

BY AUTHORITY

RESOLUTION NO. 79
SERIES OF 2008

COMMITTEE OF REFERENCE:
Public Works

A RESOLUTION

Granting a revocable permit to The Vidette LLC to encroach into the right-of-way with various items at 3300 Walnut Street.

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

Section 1. The City and County of Denver hereby grants to The Vidette LLC, its successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with a loading dock, handicap ramp, and front door swing in the following described areas ("Encroachment Area"):

PARCEL 1:

COMMENCING AT THE NORTHWEST CORNER OF LOT 16, BLOCK 4, H. WITER'S ADDITION TO DENVER COLORADO;
THENCE NORTH 44°35'41" EAST ALONG THE WESTERLY LINE OF SAID BLOCK 4 A DISTANCE OF 64.57 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 44°35'41" EAST ALONG SAID WESTERLY LINE A DISTANCE OF 66.00 FEET; THENCE NORTH 45°24'19" WEST A DISTANCE OF 6.50 FEET; THENCE SOUTH 44°35'41" WEST A DISTANCE OF 66.00 FEET; THENCE SOUTH 45°24'19" EAST A DISTANCE OF 6.50 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 429 SQUARE FEET MORE OR LESS.

PARCEL 2:

COMMENCING AT THE NORTHWEST CORNER OF LOT 16, BLOCK 4, H. WITER'S ADDITION TO DENVER COLORADO; THENCE SOUTH 45°24'19" EAST ALONG THE SOUTHERLY LINE OF SAID BLOCK 4 A DISTANCE OF 21.62 FEET; THENCE SOUTH 44°35'41" WEST A DISTANCE OF 7.85 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 44°35'41" WEST A DISTANCE OF 5.00 FEET; THENCE SOUTH 45°24'19" EAST A DISTANCE OF 9.00 FEET; THENCE NORTH 44°35'41" EAST A DISTANCE OF 5.00 FEET; THENCE NORTH 45°24'19" WEST A DISTANCE OF 9.00 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 45 SQUARE FEET MORE OR LESS.

Section 2. 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, 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.

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

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

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

32 (g) The sidewalk and street/alley over the Encroachment Area shall be capable of
33 withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The

1 installations within the Encroachment Area shall be constructed so that the paved section of the
2 street/alley can be widened without requiring additional structural modifications. The sidewalk shall
3 be constructed so that it can be removed and replaced without affecting structures within the
4 Encroachment Area.

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

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

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

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

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

1 that it will not be canceled or materially changed without written notice, by registered mail, to the
2 Manager of Public Works at least thirty (30) days prior to the effective date of the cancellation or
3 material change. All such insurance policies shall be specifically endorsed to include all liability
4 assumed by the Permittee hereunder and shall name the City and County of Denver as an
5 additional insured.

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

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

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

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

23
24 COMMITTEE APPROVAL DATE: N/A MAYOR-COUNCIL DATE: May 13, 2008
25 PASSED BY THE COUNCIL May 19 2008


26 [Signature] - PRESIDENT

27 ATTEST: [Signature] - CLERK AND RECORDER,
28 EX-OFFICIO CLERK OF THE
29 CITY AND COUNTY OF DENVER
30

31 PREPARED BY: ^{KA} KAREN A. AVILES, ASSISTANT CITY ATTORNEY, May 15, 2008

1 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of the
2 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
3 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §
4 3.2.6 of the Charter.

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6 David R. Fine, City Attorney

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8 BY: , Assistant City Attorney DATE: May 15, 2008

