

1 **BY AUTHORITY**

2 ORDINANCE NO. \_\_\_\_\_  
3 SERIES OF 2021

COUNCIL BILL NO. CB21-0731  
COMMITTEE OF REFERENCE:

4 Land Use, Transportation & Infrastructure

5 **A BILL**

6 **For an ordinance vacating 3,900 square feet by 33.5 feet high for a total volume**  
7 **of approximately 129,645 cubic feet of right-of way under the West 48th Avenue**  
8 **bridge and west of North Fox Street, with reservations.**

9 **WHEREAS**, the Executive Director of the Department of Transportation and Infrastructure of  
10 the City and County of Denver has found and determined that the public use, convenience and  
11 necessity no longer require that certain area in the system of thoroughfares of the municipality  
12 hereinafter described and, subject to approval by ordinance, has vacated the same with the  
13 reservations hereinafter set forth;

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

15 **Section 1.** That the action of the Executive Director of the Department of Transportation  
16 and Infrastructure in vacating the following described right-of-way in the City and County of Denver,  
17 State of Colorado, to wit:

18 **PARCEL DESCRIPTION ROW NO. 2018-VACA-0000014-001:**

19  
20 A portion of West 48th Avenue as described in Ordinance 75 recorded 1970 and Ordinance 246  
21 recorded 1958 in the City and County of Denver Clerk and Recorder’s Office, located in the  
22 Southwest Quarter of Section 15, Township 3 South, Range 68 West of the Sixth Principal  
23 Meridian, City and County of Denver, Colorado, being that portion and only that portion of the  
24 following described parcel lying above elevation 5208.64 ft. (NAVD88) and below elevation 5242.  
25 14 ft. (NAVD88), said parcel described as follows:

26  
27 COMMENCING at the Southwest Comer of said Section 15 (as witnessed by a found 3-1/4”  
28 aluminum cap stamped "T3S R68W S16 S15 S21 S22 WC15FT 2000 PLS 34173"); WHENCE the  
29 West Sixteenth Corner of said Section 15 and Section 22 (a found 3” aluminum cap stamped  
30 "WESTERN STATES SURVEYING INC. T3S R68W W1/16 S15 S22 2008 PLS 23516”) bears  
31 S89°54'01"E a distance of 1320.82 feet (basis of bearing — assumed);

32  
33 THENCE N29°25'42"E a distance of 87.03 feet to the southerly Right of Way line of said West 48th  
34 Avenue as described in Ordinance No. 75 recorded 1970, and the POINT OF BEGINNING;

35  
36 THENCE along the arc of a non-tangent curve to the left, having a central angle of 12°07'53", a  
37 radius of

1 740.52 feet, a chord bearing N08°09'28"E a distance of 156.50 feet, and an arc distance of 156.79  
2 feet to the northerly Right of Way line of said West 48th Avenue as described in Ordinance 246  
3 recorded 1958;  
4  
5 THENCE S89°56'36"E, coincident with the said northerly Right of Way line, non-tangent with the  
6 last described curve, a distance of 26.63 feet;  
7  
8 THENCE S06°18'48"W a distance of 91.02 feet;  
9 THENCE S13°12'14"W a distance of 23.11 feet;  
10 THENCE S10°35'01"W a distance of 42.63 feet to the said southerly Right of Way line;  
11 THENCE S89°58'24"W, coincident with the said southerly Right of Way line, a distance of 25.72  
12 feet to the POINT OF BEGINNING.

13  
14 Each plane contains 3,870 square feet, (0.089 Acres), more or less. The volume of the parcel  
15 contains 129,645 cubic feet, more less.

16  
17 BASIS OF ELEVATION: The lower plane elevation for this parcel has an elevation of 5208.64 feet  
18 based on CCD benchmark 598, having a published CCD elevation of 5164.48 feet NAVD88. The  
19 lower plane elevation is 10.00 feet lower than the top of the BNSF rail elevation located at the  
20 north side of the 48th Avenue bridge. The upper plane, being the same shape and directly  
21 overhead the lower plane, has an elevation of 5242.14 feet

22  
23 be and the same is hereby approved and the described right-of-way is hereby vacated and declared  
24 vacated;

25 PROVIDED, HOWEVER, said vacation shall be subject to the following reservation:

26 A perpetual, non-exclusive easement is hereby reserved by the City and County of Denver, its  
27 successors and assigns, over, under, across, along and through the vacated area for the purposes  
28 of constructing, operating, maintaining, repairing, upgrading and replacing public or private utilities  
29 including, without limitation, storm drainage, sanitary sewer, and water facilities and all  
30 appurtenances to said utilities. A hard surface shall be maintained by the property owner over the  
31 entire easement area. The City reserves the right to authorize the use of the reserved easement by  
32 all utility providers with existing facilities in the easement area. No trees, fences, retaining walls,  
33 landscaping or structures shall be allowed over, upon or under the easement area. Any such  
34 obstruction may be removed by the City or the utility provider at the property owner's expense. The  
35 property owner shall not re-grade or alter the ground cover in the easement area without permission  
36 from the City and County of Denver. The property owner shall be liable for all damages to such  
37 utilities, including their repair and replacement, at the property owner's sole expense. The City and  
38 County of Denver, its successors, assigns, licensees, permittees and other authorized users shall  
39 not be liable for any damage to property owner's property due to use of this reserved easement.

40

1 COMMITTEE APPROVAL DATE: June 29, 2021 by Consent  
2 MAYOR-COUNCIL DATE: July 6, 2021 by Consent  
3 PASSED BY THE COUNCIL: \_\_\_\_\_ July 19, 2021  
4 *Steve Filmon* \_\_\_\_\_ - PRESIDENT  
5 APPROVED: \_\_\_\_\_ - MAYOR *M. S. H.* \_\_\_\_\_ Jul 20, 2021  
6 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
7 EX-OFFICIO CLERK OF THE  
8 CITY AND COUNTY OF DENVER  
9 NOTICE PUBLISHED IN THE DAILY JOURNAL: \_\_\_\_\_ ; \_\_\_\_\_  
10 PREPARED BY: Martin A. Plate, Assistant City Attorney DATE: July 8, 2021  
11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance 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 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §  
14 3.2.6 of the Charter.  
15  
16 Kristin M. Bronson, Denver City Attorney  
17  
18 BY: *Jonathan Griffin*, Assistant City Attorney DATE: Jul 7, 2021