

1 BY AUTHORITY

2 RESOLUTION NO. CR13-0879  
3 SERIES OF 2013  
4

COMMITTEE OF REFERENCE:  
Land Use, Transportation & Infrastructure

5 A RESOLUTION

6 **Granting a revocable permit to Jefferson Park L.L.C. to encroach into the right-**  
7 **of-way at 2900 West 25<sup>th</sup> Avenue.**  
8

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

11 **Section 1.** The City and County of Denver hereby grants to Jefferson Park L.L.C. and its  
12 successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with a  
13 building façade, an ADA ramp and a raised patio ("Encroachments") at 2900 West 25<sup>th</sup> Avenue in  
14 the following described area ("Encroachment Area"):

15  
16 **LEGAL DESCRIPTION ROW# 2013-0336-02-001**

17  
18 A PARCEL OF LAND LOCATED IN THE NORTH HALF OF THE NORTHEAST QUARTER  
19 OF SECTION 32, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL  
20 MERIDIAN BEING A PORTION OF THE RIGHTS-OF-WAY FOR WEST 25TH AVENUE AND  
21 ELIOT STREET, THE TOWN OF HIGHLAND, CITY AND COUNTY OF DENVER, STATE OF  
22 COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
23

24 THE NORTH LINE OF BLOCK 33, SAID THE TOWN OF HIGHLAND IS ASSUMED TO  
25 BEAR N89°55'07"W, AND ON WHICH ALL THE BEARINGS HEREON ARE BASED;  
26

27 BEGINNING AT THE NORTHEAST CORNER OF SAID BLOCK 33; THENCE ALONG THE  
28 NORTH LINE OF SAID BLOCK 33, N89°55'07"W, A DISTANCE 80.28 FEET; THENCE  
29 N00°00'00"E, A DISTANCE OF 10.25 FEET; THENCE S89°58'20"E, A DISTANCE OF 70.64  
30 FEET; THENCE S45°06'13"E, A DISTANCE OF 21.43 FEET; THENCE ON A LINE 5.55 FEET  
31 EAST OF AND PARALLEL TO THE EAST LINE OF SAID BLOCK 33, S00°05'19"W, A  
32 DISTANCE OF 45.07 FEET; THENCE N90°00'00"E, A DISTANCE OF 1.77 FEET; THENCE  
33 ON A LINE 7.32 FEET EAST OF AND PARALLEL TO THE EAST LINE OF SAID BLOCK 33,  
34 S00°05'19"W, A DISTANCE OF 22.25 FEET; THENCE S89°53'11"W, A DISTANCE OF 7.32  
35 FEET; THENCE ON THE EAST LINE OF SAID BLOCK 33, N00°05'19"E, A DISTANCE OF  
36 72.12 FEET TO THE POINT OF BEGINNING,  
37

38 CONTAINING 1,208 SQUARE FEET OR 0.03 ACRES, MORE OR LESS.  
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40 **Section 2.** The revocable permit ("Permit") granted by this Resolution is expressly  
41 granted upon and subject to each and all of the following terms and conditions:

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

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

3 (c) If the Permittee intends to install any underground facilities in or near a public road,  
4 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification  
5 Association of Owners and Operators of Underground Facilities by contacting the Utility  
6 Notification Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado  
7 80215, at 303-232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-  
8 922-1987 to locate underground facilities prior to commencing any work under this permit.

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

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

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

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

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

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

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

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

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

1 authorized to do business in the State of Colorado. A certified copy of all such insurance policies  
2 shall be filed with the Manager of Public Works, and each such policy shall contain a statement  
3 therein or endorsement thereon that it will not be canceled or materially changed without written  
4 notice, by registered mail, to the Manager of Public Works at least thirty (30) days prior to the  
5 effective date of the cancellation or material change. All such insurance policies shall be  
6 specifically endorsed to include all liability assumed by the Permittee hereunder and shall name  
7 the City and County of Denver as an additional insured.

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

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

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

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

27 **[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**  
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1 COMMITTEE APPROVAL DATE: November 21, 2013 [by consent]  
2 MAYOR-COUNCIL DATE: November 26, 2013  
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: November 27, 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.  
15  
16 Douglas J. Friednash, Denver City Attorney  
17 BY: \_\_\_\_\_, Assistant City Attorney DATE: \_\_\_\_\_, 2013