



REQUEST FOR REVOCATION OF REVOCABLE ENCROACHMENT PERMIT

TO: Caroline Martin, City Attorney's Office

FROM: Matt R. Bryner, PE
Director, Right of Way Services

ROW NO.: 2004-ENCROACHMENT-0067402

DATE: May 5, 2020

SUBJECT: Request for revocation of Ordinance No. 306, Series of 2005 which granted a revocable permit to Center for Traditional Chinese Medicine, their successors and assigns, to encroach into the right-of-way with a handicap ramp at 5 Cook 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 John Luo Law, dated January 12, 2016, on behalf of Center for Traditional Medicine for revocation of the above-subject permit. The revocation is requested due to the 2014 rules and regulation revisions for encroachments in the public right-of-way that now classify the ramp as a Tier I Encroachment, of which does not require the subject Ordinance to remain in the public right-of-way.

This matter has been checked by this office to ensure the encroachment in question is considered a Tier I Encroachment and does not object to revocation of the revocable permit.

Therefore, you are requested to initiate Council action for the revocation of a revocable permit granted by Ordinance No. 306, Series of 2005.

MB: bw

cc: City Councilperson & Aides
City Council Staff – Zach Rothmier
Department of Law – Bradley Beck
Department of Law – Deanne Durfee
Department of Law – Maureen McGuire
Department of Law – Martin Plate
DOTI, Manager's Office – Alba Castro
DOTI, Legislative Services – Jason Gallardo
DOTI, Survey – Paul Rogalla

City and County of Denver Department of Transportation & Infrastructure

Right-of-Way Services | Engineering and Regulatory
201 W Colfax Ave, Dept 507 | Denver, CO 80202

www.denvergov.org/doti

Phone: 720-865-3003

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ORDINANCE/RESOLUTION REQUEST

Please email requests to Jason Gallardo
at Jason.Gallardo@denvergov.org by **12:00pm on Monday**. Contact him with questions.

Please mark one: ☒ Bill Request or ☐ Resolution Request Date of Request: May 5, 2020

1. Type of Request:

- ☐ Contract/Grant Agreement ☐ Intergovernmental Agreement (IGA) ☐ Rezoning/Text Amendment
☐ Dedication/Vacation ☐ Appropriation/Supplemental ☐ DRMC Change
☒ Other:

2. Title: (Start with *approves*, *amends*, *dedicates*, etc., include name of company or contractor and indicate the type of request: grant acceptance, contract execution, contract amendment, municipal code change, supplemental request, etc.)

Request for revocation of Ordinance No. 306, Series of 2005 which granted a revocable permit to Center for Traditional Chinese Medicine, their successors and assigns, to encroach into the right of way with a handicap ramp at 5 Cook Street.

3. Requesting Agency: Department of Transportation and Infrastructure, Engineering and Regulatory

4. Contact Person:

Contact person with knowledge of proposed ordinance/resolution	Contact person to present item at Mayor-Council and Council
Name: Brianne White	Name: Jason Gallardo
Email: Brianne.white@denvergov.org	Email: Jason.Gallardo@denvergov.org

5. General description or background of proposed request. Attach executive summary if more space needed:

Request for revocation of Ordinance No. 306, Series of 2005 which granted a revocable permit to Center for Traditional Chinese Medicine, their successors and assigns, to encroach into the right of way with a handicap ramp at 5 Cook Street.

6. City Attorney assigned to this request (if applicable): Martin Plate

7. City Council District: Councilman Hinds, District 10

8. ****For all contracts, fill out and submit accompanying Key Contract Terms worksheet****

To be completed by Mayor's Legislative Team:

Resolution/Bill Number: _____

Date Entered: _____

Key Contract Terms

Type of Contract: (e.g. Professional Services > \$500K; IGA/Grant Agreement, Sale or Lease of Real Property):

Vendor/Contractor Name:

Contract control number:

Location:

Is this a new contract? ☐ Yes ☐ No Is this an Amendment? ☐ Yes ☐ No If yes, how many? _____

Contract Term/Duration (for amended contracts, include existing term dates and amended dates):

Contract Amount (indicate existing amount, amended amount and new contract total):

<i>Current Contract Amount (A)</i>	<i>Additional Funds (B)</i>	<i>Total Contract Amount (A+B)</i>
<i>Current Contract Term</i>	<i>Added Time</i>	<i>New Ending Date</i>

Scope of work:

Was this contractor selected by competitive process?

If not, why not?

Has this contractor provided these services to the City before? ☐ Yes ☐ No

Source of funds:

Is this contract subject to: ☐ W/MBE ☐ DBE ☐ SBE ☐ XO101 ☐ ACDBE ☐ N/A

WBE/MBE/DBE commitments (construction, design, Airport concession contracts):

Who are the subcontractors to this contract?

To be completed by Mayor's Legislative Team:

Resolution/Bill Number: _____

Date Entered: _____

ENCROACHMENT REVOCATION EXECUTIVE SUMMARY

What is an Encroachment: A privately-owned improvement that is located in, or projects over or under the public Right-of-Way.

Project Title: 2004-ENCROACHMENT-0067402 - True Mind Center for Traditional Chinese Medicine

Business name: Center for Traditional Chinese Medicine

Description of Encroachment: Handicap ramp to an existing building.

Explanation of why the Encroachment is no longer needed:

The current Rules and Regulation for Encroachments in the Public Right of Way adopted in 2014, after issuance of the subject revocable permit, now classify the described encroachment as a Tier I Encroachment. Tier I Encroachments do not require an Ordinance, so the property owner has requested that the subject Tier III Ordinance be revoked since it is no longer needed.

When was the Encroachment removed/abandoned:

The encroachment will remain in place as a Tier I Encroachment.

Additional Information:

The pedestrian ramp is required to provide an ADA accessible route for the establishment.

Location Map:



City and County of Denver Department of Transportation & Infrastructure
Right-of-Way Services | Engineering and Regulatory
201 W Colfax Ave, Dept 507 | Denver, CO 80202

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BY AUTHORITY

ORDINANCE NO. 306

COUNCIL BILL NO. 282

SERIES OF 2005

COMMITTEE OF REFERENCE:
Public Works

A BILL

For an ordinance granting a revocable permit to Center for Traditional Chinese Medicine, to encroach with a handicap ramp at 5 Cook 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 Center for Traditional Chinese Medicine, its successors and assigns ("Permittee"), a revocable permit to encroach with a handicap ramp in the following described area ("Encroachment Area"):

A parcel of land located in the SE 1/4 of Section 12, Township 4 South, Range 68 West of the 6th Principal Meridian, City and County of Denver, State of Colorado, more particularly described as follows:

Beginning at the NE corner of Lot 22, Block 16, BURLINGTON CAPITOL HILL ADDITION thence easterly along the North line of said Lot 22 extended Easterly a distance of 10.00 feet; thence Southerly and parallel to the East line of said Block 16 on a deflection angle to the right of 89°59'03" a distance of 54.00 feet; thence Westerly and parallel with the South line of said Block 16 on a deflection angle to right of 90°00'57" a distance of 10.00 feet; thence Northerly on a Southerly extension of and along the East line of said Block 16, on a deflection angle to the right of 89°59'03" a distance of 54.00 feet to the Point of Beginning, containing 540.00 sq. ft., and County of Denver, State of Colorado.

Section 2. The revocable permit ("Permit") granted by this ordinance 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, 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 Avenue, Suite B-310, Lakewood, Colorado 80215, at 303-232-1991.

(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 or 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 the 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 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 coverages 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

1 additional insured.

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

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

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

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

19 COMMITTEE APPROVAL DATE: N/A

MAYOR-COUNCIL DATE: April 12, 2005.

20 PASSED BY THE COUNCIL

May 2

2005

21 [Signature] - PRESIDENT

22 APPROVED:

[Signature] - MAYOR

5/3

2005

23 ATTEST:

[Signature]

- CLERK AND RECORDER,
EX-OFFICIO CLERK OF THE
CITY AND COUNTY OF DENVER

27 NOTICE PUBLISHED IN THE DAILY JOURNAL

Apr. 29, 2005;

May 6,

2005

28 PREPARED BY: KAREN A. AVILES, ASSISTANT CITY ATTORNEY;

5/12/05

29 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the City
30 Attorney. We find no irregularity as to form, and have no legal objection to the proposed ordinance. The
31 proposed ordinance is not submitted to the City Council for approval pursuant to § 3.2.6 of the Charter.
32

33 Cole Finegan, City Attorney

34 BY:

[Signature]

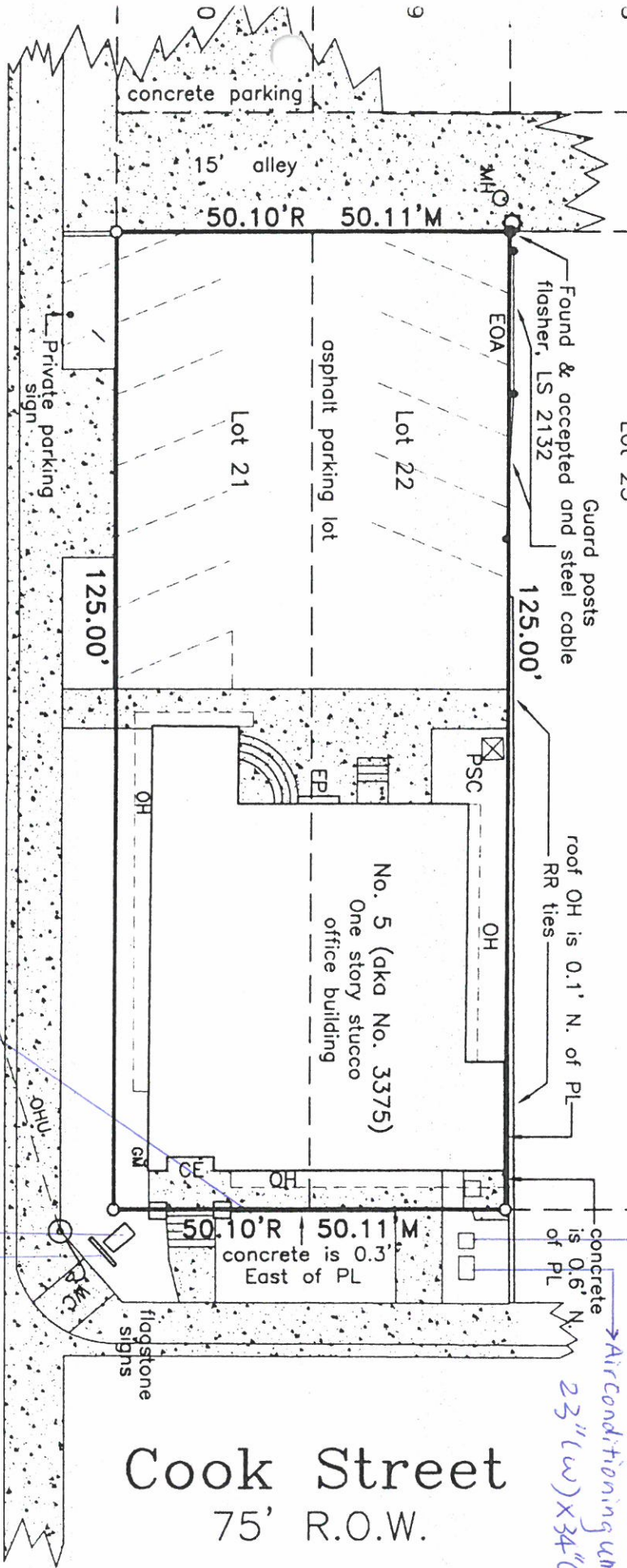
Asst City Attorney

35 DATE:

21 Apr 05

BLOCK 16

Lot 23



ant:

day of _____, 2004, at _____ M., in
County Surveyor's land survey/right of way
Reception No. _____

County Surveyor

The handicap ramp
is 3.6" (inches)
into the Right of Way

→ Rock 1:
5 ft (wide) X 30 inch (high)
X 5" (Thick)

→ Rock 2:
40" (W) X 30" (H)
X 5" (Thick)



KURT O. LINN
SURVEYOR INC.

7575 West 23rd Avenue, Lakewood, Colorado 80214
PH: 303-233-1171, FAX 303-237-1893

2004-0674