


REQUEST FOR RESOLUTION FOR TIER III ENCROACHMENT PERMIT

TO: Caroline Martin, City Attorney's Office

FROM: Matt Bryner 
Director, Public Works, Right of Way Services

ROW NO.: 2019-ENCROACHMENT-0000061

DATE: December 5, 2019

SUBJECT: Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to 2525 Expo, LLC, c/o Jeff Allen their successors and assigns, to encroach into the right-of-way with a solid brick privacy wall that will encroach into the ROW five (5') feet with a total height of nine (9') feet and one (1") inch, and is two hundred and fifty-two (252') feet long at 2525 E. Exposition Ave.

It is requested that the above subject item be placed on the next available Mayor Council Agenda.

This office has investigated the request from Lily Herberger of Designs by Sundown dated March 29, 2019, on behalf of 2525 Expo, LLC c/o Jeff Allen for the granting of the above-subject permit.

This matter has been checked by this office and has been coordinated with Asset Management; Colorado Department of Transportation (if required); Comcast Corporation; Commission For People With Disabilities; Councilperson Hinds; CPD: Building & Construction Services, Planning Services, and Zoning & Development Review; Denver Water Board; Environmental Services (if required); Fire Department (if required); Metro Wastewater Reclamation District; Office of Emergency Management; Office of Telecommunications; Parks and Recreation; Public Works: City Engineer, DES Construction Engineering, DES Engineering, DES Survey, IPP Infrastructure Engineering, and Street Maintenance; Qwest Corporation; Regional Transportation District; and Xcel Energy, all of whom have returned our questionnaires indicating their agreement.

As a result of the investigations, it has been determined that there is no objection to the granting of the revocable permit.

Therefore, you are requested to initiate Council action for the granting of a revocable permit, subject to certain terms and conditions, to 2525 Expo, LLC, c/o Jeff Allen their successors and assigns, to encroach into the right-of-way with a solid brick privacy wall that will encroach into the ROW five (5') feet with a total height of nine (9') feet and one (1") inch, and is two hundred and fifty-two (252') feet long at 2525 E. Exposition Ave.

INSERT PARCEL DESCRIPTION ROW 2019-ENCROACHMENT-0000061-001 HERE

STANDARD PROVISIONS

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, and 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.
- (c) If the Permittee intends to install any underground facilities in or near a public road, street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification Association of Owners and Operators of Underground Facilities by contacting the Utility Notification Center of Colorado, 16361 Table Mountain Pkwy, Golden, Colorado, 80403 at 303.232.1991. Further, Permittee shall contact the Utility Notification Center, at 811 to locate underground facilities prior to commencing any work under this permit.
- (d) Permittee is fully responsible for any and all damages incurred to facilities of the Water Department and/or drainage facilities for water and sewage of the City and County of Denver due to activities authorized by the permit. Should the relocation or replacement of any drainage facilities for water and sewage of the City and County of Denver become necessary as determined by the Manager of Public Works, in the Manager's sole and absolute discretion, Permittee shall pay all cost and expense of the portion of the sewer affected by the permitted structure. The extent of the affected portion to be replaced and relocated by Permittee shall be determined by the Manager of Public Works. Any and all replacement or repair of facilities of the Water Department and/or drainage facilities for water and sewage of the City and County of Denver attributed to the Permittee shall be made by the Water Department and/or the City and County of Denver at the sole expense of the Permittee. In the event Permittee's facilities are damaged or destroyed due to the Water Department's or the City and County of Denver's repair, replacement and/or operation of its facilities, repairs will be made by Permittee at its sole expense. Permittee agrees to defend, indemnify and save the City harmless and to repair or pay for the repair of any and all damages to said sanitary sewer, or those damages resulting from the failure of the sewer to properly function as a result of the permitted structure.
- (e) Permittee shall comply with all requirements of affected utility companies and pay for all costs of removal, relocation, replacement or rearrangement of utility company facilities. Existing telephone facilities shall not be utilized, obstructed or disturbed.
- (f) All construction in, under, on or over the Encroachment Area shall be accomplished in accordance with the Building Code of the City and County of Denver. Plans and Specifications governing the construction of the Encroachments shall be approved by the Manager of Public Works and the Director of the Building Inspection Division prior to construction. Upon completion, a reproducible

copy of the exact location and dimensions of the Encroachments shall be filed with the Manager of Public Works.

- (g) The sidewalk and street/alley over the Encroachment Area shall be capable of withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The installations within the Encroachment Area shall be constructed so that the paved section of the street/alley can be widened without requiring additional structural modifications. The sidewalk shall be constructed so that it can be removed and replaced without affecting structures within the Encroachment Area.
- (h) Permittee shall pay all costs of construction and maintenance of the Encroachment. Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing the Encroachment from the Encroachment Area, and return the Encroachment Area to its original condition under the supervision of the City Engineer.
- (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that become broken, damaged or unsightly during the course of construction. In the future, Permittee shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that become broken or damaged when, in the opinion of the City Engineer, the damage has been caused by the activity of the Permittee within the Encroachment Area. All repair work shall be accomplished without cost to the City and under the supervision of the City Engineer.
- (j) The City reserves the right to make an inspection of the Encroachments contained within the Encroachment Area. An annual fee, subject to change, of \$200.00 shall be assessed.
- (k) This revocable permit shall not operate or be construed to abridge, limit or restrict the City and County of Denver in exercising its right to make full use of the Encroachment Area and adjacent rights-of-way as public thoroughfares nor shall it operate to restrict the utility companies in exercising their rights to construct, remove, operate and maintain their facilities within the Encroachment Area and adjacent rights-of-way.
- (l) During the existence of the Encroachments and this permit, Permittee, its successors and assigns, at its expense, and without cost to the City and County of Denver, shall procure and maintain a single limit comprehensive general liability insurance policy with a limit of not less than \$500,000.00. All coverage's are to be arranged on an occurrence basis and include coverage for those hazards normally identified as X.C.U. during construction. The insurance coverage required herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit or lessen the liability of the Permittee, its successors or assigns, under the terms of this permit. All insurance coverage required herein shall be written in a form and by a company or companies approved by the Risk Manager of the City and County of Denver and authorized to do business in the State of Colorado. A certified copy of all such insurance policies shall be filed with the Manager of Public Works, and each such policy shall contain a statement therein or

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

- (m) Permittee shall comply with the provisions of Article IV (Prohibition of Discrimination in Employment, Housing and Commercial Space, Public Accommodations, Educational Institutions and Health and Welfare Services) of Chapter 28 (Human Rights) of the Revised Municipal Code of the City and County of Denver. The failure to comply with any such provision shall be a proper basis for revocation of this permit.
- (n) The right to revoke this permit is expressly reserved to the City and County of Denver.
- (o) Permittee shall agree to indemnify and always save the City and County of Denver harmless from all costs, claims or damages arising, either directly or indirectly, out of the rights and privileges granted by this permit.

SPECIAL CONDITIONS FOR THIS PERMIT

- (p) NONE

A map of the area is attached hereto.

MB: je

cc: Asset Management, Steve Wirth
City Council Office, Zach Rothmier
Councilperson and Aides
Department of Law, Bradley Beck
Department of Law, Deanne Durfee
Department of Law, Maureen McGuire
Department of Law, Martin Plate
Department of Law, Caroline Martin
Public Works, Alba Castro
Public Works, Jason Gallardo
Project File

Property Owner:
2525 Expo, LLC
c/o Jeff Allen
2525 E. Exposition Ave.
Denver, CO 80209

Agent:
Lily Herberger
Designs by Sundown
6875 S. Santa Fe Dr.
Littleton, CO 80120

ORDINANCE/RESOLUTION REQUEST

Please email requests to Jason Gallardo at Jason.Gallardo@denvergov.org by **12:00pm on Monday**. Contact her with questions.

Date of Request: December 5, 2019

Please mark one: Bill Request or Resolution Request

1. Type of Request:

- Contract/Grant Agreement Intergovernmental Agreement (IGA) Rezoning/Text Amendment
- Dedication/Vacation Appropriation/Supplemental DRMC Change
- Other: Tier III Encroachment

2. Title: (Start with *approves, amends, dedicates*, etc., include name of company or contractor and indicate the type of request: grant acceptance, contract execution, contract amendment, municipal code change, supplemental request, etc.)

Lily Herberger of Designs by Sundown on behalf of 2525 Expo, LLC c/o Jeff Allen, request for a Resolution granting a revocable permit, subject to certain terms and conditions, to 2525 Expo, LLC c/o Jeff Allen, their successors and assigns, to encroach into the right-of-way with a solid brick privacy wall that will encroach into the ROW five (5') feet with a total height of nine (9') feet and one (1") inch, and is two hundred and fifty-two (252') feet long at 2525 E. Exposition Ave.

3. Requesting Agency: Public Works, Engineering and Regulatory Department

4. Contact Person:

Contact person with knowledge of proposed ordinance/resolution	Contact person to present item at Mayor-Council and Council
Name: Jessica Eusebio	Name: Jason Gallardo
Email: Jessica.Eusebio@denvergov.org	Email: Jason.Gallardo@denvergov.org

5. General description or background of proposed request. Attach executive summary if more space needed:

Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to 2525 Expo, LLC, c/o Jeff Allen their successors and assigns, to encroach into the right-of-way with a solid brick privacy wall that will encroach into the ROW five (5') feet with a total height of nine (9') feet and one (1") inch, and is two hundred and fifty-two (252') feet long at 2525 E. Exposition Ave.

6. City Attorney assigned to this request (if applicable): Martin Plate

7. City Council District: Councilperson Hinds of District 10

8. **For all contracts, fill out and submit accompanying Key Contract Terms worksheet**

N/A

Key Contract Terms

Type of Contract: (e.g. Professional Services > \$500K; IGA/Grant Agreement, Sale or Lease of Real Property):

To be completed by Mayor's Legislative Team:

Resolution/Bill Number: _____

Date Entered: _____

Vendor/Contractor Name:

Contract control number:

Location:

Is this a new contract? Yes No Is this an Amendment? Yes No If yes, how many? _____

Contract Term/Duration (for amended contracts, include existing term dates and amended dates):

Contract Amount (indicate existing amount, amended amount and new contract total):

<i>Current Contract Amount (A)</i>	<i>Additional Funds (B)</i>	<i>Total Contract Amount (A+B)</i>

<i>Current Contract Term</i>	<i>Added Time</i>	<i>New Ending Date</i>

Scope of work:

Was this contractor selected by competitive process?

If not, why not?

Has this contractor provided these services to the City before? Yes No

Source of funds:

Is this contract subject to: W/MBE DBE SBE XO101 ACDBE N/A

WBE/MBE/DBE commitments (construction, design, Airport concession contracts):

Who are the subcontractors to this contract?

To be completed by Mayor's Legislative Team:

Resolution/Bill Number: _____

Date Entered: _____



TIER III ENCROACHMENT EXECUTIVE SUMMARY

Denver Public Works
Right-of-Way Engineering Services
Engineering, Regulatory & Analytics Office

201 W Colfax Ave, Dept. 507
Denver, CO 80202
720-865-3003
www.denvergov.org

What is an Encroachment: A privately owned improvement that is located in, or project over or under the public Right-of-Way.

Project Title: 2019-ENCROACHMENT-0000061 Tier III Brick Privacy Wall at 2525 E Exposition Ave

Business name: 2525 Expo, LLC

Description of Encroachment: Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to 2525 Expo, LLC, their successors and assignees, to encroach into the right-of-way with the privacy wall at 2525 E. Exposition Ave, which encroaches into the ROW approximately two (2') feet and is two hundred and fifty-two (252') feet long.

Explanation of why the Public Right of Way must be utilized for a private improvement: To provide privacy to the property at 2525 E. Exposition Ave. The public ROW is currently shaded by mature trees contributing to the urban forest of Denver. To preserve the trees located on the 2525 E. Exposition lot, the proposed wall would be placed five (5') feet into the ROW.

Duration of the Encroachment: Permanent

Annual Fees: \$200 per year

Additional Information: N/A

Location Map: Continued on next page.

