

1 BY AUTHORITY

2 RESOLUTION NO. CR13-0003  
3 SERIES OF 2013

COMMITTEE OF REFERENCE:  
Land Use, Transportation & Infrastructure

4  
5 A RESOLUTION

6 **Granting a revocable permit to DAM Office, LLC to encroach into the right-of-**  
7 **way various items at 1226 N. Bannock 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 DAM Office, LLC and its  
12 successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way with a  
13 communication conduit bank, secondary electrical service and landscaping ("Encroachments") at  
14 1226 N. Bannock Street in the following described area ("Encroachment Area"):

15  
16 **PARCEL DESCRIPTION ROW 2012-0323-02-001**

ALLEY ENCUMBRANCE

THAT PORTION OF THE PUBLIC ALLEY ADJACENT TO LOTS 25 THROUGH 29, BLOCK 44,  
SUBDIVISION OF BLOCKS 43, 44, 45, 46, 57, 59 AND 60, EVANS ADDITION TO DENVER LOCATED  
IN THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE  
SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, BEING  
MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERLY CORNER OF SAID LOT 29; THENCE ALONG THE  
EASTERLY LINE OF SAID LOT 29 AND THE WESTERLY RIGHT-OF-WAY LINE OF SAID ALLEY  
S00°01'47"E, 10.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID  
EASTERLY LOT LINE AND SAID WESTERLY RIGHT-OF-WAY LINE N89°58'13"E, 20.00 FEET TO THE  
EASTERLY RIGHT-OF-WAY LINE OF SAID ALLEY; THENCE ALONG THE EASTERLY RIGHT-OF-  
WAY LINE OF SAID ALLEY S00°01'47"E, 85.00 FEET; THENCE LEAVING SAID EASTERLY RIGHT-  
OF-WAY LINE S89°58'13"W, 20.00 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF SAID ALLEY  
AND THE EASTERLY LINE OF SAID LOTS 25 THROUGH 29; THENCE ALONG THE WESTERLY  
RIGHT-OF-WAY LINE OF SAID ALLEY AND THE EASTERLY LINE OF SAID LOTS 25 THROUGH 29  
N00°01'47"W, 85.00 FEET TO THE TRUE POINT OF BEGINNING. SAID PARCEL OF LAND  
CONTAINS 1,700 SQUARE FEET (0.0390 ACRES), MORE OR LESS.

BASIS OF BEARING: BEARINGS ARE BASED ON THE 20.5 FOOT RANGELINE IN BANNOCK  
STREET ON AN ASSUMED BEARING OF N00°01'38"W AND BEING MONUMENTED BY A FOUND 3-  
INCH ALUMINUM CAP IN RANGE BOX LS #37993 AT 13<sup>TH</sup> AVENUE AND BANNOCK STREET AND A  
FOUND 3-INCH ALUMINUM CAP IN RANGE BOX LS #37993 AT 12<sup>TH</sup> AVENUE AND BANNOCK  
STREET.

17  
18 and

## CONSTRUCTION EASEMENT

THAT PORTION OF LOT 30, BLOCK 44, SUBDIVISION OF BLOCKS 43, 44, 45, 46, 57, 59 AND 60, EVANS ADDITION TO DENVER LOCATED IN THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF SAID LOT 30 AND ON THE EASTERLY RIGHT-OF-WAY LINE OF BANNOCK STREET; THENCE ALONG THE WESTERLY LINE OF SAID LOT 30 AND THE EASTERLY RIGHT-OF-WAY LINE OF SAID BANNOCK STREET N00°01'38"W, 8.00 FEET; THENCE LEAVING SAID WESTERLY LOT LINE AND SAID EASTERLY RIGHT-OF-WAY LINE S89°51'58"E, 43.00 FEET; THENCE S45°00'00"E, 11.34 FEET TO THE SOUTHERLY LINE OF SAID LOT 30; THENCE ALONG THE SOUTHERLY LINE OF LOT 30 N89°51'58"W, 51.01 FEET TO THE TRUE POINT OF BEGINNING. SAID PARCEL OF LAND CONTAINS 376 SQUARE FEET (0.0086 ACRES), MORE OR LESS.

BASIS OF BEARING: BEARINGS ARE BASED ON THE 20.5 FOOT RANGELINE IN BANNOCK STREET ON AN ASSUMED BEARING OF N00°01'38"W AND BEING MONUMENTED BY A FOUND 3-INCH ALUMINUM CAP IN RANGE BOX LS #37993 AT 13<sup>TH</sup> AVENUE AND BANNOCK STREET AND A FOUND 3-INCH ALUMINUM CAP IN RANGE BOX LS #37993 AT 12<sup>TH</sup> AVENUE AND BANNOCK STREET.

1  
2       **Section 2.** The revocable permit ("Permit") granted by this Resolution is expressly  
3 granted upon and subject to each and all of the following terms and conditions:

4       (a) Permittee shall obtain a street occupancy permit from Public Works Permit  
5 Operations at 2000 West 3<sup>rd</sup> Avenue, 303-446-3759, prior to commencing construction.

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

8       (c) If the Permittee intends to install any underground facilities in or near a public road,  
9 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification  
10 Association of Owners and Operators of Underground Facilities by contacting the Utility  
11 Notification Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado  
12 80215, at 303-232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-  
13 922-1987 to locate underground facilities prior to commencing any work under this permit.

14       (d) Permittee is fully responsible for any and all damages incurred to facilities of the  
15 Water Department and/or drainage facilities for water and sewage of the City and County of  
16 Denver due to activities authorized by the permit. Should the relocation or replacement of any  
17 drainage facilities for water and sewage of the City and County of Denver become necessary as  
18 determined by the Manager of Public Works, in the Manager's sole and absolute discretion,  
19 Permittee shall pay all cost and expense of the portion of the sewer affected by the permitted  
20 structure. The extent of the affected portion to be replaced or relocated by Permittee shall be  
21 determined by the Manager of Public Works. Any and all replacement or repair of facilities of the

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

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

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

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

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

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

1 caused by the activity of the Permittee within the Encroachment Area. All repair work shall be  
2 accomplished without cost to the City and under the supervision of the City Engineer.

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

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

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

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

31 (n) The right to revoke this permit is expressly reserved to the City and County of  
32 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  
3 and privileges granted by this permit.

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

13 COMMITTEE APPROVAL DATE: January 10, 2013 [by consent]

14 MAYOR-COUNCIL DATE: January 15, 2013

15 PASSED BY THE COUNCIL: \_\_\_\_\_, 2013

16 \_\_\_\_\_ - PRESIDENT

17 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
18 EX-OFFICIO CLERK OF THE  
19 CITY AND COUNTY OF DENVER  
20

21 PREPARED BY: Brent A. Eisen, Assistant City Attorney DATE: January 17, 2013  
22

23 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of  
24 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
25 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §  
26 3.2.6 of the Charter.

27  
28 Douglas J. Friednash, Denver City Attorney

29 BY: \_\_\_\_\_, Assistant City Attorney DATE: \_\_\_\_\_, 2013