

1 BY AUTHORITY

2 RESOLUTION NO. CR13-0600
3 SERIES OF 2013

COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

4 A RESOLUTION

5 **Granting a revocable permit to Denver Public Schools to encroach into the**
6 **right-of-way at 911 South Hazel Court for Kepner Middle School.**

7
8 **NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY AND COUNTY**
9 **OF DENVER:**

10 **Section 1.** The City and County of Denver hereby grants to Denver Public Schools and
11 its successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with
12 a synthetic turf field and a gravel sub-base; a perforated 12" HDPE pipe; a 12" wide concrete
13 mow band; a 42" high concrete retaining wall with 4' high chain link fence; a 5' wide concrete
14 walk; and a concrete detention outlet structure and associated pipes ("Encroachments") at 911
15 South Hazel Court for Kepner Middle School in the following described area ("Encroachment
16 Area"):

17
18 **LEGAL DESCRIPTION ROW 2013-0231-03-001**

19 A PARCEL OF LAND BEING A PORTION OF WEST TENNESSEE AVENUE AND SOUTH
20 HOOKER STREET LOCATED IN THE SOUTHEAST QUARTER OF THE SOUTHWEST
21 QUARTER OF SECTION 17, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE SIXTH
22 PRINCIPAL MERIDIAN, CITY OF AND COUNTY OF DENVER, STATE OF COLORADO, BEING
23 MORE PARTICULARLY DESCRIBED AS FOLLOWS:

24
25 COMMENCING AT THE CENTER QUARTER OF SAID SECTION 17, THENCE S25°55'17"W A
26 DISTANCE OF 2227.21 FEET TO THE NORTHEAST CORNER OF LOT 11, BOBO,
27 MACINTOSH & BARTON SUBDIVISION AND THE WESTERLY LINE OF SOUTH HOOKER
28 STREET AND THE POINT OF BEGINNING;

29 THENCE N44°31'26"E A DISTANCE OF 4.32 FEET;

30 THENCE N45°28'34"W A DISTANCE OF 29.55 FEET;

31 THENCE N00°28'34"W A DISTANCE OF 36.14 FEET TO A POINT ON THE NORTHERLY
32 RIGHT-OF-WAY LINE OF WEST TENNESSEE AVENUE;

33 THENCE N89°48'19"E ALONG SAID NORTHERLY LINE A DISTANCE OF 67.97 FEET TO A
34 POINT ON THE EASTERLY LINE OF SOUTH HOOKER STREET EXTENDED;

35 THENCE S00°20'39"E ALONG SAID EASTERLY LINE A DISTANCE OF 99.26 FEET;

36 THENCE N71°06'10"W A DISTANCE OF 52.96 FEET TO A POINT ON THE EASTERLY LINE
37 OF LOT 11, BLOCK 1, MACINTOSH SUBDIVISION AND THE WESTERLY LINE OF SAID
38 SOUTH HOOKER STREET;

39 THENCE N00°20'39"W ALONG SAID EASTERLY AND WESTERLY LINE A DISTANCE OF
40 21.94 FEET TO THE POINT OF BEGINNING.

41
42 SAID PARCEL CONTAINS 0.122 ACRES (5,328 SQUARE FEET), MORE OR LESS.

43
44 BASIS OF BEARINGS: BEARINGS ARE BASED ON THE NORTHERLY LINE OF THE
45 SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE
46 SIXTH PRINCIPAL MERIDIAN THE COLORADO CENTRAL ZONE (NAD83) BEARING
47 N89°52'49" AND BEING MONUMENTED BY A FOUND 2 1/2" ALUMINUM CAP LS #29761 IN

1 RANGE BOX AT THE CENTER QUARTER CORNER AND A FOUND 3 1/4" ALUMINUM CAP LS
2 #25384 IN RANGE BOX AT THE WEST QUARTER CORNER.

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

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

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

9 (c) If the Permittee intends to install any underground facilities in or near a public road,
10 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification
11 Association of Owners and Operators of Underground Facilities by contacting the Utility
12 Notification Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado
13 80215, at 303-232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-
14 922-1987 to locate underground facilities prior to commencing any work under this permit.

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

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

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

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

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

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

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

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

31 (l) During the existence of the Encroachments and this permit, Permittee, its
32 successors and assigns, at its expense, and without cost to the City and County of Denver, shall
33 procure and maintain a single limit comprehensive general liability insurance policy with a limit of

1 not less than \$500,000.00. All coverages are to be arranged on an occurrence basis and include
2 coverage for those hazards normally identified as X.C.U. during construction. The insurance
3 coverage required herein constitutes a minimum requirement and such enumeration shall in no
4 way be deemed to limit or lessen the liability of the Permittee, its successors or assigns, under the
5 terms of this permit. All insurance coverage required herein shall be written in a form and by a
6 company or companies approved by the Risk Manager of the City and County of Denver and
7 authorized to do business in the State of Colorado. A certified copy of all such insurance policies
8 shall be filed with the Manager of Public Works, and each such policy shall contain a statement
9 therein or endorsement thereon that it will not be canceled or materially changed without written
10 notice, by registered mail, to the Manager of Public Works at least thirty (30) days prior to the
11 effective date of the cancellation or material change. All such insurance policies shall be
12 specifically endorsed to include all liability assumed by the Permittee hereunder and shall name
13 the City and County of Denver as an additional insured.

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

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

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

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

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6 COMMITTEE APPROVAL DATE: September 5, 2013 [by consent]

7 MAYOR-COUNCIL DATE: September 10, 2013

8 PASSED BY THE COUNCIL: _____, 2013

9 _____ - PRESIDENT

10 ATTEST: _____ - CLERK AND RECORDER,
11 EX-OFFICIO CLERK OF THE
12 CITY AND COUNTY OF DENVER
13

14 PREPARED BY: Brent A. Eisen, Assistant City Attorney DATE: September 12, 2013
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16 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of
17 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
18 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §
19 3.2.6 of the Charter.
20

21 Douglas J. Friednash, Denver City Attorney

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