

BY AUTHORITY

RESOLUTION NO. CR13-0973  
SERIES OF 2013

COMMITTEE OF REFERENCE:  
Land Use, Transportation & Infrastructure

A RESOLUTION

**Granting a revocable permit to SWG Arapahoe, LLC to encroach into the right-of-way at 2601 South Platte River Drive.**

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

**Section 1.** The City and County of Denver hereby grants to SWG Arapahoe, LLC and its successors and assigns (“Permittee”), a revocable permit to encroach into the right-of-way with an underground carrier, casing pipe and headwall (“Encroachments”) at 2601 South Platte River Drive in the following described area (“Encroachment Area”):

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1 **PARCEL DESCRIPTION ROW 2013-0527-01-001**

2 SITUATED IN THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 4 SOUTH,  
3 RANGE 68 WEST, OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF  
4 DENVER, STATE OF COLORADO.  
5

6 LEGAL DESCRIPTION:

7 A TRACT OF LAND BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 28,  
8 TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN, MORE  
9 PARTICULARLY DESCRIBED AS FOLLOWS:

10 BASIS OF BEARINGS:

11 THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 4 SOUTH, RANGE  
12 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, BEING MONUMENTED ON THE EAST END BY A 3  
13 1/4 " ALUMINUM CAP STAMPED PLS 22571 IN A RANGE BOX, AND ON THE WEST END BY A 2"  
14 BRASS CAP STAMPED "C&C OF D" SET IN CONCRETE, BEARS NORTH 89°59'55" WEST, A  
15 MEASURED DISTANCE OF 2634.30 FEET.

16  
17 COMMENCING FROM THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER OF SECTION  
18 28;

19 THENCE ALONG THE SOUTHERLY LINE OF SAID SECTION 28, NORTH 89°59'55" WEST FOR A  
20 DISTANCE OF 905.10 FEET;

21 THENCE NORTH 00°00'05" EAST FOR A DISTANCE OF 235.62 FEET TO THE POINT OF  
22 BEGINNING;

23  
24 THENCE FROM THE POINT OF BEGINNING NORTH 26°44'01" WEST FOR A DISTANCE OF  
25 125.92 FEET TO THE SOUTHEASTERLY PROPERTY LINE OF PSCO COAL PLANT PROJECT  
26 NUMBER 4319.00 BY JR ENGINEERING RECORDED NOVEMBER 19, 1999 AT RECEPTION  
27 NUMBER L004301;

28 THENCE ALONG SAID PROPERTY LINE, NORTH 65°49'18" EAST FOR A DISTANCE OF 30.03 FEET;  
29 THENCE FROM SAID PROPERTY LINE SOUTH 26°44'01" EAST FOR A DISTANCE OF 124.58 FEET;  
30 THENCE SOUTH 63°15'59" WEST FOR A DISTANCE OF 30.00 FEET TO THE POINT OF  
31 BEGINNING.

32 CONTAINING 0.086 ACRES OR 3,757 SQUARE FEET MORE OR LESS.  
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34 **Section 2.** The revocable permit ("Permit") granted by this Resolution is expressly  
35 granted upon and subject to each and all of the following terms and conditions:

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

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

40 (c) If the Permittee intends to install any underground facilities in or near a public road,  
41 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification  
42 Association of Owners and Operators of Underground Facilities by contacting the Utility  
43 Notification Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado

1 80215, at 303-232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-  
2 922-1987 to locate underground facilities prior to commencing any work under this permit.

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

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

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

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

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

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

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

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

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

1 specifically endorsed to include all liability assumed by the Permittee hereunder and shall name  
2 the City and County of Denver 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  
5 Institutions and Health and Welfare Services) of Chapter 28 (Human Rights) of the Revised  
6 Municipal Code of the City and County of Denver. The failure to comply with any such provision  
7 shall be a proper basis for revocation of this permit.

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

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

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

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1 COMMITTEE APPROVAL DATE: December 19, 2013 [by consent]

2 MAYOR-COUNCIL DATE: December 24, 2013 [by consent]

3 PASSED BY THE COUNCIL: \_\_\_\_\_, 2013

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

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

9 PREPARED BY: Brent A. Eisen, Assistant City Attorney DATE: December 26, 2013

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11 Pursuant to section 13-12, D.R.M.C., this proposed resolution 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 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §  
14 3.2.6 of the Charter.

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16 Douglas J. Friednash, Denver City Attorney

17 BY: \_\_\_\_\_, Assistant City Attorney DATE: \_\_\_\_\_, 2013