

1  
2 BY AUTHORITY

3 RESOLUTION NO. CR12-0452  
4 SERIES OF 2012

COMMITTEE OF REFERENCE:  
Land Use, Transportation & Infrastructure

5  
6 A RESOLUTION

7 **Granting a revocable permit to the Denver Housing Authority, to encroach into**  
8 **the right-of-way with various items along W. 10<sup>th</sup> Avenue between Navajo Street**  
9 **and Osage Street.**

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

12 **Section 1.** The City and County of Denver hereby grants to the Denver Housing Authority  
13 and its successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way  
14 with concrete seat walls parallel to W. 10<sup>th</sup> Avenue, concrete seat walls around oval planters, curbs  
15 around oval planters and concrete seat benches ("Encroachments") along W. 10<sup>th</sup> Avenue between  
16 Navajo Street and Osage Street in the following described area ("Encroachment Area"):

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18 **PARCEL DESCRIPTION ROW 2011-0627-01-001**

A portion of land located in the Northeast ¼ of Section 4, Township 4 South, Range 68  
West, 6<sup>th</sup> P.M. City and County of Denver, State of Colorado described as follows:

All of 10<sup>th</sup> Avenue Right of Way adjacent to Blocks 25 and 28, Hunt's Addition to Denver  
the plat of which was recorded February 19th, 1874 and is in the Clerk and recorder's  
Office City and County of Denver.

Described parcel contains 21301.8 sq. ft. (0.49 acres)

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

22 (a) Permittee shall obtain a street occupancy permit from Public Works Permit Operations  
23 at 2000 West 3<sup>rd</sup> Avenue, 303-446-3759, prior to commencing construction.

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

26 c) If the Permittee intends to install any underground facilities in or near a public road,  
27 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification  
28 Association of Owners and Operators of Underground Facilities by contacting the Utility Notification

1 Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215, at 303-  
2 232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 to locate  
3 underground facilities prior to commencing any work under this permit.

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

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

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

29 (g) The sidewalk and street/alley over the Encroachment Area shall be capable of  
30 withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The  
31 installations within the Encroachment Area shall be constructed so that the paved section of the  
32 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 curb  
8 and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that become  
9 broken, damaged or unsightly during the course of construction. In the future, Permittee shall also  
10 remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that become broken  
11 or damaged when, in the opinion of the City Engineer, the damage has been caused by the activity of  
12 the Permittee within the Encroachment Area. All repair work shall be accomplished without cost to  
13 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 and County of Denver in exercising its right to make full use of the Encroachment Area and  
18 adjacent rights-of-way as public thoroughfares nor shall it operate to restrict the utility companies in  
19 exercising their rights to construct, remove, operate and maintain their facilities within the  
20 Encroachment Area and adjacent 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 and County of Denver, shall procure and  
23 maintain a single limit comprehensive general liability insurance policy with a limit of not less than  
24 \$500,000.00. All coverages are to be arranged on an occurrence basis and include coverage for  
25 those hazards normally identified as X.C.U. during construction. The insurance coverage required  
26 herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit  
27 or 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 County of Denver and authorized to do business in the  
30 State of Colorado. A certified copy of all such insurance policies shall be filed with the Manager of  
31 Public Works, and each such policy shall contain a statement therein or endorsement thereon that it  
32 will not be canceled or materially changed without written notice, by registered mail, to the Manager of  
33 Public Works at least thirty (30) days prior to the effective date of the cancellation or material change.

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

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

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

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

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

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1 COMMITTEE APPROVAL DATE: June 7, 2012 [by consent]

2 MAYOR-COUNCIL DATE: June 12, 2012

3 PASSED BY THE COUNCIL: \_\_\_\_\_, 2012

4 \_\_\_\_\_ - PRESIDENT

5 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
6 EX-OFFICIO CLERK OF THE  
7 CITY AND COUNTY OF DENVER

8 PREPARED BY: Brent A. Eisen, Assistant City Attorney DATE: June 14, 2012

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

13 Douglas J. Friednash, Denver City Attorney

14 BY: \_\_\_\_\_, Assistant City Attorney DATE: \_\_\_\_\_, 2012

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