

1 **BY AUTHORITY**

2 RESOLUTION NO. CR15-0439
3 SERIES OF 2015
4

COMMITTEE OF REFERENCE:
Infrastructure & Culture

5 **A RESOLUTION**

6 **Amending a revocable permit granted by Resolution No. 161, Series of 2011, to**
7 **allow Broadway Station Partners, LLC, to encroach into the right-of-way at or**
8 **near Kentucky Avenue and South Broadway.**
9

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

12 **Section 1.** The City and County of Denver hereby amends the revocable permit granted
13 by Resolution No. 161, Series of 2011, to allow Broadway Station Partners, LLC and its
14 successors and assigns ("Permittee"), to encroach into the right-of-way with an underground
15 conveyance system consisting of one (1) eight inch horizontal conduit, and two (2) four-inch
16 horizontal conduits, eleven (11) monitoring wells, and two (2) extraction wells as part of a
17 groundwater remediation system ("Encroachments") at or near Kentucky Avenue and South
18 Broadway in the following described area ("Encroachment Area"):

19 **PARCEL DESCRIPTION ROW NO. 2011-0392-02-001**

20 A TEN FOOT (10') WIDE STRIP OF S. BROADWAY OVER AND ACROSS A PORTION OF THE SOUTHWEST
21 AND SOUTHEAST QUARTERS OF SECTION 15, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH
22 P.M., CITY AND COUNTY OF DENVER, STATE OF COLORADO, LYING FIVE FEET (5') ON BOTH SIDES OF
23 THE FOLLOWING DESCRIBED CENTERLINE, SAID SIDELINES BEING SHORTENED AND LENGTHENED TO
24 TERMINATE ON THE WESTERLY END WITH THE WEST RIGHT-OF-WAY LINE OF SOUTH BROADWAY
25 AND ON THE EASTERLY END WITH THE EAST RIGHT-OF-WAY LINE OF SAID SOUTH BROADWAY, BEING
26 MORE PARTICULARLY DESCRIBED AS FOLLOWS:
27

28 CONSIDERING THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTHWEST QUARTER OF SECTION 15 TO
29 BEAR SOUTH 89°58'11" EAST, A DISTANCE OF 2629.04 FEET BETWEEN THE CENTER-SOUTH 1/16
30 CORNER OF SECTION 15 AND THE SOUTH 1/16 CORNER OF SECTIONS 15 AND 16, PER COORDINATES
31 LISTED ON SHEET 4I OF CDOT PROJECT No. NH0252-299, SURVEY CONTROL DIAGRAM, WITH ALL
32 BEARINGS CONTAINED HEREIN RELATIVE THERETO.
33

34 COMMENCING AT SAID CENTER SOUTH 1/16 OF SECTION 15; THENCE NORTH 42°00'23" WEST, A
35 DISTANCE OF 75.81 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF SOUTH BROADWAY,
36 SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE NORTH 89°31'49" EAST, A DISTANCE OF
37 100.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF SOUTH BROADWAY, SAID POINT ALSO
38 BEING THE POINT OF TERMINUS.
39

40 SAID STRIP CONTAINING 1000 SQ. FT. OR 0.02 ACRES, MORE OR LESS.

41 and
42

1
2 **PARCEL DESCRIPTION ROW NO. 2011-0392-02-002**

3 A PARCEL OF LAND OVER AND ACROSS A PORTION OF THE SOUTHWEST QUARTER OF SECTION 15,
4 TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH P.M., CITY AND COUNTY OF DENVER, STATE OF
5 COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
6

7 CONSIDERING THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 15
8 TO BEAR NORTH 89°58'11" WEST, A DISTANCE OF 2629.04 FEET BETWEEN THE CENTER-SOUTH 1/16
9 CORNER OF SECTION 15 AND THE SOUTH 1/16 CORNER OF SECTIONS 15 AND 16, PER COORDINATES
10 LISTED ON SHEET 4I OF CDOT PROJECT No. NH0252-299, SURVEY CONTROL DIAGRAM, WITH ALL
11 BEARINGS CONTAINED HEREIN RELATIVE THERETO.
12

13 COMMENCING AT SAID CENTER SOUTH 1/16 OF SECTION 15; THENCE S58°38'23"W, A DISTANCE OF
14 109.89 FEET TO A POINT ON THE PROPOSED WESTERLY RIGHT-OF-WAY LINE OF SOUTH BROADWAY,
15 SAID POINT BEING THE POINT OF BEGINNING; THENCE S76°36'39"E, A DISTANCE OF 5.49 FEET;
16 THENCE S51°52'12"E, A DISTANCE OF 30.06 FEET; THENCE S27°35'49"E, A DISTANCE OF 12.63 FEET;
17 THENCE S01°30'50"E, A DISTANCE OF 57.74 FEET; THENCE N61°03'24"W, A DISTANCE OF 40.53 FEET
18 TO SAID PROPOSED WESTERLY RIGHT-OF-WAY LINE; THENCE ALONG SAID PROPOSED RIGHT-OF-WAY
19 LINE N00°44'35"W, A DISTANCE OF 69.14 FEET TO THE POINT OF BEGINNING.
20

21 SAID PARCEL CONTAINING 2,338 SQ. FT. OR 0.05 ACRES, MORE OR LESS.

22 and

23 **PARCEL DESCRIPTION ROW NO. 2011-0392-02-003**

24 PARCELS OF LAND OVER AND ACROSS A PORTION OF THE SOUTHWEST QUARTER OF SECTION 15,
25 TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH P.M., CITY AND COUNTY OF DENVER, STATE OF
26 COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
27

28 CONSIDERING THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTHWEST QUARTER OF SECTION 15 TO
29 BEAR NORTH 89°58'11" WEST, A DISTANCE OF 2629.04 FEET BETWEEN THE CENTER-SOUTH 1/16
30 CORNER OF SECTION 15 AND THE SOUTH 1/16 CORNER OF SECTIONS 15 AND 16, PER COORDINATES
31 LISTED ON SHEET 4I OF CDOT PROJECT No. NH0252-299, SURVEY CONTROL DIAGRAM, WITH ALL
32 BEARINGS CONTAINED HEREIN RELATIVE THERETO.
33

34 PARCEL CMW44
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36 COMMENCING AT SAID CENTER SOUTH 1/16 OF SECTION 15; THENCE S00°44'37"E ALONG THE EAST
37 LINE OF THE SOUTHWEST QUARTER OF SECTION 15, A DISTANCE OF 388.43 FEET; THENCE
38 S89°15'23"W, A DISTANCE OF 54.12 FEET TO THE POINT OF BEGINNING; THENCE S00°44'37"E ALONG
39 A LINE PARALLEL WITH SAID EAST LINE OF THE SOUTHWEST QUARTER, A DISTANCE OF 5.00 FEET;
40 THENCE S89°15'23"W, A DISTANCE OF 5.00 FEET; THENCE N00°44'37"W ALONG A LINE PARALLEL
41 WITH SAID EAST LINE, A DISTANCE OF 5.00 FEET; THENCE N89°15'23"E, A DISTANCE OF 5.00 FEET TO
42 THE POINT OF BEGINNING.
43

44 SAID PARCEL CONTAINING 25 SQ. FT.
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46 AND
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1 PARCEL CMW602D

2
3 COMMENCING AT SAID CENTER SOUTH 1/16 OF SECTION 15; THENCE S00°44'37"E ALONG THE EAST
4 LINE OF THE SOUTHWEST QUARTER OF SECTION 15, A DISTANCE OF 572.74 FEET; THENCE
5 S89°15'23"W, A DISTANCE OF 139.20 FEET TO THE POINT OF BEGINNING; THENCE S00°44'37"E
6 ALONG A LINE PARALLEL WITH SAID EAST LINE OF THE SOUTHWEST QUARTER, A DISTANCE OF 5.00
7 FEET; THENCE S89°15'23"W, A DISTANCE OF 5.00 FEET; THENCE N00°44'37"W ALONG A LINE
8 PARALLEL WITH SAID EAST LINE, A DISTANCE OF 5.00 FEET; THENCE N89°15'23"E, A DISTANCE OF
9 5.00 FEET TO THE POINT OF BEGINNING.

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11 SAID PARCEL CONTAINING 25 SQ. FT.

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13 AND

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15 PARCEL CMW47

16
17 COMMENCING AT SAID CENTER SOUTH 1/16 OF SECTION 15; THENCE S00°44'37"E ALONG THE EAST
18 LINE OF THE SOUTHWEST QUARTER OF SECTION 15, A DISTANCE OF 674.56 FEET; THENCE
19 S89°15'23"W, A DISTANCE OF 51.77 FEET TO THE POINT OF BEGINNING; THENCE S00°44'37"E ALONG
20 A LINE PARALLEL WITH SAID EAST LINE OF THE SOUTHWEST QUARTER, A DISTANCE OF 5.00 FEET;
21 THENCE S89°15'23"W, A DISTANCE OF 5.00 FEET; THENCE N00°44'37"W ALONG A LINE PARALLEL
22 WITH SAID EAST LINE, A DISTANCE OF 5.00 FEET; THENCE N89°15'23"E, A DISTANCE OF 5.00 FEET TO
23 THE POINT OF BEGINNING.

24
25 SAID PARCEL CONTAINING 25 SQ. FT.

26
27 AND

28
29 PARCEL CMW703D

30
31 COMMENCING AT SAID CENTER SOUTH 1/16 OF SECTION 15; THENCE S00°44'37"E ALONG THE EAST
32 LINE OF THE SOUTHWEST QUARTER OF SECTION 15, A DISTANCE OF 1258.83 FEET; THENCE
33 S89°15'23"W, A DISTANCE OF 167.00 FEET TO THE POINT OF BEGINNING; THENCE S00°44'37"E
34 ALONG A LINE PARALLEL WITH SAID EAST LINE OF THE SOUTHWEST QUARTER, A DISTANCE OF 5.00
35 FEET; THENCE S89°15'23"W, A DISTANCE OF 5.00 FEET; THENCE N00°44'37"W ALONG A LINE
36 PARALLEL WITH SAID EAST LINE, A DISTANCE OF 5.00 FEET; THENCE N89°15'23"E, A DISTANCE OF
37 5.00 FEET TO THE POINT OF BEGINNING.

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39 SAID PARCEL CONTAINING 25 SQ. FT.

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41 AND

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43 PARCEL CMW50

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46 [continued on next page]

1 COMMENCING AT SAID CENTER SOUTH 1/16 OF SECTION 15; THENCE S00°44'37"E ALONG THE EAST
2 LINE OF THE SOUTHWEST QUARTER OF SECTION 15, A DISTANCE OF 1264.66 FEET; THENCE
3 S89°15'23"W, A DISTANCE OF 60.68 FEET TO THE POINT OF BEGINNING; THENCE S00°44'37"E ALONG
4 A LINE PARALLEL WITH SAID EAST LINE OF THE SOUTHWEST QUARTER, A DISTANCE OF 5.00 FEET;
5 THENCE S89°15'23"W, A DISTANCE OF 5.00 FEET; THENCE N00°44'37"W ALONG A LINE PARALLEL
6 WITH SAID EAST LINE, A DISTANCE OF 5.00 FEET; THENCE N89°15'23"E, A DISTANCE OF 5.00 FEET TO
7 THE POINT OF BEGINNING.

8
9 SAID PARCEL CONTAINING 25 SQ. FT.

10
11 AND

12
13 PARCEL CMW703S

14
15 COMMENCING AT SAID CENTER SOUTH 1/16 OF SECTION 15; THENCE S00°44'37"E ALONG THE EAST
16 LINE OF THE SOUTHWEST QUARTER OF SECTION 15, A DISTANCE OF 1264.66 FEET; THENCE
17 S89°15'23"W, A DISTANCE OF 157.58 FEET TO THE POINT OF BEGINNING; THENCE S00°44'37"E
18 ALONG A LINE PARALLEL WITH SAID EAST LINE OF THE SOUTHWEST QUARTER, A DISTANCE OF 5.00
19 FEET; THENCE S89°15'23"W, A DISTANCE OF 5.00 FEET; THENCE N00°44'37"W ALONG A LINE
20 PARALLEL WITH SAID EAST LINE, A DISTANCE OF 5.00 FEET; THENCE N89°15'23"E, A DISTANCE OF
21 5.00 FEET TO THE POINT OF BEGINNING.

22
23 SAID PARCEL CONTAINING 25 SQ. FT.

24
25 **Section 2.** The revocable permit ("Permit") granted by this Resolution is expressly
26 granted upon and subject to each and all of the following terms and conditions:

27 (a) Permittee shall obtain a street occupancy permit from Public Works Permit
28 Operations at 2000 West 3rd Avenue, 303-446-3759, prior to commencing construction.

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

31 (c) If the Permittee intends to install any underground facilities in or near a public road,
32 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification
33 Association of Owners and Operators of Underground Facilities by contacting the Utility Notification
34 Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215, at 303-
35 232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 to
36 locate underground facilities prior to commencing any work under this permit.

37 (d) Permittee is fully responsible for any and all damages incurred to facilities of the
38 Water Department and/or drainage facilities for water and sewage of the City and County of
39 Denver due to activities authorized by the permit. Should the relocation or replacement of any
40 drainage facilities for water and sewage of the City and County of Denver become necessary as
41 determined by the Manager of Public Works, in the Manager's sole and absolute discretion,
42 Permittee shall pay all cost and expense of the portion of the sewer affected by the permitted

1 structure. The extent of the affected portion to be replaced or relocated by Permittee shall be
2 determined by the Manager of Public Works. Any and all replacement or repair of facilities of the
3 Water Department and/or drainage facilities for water and sewage of the City and County of
4 Denver attributed to the Permittee shall be made by the Water Department and/or the City and
5 County of Denver at the sole expense of the Permittee. In the event Permittee's facilities are
6 damaged or destroyed due to the Water Department's or the City and County of Denver's repair,
7 replacement and/or operation of its facilities, repairs will be made by the Permittee at its sole
8 expense. Permittee agrees to defend, indemnify and save the City harmless and to repair or pay
9 for the repair of any and all damages to said sanitary sewer, or those damages resulting from the
10 failure of the sewer to properly function as a result of the permitted structure.

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

14 (f) All construction in, under, on or over the Encroachment Area shall be accomplished
15 in accordance with the Building Code of the City and County of Denver. Plans and Specifications
16 governing the construction of the Encroachments shall be approved by the Manager of Public
17 Works and the Director of Building Inspection Division prior to construction. Upon completion, a
18 reproducible copy of the exact location and dimensions of the Encroachments shall be filed with
19 the Manager of Public Works.

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

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

30 (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and
31 curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that
32 become broken, damaged or unsightly during the course of construction. In the future, Permittee
33 shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that

1 become broken or damaged when, in the opinion of the City Engineer, the damage has been
2 caused by the activity of the Permittee within the Encroachment Area. All repair work shall be
3 accomplished without cost to the City and under the supervision of the City Engineer.

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

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

11 (l) During the existence of the Encroachments and this permit, Permittee, its successors
12 and assigns, at its expense, and without cost to the City and County of Denver, shall procure and
13 maintain a single limit comprehensive general liability insurance policy with a limit of not less than
14 \$500,000.00. All coverages are to be arranged on an occurrence basis and include coverage for
15 those hazards normally identified as X.C.U. during construction. The insurance coverage required
16 herein constitutes a minimum requirement and such enumeration shall in no way be deemed to
17 limit or lessen the liability of the Permittee, its successors or assigns, under the terms of this
18 permit. All insurance coverage required herein shall be written in a form and by a company or
19 companies approved by the Risk Manager of the City and County of Denver and authorized to do
20 business in the State of Colorado. A certified copy of all such insurance policies shall be filed with
21 the Manager of Public Works, and each such policy shall contain a statement therein or
22 endorsement thereon that it will not be canceled or materially changed without written notice, by
23 registered mail, to the Manager of Public Works at least thirty (30) days prior to the effective date
24 of the cancellation or material change. All such insurance policies shall be specifically endorsed to
25 include all liability assumed by the Permittee hereunder and shall name the City and County of
26 Denver as an additional insured.

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

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

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

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

12 COMMITTEE APPROVAL DATE: July 2, 2015 by consent

13 MAYOR-COUNCIL DATE: July 7, 2015

14 PASSED BY THE COUNCIL: _____, 2015

15 _____ - PRESIDENT

16 ATTEST: _____ - CLERK AND RECORDER,
17 EX-OFFICIO CLERK OF THE
18 CITY AND COUNTY OF DENVER

19
20 PREPARED BY: Adam C. Hernandez, Assistant City Attorney DATE: July 9, 2015

21
22 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of
23 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
24 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §
25 3.2.6 of the Charter.

26
27 D. Scott Martinez, Denver City Attorney

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29 BY: _____, Assistant City Attorney DATE: _____, 2015