

BY AUTHORITY

RESOLUTION NO. CR13-0492
SERIES OF 2013

COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

A RESOLUTION

Granting a revocable permit to Denver Public Schools to encroach into the right-of-way at 2550 Lowell 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 Denver Public Schools and its successors and assigns (“Permittee”), a revocable permit to encroach into the right-of-way with a concrete retaining wall, handrails, stairs, chain link fences, metal gate, modular block wall, landscaping, flagpole, play equipment including a basketball hoop, swings, ball field backstop, spring ride, talk tubes, benches, concrete benches, play pits with curb walls, drywells, crusher fines track, private storm drain inlets, private storm drain pipes, irrigation pipes and valves and picnic tables (“Encroachments”) at 2550 Lowell Boulevard in the following described area (“Encroachment Area”):

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2 **PARCEL DESCRIPTION ROW 2012-0491-03-001**
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4 A PARCEL FOR MAJOR ENCUMBRANCE PERMIT, OVER AND ACROSS A THE
5 RIGHTS OF WAY OF W. 26TH AVENUE, KINGS STREET, AND W. 25TH
6 AVENUE, ADJACENT TO A BLOCK 36, WITTER AND COFIELD'S SUBDIVISION
7 OF THE TOWN OF HIGHLANDS, LOCATED IN THE NORTHWEST QUARTER OF
8 SECTION 32, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL
9 MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO.
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11 CONSIDERING THE RANGE LINE, BEING 25.20 FEET OF THE EAST LINE OF
12 SAID BLOCK 36, TO BEAR SOUTH 00°17'40" EAST, A DISTANCE OF 357.95
13 FEET BETWEEN A FOUND CHISELED CROSS AN OFFSET FROM THE
14 NORTHEAST CORNER OF SAID BLOCK 36 AND A FOUND CHISELED CROSS
15 AN OFFSET FROM THE SOUTHEAST CORNER OF SAID BLOCK 36 WITH ALL
16 BEARINGS CONTAINED HEREIN RELATIVE THERETO.
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18 BEGINNING AT THE NORTHEAST CORNER OF BLOCK 36 OF WITTER AND
19 COFIELD'S
20 SUBDIVISION OF THE TOWN OF HIGHLANDS, RECORDED ON MARCH 21,
21 1988. IN ENGINEER BOOK 12, PAGE 14; THENCE, ALONG THE NORTH LINE
22 OF SAID BLOCK 36, S89°45' 07"W, A DISTANCE OF 107.81 FEET;
23 THENCE N00°14'53"W, A DISTANCE OF 12.80 FEET;
24 THENCE S89°23'48"E, A DISTANCE OF 126.30 FEET;
25 THENCE S00°20'0"E, A DISTANCE OF 386.86 FEET;
26 THENCE S89°36'14"W, A DISTANCE OF 348.65 FEET;
27 THENCE N00°17'37"W, A DISTANCE OF 18.60 FEET, TO A POINT ON THE
28 SOUTH LINE OF SAID BLOCK 36;
29 THENCE, ALONG SAID SOUTH LINE, N89°42'23"E. A DISTANCE OF 329.89
30 FEET, TO THE
31 SOUTHEAST CORNER OF SAID BLOCK 36;
32 THENCE, ALONG THE EAST LINE OF SAID BLOCK 36, N00°7'40"W, A
33 DISTANCE OF 357.97
34 FEET TO THE POINT OF BEGINNING;
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36 SAID PARCEL CONTAINING 14,539 SQ.FT. OR 0.33 ACRES, MORE OR LESS.
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39 **Section 2.** The revocable permit ("Permit") granted by this Resolution is expressly
40 granted upon and subject to each and all of the following terms and conditions:

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

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

1 (c) If the Permittee intends to install any underground facilities in or near a public road,
2 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification
3 Association of Owners and Operators of Underground Facilities by contacting the Utility
4 Notification Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado
5 80215, at 303-232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-
6 922-1987 to locate underground facilities prior to commencing any work under this permit.

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

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

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

32 (g) The sidewalk and street/alley over the Encroachment Area shall be capable of
33 withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The

1 installations within the Encroachment Area shall be constructed so that the paved section of the
2 street/alley can be widened without requiring additional structural modifications. The sidewalk
3 shall be constructed so that it can be removed and replaced without affecting structures within the
4 Encroachment Area.

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

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

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

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

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

1 therein or endorsement thereon that it will not be canceled or materially changed without written
2 notice, by registered mail, to the Manager of Public Works at least thirty (30) days prior to the
3 effective date of the cancellation or material change. All such insurance policies shall be
4 specifically endorsed to include all liability assumed by the Permittee hereunder and shall name
5 the City and County of Denver as an additional insured.

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

11 (n) The right to revoke this permit is expressly reserved to the City and County of
12 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
15 and privileges granted by this permit.

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

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COMMITTEE APPROVAL DATE: July 25, 2013 [by consent]

MAYOR-COUNCIL DATE: July 30, 2013

PASSED BY THE COUNCIL: _____, 2013

_____ - PRESIDENT

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

PREPARED BY: Brent A. Eisen, Assistant City Attorney

DATE: August 1, 2013

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

Douglas J. Friednash, Denver City Attorney

BY: _____, Assistant City Attorney DATE: _____, 2013