

1 **BY AUTHORITY**

2 RESOLUTION NO. CR11-0825
3 SERIES OF 2011

COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

4 **A RESOLUTION**

5 **Granting a revocable permit, subject to certain terms and conditions, to the**
6 **Colorado Department of Transportation, to encroach into Center Street right-**
7 **of-way at approximately 15th Street with soil nails.**

8
9 **BE IT RESOLVED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

10 **Section 1.** The City and County of Denver hereby grants to the Colorado Department of
11 Transportation ("CDOT") and its successors and assigns ("Permittee"), a revocable permit to
12 install, use, maintain and encroach into the Center Street right-of-way at approximately 15th Street
13 with soil nails and associated appurtenances ("Encroachments") to anchor certain Interstate 25
14 retaining walls (which retaining walls are not in the Encroachment Area) in the following described
15 area ("Encroachment Area"):

16 **PARCEL DESCRIPTION ROW 2008-0555-001**

A Permanent Easement No. PE-1 of the Department of Transportation, State of Colorado,
Project Code 15790, Project Number IM 0252-387, containing 298 square feet, more or
less, in the SW ¼ of Section 28, Township 3 South, Range 68 West, of the Sixth
Principal Meridian, in the City and County of Denver, State of Colorado, said parcel of
land being more particularly described as follows:

Beginning at a point on the easterly right-of-way line of Central Street, whence the range
point in the intersection of 15th Street, which is a 21 foot range line to the southwesterly
right-of-way line of 15th Street and Central Street, which is a 20 foot range line to the
westerly right-of-way line to Central Street bears North 47°46'24" East, a distance of
292.32 feet.

1. Thence South 73°08'38" West, along said easterly right-of-way line, a distance of 98.73 feet;
2. Thence North 16°15'26" West, a distance of 0.31 feet to a point of cusp, being a point of non-tangent curvature;
3. Thence along the arc of said non-tangent curve to the left having a central angle of 11°45'41", a radius of 475.70 feet, an arc length of 97.65 feet (chord bears North 68°00'44" East, a distance of 97.48 feet) ;
4. Thence South 27°08'36" East, a distance of 9.17 feet to the Point of Beginning;

The above described Permanent Easement contains 298 square feet more or less and the purpose of said easement is to define an area in which soil anchors for a retaining wall will penetrate below ground and into City and County of Denver right-of-way.

Basis of bearings: The basis of bearing for project reference is a line from CDOT Control Monument 301 as being monumented by a 3.25" Aluminum Cap Stamped "CP 301" to CDOT Control Monument A768 as being monumented by a 3-1/4" cdot type 5 row monument stamped "3111" and having a bearing of North 36°36'55" East, at a distance of 2,555.08 feet.

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PARCEL DESCRIPTION ROW 2008-0555-002

A Permanent Easement No. PE-1A of the Department of Transportation, State of Colorado, Project Code 15790, Project Number IM 0252-387, containing 4,627 square feet, more or less, in the SW ¼ of Section 28, Township 3 South, Range 68 West, of the Sixth Principal Meridian, in the City and County of Denver, State of Colorado, said parcel of land being more particularly described as follows:

Beginning at a point on the easterly right-of-way line of Central Street, whence the range point in the intersection of 15th Street, which is a 21 foot range line to the southwesterly right-of-way line of 15th Street and Central Street, which is a 20 foot range line to the westerly right-of-way line to Central Street bears South 51°29'53" West, a distance of 365.77 feet.

1. Thence North 43°34'27" West, a distance of 3.30 feet;
2. Thence North 46°25'33" East, a distance of 571.99 feet;
3. Thence North 45°02'17" East, a distance of 48.30 feet to a point on said easterly right-of-way line;
4. Thence South 44°31'59" West, along said easterly right-of-way line, a distance of 22.63 feet;
5. Thence South 44°33'12" West, continuing along said easterly right-of-way line, a distance of 501.47 feet;
6. Thence South 45°27'38" East, continuing along said easterly right-of-way line, a distance of 0.20 feet;
7. Thence South 57°36'49" West, continuing along said easterly right-of-way line, a distance of 70.84 feet;
8. Thence South 44°33'34" West, continuing along said easterly right-of-way line, a distance of 26.99 feet to the point of beginning;

The above described Permanent Easement contains 4,627 square feet more or less and the purpose of said easement is to define an area in which soil anchors for a retaining wall

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will penetrate below ground and into City and County of Denver right-of-way.

Basis of bearings: The basis of bearing for project reference is a line from CDOT Control Monument 301 as being monumented by a 3.25" Aluminum Cap Stamped "CP 301" to CDOT Control Monument A768 as being monumented by a 3-1/4" CDOT type 5 ROW monument stamped "3111" and having a bearing of North 36°36'55" East, at a distance of 2,555.08 feet.

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will penetrate below ground and into City and County of Denver right-of-way.

Basis of bearings: The basis of bearing for project reference is a line from CDOT Control Monument 301 as being monumented by a 3.25" Aluminum Cap Stamped "CP 301" to CDOT Control Monument A768 as being monumented by a 3-1/4" CDOT type 5 ROW monument stamped "3111" and having a bearing of North 36°36'55" East, at a distance of 2,555.08 feet.

PARCEL DESCRIPTION ROW 2008-0555-003

A Permanent Easement No. PE-1B of the Department of Transportation, State of Colorado, Project Code 15790, Project Number IM 0252-387, containing 1,141 square feet, more or less, in the SW ¼ of Section 28, Township 3 South, Range 68 West, of the Sixth Principal Meridian, in the City and County of Denver, State of Colorado, said parcel of land being more particularly described as follows:

Beginning at a point on the easterly right-of-way line of Central Street, whence the range point in the intersection of 15th Street, which is a 21 foot range line to the southwesterly right-of-way line of 15th Street and Central Street, which is a 20 foot range line to the westerly right-of-way line to Central Street bears South 48°02'03" West, a distance of 988.66 feet.

1. Thence North 44°02'53" East, a distance of 317.15 feet;
2. Thence North 43°45'54" East, a distance of 49.79 feet;
3. Thence North 42°58'11" East, a distance of 79.64 feet;
4. Thence North 42°25'04" East, a distance of 10.00 feet;
5. Thence North 44°12'46" East, a distance of 11.32 feet;
6. Thence North 45°03'49" East, a distance of 14.71 feet;
7. Thence South 44°56'11" East, a distance of 5.85 feet to a point on said easterly right-of-way line of Central Street;
8. Thence South 44°34'49" West, along said easterly right-of-way line, a distance of 28.76 feet;
9. Thence South 44°31'59" West, continuing along said easterly right-of-way line, a distance of 453.73 feet to the Point of Beginning;

The above described Permanent Easement contains 1,141 square feet more or less and the purpose of said easement is to define an area in which soil anchors for a retaining wall will penetrate below ground and into City and County of Denver right-of-way.

Basis of bearings: The basis of bearing for project reference is a line from CDOT Control Monument 301 as being monumented by a 3.25" Aluminum Cap Stamped "CP 301" to CDOT Control Monument A768 as being monumented by a 3-1/4" CDOT type 5 ROW monument stamped "3111" and having a bearing of North 36°36'55" East, at a distance of 2,555.08 feet.

1 **Section 2.** The revocable permit (“Permit”) granted by this Resolution is expressly
2 granted 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
4 Operations 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
10 Notification Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado
11 80215, at 303-232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-
12 922-1987 to locate underground facilities prior to commencing any work under this permit.

13 (d) Permittee is fully responsible for any and all damages incurred to facilities of the
14 Water Department and/or drainage facilities for storm water and sanitary sewage of the City and
15 County of Denver due to activities authorized by the Permit. Should the relocation or replacement
16 of any drainage facilities for storm water and sanitary sewage of the City and County of Denver
17 become necessary as reasonably determined by the Manager of Public Works, Permittee shall
18 pay all cost and expense of the portion of the facility affected by the permitted structure. The
19 extent of the affected portion to be replaced or relocated by Permittee shall be reasonably
20 determined by the Manager of Public Works. Any and all replacement or repair of facilities of the
21 Water Department and/or drainage facilities for water and sewage of the City and County of
22 Denver attributed to the Permittee shall be made by the Water Department and/or the City and
23 County of Denver at the sole expense of the Permittee. In the event Permittee’s facilities are
24 damaged or destroyed due to the Water Department’s or the City and County of Denver’s
25 reasonable, usual and customary repair, replacement and/or operation of its facilities, in its
26 ordinary course of business, repairs will be made by the Permittee at its sole expense. The City
27 and County of Denver and the Water Department shall give the Permittee notice of any non-
28 emergency repair or maintenance work to be performed on their facilities above or adjacent to the
29 Encroachments at least two (2) weeks prior to the start of the work. Permittee agrees, to the
30 extent it legally may, and specifically subject to the Constitution of the State of Colorado and the
31 Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as may be amended, to
32 defend, indemnify and save the City harmless and to repair or pay for the repair of any and all

1 damages to said sanitary sewer, or those damages resulting from the failure of the sewer to
2 properly function as a result of the permitted structure.

3 (e) Permittee shall comply with all requirements of affected utility companies located
4 within the Encroachment Area and pay for all costs of removal, relocation, replacement or
5 rearrangement of utility company facilities. Existing telephone facilities shall not be utilized,
6 obstructed or disturbed.

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

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

19 (h) Permittee shall pay all costs of construction and maintenance of the Encroachments.
20 Upon revocation or Permittee's election to abandon or release the Permit, Permittee shall pay all
21 costs of removing the Encroachments from the Encroachment Area and return the Encroachment
22 Area to its original condition under the supervision of the City Engineer.

23 (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and
24 curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that
25 become broken, damaged or unsightly during the course of construction of the Encroachments.
26 In the future, Permittee shall also remove, replace or repair any street/alley paving, sidewalks,
27 plaza areas and curb and gutter that become broken or damaged when, in the opinion of the City
28 Engineer, the damage has been caused by the activity of the Permittee within the Encroachment
29 Area. All repair work shall be accomplished without cost to the City and under the supervision of
30 the City Engineer.

31 (j) The City reserves the right to make an inspection of the Encroachments contained
32 within the Encroachment Area. An annual fee, subject to change, of Two Hundred Dollars
33 (\$200.00) shall be assessed.

1 (k) This revocable permit shall not operate or be construed to abridge, limit or restrict
2 the City and County of Denver in exercising its right to make full reasonable use of the
3 Encroachment Area and adjacent rights-of-way as public thoroughfares nor shall it operate to
4 restrict the utility companies in exercising their rights to construct, remove, operate and maintain
5 their facilities within the Encroachment Area and adjacent rights-of-way, subject to Permittee's
6 reasonable consent to such utility companies' rights that impact the Encroachments.

7 (l) During the existence of the Encroachments and this permit, Permittee shall produce
8 evidence satisfactory to the City of self insurance. If this Permit is assigned, such assigneds, at
9 its expense, and without cost to the City and County of Denver, shall procure and maintain a
10 Commercial General Liability insurance policy with a limit of not less than Two Million Dollars
11 (\$2,000,000.00). All coverages are to be arranged on an occurrence basis and include coverage
12 for those hazards normally identified as X.C.U. during construction. The insurance coverage
13 required herein constitutes a minimum requirement and such enumeration shall in no way be
14 deemed to limit or lessen the liability of the Permittee, its successors or assigns, under the terms
15 of this permit. All insurance coverage required herein shall be written in a form and by a company
16 or companies approved by the Risk Manager of the City and County of Denver and authorized to
17 do business in the State of Colorado. A certified copy of all such insurance policies shall be filed
18 with the Manager of Public Works, and each such policy shall contain a statement therein or
19 endorsement thereon that it will not be canceled or materially changed without written notice, by
20 registered mail, to the Manager of Public Works at least thirty (30) days prior to the effective date
21 of the cancellation or material change. All such insurance policies shall be specifically endorsed
22 to include all liability assumed by the Permittee hereunder and shall name the City and County of
23 Denver as an additional insured.

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

29 (n) The right to revoke this Permit is expressly reserved to the City and County of
30 Denver.

31 (o) Permittee shall, to the extent it legally may, and specifically subject to the
32 Constitution of the State of Colorado and the Colorado Governmental Immunity Act, C.R.S. § 24-
33 10-101, *et seq.*, as may be amended, agree to indemnify and always save the City and County of

1 Denver harmless from all costs, claims or damages arising, either directly or indirectly, out of the
2 rights and privileges granted by this Permit.

3 (p) A television/video tape survey of all sanitary and/or storm sewer that may be
4 affected by the proposed shoring will be performed by Wastewater Management Division
5 before and after shoring installation to ensure that no damages occur as a result of that
6 construction. All costs for the television service will be borne by the Permittee and must be
7 paid prior to completion of the Encroachment work. Contact Zhixu Yuan at 720-865-3140
8 and/or Zeke Zarco at 303-446-3686 to have television surveys scheduled ten days prior to the
9 construction. The repair of all damages, direct or indirect, that may occur to the sanitary
10 and/or storm sewer system as a result of the Encroachments shall be the responsibility of the
11 Permittee.

12 (q) All fees required under this Permit to be paid by Permittee, except those set forth in
13 paragraph (p), need not be paid by the Permittee so long as the Permittee is the Colorado
14 Department of Transportation.

15 **Section 3.** That the Permit hereby granted shall be revocable at any time that the
16 Council of the City and County of Denver determines that such revocation is deemed to be
17 necessary to facilitate the movement of traffic; to provide for public safety; or to provide for the
18 public safety, convenience or necessity in use of the Encroachment Area, and the right to revoke
19 the same is hereby expressly reserved to the City and County of Denver; provided however, at a
20 reasonable time prior to Council action upon such revocation or proposed revocation, opportunity
21 shall be afforded to Permittee, its successors and assigns, to correct any issues arising under this
22 Permit and to be present at a hearing to be conducted by the Council upon such matters and
23 thereat to present its views and opinions thereof and to present for consideration action or actions
24 alternative to the revocation of such Permit.

25 **[REMAINDER OF PAGE INTENTIONALLY LFT BLANK]**
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1 COMMITTEE APPROVAL DATE: November 10, 2011 [by consent]

2 MAYOR-COUNCIL DATE: November 15, 2011

3 PASSED BY THE COUNCIL _____ 2011

4 _____ - PRESIDENT

5 ATTEST: _____ - CLERK AND RECORDER,
6 EX-OFFICIO CLERK OF THE
7 CITY AND COUNTY OF DENVER
8

9 PREPARED BY: Karen A. Aviles, Assistant City Attorney DATE: November 17, 2011

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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.

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16 Douglas J. Friednash, City Attorney

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18 BY: _____, Assistant City Attorney DATE: _____, 2011