

REQUEST FOR RESOLUTION FOR MAJOR ENCUMBRANCE PERMIT

TO: Charlene Thompson, City Attorney's Office

FROM: Robert J. Duncanson, P.E.
Director, PW Right of Way Services

ROW NO.: 2015-ENCROACHMENT-0006501

DATE: December 9, 2015

SUBJECT: Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to Downing NP Tower, LLC, their successors and assigns, to encroach into the right-of-way with an exterior elevator shaft at 1600 Downing Street.

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

This office has investigated the request from Kenneth Harshman of Grey Wolf Architecture dated 1/22/2015, on behalf of Downing NP Tower, 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 the granting of a revocable permit, subject to certain terms and conditions, to Downing NP Tower, LLC, their successors and assigns, to encroach with an exterior elevator shaft into 1600 Downing Street.

INSERT PARCEL DESCRIPTION ROW 2015-ENCROACHMENT-0006501-001 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) Proposed elevator shaft is located adjacent to existing tree in public right of way. Per City Code, existing trees in public right of way shall be protected per Forestry standards & practices. Tree protection shall be installed prior to issue of demolition permit, approved by Forestry, and shall remain in place throughout construction. No construction shall take place within tree protection zones without prior written authorization from the Office of the City Forester. Per City Code, all tree work in Denver limits (including trimming) shall be performed by a tree contractor licensed by the Office of the City Forester. If existing ROW tree needs to be trimmed for elevator shaft clearance, a Forestry-licensed tree contractor must perform the work. Contact Forestry office (Forestry@denvergov.org or 720-913-0651) for a copy of most current list of licensed tree contractors.
- (q) If there is not at least 5' of ADA compliant sidewalk around the encroachment, then the sidewalk will need to be widened per CCD standards as directed by the ROW inspector.

A map of the area is attached hereto.

RJD: vlw

cc: Asset Management, Steve Wirth
City Council Office, Shelley Smith
Councilperson Brooks 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:
Downing NP Tower, LLC
c/o Aaron Miripol
305 Park Avenue West
Suite B
Denver, CO 80205

Agent:
Kenneth Harshman
Grey Wolf Architecture
1543 Champa St
Suite 200
Denver, CO 80202

ORDINANCE/RESOLUTION REQUEST

Please email requests to Angela Casias
at angela.casias@DenverGov.org by 12:00 pm 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: 12/9/2015

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, contract amendment, municipal code change, supplemental request, etc.**)

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3. **Requesting Agency:** Public Works Engineering and Regulatory & Analytics

4. **Contact Person:** (With actual knowledge of proposed ordinance/resolution.)

- **Name:** Vanessa West
- **Phone:** 720-913-0719
- **Email:** Vanessa.west@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:** Angela Casias
- **Phone:** 720-913-8529
- **Email:** angela.casias@denvergov.org

6. **General description/background of proposed ordinance including contract scope of work if applicable:**

A Resolution granting a revocable permit, to Downing NP Tower, LLC, to encroach into the right-of-way with an exterior elevator shaft at 1600 Downing Street.

****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 – please do not leave blank.)

- a. **Contract Control Number:** N/A
- b. **Contract Term:** Renewed annually
- c. **Location:** 1600 Downing Street
- d. **Affected Council District:** D9 Brooks
- e. **Benefits:** N/A
- f. **Contract Amount (indicate amended amount and new contract total):** 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: _____



TIER III ENCROACHMENT EXECUTIVE SUMMARY

Denver Public Works
Right-of-Way Engineering Services
Engineering, Regulatory & Analytics Office

201 W Colfax Ave, Dept. 507
Denver, CO 80202
720-865-3003
www.denvergov.org

What is an Encroachment: A privately owned improvement that is located in, or project over or under the public Right-of-Way.

Project Title: 2015-ENCROACHMENT-0006501 The Downing Nonprofit Tower 1600 Downing Street

Business name: Downing NP Tower, LLC

Description of Encroachment: Encroach into the right-of-way with an exterior elevator shaft at 1600 Downing Street.

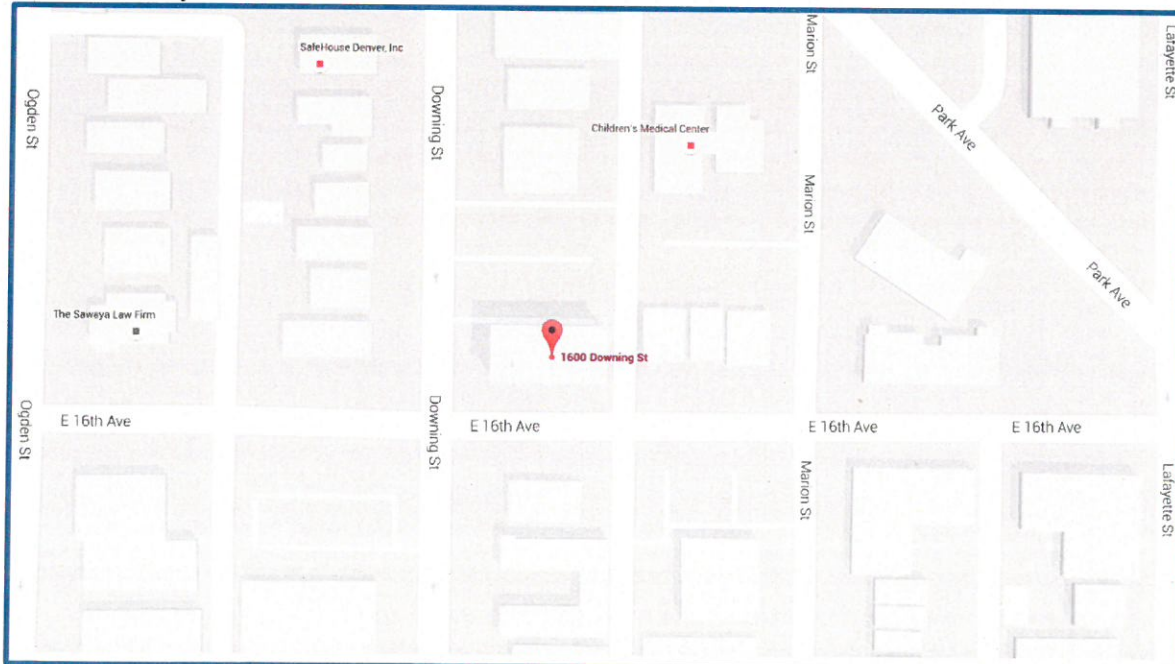
Explanation of why the Public Right of Way must be utilized for a private improvement: The new elevator is needed in order to better and more safely provide services to existing and future nonprofit tenants. The existing elevator doesn't meet current life safety codes for size. The team studied four (4) locations for the new elevator. The only location that works effectively is the one that encroaches into the property line. The elevator cannot be installed within the perimeter of the existing building due to structural limitations of the existing cast-in-place concrete floor slab and columns.

Duration of the Encroachment: Permanent

Annual Fees: \$200 per year

Additional Information: None.

Location Map:



LAND DESCRIPTION

A PART OF 16TH AVENUE BETWEEN DOWNING STREET AND MARION STREET

A PARCEL OF LAND IN THE SW $\frac{1}{4}$, SECTION 35, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN IN THE CITY AND COUNTY OF DENVER, COLORADO. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 20, BLOCK 25, PARK AVENUE ADDITION TO DENVER;
 THENCE N89°44'01"W ALONG THE SOUTH LINE OF SAID LOT 20, BLOCK 25, PARK AVENUE ADDITION TO DENVER A DISTANCE OF 71.93 FEET TO **THE POINT OF BEGINNING**;
 THENCE S00°15'59"W, A DISTANCE OF 3.13 FEET;
 THENCE N89°44'01"W, A DISTANCE OF 13.50 FEET;
 THENCE N00°15'59"E, A DISTANCE OF 3.13 FEET;
 THENCE S89°44'01"E, A DISTANCE OF 13.50 FEET TO THE **POINT OF BEGINNING**;

SAID PARCEL OF LAND CONTAINING 42.26 SF MORE OR LESS.

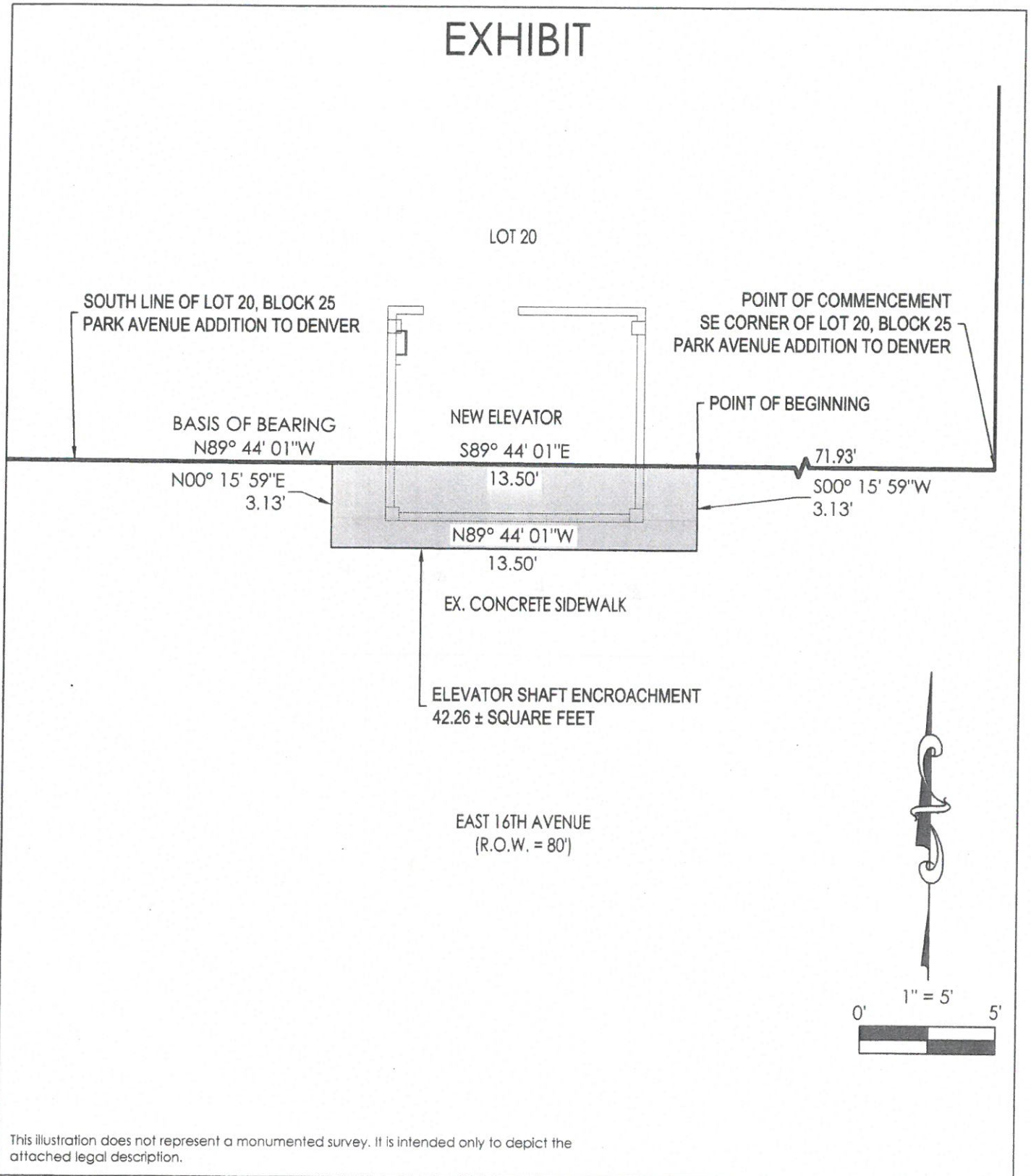
BASIS OF BEARING: THE BASIS OF BEARING IS THE SOUTH LINE OF LOT 20, BLOCK 25, PARK AVENUE ADDITION TO DENVER ASSUMED TO BEAR N89°44'01"W.



CITY AND COUNTY OF DENVER COLORADO

DRAWN BY: WSC	SCALE: 1" = 5'	LEGAL DESCRIPTION FILE NUMBER:		TIER III ENCROACHMENT 1600 DOWNING ST.
CHECKED BY: KWF	DATE: 3/24/15	JOB NUMBER: CE15-018	PAGE 1 OF 2	

EXHIBIT



CITY AND COUNTY OF DENVER COLORADO

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WSC

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