shall be filed with  
6 the Manager of Public Works, and each such policy shall contain a statement therein or  
7 endorsement thereon that it will not be canceled or materially changed without written notice, by  
8 registered mail, to the Manager of Public Works at least thirty (30) days prior to the effective date  
9 of the cancellation or material change. All such insurance policies shall be specifically endorsed to  
10 include all liability assumed by the Permittee hereunder and shall name the City and County of  
11 Denver as an additional insured.

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

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

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

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

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1 COMMITTEE APPROVAL DATE: August 20, 2015 by consent

2 MAYOR-COUNCIL DATE: August 25, 2015

3 PASSED BY THE COUNCIL: \_\_\_\_\_, 2015

4 \_\_\_\_\_ - PRESIDENT

5 ATTEST: \_\_\_\_\_ - 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: August 27, 2015

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11 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of  
12 the 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.

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16 D. Scott Martinez, Denver City Attorney

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18 BY: \_\_\_\_\_, Assistant City Attorney      DATE: \_\_\_\_\_, 2015