

**BY AUTHORITY**

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2013

COUNCIL BILL NO. CB13-0584  
COMMITTEE OF REFERENCE:  
Land Use, Transportation, and Infrastructure

**A BILL**

**For an ordinance vacating a portion of West 41<sup>st</sup> Avenue at its intersection with  
Fox Street, with reservations.**

**WHEREAS**, the Manager of Public Works of the City and County of Denver has found and  
determined that the public use, convenience and necessity no longer require that certain area in the  
system of thoroughfares of the municipality hereinafter described and, subject to approval by  
ordinance, has vacated the same with the reservations hereinafter set forth;

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

**Section 1.** That the action of the Manager of Public Works in vacating the following  
described right-of-way in the City and County of Denver and State of Colorado, to wit ("Vacated  
Area"):

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2  
3 **LEGAL DESCRIPTION FOR ROW 2011-0176-03**  
4

5 41st Avenue Vacated of the RTD CRMF Site Corridor Commuter Rail Project, being a  
6 portion 41st Avenue as shown on VIADUCT ADDITION recorded October 6, 1887 in the  
7 records of Arapahoe County, now the City and County of Denver Clerk and Recorder's  
8 Office, located in the Southwest Quarter of Section 22, Township 3 South, Range 68  
9 West of the Sixth Principal Meridian, City and County of Denver, Colorado, more  
10 particularly described as follows:  
11

12 COMMENCING at the 20 foot by 20 foot Denver Range Point at West 41st Avenue and  
13 Fox Street (a chiseled "X") WHENCE the 20 foot by 20 foot Denver Range Point at West  
14 42nd Avenue and Fox Street (a drag tooth) bears N00°04'41 "E a distance of 454.69 feet  
15 (basis of bearing - assumed);

16 THENCE N44°55'22"W a distance of 28.28 feet to the southeast corner of Lot 16, Block  
17 22 of said VIADUCT ADDITION and the POINT OF BEGINNING;  
18

19 THENCE the following two courses coincident with the westerly line of the Fox Street  
20 right-of-way:

21 1) S00°04'41 "W a distance of 20.00 feet;

22 2) S00°07'57"W a distance of 60.00 feet to the northeast corner of Lot 30, Block 27  
23 of said VIADUCT ADDITION;

24 THENCE N89°55'25"W coincident with the southerly line of the West 41st Avenue right-  
25 of-way a distance of 141.25 feet to the northeast corner of Lot 1 of said Block 27;

26 THENCE N00°04'35"E a distance of 80.00 feet to the southeast corner of Lot 15 of said  
27 Block 22;

28 THENCE S89°55'25"E coincident with the northerly line of the West 41st Avenue right-  
29 of-way a distance of 141.30 feet to the POINT OF BEGINNING.  
30

31 Containing 11,303 square feet, (0.259 Acres), more or less.  
32

33 be and the same is hereby approved and the described right-of-way is hereby vacated and  
34 declared vacated;

35 PROVIDED, HOWEVER, said Vacated shall be subject to the following reservation:

36 A perpetual, non-exclusive easement is hereby reserved by the City and County of Denver, its  
37 successors and assigns, over, under, across, along, and through the Vacated Area for the purposes  
38 of constructing, operating, maintaining, repairing, upgrading and replacing public or private utilities  
39 including, but not limited to, storm drainage, sanitary sewer, and water facilities and all appurtenances  
40 to said utilities. A hard surface shall be maintained by the property owner over the entire Vacated  
41 Area. The City reserves the right to authorize the use of the reserved easement by all utility providers  
42 with existing facilities in the Vacated Area. No trees, fences, retaining walls, landscaping or structures  
43 shall be allowed over, upon or under the Vacated Area. Any such obstruction may be removed by the

1 City or the utility provider at the property owner's expense. The property owner shall not re-grade or  
2 alter the ground cover in the Vacated Area without permission from the City and County of Denver.  
3 The property owner shall be liable for all damages to such utilities, including their repair and  
4 replacement, at the property owner's sole expense. The City and County of Denver, its successors,  
5 assigns, licensees, permittees and other authorized users shall not be liable for any damage to  
6 property owner's property due to use of this reserved easement.

7 COMMITTEE APPROVAL DATE: August 29, 2013 [by consent]

8 MAYOR-COUNCIL DATE: September 3, 2013

9 PASSED BY THE COUNCIL: \_\_\_\_\_, 2013

10 \_\_\_\_\_ - PRESIDENT

11 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_, 2013

12 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
13 EX-OFFICIO CLERK OF THE  
14 CITY AND COUNTY OF DENVER  
15

16 NOTICE PUBLISHED IN THE DAILY JOURNAL: \_\_\_\_\_, 2013; \_\_\_\_\_, 2013

17 PREPARED BY: - Brent A. Eisen, Assistant City Attorney DATE: September 5, 2013

18 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the  
19 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
20 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §  
21 3.2.6 of the Charter.  
22

23 Douglas J. Friednash, Denver City Attorney

24 BY: \_\_\_\_\_, City Attorney DATE: \_\_\_\_\_, 2013  
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