

1 **BY AUTHORITY**

2 RESOLUTION NO. CR22-0971

COMMITTEE OF REFERENCE:

3 SERIES OF 2022

Land Use, Transportation & Infrastructure

4 **A RESOLUTION**

5 **Granting a revocable permit to Jose Rangel, to encroach into the right-of-way at**
6 **1040 North Santa De Drive.**

7 **BE IT RESOLVED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

8 **Section 1.** The City and County of Denver ("City") hereby grants to Jose Rangel, the owner
9 of the Benefitted Property, and its successors and assigns ("Permittee"), a revocable permit to
10 encroach into the right-of-way with a 12.75 linear foot 10-inch diameter storm sewer and three (3)
11 12.75 linear foot 2-inch diameter conduits located 3 to 4 feet below finished grade crossing the alley
12 ("Encroachment(s)") at 1040 North Santa De Drive in the following described area ("Encroachment
13 Area"):

14 **PARCEL DESCRIPTION ROW NO. ROW 2022-ENCROACHMENT-0000035-002:**

15 **LAND DESCRIPTION**

16
17 A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 4
18 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF
19 DENVER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

20
21 **COMMENCING** AT A DENVER RANGE POINT AT THE INTERSECTION OF 10TH AVENUE
22 AND SANTA FE DRIVE, AS MONUMENTED BY A CHISELED CROSS ON STONE, WHENCE
23 THE DENVER RANGE POINT AT THE INTERSECTION OF 10TH AVENUE AND INCA STREET,
24 AS MONUMENTED BY A 2-1/2" ALUMINUM CAP STAMPED "LS 37969", BEARS
25 N 89°24'37" E, A DISTANCE OF 265.85 FEET, ALONG THE 20' RANGE LINE OF 10TH
26 AVENUE, FORMING THE BASIS OF BEARINGS USED IN THIS DESCRIPTION;

27
28 THENCE N 16°34'27" E, A DISTANCE OF 415.67 FEET TO A POINT ON A LINE THAT IS 3.25'
29 EAST OF AND PARALLEL WITH THE EAST LINE OF LOT 5, BLOCK 39, HALLACK'S
30 SUBDIVISION OF BLOCK 27, 28, 38, 39, OF WITTERS FIRST ADDITION AND THE **POINT OF**
31 **BEGINNING**;

32
33 THENCE ALONG SAID LINE, N 00°10'40" W, A DISTANCE OF 5.00 FEET;
34 THENCE DEPARTING SAID LINE, N 89°49'25" E, A DISTANCE OF 12.75 FEET TO A POINT ON
35 THE WEST LINE OF LOT 36, SAID BLOCK 39;
36 THENCE ALONG SAID WEST LINE, S 00°10'40" E, A DISTANCE OF 5.00 FEET;
37 THENCE DEPARTING SAID WEST LINE, S 89°49'25" W, A DISTANCE OF 12.75 FEET TO THE
38 **POINT OF BEGINNING**.

39
40 CONTAINING AN AREA OF 64 SQ. FT. OR 0.002 ACRES, MORE OR LESS

1
2 and benefitting the following described parcel of property:

3 **PARCEL DESCRIPTION ROW NO. ROW 2022-ENCROACHMENT-0000035-001**

4 PARCEL I 1078 N SANTA FE DR:

5
6 LOTS 1 THROUGH 4 INCLUSIVE, BLOCK 39,
7 HALLACK'S SUBDIVISION OF BLOCKS 27, 28, 38, 39, OF WITTERS FIRST ADDITION,
8 CITY AND COUNTY OF DENVER,
9 STATE OF COLORADO.

10
11 PARCEL II 1062 N SANTA FE DR:

12
13 LOT 5, BLOCK 39,
14 HALLACK'S SUBDIVISION OF BLOCKS 27, 28, 38, 39, OF WITTERS FIRST ADDITION,
15 CITY AND COUNTY OF DENVER,
16 STATE OF COLORADO.

17
18 PARCEL III 1058 N SANTA FE DR:

19
20 LOT 6, BLOCK 39,
21 HALLACK'S SUBDIVISION OF BLOCKS 27, 28, 38, 39, OF WITTERS FIRST ADDITION,
22 CITY AND COUNTY OF DENVER,
23 STATE OF COLORADO.

24
25 PARCEL IV 1052 N SANTA FE DR:

26
27 LOT 7, BLOCK 39,
28 HALLACK'S SUBDIVISION OF BLOCKS 27, 28, 38, 39, OF WITTERS FIRST ADDITION,
29 CITY AND COUNTY OF DENVER,
30 STATE OF COLORADO.

31
32 PARCEL V 1042 N SANTA FE DR:

33
34 LOTS 8 THROUGH 10, INCLUSIVE, BLOCK 39,
35 HALLACK'S SUBDIVISION OF BLOCKS 27, 28, 38, 39, OF WITTERS FIRST ADDITION,
36 CITY AND COUNTY OF DENVER,
37 STATE OF COLORADO.

38
39 PARCEL VI 1038 N SANTA FE DR:

40
41 LOTS 10, 11 AND 12, BLOCK 6,
42 SMITH'S ADDITION TO THE CITY OF DENVER,
43 CITY AND COUNTY OF DENVER,
44 STATE OF COLORADO.

45
46 PARCEL VII 820 W 11TH AVE:
47

1 LOTS 35 TO 40, INCLUSIVE, BLOCK 39,
2 EXCEPT THE EAST 15.14 FEET OF SAID LOTS,
3 HALLACK'S SUBDIVISION OF BLOCKS 27, 28, 38, 39, OF WITTERS FIRST ADDITION,
4 CITY AND COUNTY OF DENVER,
5 STATE OF COLORADO.

6
7 PARCEL VIII 1045 N INCA ST:

8
9 LOTS 31 AND 32, BLOCK 39,
10 EXCEPT THE EAST 15.14 FEET OF SAID LOTS,
11 HALLACK'S SUBDIVISION OF BLOCKS 27, 28, 38, 39, OF WITTERS FIRST ADDITION,
12 CITY AND COUNTY OF DENVER,
13 STATE OF COLORADO.

14
15 PARCEL IX 1049 N INCA ST:

16
17 LOT 33, BLOCK 39,
18 EXCEPT THE EAST 15.14 FEET OF SAID LOT,
19 HALLACK'S SUBDIVISION OF BLOCKS 27, 28, 38, 39, OF WITTERS FIRST ADDITION,
20 CITY AND COUNTY OF DENVER,
21 STATE OF COLORADO.

22
23 FILE NO. 21000310677 (TC2) 1053 N INCA ST:

24
25 LOT 34, BLOCK 39,
26 HALLACK'S SUBDIVISION OF BLOCKS 27, 28, 38, 39, OF WITTERS FIRST ADDITION,
27 EXCEPT THE EAST 15.14 FEET DEEDED TO THE CITY AND COUNTY OF DENVER IN BOOK
28 2369 AT PAGE 372,
29 CITY AND COUNTY OF DENVER,
30 STATE OF COLORADO.

31 **Section 2.** The revocable permit ("Permit") granted by this Resolution is expressly granted
32 upon and subject to each and all of the following terms and conditions (terms not defined herein are
33 defined in the Rules and Regulations Governing Encroachments & Encumbrances in the Public Right
34 of Way):

35 (a) Permittee shall obtain a street occupancy permit, street cut permit, and/or ROW
36 construction permit from the City's Department of Transportation and Infrastructure ("DOTI") Permit
37 Operations through www.denvergov.org/dotipermits prior to commencing construction.

38 (b) Permittee shall be responsible for obtaining all necessary permits and shall pay all
39 costs for installation and construction of items permitted herein.

40 (c) If the Permittee intends to install any underground facilities in or near a Public road,
41 street, alley, ROW or utility easement, the Permittee shall join the Statewide Notification Association
42 of Owners and Operators of Underground Facilities by contacting the Utility Notification Center of
43 Colorado (Colorado 811) through <https://colorado811.org/> or at 303-232-1991, 16361 Table

1 Mountain Pkwy, Golden, Colorado, 80403. Further, Permittee shall contact the Utility Notification
2 Center (Colorado 811) at <https://colorado811.org/> or 303-232-1991 to request locates for existing
3 underground facilities prior to commencing excavation.

4 (d) Permittee is fully responsible for any and all damages incurred to facilities of Denver
5 Water and any other Utility Company, and/or drainage facilities for water and sewage of the City and
6 County of Denver due to activities authorized by the Permit. Should the relocation or replacement of
7 any drainage facilities for water and sewage of the City and County of Denver become necessary as
8 determined by the City’s Executive Director of DOTI (“Executive Director”), in the Executive
9 Director’s sole and absolute discretion, Permittee shall pay all cost and expense of the portion of the
10 water and/or sewer facilities affected by the Encroachment(s). The extent of the affected portion to
11 be replaced and relocated by Permittee shall be determined by the Executive Director. Any and all
12 replacement or repair of facilities of Denver Water and any other Utility Company, and/or drainage
13 facilities for water and sewage of the City and County of Denver attributed to the Permittee shall be
14 made by Denver Water, Utility Company, and/or the City and County of Denver at the sole expense
15 of the Permittee. In the event the Permittee’s facilities are damaged or destroyed due to Denver
16 Water’s, Utility Company’s, or the City and County of Denver’s repair, replacement and/or operation
17 of its facilities, repairs will be made by Permittee at its sole expense. Permittee agrees to defend,
18 indemnify and hold the City harmless and to repair or pay for the repair of any and all damages to
19 said water, storm, sanitary sewer facilities or other Utility Company facilities, or those damages
20 resulting from the failure of the water, storm, sanitary sewer facilities or other Utility Company
21 facilities to properly function because of the Encroachment(s).

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

25 (f) All construction in, under, on or over the Encroachment Area shall be accomplished in
26 accordance with the Building Code and City and County of Denver Department of Transportation &
27 Infrastructure Transportation Standards and Details for the Engineering Division.

28 (g) Permittee shall observe and comply with all Federal, State and local laws, regulations,
29 ordinances, and public safety requests regarding the use of the Encroachment Area.

30 (h) Plans and Specifications governing the construction of the Encroachment(s) shall be
31 approved by DOTI prior to construction.

32 (i) Permittee shall pay all costs of construction and maintenance of the Encroachment(s).
33 Upon revocation of the Permit or upon abandonment, Permittee shall pay all costs of removing the

1 Encroachment(s) from the Encroachment Area and restore the Encroachment Area to a condition in
2 accordance with City and County of Denver Department of Transportation & Infrastructure
3 Transportation Standards and Details for the Engineering Division under the supervision of DOTI.

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

12 (k) The City reserves the right to make an inspection of the Encroachment(s) and the
13 Encroachment Area.

14 (l) During the existence of the Encroachment(s) and the Permit, Permittee, its successors
15 and assigns, at its expense, and without cost to the City, shall procure and maintain Commercial
16 General Liability insurance policy with a limit of not less than \$1,000,000 per occurrence. All
17 coverages are to be arranged on an occurrence basis and include coverage for those hazards
18 normally identified as X.C.U. during construction. The insurance coverage required herein
19 constitutes a minimum requirement and such enumeration shall in no way be deemed to limit or
20 lessen the liability of the Permittee, its successors or assigns, under the terms of this Permit. All
21 insurance coverage required herein shall be written in a form and by a company or companies
22 approved by the Risk Manager of the City and authorized to do business in the State of Colorado. A
23 certified copy of all such insurance policies shall be filed with the Executive Director, and each such
24 policy shall contain a statement therein or endorsement thereon that it will not be canceled or
25 materially changed without written notice, by registered mail, to the Executive Director at least thirty
26 (30) days prior to the effective date of the cancellation or material change. The City and County of
27 Denver, its Elected and Appointed Officials, Employees and Volunteers shall be included as
28 Additional Insured.

29 (m) In addition to the requirement herein to comply with all laws, Permittee shall comply
30 with the provisions of Article IV (Prohibition of Discrimination in Employment, Housing and
31 Commercial Space, Public Accommodations, Educational Institutions and Health and Welfare
32 Services) of Chapter 28 (Human Rights) of the DRMC. The failure to comply with any such provision
33 shall be a proper basis for revocation of the Encroachment(s).

1 (n) The right to revoke the Permit at any time for any reason and require the removal of
2 the Encroachment(s) is expressly reserved to the City.

3 (o) By Permittee's use of this Permit and the Encroachment Area, Permittee agrees to the
4 following:

5 i. Permittee agrees to defend, indemnify, reimburse and hold harmless City, its
6 appointed and elected officials, agents and employees for, from and against all liabilities, claims,
7 judgments, suits or demands for damages to persons or property arising out of, resulting from, or
8 relating to this Permit and the Encroachment(s) ("Claims"). This indemnity shall be interpreted in the
9 broadest possible manner to indemnify City for any acts or omissions of Permittee or its agents either
10 passive or active, irrespective of fault, including City's negligence whether active or passive.

11 ii. Permittee's duty to defend and indemnify City shall arise at the time written notice
12 of the Claim is first provided to City regardless of whether claimant has filed suit on the Claim.
13 Permittee's duty to defend and indemnify City shall arise even if City is the only party sued by
14 claimant and/or claimant alleges that City's negligence or willful misconduct was the sole cause of
15 claimant's damages.

16 iii. Permittee will defend any and all Claims which may be brought or threatened
17 against City and will pay on behalf of City any expenses incurred by reason of such Claims including,
18 but not limited to, court costs and attorney fees incurred in defending and investigating such Claims
19 or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition
20 to any other legal remedies available to City and shall not be considered City's exclusive remedy.

21 iv. Insurance coverage requirements specified in this Encroachment Permit shall in no
22 way lessen or limit the liability of Permittee under the terms of this indemnification obligation.
23 Permittee shall obtain, at its own expense, any additional insurance that it deems necessary for the
24 City's protection.

25 v. This defense and indemnification obligation shall survive the expiration or
26 termination of this Permit.

27 (p) Pursuant to Chapter 49 of the DRMC, DOTI is authorized to remove or to order the
28 removal of any article, vehicle, object or thing whatsoever encroaching into any street, alley,
29 Sidewalk, or other public way or place.

30 (q) No third party, person or agency, except for an authorized Special District, may place
31 the Encroachment(s) in front of a property without written permission of the adjacent property owner.

32 (r) Permittee's use of the ROW for placement of the Encroachment(s) does not create a
33 property right or ownership interest of any kind in the Encroachment Area to the Permittee.

1 (s) All Encroachment(s) in Amenity Zones containing existing Public Trees and/or with the
2 potential to impact tree roots or tree canopy must be pre-approved by the Office of the City Forester
3 (OCF), by contacting them at forestry@denvergov.org or 720-913-0651. Encroachment(s) cannot
4 be attached to or damage any Public Tree, and any damage shall be reported to the OCF
5 immediately for mitigation. All trenching, excavation and grading activities within the Dripline of any
6 Public Tree must be pre-approved by the OCF. City permits are required for the planting or removal
7 of any Public Trees and can be obtained by emailing forestry@denvergov.org.

8 (t) All disturbances associated with construction of the Encroachment(s) shall be
9 managed as required by City standards for erosion control which may require standard notes or
10 CASDP permitting depending on location and scope of project.

11 (u) Encroachment(s) proposed adjacent to a designated park or within a dedicated
12 parkway shall require the City's Department of Parks and Recreation approval prior to installation.

13 (v) Encroachment(s) attached to a building may require building and/or zoning permits
14 from the City's Department of Community Planning and Development.

15 (w) Encroachment(s) in the regulatory floodplain shall require a SUDP and comply with
16 Chapter 4 Floodplain Regulations of the "Storm Drainage Design and Technical Criteria", Chapter
17 12 Floodplain Management of the "DOTI Rules and Regulations Governing Sewerage Charges and
18 Fees and Management of Wastewater" and the City Floodplain Ordinance in DRMC Section 56-200
19 through 56-206. Above ground Encroachment(s) in a Floodway require a No-Rise Certification
20 sealed and signed by a Professional Engineer licensed in the State of Colorado. If there is any rise
21 in Base Flood Elevations, a Conditional Letter of Map Revision (CLOMR) and LOMR will be required.

22 (x) Only clean soil may be brought onto an Encroachment Area. Verification of soil quality
23 must be provided if requested. Material removed from an Encroachment Area must be properly
24 disposed and is the responsibility of the Permittee.

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

1 COMMITTEE APPROVAL DATE: August 16, 2022 by Consent

2 MAYOR-COUNCIL DATE: August 23, 2022

3 PASSED BY THE COUNCIL: _____

4 _____ - PRESIDENT

5 ATTEST: _____ - CLERK AND RECORDER,
6 EX-OFFICIO CLERK OF THE
7 CITY AND COUNTY OF DENVER

8 PREPARED BY: Martin A. Plate, Assistant City Attorney DATE: August 25, 2022

9 Pursuant to section 13-9, D.R.M.C., this proposed resolution has been reviewed by the Office of the
10 City Attorney. We find no irregularity as to form and have no legal objection to the proposed
11 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §
12 3.2.6 of the Charter.

13
14 Kristin M. Bronson, Denver City Attorney

15
16 BY: _____, Assistant City Attorney DATE: _____