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BY AUTHORITY

ORDINANCE NO. 92
SERIES OF 2003

COUNCIL BILL NO. 63
COMMITTEE OF REFERENCE:
Public Works
~~Parks, Recreation, & Amenities~~

A BILL

For an ordinance granting a revocable permit subject to certain terms and conditions, to Regional Transportation District, their successors and assigns, to encroach with various items into 16th Street and Wynkoop 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 Regional Transportation District, its successors and assigns ("Permittee"), a revocable permit to encroach with a new sidewalk, trees and tree grates, tree irrigation system, weatherproof electrical outlets, ornamental fence, benches, planters and trash cans on the north side of 16th Street west of Wynkoop Street; benches and planters on the south side of 16th Street; sidewalk, curb and gutter, storm sewer inlets, entrance drop-off, parking lot entrance, underground electrical conduits, tree and tree grates, tree irrigation system, weatherproof outlets and wiring, ornamental fence, benches and planters, informational signage, flagpole with accent lighting, street and pedestrian lights, trash cans and traffic signs on the west side of Wynkoop Street in the following described area ("Encroachment Area"):

A PARCEL OF LAND IN A PORTION OF THE RIGHT-OF-WAY OF 16th STREET, ADJACENT TO BLOCK 13 , AND IN THE RIGHT-OF-WAY OF WYNKOOP STREET ADJACENT TO BLOCK 13 , ALL IN EAST DENVER AS RECORDED IN BOOK 1, PAGE 1, CLERK AND RECORDER'S OFFICE OF ARAPAHOE COUNTY, NOW CLERK AND RECORDER'S OFFICE OF THE CITY AND COUNTY OF DENVER, BEING IN THE NORTHEAST QUARTER SECTION 33, TOWNSHIP 3 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 EASTERLY MOST CORNER OF LOT 32, OF SAID BLOCK 13, THENCE NORTHWESTERLY ALONG THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF 16th STREET, 233.50 FEET; THENCE NORTHEASTERLY, PERPENDICULAR TO SAID RIGHT-OF-WAY LINE, 22.00 FEET; THENCE SOUTHEASTERLY, PARALLEL TO AND 22.00 FEET NORMALLY DISTANCE TO SAID RIGHT-OF-WAY LINE, 245.50 FEET; THENCE SOUTHWESTERLY, PERPENDICULAR TO SAID RIGHT-OF-WAY LINE, 22.00 FEET; THENCE NORTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE EXTENDED 12.00 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINING 5401 SQUARE FEET (0.124 ACRES) MORE OR LESS.

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and

A PARCEL OF LAND IN A PORTION OF THE RIGHT-OF-WAY OF 16th STREET ADJACENT TO BLOCK 14, AND IN THE RIGHT-OF-WAY OF WYNKOOP STREET ADJACENT TO BLOCK E AND BLOCK 14, ALL IN EAST DENVER AS RECORDED IN BOOK 1, PAGE 1, CLERK AND RECORDER'S OFFICE OF ARAPAHOE COUNTY, NOW CLERK AND RECORDER'S OFFICE OF THE CITY AND COUNTY OF DENVER, BEING IN THE NORTHEAST QUARTER SECTION 33, TOWNSHIP 3 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 SOUTHERLY MOST CORNER OF SAID BLOCK 14; THENCE NORTHEASTERLY ALONG THE NORTHWESTERLY RIGHT-OF-WAY LINE OR LINE EXTENDED OF WYNKOOP STREET, 920.95 FEET TO THE INTERSECTION OF THE CENTERLINE OF VACATED 18TH STREET; THENCE SOUTHEASTERLY, PERPENDICULAR TO SAID RIGHT-OF-WAY LINE OR LINE EXTENDED, 12.00 FEET; THENCE SOUTHWESTERLY, PARALLEL TO AND 12.00 FEET NORMALLY DISTANT FROM SAID NORTHWESTERLY RIGHT-OF-WAY LINE OR LINE EXTENDED, 942.95 FEET; THENCE NORTHWESTERLY, PARALLEL TO AND 22.00 FEET NORMALLY DISTANCE FROM THE SOUTHWESTERLY LINE OF SAID BLOCK 14 AND THE NORTHEASTERLY RIGHT-OF-WAY LINE OF 16TH STREET, 245.50 FEET; THENCE NORTHEASTERLY PERPENDICULAR TO SAID NORTHEASTERLY RIGHT-OF-WAY LINE 22.00 FEET TO SAID NORTHEASTERLY RIGHT-OF-WAY LINE; THENCE SOUTHEASTERLY, ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE 233.50 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINING 16452 SQUARE FEET (1.377 ACRES) MORE OR LESS.

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 Permitting at 2000
4 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:

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

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

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

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

22 (j) The City reserves the right to make an inspection of the Encroachments contained
23 within the Encroachment Area. An annual fee of \$100.00 shall be assessed.

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

29 (l) During the existence of the Encroachments and this permit, Permittee, its successors
30 and assigns, at its expense, and without cost to the City and County of Denver, shall procure and
31 maintain a single limit comprehensive general liability insurance policy with a limit of not less than
32 \$500,000.00. All coverages are to be arranged on an occurrence basis and include coverage for

1 those hazards normally identified as X.C.U. during construction. The insurance coverage required
2 herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit
3 or lessen the liability of the Permittee, its successors or assigns, under the terms of this permit. All
4 insurance coverage required herein shall be written in a form and by a company or companies
5 approved by the Risk Manager of the City and County of Denver and authorized to do business in
6 the State of Colorado. A certified copy of all such insurance policies shall be filed with the Manager
7 of Public Works, and each such policy shall contain a statement therein or endorsement thereon
8 that it will not be canceled or materially changed without written notice, by registered mail, to the
9 Manager of Public Works at least thirty (30) days prior to the effective date of the cancellation or
10 material change. All such insurance policies shall be specifically endorsed to include all liability
11 assumed by the Licensee hereunder and shall name the City and County of Denver as an additional
12 insured.

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

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

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

22 (p) Permittee shall maintain a five (5) foot minimum clearance for all pedestrian areas at
23 all times.

24 (q) Permittee shall obtain approval of City Forestry prior to any action taken regarding
25 existing trees.

26 (r) Permittee shall maintain adequate clearances and otherwise comply with the
27 Americans with Disabilities Act requirements.

28 (s) Permittee shall bear the expense of any relocation of existing Xcel Energy facilities
29 due to the activities of this Permit.

30 **Section 3.** That the Permit hereby granted shall be revocable at any time that the Council
31 of the City and County of Denver shall determine that the public convenience and necessity or the
32 public health, safety or general welfare require such revocation, and the right to revoke the same is

1 hereby expressly reserved to the City and County of Denver; provided however, at a reasonable
2 time prior to Council action upon such revocation or proposed revocation, opportunity shall be
3 afforded to Licensee, its successors and assigns, to be present at a hearing to be conducted by the
4 Council upon such matters and thereat to present its views and opinions thereof and to present for
5 consideration action or actions alternative to the revocation of such Permit.

6 **Section 4.** That this Permit shall be of no force or effect until the following things have
7 been done and performed:

8 (a) Licensee shall have filed with the Manager of Public Works a written
9 acceptance of the terms and conditions of this ordinance together with a fee for filing with the Clerk
10 and Recorder in and for the City and County of Denver. The acceptance shall be in substantially the
11 following form:

12 Date: _____
13

14 We, the undersigned do hereby accept all of the terms and conditions recited in
15 Ordinance No. _____, Series of 20____.

16 Signed by: _____
17 (Licensee)
18

19 By: _____
20 (Name of Officer)
21

22 (b) Licensee shall have filed with the Manager of Public Works all insurance
23 policies and certificates required herein; and
24

25 (c) The Manager of Public Works shall have certified in writing that the foregoing
26 requirements have been performed.
27

28 PASSED BY THE COUNCIL February 3 _____ 2003

29 Lucy Bernick - PRESIDENT

30 APPROVED: Walter S. Williams - MAYOR FEB 4 _____ 2003

31 ATTEST: Sherry S. Jackson - CLERK AND RECORDER,
32 EX-OFFICIO CLERK OF THE
33 CITY AND COUNTY OF DENVER
34

35 NOTICE PUBLISHED IN THE DAILY JOURNAL Jan. 31, 2003 Feb. 7 2003

36 PREPARED BY: KAREN A. AVILES, ASSISTANT CITY ATTORNEY 1/21/03

37 REVIEWED BY: Walter S. Williams - CITY ATTORNEY 1/23 _____ 2003

38 SPONSORED BY COUNCIL MEMBER(S) _____

