

**BY AUTHORITY**

RESOLUTION NO. CR16-0335  
SERIES OF 2016

COMMITTEE OF REFERENCE:  
Infrastructure & Culture

**A RESOLUTION**

**Granting a revocable permit to ESS Metron, Inc., to encroach into the right-of-way at 1505 West 3rd Avenue.**

**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 ESS Metron, Inc. and its successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with two (2) level eighteen feet, eight inch (18'8") long, twenty-seven feet (27') wide and eighteen inch (18") high concrete pads ("Encroachments") at 1505 West 3<sup>rd</sup> Avenue in the following described area ("Encroachment Area"):

**PARCEL DESCRIPTION NO. 2016-ENCROACHMENT-0000013:**

A CERTAIN PARCEL OF LAND, LOCATED IN THE NE1/4 OF SEC.9 T-4-S R-68-W OF THE 6<sup>th</sup> P.M., CITY AND COUNTY OF DENVER, STATE OF COLORADO.  
BENG MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION POINT OF THE NORTH RIGH-OF-WAY LINE OF W. 3<sup>RD</sup> AVENUE AND THE WEST RIGHT-OF-WAY LINE OF OSAGE STREET;  
THENCE N00deg 25' 17" W 275.00 FEET ALONG THE WEST RIGHT-OF WAY LINE OF OSAGE STREET TO THE POINT OF BEGINNING;  
THENCE N 89deg 34' 43" E 18.7 FEET TO A POINT;  
THENCE N 00deg 25' 17" W 89.00 FEET TO A POINT;  
THENCE S 89deg 34' 43" W 18.7 FEET TO A POINT ON SAID WEST RIGHT-OF-WAY LINE OF OSAGE STREET;  
THENCE S 00deg 25' 17" E 89.00 FEET ALONG SAID WEST RIGHT-OF-WAY LINE OF OSAGE STREET TO THE TRUE POINT OF BEGINNING.  
CONTAINING 0.0382 ACRES.

CITY AND COUNTY OF DENVER, STATE OF COLORADO.

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

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

29 (f) All construction in, under, on or over the Encroachment Area shall be accomplished  
30 in accordance with the Building Code of the City and County of Denver. Plans and Specifications  
31 governing the construction of the Encroachments shall be approved by the Executive Director of  
32 Public Works and the Director of Building Inspection Division prior to construction. Upon

1 completion, a reproducible copy of the exact location and dimensions of the Encroachments shall  
2 be filed with the Executive Director of Public Works.

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

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

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

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

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

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

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

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

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

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

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

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1 COMMITTEE APPROVAL DATE: May 12, 2016 by Consent  
2 MAYOR-COUNCIL DATE: May 17, 2016  
3 PASSED BY THE COUNCIL: \_\_\_\_\_, 2016  
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: May 19, 2016  
10  
11 Pursuant to section 14-12, 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 Denver City Attorney  
17 BY: \_\_\_\_\_, Assistant City Attorney      DATE: \_\_\_\_\_, 2016