



**DENVER**  
THE MILE HIGH CITY

**Department of Public Works**  
Permit Operations and Right of Way Enforcement  
201 W. Colfax Avenue, Dept. 507  
Denver, CO 80202  
P: 720-865-2782  
F: 720-865-3280  
[www.denvergov.org/pwprs](http://www.denvergov.org/pwprs)

## REQUEST FOR REVOCATION OF MAJOR ENCUMBRANCE PERMIT

**TO:** Karen Walton, City Attorney's Office

**FROM:** Robert J. Duncanson, P.E.  
Manager 2, Development Engineering Services

**ROW NO.:** 2002-0045-01

**DATE:** June 4, 2013

**SUBJECT:** Request for revocation of Ordinance #858, Series of 2004 which granted a revocable permit to Streamline Restoration, their successors and assigns, to encroach into the right of way with two steel canopies into a portion of 8<sup>th</sup> Avenue and Kalamath 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 City Attorney's Office, dated March 5, 2013, on behalf of 800 Kalamath LLC for revocation of the above-subject permit. The reason for the revocation is the items are now covered under Ordinance #41, Series of 2013.

This matter has been checked by this office and has been coordinated with DES Construction Engineering to ensure the encumbrance in question has been removed.

As a result of the investigations, it has been determined that there is no objection to revocation of the revocable permit.

Therefore, you are requested to initiate Council action for the revocation of a revocable permit granted by Ordinance #858, Series of 2004.

RJD: bvs

cc: Councilperson Judy Montero and Aides  
City Council Office, Gretchen Williams  
Department of Law, Karen Aviles  
Department of Law, Brent Eisen  
Department of Law, Shaun Sullivan  
Department of Law, Karen Walton  
Public Works, Alba Castro  
Public Works, Nancy Kuhn  
Public Works Survey, Paul Rogalla  
Project File # 2002-0045-01

Property Owner:  
NIMBL Holdings, LLC  
c/o Yosh Eisbart  
800 Kalamath St  
Denver, CO 80204

**ORDINANCE/RESOLUTION REQUEST**

Please email requests to Nancy Kuhn at  
Nancy.kuhn@denvergov.org by **NOON 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: June 4, 2013

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: February 2013, submitted request that includes these items on that request, thus, this ordinance is void.

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

Request for revocation of Ordinance 858, Series 2004, which granted a revocable permit to Streamline Restoration, their successors and assigns, to encroach into the right of way with two existing steel canopies into a portion of 8th Avenue and Kalamath Street.

3. Requesting Agency: PW Right of Way Engineering Services

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

- Name: Beverly Van Slyke
- Phone: 720-865-3125
- Email: [Beverly.VanSlyke@denvergov.org](mailto:Beverly.VanSlyke@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: Nancy Kuhn
- Phone: 720-865-8720
- Email: [nancy.kuhn@denvergov.org](mailto:nancy.kuhn@denvergov.org)

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

To revoke Ordinance 858, Series 2004, this granted a revocable permit to Streamline Restoration, their successors and assigns to encroach into the right of way with two existing steel canopies into a portion of 8th Avenue and Kalamath Street. Items are now covered under Ordinance #41, Series 2013.

**\*\*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.)**

- a. Contract Control Number: N/A
- b. Duration: Permanent
- c. Location: 800 Kalamath Street
- d. Affected Council District: Judy Montero, District 9
- e. Benefits: N/A
- f. Costs: 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: \_\_\_\_\_



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## EXECUTIVE SUMMARY

**Project Title: 2002-0045-01 Revocation of MEP**

**Description of Proposed Project: Revocation of Ordinance 858, Series 2004, which granted a revocable permit to Streamline Restoration, their successors and assigns, to encroach into the right of way with two existing steel canopies into a portion of 8th Avenue and Kalamath Street.**

**Explanation of why the public right-of-way must be utilized to accomplish the proposed project: This is to Revoke an old ordinance that was replaced with a new resolution to cover the items.**

**Has a Temp MEP been issued, and if so, what work is underway: N/A**

**What is the known duration of an MEP: Permanent**

**Will land be dedicated to the City if the vacation goes through: N/A**

**Will an easement be placed over a vacated area, and if so explain: N/A**

**Will an easement relinquishment be submitted at a later date: N/A**

**Additional information: This is to Revoke Ordinance 858, Series of 2004 because these items are now covered under Resolution #41, Series 2013.**

BY AUTHORITY

ORDINANCE NO. 858  
SERIES OF 2004

COUNCIL BILL NO. 840  
COMMITTEE OF REFERENCE:

A BILL

Public Works

For an ordinance granting a revocable permit to Streamline Restoration to encroach with two steel canopies into portions of 8th Avenue and Kalamath Street.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. The City and County of Denver hereby grants to Streamline Restoration, its successors and assigns ("Permittee"), a revocable permit to encroach with two steel canopies in the following described area ("Encroachment Area"):

A PARCEL OF LAND LOCATED IN THE SE 1/4 OF SECTION 4, T. 4S., R. 68W., OF THE 6TH P.M., LOT 20, BLOCK 31, HUNTS ADDITION TO DENVER, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 20; THENCE EASTERLY ALONG THE SOUTH LINE OF SAID LOT 20, A DISTANCE OF 50.54 FEET TO THE POINT OF BEGINNING; THENCE ON A DEFLECTION ANGLE TO THE RIGHT OF 89°56'35", A DISTANCE OF 3.00 FEET; THENCE ON A DEFLECTION ANGLE TO THE LEFT OF 89°56'35" A DISTANCE OF 16.00 FEET; THENCE ON A DEFLECTION ANGLE TO THE LEFT OF 90°3'25", A DISTANCE OF 3.00 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 20; THENCE EASTERLY ALONG THE SOUTH LINE OF SAID LOT 20, A DISTANCE OF 70.40 FEET; THENCE ON A DEFLECTION ANGLE TO THE RIGHT OF 89°56'35", A DISTANCE OF 3.00 FEET, THENCE ON A DEFLECTION ANGLE TO THE LEFT OF 89°56'35", A DISTANCE OF 16.56 FEET; THENCE ON A DEFLECTION ANGLE TO THE LEFT OF 89°58'42", A DISTANCE OF 13.80 FEET; THENCE ON A DEFLECTION ANGLE TO THE LEFT OF 90°1'18", A DISTANCE OF 3.50 FEET TO A POINT ON THE EAST LINE OF SAID LOT 20; THENCE SOUTHERLY ALONG THE EAST LINE OF SAID LOT 20, A DISTANCE OF 10.80 FEET TO THE SOUTHEAST CORNER OF SAID LOT 20; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID LOT 20, A DISTANCE OF 99.46 FEET TO THE POINT OF BEGINNING.

CONTAINING 135 SQUARE FEET±, 0.00 ACRES ±

1           **Section 2.** The revocable permit ("Permit") granted by this ordinance is expressly granted  
2 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 Operations  
4 at 2000 West 3rd 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.

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

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

31           (f) All construction in, under, on or over the Encroachment Area shall be accomplished in  
32 accordance with the Building Code of the City and County of Denver. Plans and Specifications  
33 governing the construction of the Encroachments shall be approved by the Manager of Public Works

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

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

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

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

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

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

28 (l) During the existence of the Encroachments and this permit, Permittee, its successors  
29 and assigns, at its expense, and without cost to the City and County of Denver, shall procure and  
30 maintain a single limit comprehensive general liability insurance policy with a limit of not less than  
31 \$500,000.00. All coverages are to be arranged on an occurrence basis and include coverage for  
32 those hazards normally identified as X.C.U. during construction. The insurance coverage required  
33 herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit

1 or lessen the liability of the Permittee, its successors or assigns, under the terms of this permit. All  
2 insurance coverage required herein shall be written in a form and by a company or companies  
3 approved by the Risk Manager of the City and County of Denver and authorized to do business in  
4 the State of Colorado. A certified copy of all such insurance policies shall be filed with the Manager  
5 of Public Works, and each such policy shall contain a statement therein or endorsement thereon  
6 that it will not be canceled or materially changed without written notice, by registered mail, to the  
7 Manager of Public Works at least thirty (30) days prior to the effective date of the cancellation or  
8 material change. All such insurance policies shall be specifically endorsed to include all liability  
9 assumed by the Permittee hereunder and shall name the City and County of Denver as an  
10 additional insured.

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

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

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

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

28 PASSED BY THE COUNCIL \_\_\_\_\_ *November 15* \_\_\_\_\_ 2004

29 *[Signature]* \_\_\_\_\_ - PRESIDENT

30 APPROVED: *[Signature]* \_\_\_\_\_ MAYOR *11/16* \_\_\_\_\_ 2004

31 ATTEST: *[Signature]* \_\_\_\_\_ - CLERK AND RECORDER,  
32 EX-OFFICIO CLERK OF THE  
33 CITY AND COUNTY OF DENVER  
34

- 1 NOTICE PUBLISHED IN THE DAILY JOURNAL NOVEMBER 12 2004 NOVEMBER 19 2004
- 2 PREPARED BY: KAREN A. AVILES, <sup>PH</sup> ASSISTANT CITY ATTORNEY 11/2/04
- 3 REVIEWED BY: *[Signature]* Asst CITY ATTORNEY 11/4 2004
- 4 SPONSORED BY COUNCIL MEMBER(S) \_\_\_\_\_

