

**REQUEST TO *AMEND* RESOLUTION FOR TIER III
ENCROACHMENT PERMIT**

TO: Caroline Martin, City Attorney's Office

FROM: Matt Bryner
Senior Engineer Manager
Public Works, Right of Way Services

ROW NO.: 2017-ENCROACHMENT-0000037

DATE: June 9, 2017

SUBJECT: Request to amend the existing Encroachment Resolution No. 20161204, Series of 2016 granted for an above ground natural gas piping and valve set to include an 18-foot by 43-foot chain link fence at Havana Street and Florence Way.

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

This office has investigated the request from Jonathan Gates of ENGlobal dated May 17, 2017, on behalf of Xcel Energy 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 Herndon; 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 to amend the existing Encroachment Resolution No. 20161204, Series of 2016 granted for an above ground natural gas piping and valve set to include an 18-foot by 43-foot chain link fence at Havana Street and Florence Way.

INSERT PARCEL DESCRIPTION ROW 2017-ENCROACHMENT-0000037-001 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) none

A map of the area is attached hereto.

MB: cs

cc: Asset Management, Steve Wirth
City Council Office, Shelley Smith
Councilperson Herndon and Aides
Department of Law, Karen Aviles
Department of Law, Brent Eisen
Department of Law, Shaun Sullivan
Department of Law, Caroline Martin
Public Works, Alba Castro
Public Works, Angela Casias
Project File

Property Owner:
Adam Pena
Xcel Energy
1123 West 3rd Ave
Denver, CO 80223

Agent:
Jonathan Gates
ENGlobal
10901 W. 120 Ave Ste. 400
Broomfield, CO 80021

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: June 9, 2017

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: This is an amendment the existing Encroachment Resolution No. 20161204, Series of 2016 granted for an above ground natural gas piping and valve set to include an 18-foot by 43-foot chain link fence at Havana Street and Florence Way.

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.**)

Request to amend the existing Encroachment Resolution No. 20161204, Series of 2016 granted for an above ground natural gas piping and valve set to include an 18-foot by 43-foot chain link fence at Havana Street and Florence Way.

3. Requesting Agency: PW Right of Way Services
Agency Division: Engineering, Regulatory & Analytics

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

- **Name:** Chaunda Sinn
- **Phone:** (720) 865-3036
- **Email:** chaunda.sinn@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:

Request to amend the existing Encroachment Resolution No. 20161204, Series of 2016 granted for an above ground natural gas piping and valve set to include an 18-foot by 43-foot chain link fence at Havana Street and Florence Way.

****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:** N/A
- c. **Location:** Havana Street and Florence Way
- d. **Affected Council District:** Dist # 8, Herndon
- 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

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

Project Title: 2017-ENCROACHMENT-0000037 AMENDMENT Tier III Xcel ENGlobal valve set at 3300 Havana

Business name: Xcel Energy

Description of Encroachment: This amendment is to include an 18-foot by 43-foot chain link fence at Havana Street and Florence Way.

Explanation of why the Public Right of Way must be utilized for a private improvement: The chain link fence will be added protection to the above ground natural gas valve set.

Duration of the Encroachment: permanent

Annual Fees: \$200.00/year

Additional Information: This protection is required to ensure the valve set is safe from vandalism and vehicle collisions.

Location Map:





Sheet 1 of 2

**EXHIBIT A
ABOVE GROUND UTILITY
(BLUFF LAKE)**

A parcel of land lying in the Northwest Quarter of Section 26, Township 3 South, Range 67 West, of the 6th Principal Meridian, City and County of Denver, State of Colorado, said parcel also being a part of that parcel of land described in Book 277, Page 498, Adams County Records, said parcel being more particularly described as follows:

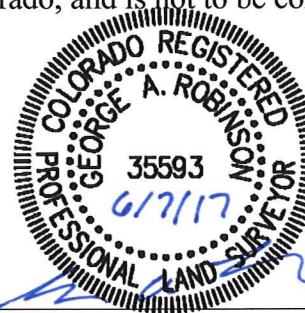
Commencing at the West Quarter corner of said Section 26;
Thence N89°41'15"E, along the south line of said Northwest Quarter, 71.58 feet;
Thence N00°18'45"W, 17.30 feet to the Point of Beginning;

Thence N02°30'00"W, 43.00 feet;
Thence N87°30'00"E, 18.00 feet;
Thence S02°30'00"E, 43.00 feet;
Thence S87°30'00"W, 18.00 feet to the Point of Beginning.

Containing 774 square feet, more or less.

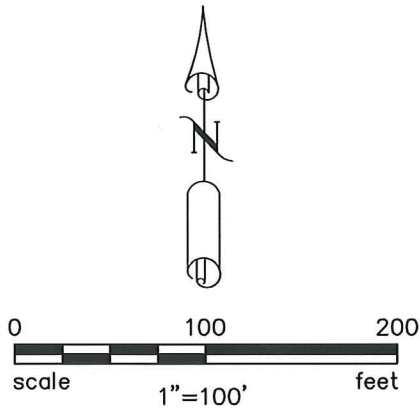
For the purpose of this description, the basis of bearings is the south line of the said Northwest Quarter, being N89°41'15"E, monumented as shown on the attached illustration.

The author of this description is George A. Robinson, PLS 35593, prepared on behalf of SEH Inc., 12640 West Cedar Drive, Suite F, Lakewood, CO 80228, on June 7, 2017 under Job No. PSCOC 137512-1.0, for Public Service Company of Colorado, and is not to be construed as representing a monumented land survey.



George A. Robinson, PLS 35593

**EXHIBIT A
ABOVE GROUND UTILITY
(BLUFF LAKE)**



NW SEC 26, T3S, R67W
3.25" ALUM CAP

NW1/4 SEC. 26
T3S, R67W

BLUFF LAKE NATURE CENTER
PROPERTY DEED
REC# 2008146174

NE1/4 SEC. 27
T3S, R67W

PROPERTY DEED
BOOK 277 PG 498

N87°30'00"E
18.00'

**ABOVE GROUND
UTILITY**
774 S.F. M/L

FLORENCE WAY

POINT OF
BEGINNING

L1
L2
L3
L4

W1/4 SEC 26, T3S, R67W
3.25" ALUM CAP
LS20683 2008

N89°41'15"E
71.58'

C1/4 SEC 26
T3S, R67W
3.25" ALUM CAP

BASIS OF BEARINGS
N89°41'15"E, 2647.44'
S LINE, NW1/4 SECTION 26

SE1/4 SEC. 27
T3S, R67W

SW1/4 SEC. 26
T3S, R67W

STAPLETON FILING NO. 21
REC# 2006187750
LOT 1 BLOCK 4

BLUFF LAKE NATURE CENTER
PROPERTY DEED
REC# 2008146174

LINE TABLE		
LINE	BEARING	LENGTH
L1	N00°18'45"W	17.30'
L2	N02°30'00"W	43.00'
L3	S02°30'00"E	43.00'
L4	S87°30'00"W	18.00'

POINT OF COMMENCEMENT

BOOK 276 PG 565

PROPERTY DEED
BOOK 277 PG 498

HAVANA STREET

HAVANA STREET

TRACT N

HANOVER ST

E 31ST AVE



12640 W. CEDAR DR., Suite F
Lakewood, Colorado 80228
Phone: 303-586-5800

1 CC RES 20161204

BY AUTHORITY

2 RESOLUTION NO. CR16-1204

COMMITTEE OF REFERENCE:

3 SERIES OF 2016

Land Use, Transportation & Infrastructure

4 **A RESOLUTION**

5 **Granting a revocable permit to Xcel Energy to encroach into the right-of-way at**
6 **Havana Street and Florence Way.**

7 **BE IT RESOLVED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

8 **Section 1.** The City and County of Denver ("City") hereby grants to Xcel Energy and its
9 successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with an
10 above-ground natural gas piping and valve set consisting of 16 feet and 6 inch piping and valves.
11 The footprint is approximately 26.5 feet by 7 feet by 5.5 feet. The valve set will be protected by 8
12 inch bollards with a 4 inch cross post ("Encroachments") at Havana Street and Florence Way in the
13 following described area ("Encroachment Area"):

14 **PARCEL DESCRIPTION ROW NO. 2016-ENCROACHMENT-000053-001:**

15 A parcel of land lying in the Northwest Quarter of Section 26, Township 3 South, Range 67
16 West, of the 6th Principal Meridian, City and County of Denver, State of Colorado, said parcel also being a part
17 of that parcel of land described in Book 277, Page 498, Adams County Records, said parcel being more
18 particularly described as follows:

19
20 Commencing at the West Quarter corner of said Section 26;
21 Thence N89°41'15"E, along the south line of said Northwest Quarter, 68.94 feet;
22 Thence N00°18'45"W, 20.00 feet to the Point of Beginning;
23 Thence N00°28'47"W, 32.50 feet;
24 Thence N89°31'13 "E, 13 .00 feet;
25 Thence S00°28'47"E, 32.50 feet;
26 Thence S89°31'13"W, 13.00 feet to the Point of Beginning.
27 Containing 422.5 square feet, more or less.

28
29 For the purpose of this description, the basis of bearings is the south line of the said Northwest
30 Quarter, being N89°41'15"E, monumented as shown on the attached illustration.

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

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

35 (b) Permittee shall be responsible for obtaining all other permits and shall pay all costs
36 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 Notification
4 Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215, at 303-
5 232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 to
6 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 Water
8 Department and/or drainage facilities for water and sewage of the City due to activities authorized
9 by the Permit. Should the relocation or replacement of any drainage facilities for water and sewage
10 of the City become necessary as determined by the City's Executive Director of Public Works
11 ("Executive Director"), in the Executive Director's sole and absolute discretion, Permittee shall pay
12 all cost and expense of the portion of the sewer affected by the permitted structure. The extent of
13 the affected portion to be replaced or relocated by Permittee shall be determined by the Executive
14 Director. Any and all replacement or repair of facilities of the Denver Water and/or drainage facilities
15 for water and sewage of the City attributed to the Permittee shall be made by the Denver Water
16 and/or the City at the sole expense of the Permittee. In the event Permittee's facilities are damaged
17 or destroyed due to the Denver Water or the City's repair, replacement and/or operation of its
18 facilities, repairs will be made by the Permittee at its sole expense. Permittee agrees to defend,
19 indemnify and save the City harmless and to repair or pay for the repair of any and all damages to
20 said sanitary sewer, or those damages resulting from the failure of the sewer to properly function
21 as a result of the permitted structure.

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

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

30 (g) The sidewalk and street/alley over the Encroachment Area shall be capable of
31 withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The
32 installations within the Encroachment Area shall be constructed so that the paved section of the
33 street/alley can be widened without requiring additional structural modifications. The sidewalk shall

1 be constructed so that it can be removed and replaced without affecting structures within the
2 Encroachment Area.

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

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

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

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

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

1 policies shall be specifically endorsed to include all liability assumed by the Permittee hereunder
2 and shall name the City as an additional insured.

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

8 (n) The right to revoke this Permit is expressly reserved to the City.

9 (o) Permittee shall agree to indemnify and always save the City harmless from all costs,
10 claims or damages arising, either directly or indirectly, out of the rights and privileges granted by
11 this Permit.

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

20 COMMITTEE APPROVAL DATE: November 29, 2016, by consent

21 MAYOR-COUNCIL DATE: December 6, 2016

22 PASSED BY THE COUNCIL: _____ December 12, 2016

23 _____ - PRESIDENT

24 ATTEST: Debra Johnson - CLERK AND RECORDER,
25 EX-OFFICIO CLERK OF THE
26 CITY AND COUNTY OF DENVER

27 PREPARED BY: Brent A. Eisen, Assistant City Attorney DATE: December 8, 2016

28 Pursuant to section 14-12, D.R.M.C., this proposed resolution has been reviewed by the office of
29 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
30 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §
31 3.2.6 of the Charter.

32 Kristin M. Bronson, Denver City Attorney

33 BY: _____, Assistant City Attorney DATE: Dec 8, 2016

