

1 BY AUTHORITY

2 RESOLUTION NO. CR12-0972
3 SERIES OF 2013

COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

4
5 A RESOLUTION

6 **Granting a revocable permit to Friedman Kentro, LLC, to encroach into the right-**
7 **of-way with various items at 750 Colorado Boulevard.**

8
9 **NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY AND COUNTY OF**
10 **DENVER:**

11 **Section 1.** The City and County of Denver hereby grants to Friedman Kentro, LLC and its
12 successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with a 10
13 inch and an 8 inch Storm Sewer PVC pipe ("Encroachments") in the alley at 750 Colorado Boulevard
14 in the following described area ("Encroachment Area"):

15
16 **PARCEL DESCRIPTION ROW 2012-0209-04-001**

A 10 INCH STORM SEWER ALIGNMENT ACROSS BLOCK 1 ALLEY, SKINNER BROS. SUBDIVISION, LOCATED
IN THE SOUTHWEST ONE-QUARTER OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 67 WEST OF THE 6TH
P.M., CITY AND COUNTY OF DENVER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS
FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE SOUTHWEST ONE-QUARTER OF SECTION 6, MONUMENTED
AT THE WEST ONE-QUARTER CORNER BY A 3.25 INCH ALUMINUM CAP IN RANGE BOX STAMPED "LS
13212", AND MONUMENTED AT THE SOUTHWEST CORNER BY A 3.25 INCH ALUMINUM CAP IN RANGE
BOX STAMPED "1991 LS 13212", WITH THE LINE CONSIDERED TO BEAR S00°14'21"W.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 6;

THENCE N10°09'29"E, 1017.30 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID BLOCK
1 ALLEY AND THE **POINT OF BEGINNING** FROM WHENCE THE NORTHEAST CORNER OF LOT 12, SAID
BLOCK 1, SKINNER BROS. SUBDIVISION BEARS N00°11'37"E, 19.05 FEET;

THENCE N90°00'00"E, 15.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF BLOCK 1 ALLEY
AND THE **POINT OF TERMINUS**, FROM WHENCE THE SOUTHWEST CORNER OF SAID SECTION 6 BEARS
S10°59'14"W, 1020.06 FEET.

17
18 and

19 **[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**
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PARCEL DESCRIPTION ROW 2012-0209-04-002

A 8 INCH STORM SEWER ALIGNMENT ACROSS BLOCK 1 ALLEY, SKINNER BROS. SUBDIVISION, LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 67 WEST OF THE 6TH P.M., CITY AND COUNTY OF DENVER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE SOUTHWEST ONE-QUARTER OF SECTION 6, MONUMENTED AT THE WEST ONE-QUARTER CORNER BY A 3.25 INCH ALUMINUM CAP IN RANGE BOX STAMPED "LS 13212", AND MONUMENTED AT THE SOUTHWEST CORNER BY A 3.25 INCH ALUMINUM CAP IN RANGE BOX STAMPED "1991 LS 13212", WITH THE LINE CONSIDERED TO BEAR S00°14'21"W.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 6;

THENCE N08°44'59"E, 1183.19 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID BLOCK 1 ALLEY AND THE **POINT OF BEGINNING** FROM WHENCE THE NORTHEAST CORNER OF LOT 6, SAID BLOCK 1, SKINNER BROS. SUBDIVISION BEARS N00°11'37"E, 1.22 FEET;

THENCE S89°45'39"E, 15.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF BLOCK 1 ALLEY AND THE **POINT OF TERMINUS**, FROM WHENCE THE SOUTHWEST CORNER OF SAID SECTION 6 BEARS S09°28'00"W, 1185.50 FEET.

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3 **Section 2.** The revocable permit ("Permit") granted by this Resolution is expressly granted

4 upon and subject to each and all of the following terms and conditions:

5 (a) Permittee shall obtain a street occupancy permit from Public Works Permit Operations

6 at 2000 West 3rd Avenue, 303-446-3759, prior to commencing construction.

7 (b) Permittee shall be responsible for obtaining all other permits and shall pay all costs that

8 are necessary for installation and construction of items permitted herein.

9 (c) If the Permittee intends to install any underground facilities in or near a public road,

10 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification

11 Association of Owners and Operators of Underground Facilities by contacting the Utility Notification

12 Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215, at 303-

13 232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 to locate

14 underground facilities prior to commencing any work under this permit.

15 (d) Permittee is fully responsible for any and all damages incurred to facilities of the Water

16 Department and/or drainage facilities for water and sewage of the City and County of Denver due to

17 activities authorized by the permit. Should the relocation or replacement of any drainage facilities for

18 water and sewage of the City and County of Denver become necessary as determined by the

19 Manager of Public Works, in the Manager's sole and absolute discretion, Permittee shall pay all cost

20 and expense of the portion of the sewer affected by the permitted structure. The extent of the

1 affected portion to be replaced or relocated by Permittee shall be determined by the Manager of
2 Public Works. Any and all replacement or repair of facilities of the Water Department and/or drainage
3 facilities for water and sewage of the City and County of Denver attributed to the Permittee shall be
4 made by the Water Department and/or the City and County of Denver at the sole expense of the
5 Permittee. In the event Permittee's facilities are damaged or destroyed due to the Water
6 Department's or the City and County of Denver's repair, replacement and/or operation of its facilities,
7 repairs will be made by the Permittee at its sole expense. Permittee agrees to defend, indemnify and
8 save the City harmless and to repair or pay for the repair of any and all damages to said sanitary
9 sewer, or those damages resulting from the failure of the sewer to properly function as a result of the
10 permitted structure.

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

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

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

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

30 (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and curb
31 and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that become
32 broken, damaged or unsightly during the course of construction. In the future, Permittee shall also
33 remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that become broken

1 or damaged when, in the opinion of the City Engineer, the damage has been caused by the activity of
2 the Permittee within the Encroachment Area. All repair work shall be accomplished without cost to
3 the City and under the supervision of the City Engineer.

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

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

11 (l) During the existence of the Encroachments and this permit, Permittee, its successors
12 and assigns, at its expense, and without cost to the City and County of Denver, shall procure and
13 maintain a single limit comprehensive general liability insurance policy with a limit of not less than
14 \$500,000.00. All coverages are to be arranged on an occurrence basis and include coverage for
15 those hazards normally identified as X.C.U. during construction. The insurance coverage required
16 herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit
17 or lessen the liability of the Permittee, its successors or assigns, under the terms of this permit. All
18 insurance coverage required herein shall be written in a form and by a company or companies
19 approved by the Risk Manager of the City and County of Denver and authorized to do business in the
20 State of Colorado. A certified copy of all such insurance policies shall be filed with the Manager of
21 Public Works, and each such policy shall contain a statement therein or endorsement thereon that it
22 will not be canceled or materially changed without written notice, by registered mail, to the Manager of
23 Public Works at least thirty (30) days prior to the effective date of the cancellation or material change.

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

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

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

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

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

12 COMMITTEE APPROVAL DATE: December 27, 2012 [by consent]

13 MAYOR-COUNCIL DATE: January 1, 2013

14 PASSED BY THE COUNCIL: _____, 2013

15 _____ - PRESIDENT

16 ATTEST: _____ - CLERK AND RECORDER,
17 EX-OFFICIO CLERK OF THE
18 CITY AND COUNTY OF DENVER
19

20 PREPARED BY: Brent A. Eisen, Assistant City Attorney

DATE: January 3, 2013

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22 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of the
23 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
24 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §
25 3.2.6 of the Charter.

26
27 Douglas J. Friednash, Denver City Attorney

28 BY: _____, Assistant City Attorney DATE: _____, 2013