

1 **BY AUTHORITY**

2 RESOLUTION NO. CR15-0736
3 SERIES OF 2015
4

COMMITTEE OF REFERENCE:
Infrastructure & Culture

5 **A RESOLUTION**

6 **Granting a revocable permit to MPD Properties, LLC, to encroach into the right-**
7 **of-way at 3734 Osage Street.**

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 MPD Properties, LLC and its
12 successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with a
13 building wall ("Encroachments") at 3734 Osage Street in the following described area
14 ("Encroachment Area"):
15

16 **PARCEL DESCRIPTION ROW NO. 2015-ENCROACHMENT-000028-001:**

17 A PARCEL OF LAND SITUATED IN THE NE 1/4 OF SECTION 28, T3S, R68W OF THE 6TH PM, CITY AND
18 COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
19

20 COMMENCING AT THE NW CORNER OF LOT 7, CENTRAL SUBDIVISION AN ADDITION TO THE TOWN
21 OF HIGHLANDS; THENCE S00°00'00"W ALONG THE WEST LINE OF SAID LOT 7, A DISTANCE OF 3.92
22 FEET, WITH ALL BEARINGS HEREIN RELATIVE THERETO, TO THE **POINT OF BEGINNING**;

23
24 THENCE CONTINUING S00°00'00"W ALONG THE WEST LINE OF SAID CENTRAL SUBDIVISION AS AN
25 ADDITION TO THE TOWN OF HIGHLANDS, A DISTANCE OF 61.00 FEET

26 THENCE S90°00'00"W, A DISTANCE OF 0.50 FEET;

27 THENCE N00°00'00"E, A DISTANCE OF 61.00 FEET;

28 THENCE N90°00'00"E, A DISTANCE OF 0.50 FEET TO THE **POINT OF BEGINNING**.
29

30 CONTAINING 31 SQUARE FEET (0.0007 ACRES) MORE OR LESS.
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32 **Section 2.** The revocable permit ("Permit") granted by this Resolution is expressly
33 granted upon and subject to each and all of the following terms and conditions:

34 (a) Permittee shall obtain a street occupancy permit from Public Works Permit
35 Operations at 2000 West 3rd Avenue, 303-446-3759, prior to commencing construction.

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

38 (c) If the Permittee intends to install any underground facilities in or near a public road,
39 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification

1 Association of Owners and Operators of Underground Facilities by contacting the Utility Notification
2 Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215, at 303-
3 232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 to
4 locate underground facilities prior to commencing any work under this permit.

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

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

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

30 (g) The sidewalk and street/alley over the Encroachment Area shall be capable of
31 withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The
32 installations within the Encroachment Area shall be constructed so that the paved section of the
33 street/alley can be widened without requiring additional structural modifications. The sidewalk

1 shall be constructed so that it can be removed and replaced without affecting structures within the
2 Encroachment Area.

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

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

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

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

21 (l) During the existence of the Encroachments and this permit, Permittee, its successors
22 and assigns, at its expense, and without cost to the City and County of Denver, shall procure and
23 maintain a single limit comprehensive general liability insurance policy with a limit of not less than
24 \$500,000.00. All coverages are to be arranged on an occurrence basis and include coverage for
25 those hazards normally identified as X.C.U. during construction. The insurance coverage required
26 herein constitutes a minimum requirement and such enumeration shall in no way be deemed to
27 limit or lessen the liability of the Permittee, its successors or assigns, under the terms of this
28 permit. All insurance coverage required herein shall be written in a form and by a company or
29 companies approved by the Risk Manager of the City and County of Denver and authorized to do
30 business in the State of Colorado. A certified copy of all such insurance policies shall be filed with
31 the Manager of Public Works, and each such policy shall contain a statement therein or
32 endorsement thereon that it will not be canceled or materially changed without written notice, by
33 registered mail, to the Manager of Public Works at least thirty (30) days prior to the effective date

1 of the cancellation or material change. All such insurance policies shall be specifically endorsed to
2 include all liability assumed by the Permittee hereunder and shall name the City and County of
3 Denver as an additional insured.

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

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

11 (o) Permittee shall agree to indemnify and always save the City and County of Denver
12 harmless from all costs, claims or damages arising, either directly or indirectly, out of the rights and
13 privileges granted by this 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 and County of Denver; provided however, at a reasonable
18 time prior to Council action upon such revocation or proposed revocation, opportunity shall be
19 afforded to Permittee, its successors and assigns, to be present at a hearing to be conducted by
20 the Council upon such matters and thereat to present its views and opinions thereof and to present
21 for consideration action or actions alternative to the revocation of such Permit.

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1 COMMITTEE APPROVAL DATE: October 15, 2015 by Consent

2 MAYOR-COUNCIL DATE: October 20, 2015

3 PASSED BY THE COUNCIL: _____, 2015

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: October 22, 2015

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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 D. Scott Martinez, Denver City Attorney

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18 BY: _____, Assistant City Attorney DATE: _____, 2015