

1 **BY AUTHORITY**

2 RESOLUTION NO. CR18-1132
3 SERIES OF 2018

COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

4 **A RESOLUTION**

5 **Granting a revocable permit to ProLogis Industrial Properties III, LLC, to**
6 **encroach into the right-of-way at 51st Avenue and Havana Street.**

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

8 **Section 1.** The City and County of Denver (“City”) hereby grants to ProLogis Industrial
9 Properties III, LLC and its successors and assigns (“Permittee”), a revocable permit to encroach into
10 the right-of-way with a box culvert and private roadway. (“Encroachments”) at 54th Drive and Havana
11 Street in the following described area (“Encroachment Area”):

12 **PARCEL DESCRIPTION ROW NO. 2017-ENCROACHMENT-0000071-001:**

13 A PARCEL OF LAND LOCATED WITHIN THE HAVANA STREET RIGHT-OF-WAY ABUTTING A
14 PORTION OF LOT 4, BLOCK 1, STAPLETON BUSINESS CENTER NORTH, FILING NO.2,
15 RECORDED AT RECEPTION NO. 2016104295 LOCATED WITHIN THE NORTHEAST QUARTER
16 OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN,
17 CITY AND COUNTY OF DENVER, STATE OF COLORADO AND BEING MORE PARTICULARLY
18 DESCRIBED AS FOLLOWS:

19 COMMENCING AT THE SOUTHEASTERLY CORNER OF SAID LOT 4; THENCE ALONG THE
20 EASTERLY LINE OF SAID LOT 4, N00°59’23”W, 73.53 FEET TO THE POINT OF BEGINNING;
21 THENCE CONTINUING ALONG SAID EASTERLY LINE, N00°59’23”W, 95.00 FEET; THENCE
22 THENCE N89°00’37”E, 95.00 FEET; THENCE S00°59’23”E, 95.00 FEET; THENCE S89°00’37”W,
23 95.00 FEET TO THE POINT OF BEGINNING;

24 SAID PARCEL CONTAINS 9025 SF (0.207 ACRES) MORE OR LESS.

25 ALL LINEAL DIMENSIONS ARE IN U.S. SURVEY FEET.

26 BASIS OF BEARING: AN ASSUMED BEARING OF S00°59’23”E, BETWEEN A FOUND 3 1/4”
27 ALUMINUM CAP IN A RANGE BOX (PLS # 11434) AT THE NORTHEAST CORNER OF SAID
28 SECTION 15, AND A FOUND 3 1/4” ALUMINUM CAP IN RANGE BOX (LS # 11434) AT THE EAST
29 QUARTER CORNER OF SAID SECTION 15, WITH ALL BEARINGS HEREON RELATIVE
30 THERETO.

31 **Section 2.** The revocable permit (“Permit”) granted by this Resolution is expressly granted
32 upon and subject to each and all of the following terms and conditions:

33 (a) Permittee shall obtain a street occupancy permit from City’s Public Works Permit
34 Operations at 2000 West 3rd 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 Notification
6 Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215, at 303-
7 232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 to locate
8 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 Water
10 Department and/or drainage facilities for water and sewage of the City due to activities authorized
11 by the Permit. Should the relocation or replacement of any drainage facilities for water and sewage
12 of the City become necessary as determined by the City's Executive Director of Public Works
13 ("Executive Director"), in the Executive Director's sole and absolute discretion, Permittee shall pay
14 all cost and expense of the portion of the sewer affected by the permitted structure. The extent of
15 the affected portion to be replaced or relocated by Permittee shall be determined by the Executive
16 Director. Any and all replacement or repair of facilities of the Denver Water and/or drainage facilities
17 for water and sewage of the City attributed to the Permittee shall be made by the Denver Water
18 and/or the City at the sole expense of the Permittee. In the event Permittee's facilities are damaged
19 or destroyed due to the Denver Water or the City's repair, replacement and/or operation of its
20 facilities, repairs will be made by the Permittee at its sole expense. Permittee agrees to defend,
21 indemnify and save the City harmless and to repair or pay for the repair of any and all damages to
22 said sanitary sewer, or those damages resulting from the failure of the sewer to properly function as
23 a result of the permitted structure.

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

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

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 Encroachments.
6 Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing the
7 Encroachments 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 curb
10 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 caused
14 by the activity of the Permittee within the Encroachment Area. All repair work shall be accomplished
15 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 in exercising its right to make full use of the Encroachment Area and adjacent rights-of-way as
20 public thoroughfares nor shall it operate to restrict the utility companies in exercising their rights to
21 construct, remove, operate and maintain their facilities within the Encroachment Area and adjacent
22 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, shall procure and maintain a single limit
25 comprehensive general liability insurance policy with a limit of not less than \$500,000.00. All
26 coverages are to be arranged on an occurrence basis and include coverage for those hazards
27 normally identified as X.C.U. during construction. The insurance coverage required herein
28 constitutes a minimum requirement and such enumeration shall in no way be deemed to limit or
29 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 authorized to do business in the State of Colorado.
32 A certified copy of all such insurance policies shall be filed with the Executive Director, and each
33 such policy shall contain a statement therein or endorsement thereon that it will not be canceled or

1 materially changed without written notice, by registered mail, to the Executive Director at least thirty
2 (30) days prior to the effective date of the cancellation or material change. All such insurance policies
3 shall be specifically endorsed to include all liability assumed by the Permittee hereunder and shall
4 name the City as an additional insured.

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

10 (n) The right to revoke this Permit is expressly reserved to the City.

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

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

22 **REMAINDER OF PAGE INTENTIONALLY BLANK**

1 COMMITTEE APPROVAL DATE: October 9, 2018 by Consent

2 MAYOR-COUNCIL DATE: October 16, 2018

3 PASSED BY THE COUNCIL: _____


4 _____ - PRESIDENT

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

8 PREPARED BY: Bradley A. Beck, Assistant City Attorney DATE: October 18, 2018

9 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the Office of
10 the 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
14 Kristin M. Bronson, Denver City Attorney

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16 BY:  _____, Assistant City Attorney DATE: Oct 17, 2018