

1 **BY AUTHORITY**

2 ORDINANCE NO. _____
3 SERIES OF 2018

COUNCIL BILL NO. CB18-0394
COMMITTEE OF REFERENCE:

4 Land Use, Transportation & Infrastructure

5 **A BILL**

6 **For an ordinance vacating a portion of the alley bounded by Cedar Avenue,**
7 **South Birch Street and Leetsdale Drive, with reservations.**

8 **WHEREAS**, the Executive Director of Public Works of the City and County of Denver has
9 found and determined that the public use, convenience and necessity no longer require that certain
10 area in the system of thoroughfares of the municipality hereinafter described and, subject to approval
11 by ordinance, has vacated the same with the reservations hereinafter set forth;

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

13 **Section 1.** That the action of the Executive Director of Public Works in vacating the
14 following described right-of-way in the City and County of Denver, State of Colorado, to wit:

15 **PARCEL DESCRIPTION ROW NO. 2017-VACA-0000002-001:**

16 THE ALLEYWAY WITHIN BLOCK 1, BURNS PARK ADDITION, RECORDED AT BOOK 18,
17 PAGE 94, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 7, TOWNSHIP 4 SOUTH,
18 RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER,
19 STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
20

21 CONSIDERING THE NORTHERLY LINE OF BLOCK 1, BURNS PARK ADDITION TO BEAR
22 N89°30'36"E, A DISTANCE OF 341.00 FEET BETWEEN A FOUND #3 REBAR, NO CAP, AT THE
23 NORTHWESTERLY CORNER OF LOT 3, SAID BLOCK 1, AND A FOUND #4 REBAR, NO CAP,
24 AT THE NORTHEASTERLY CORNER OF LOT 7, SAID BLOCK 1, WITH ALL BEARINGS
25 CONTAINED HEREIN RELATIVE THERETO.

26
27 COMMENCING AT SAID NORTHEASTERLY CORNER OF BLOCK 1, BURNS PARK ADDITION;
28 THENCE ALONG SAID NORTHERLY LINE OF BLOCK 1 S89°30'36"W, A DISTANCE OF 225.00
29 FEET TO THE NORTHWESTERLY CORNER OF LOT 5, SAID BLOCK 1, BEING THE POINT OF
30 BEGINNING;

31
32 THENCE ALONG THE WESTERLY LINE OF LOTS 5 AND 10 THE FOLLOWING TWO (2)
33 COURSES:, S00°24'24"E, A DISTANCE OF 125.00 FEET; THENCE S34°07'19"E, A DISTANCE
34 OF 90.08 FEET TO THE SOUTHWESTERLY CORNER OF LOT 10, SAID BLOCK 1; THENCE
35 ALONG THE SOUTHERLY LINE OF SAID LOT 10, N89°30'36"E, A DISTANCE OF 50.00 FEET;
36 THENCE ALONG THE WESTERLY LINE OF LOTS 11 AND 12, SAID BLOCK 1, S00°24'24"E, A
37 DISTANCE OF 75.00 FEET TO THE NORTHEASTERLY CORNER OF LOT 16, SAID BLOCK 1;

1 THENCE ALONG THE NORTHERLY LINE OF SAID LOT 16, S89°30'36"W, A DISTANCE OF
2 30.00 FEET; THENCE ALONG THE EASTERLY LINE OF LOTS 17, 18 AND 19, SAID BLOCK 1,
3 N30°15'16"W, A DISTANCE OF 172.80 FEET TO SOUTHEASTERLY CORNER OF LOT 4, SAID
4 BLOCK 1; THENCE ALONG THE EASTERLY LINE OF SAID LOT 4, N00°24'24"W, A DISTANCE
5 OF 125.00 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 4; THENCE ALONG THE
6 NORTHERLY LINE OF SAID LOT 4 EXTENDED, N89°30'36"E, A DISTANCE OF 16.00 FEET TO
7 THE POINT OF BEGINNING. CITY AND COUNTY OF DENVER, STATE OF COLORADO.
8
9 CONTAINING 7,325 SQUARE FEET OR 0.17 ACRES MORE OR LESS

10 be and the same is hereby approved and the described right-of-way is hereby vacated and declared
11 vacated.

12 PROVIDED, HOWEVER, said vacation shall be subject to the following reservation:
13 A perpetual, non-exclusive easement is hereby reserved by the City and County of Denver, its
14 successors and assigns, over, under, across, along and through the vacated area for the purposes
15 of constructing, operating, maintaining, repairing, upgrading and replacing public or private utilities
16 including, but not limited to, storm drainage and sanitary sewer, and water facilities and all
17 appurtenances to said utilities. Except for the Existing Improvement (defined below), a hard surface
18 shall be maintained by the property owner over the entire Easement Area. The City reserves the
19 right to authorize the use of the reserved easement by all utility providers with existing facilities in
20 the easement area. Except for such improvements existing as of the date of this easement,
21 including, existing landscaping (pavers, rock/mulch, shrubs/bushes and small brush tree), a small
22 rock wall, an Xcel transformer and transformer pad on top of rock wall (collectively, the "Existing
23 Improvement"), no trees, fences, retaining walls, landscaping or structures shall be allowed over,
24 upon or under the Easement Area. Any such obstruction may be removed by the City or the utility
25 provider at the property owner's expense. The property owner shall not re-grade or alter the ground
26 cover in the easement area without permission from the City and County of Denver. The property
27 owner shall be liable for all damages to such utilities, including their repair and replacement, at the
28 property owner's sole expense. The City and County of Denver, its successors, assigns, licensees,
29 permittees and other authorized users shall not be liable for any damage to property owner's property
30 due to use of this reserved easement.

31 **REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**
32

1 The reserved Easement Area is legally described as follows:

2 **PARCEL DESCRIPTION ROW NO. 2017-VACA-0000002-002:**

3 A PORTION OF THE ALLEYWAY WITHIN BLOCK 1, BURNS PARK ADDITION, RECORDED AT
4 BOOK 18, PAGE 94, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 7, TOWNSHIP 4
5 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF
6 DENVER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

7
8 CONSIDERING THE NORTHERLY LINE OF BLOCK 1, BURNS PARK ADDITION, RECORDED
9 AT BOOK 18, PAGE 94, TO BEAR N89°30'36"E, A DISTANCE OF 341.00 FEET BETWEEN A
10 FOUND #3 REBAR, NO CAP, AT THE NORTHWESTERLY CORNER OF LOT 3, SAID BLOCK 1,
11 AND A FOUND #4 REBAR, NO CAP, AT THE NORTHEASTERLY CORNER OF LOT 7, SAID
12 BLOCK 1, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

13
14 COMMENCING AT SAID NORTHEASTERLY CORNER OF LOT 7; THENCE ALONG SAID
15 NORTHERLY LINE OF BLOCK 1, SOUTH 89°30'36" WEST, A DISTANCE OF 233.00 FEET, TO
16 THE CENTERLINE OF SAID ALLEYWAY AND THE POINT OF BEGINNING;

17
18 THENCE PARALLEL TO, AND 4 FEET EASTERLY FROM, AN EXISTING ELECTRICAL LINE
19 THE FOLLOWING TWO (2) COURSES:

- 20 1) SOUTH 00°24'24" EAST, A DISTANCE OF 121.89 FEET;
21 2) SOUTH 42°59'29" EAST, A DISTANCE OF 32.03 FEET TO A POINT ON THE
22 SOUTHWESTERLY LINE OF LOT 5, SAID BLOCK 1;

23 THENCE ALONG SAID SOUTHWESTERLY LINE AND THE SOUTHWESTERLY LINE OF LOT
24 10, SAID BLOCK 1, SOUTH 34°07'19" EAST, A DISTANCE OF 17.37 FEET; THENCE SOUTH
25 47°00'31" WEST, A DISTANCE OF 7.57 FEET; THENCE NORTH 42°59'29" WEST, A DISTANCE
26 OF 12.50 FEET; THENCE NORTH 47°00'31" EAST, A DISTANCE OF 2.25 FEET TO A POINT 4
27 FEET SOUTHWESTERLY OF SAID ELECTRICAL LINE; THENCE PARALLEL TO, AND 4 FEET
28 WESTERLY FROM, SAID ELECTRICAL LINE THE FOLLOWING TWO (2) COURSES:

- 29 1) NORTH 42°59'29" WEST, A DISTANCE OF 39.80 FEET TO THE SOUTHEASTERLY
30 CORNER OF LOT 4, SAID BLOCK 1;
31 2) NORTH 00°24'24" WEST, ALONG THE EASTERLY LINE OF SAID LOT 4, A DISTANCE OF
32 125.00 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 4; THENCE NORTH
33 89°30'36" EAST, A DISTANCE OF 8.00 FEET TO THE POINT OF BEGINNING.

34
35 CONTAINING 1,399 SQUARE FEET OR 0.03 ACRES MORE OR LESS.

36 **REMAINDER OF PAGE INTENTIONALLY BLANK**

1 COMMITTEE APPROVAL DATE: May 15, 2018
2 MAYOR-COUNCIL DATE: May 22, 2018
3 PASSED BY THE COUNCIL: _____

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____

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

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____ ; _____

10 PREPARED BY: Bradley A. Beck, Assistant City Attorney DATE: August 16, 2018

11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
12 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
14 3.2.6 of the Charter.

15
16 Kristin M. Bronson, Denver City Attorney

17
18 BY: _____, Assistant City Attorney DATE: _____