



DENVER
THE MILE HIGH CITY

Department of Public Works
Permit Operations and Right of Way Enforcement
201 W. Colfax Avenue, Dept. 507
Denver, CO 80202
P: 720-865-2782
F: 720-865-3280
www.denvergov.org/pwprs

***** RESOLUTION AMENDMENT *****

(Please review entire request)

REQUEST FOR RESOLUTION TO AMEND ORDINANCE

TO: Karen Walton, City Attorney's Office

FROM: ^{FDR:} Robert J. Duncanson, P.E.
Manager 2, Development Engineering Services

ROW NO.: 2002-0045-01

DATE: February 14, 2013

SUBJECT: Request to **amend** Ordinance 858, Series 2004, to 800 Kalamath LLC, their successors and assigns, to encroach with the right-of-way with three (3) existing corners of building, and with two (2) existing steel canopies at 800 Kalamath Street.

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

This office has investigated the request from Mathew Gold of 800 Kalamath LLC dated 2/8/2013, on behalf of 800 Kalamath LLC 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 Judy Montero; 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 800 Kalamath LLC, their successors and assigns, encroach with the right-of-way with three (3) existing corners of building, and with two (2) existing steel canopies at 800 Kalamath Street.

PARCEL DESCRIPTION IS THE SAME AS ORDINANCE 858, SERIES 2004
(NO CHANGE IN LEGAL DESCRIPTION)



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, 12600 West Colfax Ave, Suite B-310, Lakewood, Colorado, 80215 at 303.232.1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 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.

RJD: BVS 

cc: Asset Management, Steve Wirth
City Council Office, Gretchen Williams
Councilperson Judy Montero and Aides
CPM, Michael Anderson
Department of Law, Shaun Sullivan
Department of Law, Karen Aviles
Department of Law, Brent Eisen
Department of Law, Karen Walton
Public Works, Alba Castro
Public Works, Nancy Kuhn
Public Works Solid Waste, Mike Lutz
Public Works Survey, Paul Rogalla
Public Works Street Maint. William Kennedy
Project File # 2002-0045-01

Property Owner:
800 Kalamath LLC
Matthew Gold
301 Bryant St
Denver, CO 80219

ORDINANCE/RESOLUTION REQUEST

Please email requests to Nancy Kuhn at
Nancy.kuhn@denvergov.org by **NOON on Monday.**

**All fields must be completed.*
Incomplete request forms will be returned to sender which may cause a delay in processing.*

Date of Request: February 14, 2013

Please mark one: Bill Request or Resolution Request

1. Has your agency submitted this request in the last 12 months?

Yes No

If yes, please explain:

2. Title: (Include a concise, one sentence description – please include name of company or contractor and contract control number - that clearly indicates the type of request: grant acceptance, contract execution, amendment, municipal code change, supplemental request, etc.)

Request to amend Ordinance 858, Series 2004, to 800 Kalamath LLC, their successors and assigns, to encroach into the right-of-way with three (3) existing corners of building, and with two (2) existing steel canopies at 800 Kalamath Street.

3. Requesting Agency: PW Right of Way Engineering Services

4. Contact Person: (With actual knowledge of proposed ordinance/resolution.)

- Name: Beverly Van Slyke
- Phone: 720-865-3125
- Email: Beverly.VanSlyke@denvergov.org

5. Contact Person: (With actual knowledge of proposed ordinance/resolution who will present the item at Mayor-Council and who will be available for first and second reading, if necessary.)

- Name: Nancy Kuhn
- Phone: 720-865-8720
- Email: nancy.kuhn@denvergov.org

6. General description of proposed ordinance including contract scope of work if applicable:

To amend Ordinance 858, Series 2004, to 800 Kalamath LLC, their successors and assigns, to encroach with the right-of-way with three (3) existing corners of building, and with two (2) existing steel canopies at 800 Kalamath Street.

****Please complete the following fields: (Incomplete fields may result in a delay in processing. If a field is not applicable, please enter N/A for that field.)**

- a. Contract Control Number: N/A
- b. Duration: Permanent
- c. Location: 800 Kalamath Street
- d. Affected Council District: Judy Montero, District 9
- e. Benefits: N/A
- f. Costs: N/A

7. Is there any controversy surrounding this ordinance? (Groups or individuals who may have concerns about it?) Please explain.

None

To be completed by Mayor's Legislative Team:

SIRE Tracking Number: _____

Date Entered: _____



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EXECUTIVE SUMMARY

Project Title: 2002-0045-01 MEP, 800 Kalamath

Description of Proposed Project: To encroach into the right-of-way with three (3) existing corners of building with two (2) existing steel canopies at 800 Kalamath Street.

Explanation of why the public right-of-way must be utilized to accomplish the proposed project: For existing items

Has a Temp MEP been issued, and if so, what work is underway: No

What is the known duration of an MEP: Permanent

Will land be dedicated to the City if the vacation goes through: N/A

Will an easement be placed over a vacated area, and if so explain: N/A

Will an easement relinquishment be submitted at a later date: N/A

Additional information: This is to amend Ordinance 858, Series of 2004 to include the existing three (3) corners of the building to 800 Kalamath Street.

BY AUTHORITY

ORDINANCE NO. 858
SERIES OF 2004

COUNCIL BILL NO. 840
COMMITTEE OF REFERENCE:

A BILL

Public Works

For an ordinance granting a revocable permit to Streamline Restoration to encroach with two steel canopies into portions of 8th Avenue and Kalamath Street.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. The City and County of Denver hereby grants to Streamline Restoration, its successors and assigns ("Permittee"), a revocable permit to encroach with two steel canopies in the following described area ("Encroachment Area"):

A PARCEL OF LAND LOCATED IN THE SE 1/4 OF SECTION 4, T. 4S., R. 68W., OF THE 6TH P.M., LOT 20, BLOCK 31, HUNTS ADDITION TO DENVER, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 20; THENCE EASTERLY ALONG THE SOUTH LINE OF SAID LOT 20, A DISTANCE OF 50.54 FEET TO THE POINT OF BEGINNING; THENCE ON A DEFLECTION ANGLE TO THE RIGHT OF 89°56'35", A DISTANCE OF 3.00 FEET; THENCE ON A DEFLECTION ANGLE TO THE LEFT OF 89°56'35" A DISTANCE OF 16.00 FEET; THENCE ON A DEFLECTION ANGLE TO THE LEFT OF 90°3'25", A DISTANCE OF 3.00 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 20; THENCE EASTERLY ALONG THE SOUTH LINE OF SAID LOT 20, A DISTANCE OF 70.40 FEET; THENCE ON A DEFLECTION ANGLE TO THE RIGHT OF 89°56'35", A DISTANCE OF 3.00 FEET, THENCE ON A DEFLECTION ANGLE TO THE LEFT OF 89°56'35", A DISTANCE OF 16.56 FEET; THENCE ON A DEFLECTION ANGLE TO THE LEFT OF 89°58'42", A DISTANCE OF 13.80 FEET; THENCE ON A DEFLECTION ANGLE TO THE LEFT OF 90°1'18", A DISTANCE OF 3.50 FEET TO A POINT ON THE EAST LINE OF SAID LOT 20; THENCE SOUTHERLY ALONG THE EAST LINE OF SAID LOT 20, A DISTANCE OF 10.80 FEET TO THE SOUTHEAST CORNER OF SAID LOT 20; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID LOT 20, A DISTANCE OF 99.46 FEET TO THE POINT OF BEGINNING.

CONTAINING 135 SQUARE FEET±, 0.00 ACRES ±

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

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

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

7 **(c)** If the Permittee intends to install any underground facilities in or near a public road,
8 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification
9 Association of Owners and Operators of Underground Facilities by contacting the Utility Notification
10 Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215, at 303-
11 232-1991.

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

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

31 **(f)** All construction in, under, on or over the Encroachment Area shall be accomplished in
32 accordance with the Building Code of the City and County of Denver. Plans and Specifications
33 governing the construction of the Encroachments shall be approved by the Manager of Public Works

1 and the Director of Building Inspection Division prior to construction. Upon completion, a
2 reproducible copy of the exact location and dimensions of the Encroachments shall be filed with the
3 Manager of Public Works.

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

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

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

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

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

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

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

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

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

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

28 PASSED BY THE COUNCIL November 15 2004

29 [Signature] - PRESIDENT

30 APPROVED: [Signature] MAYOR 11/14 2004

31 ATTEST: [Signature] - CLERK AND RECORDER,
32 EX-OFFICIO CLERK OF THE
33 CITY AND COUNTY OF DENVER
34

1 NOTICE PUBLISHED IN THE DAILY JOURNAL NOVEMBER 12 2004 NOVEMBER 19 2004
2 PREPARED BY: KAREN A. AVILES, ^{HI} ASSISTANT CITY ATTORNEY 11/2/04
3 REVIEWED BY: [Signature] Asst CITY ATTORNEY 11/4 2004
4 SPONSORED BY COUNCIL MEMBER(S) _____

