

1 **BY AUTHORITY**

2 RESOLUTION NO. 117
3 SERIES OF 2008

COMMITTEE OF REFERENCE:
PUBLIC WORKS

4
5 **A RESOLUTION**

6 **Granting a revocable permit to TDG Cook Company, Ltd to encroach into a**
7 **right-of-way with various items at 1575 Welton Street.**

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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 TDG Cook Company, Ltd, its
11 successors and assigns ("Permittee"), a revocable permit to encroach into a right-of-way with
12 canopies, coal chute, and basement in the following described areas. ("Encroachment Area"):

PARCEL A

A PARCEL OF LAND BEING A PORTION OF THE 16TH STREET AND WELTON STREET RIGHT OF WAY
ADJACENT TO LOTS 29 THROUGH 32, INCLUSIVE, BLOCK 162, EAST DENVER; SAID PARCEL BEING SITUATED
IN THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH
PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED
AS FOLLOWS;

BEGINNING AT THE EAST CORNER OF SAID LOT 32; THENCE NORTHWESTERLY ALONG THE NORTHEAST LINE
OF SAID LOT 32 A DISTANCE OF 125.04 FEET TO THE NORTH CORNER OF SAID LOT 32; THENCE ON A
DEFLECTION ANGLE TO THE RIGHT OF 90°01'53" A DISTANCE OF 10.50 FEET; THENCE ON A DEFLECTION
ANGLE TO THE RIGHT OF 89°58'07" ALONG A LINE PARALLEL WITH THE NORTHEAST LINE OF SAID LOT 32
A DISTANCE OF 140.95 FEET; THENCE ON A DEFLECTION ANGLE TO THE RIGHT OF 89°56'34" A DISTANCE
OF 114.46 FEET; THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 13.00 FEET, AN ARC LENGTH
OF 20.42 FEET, A CENTRAL ANGLE OF 90°00'00", AND A CHORD DISTANCE OF 18.38 FEET; THENCE
NORTHWESTERLY TANGENT TO THE PRECEDING COURSE A DISTANCE OF 3.09 FEET TO A POINT ON THE
SOUTHEAST LINE OF SAID LOT 28; THENCE ON A DEFLECTION ANGLE TO THE RIGHT OF 90°04'50" ALONG
THE SOUTHEAST LINE OF LOTS 28 THROUGH 32 A DISTANCE OF 116.97 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS 3315 SQUARE FEET, 0.076 ACRES, MORE OR LESS.

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1 **AND:**

PARCEL B

A PARCEL OF LAND BEING A PORTION OF THE 16 FOOT WIDE PUBLIC ALLEY LOCATED IN BLOCK 162, EAST DENVER; SITUATED IN THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE EAST CORNER OF LOT 32, OF SAID BLOCK 162; THENCE NORTHWESTERLY ALONG THE NORTHEAST LINE OF SAID LOT 32 A DISTANCE OF 125.04 FEET TO THE NORTH CORNER OF SAID LOT 32; THENCE ON A DEFLECTION ANGLE TO THE LEFT OF 89°58'07" ALONG THE NORTHWEST LINE OF LOTS 32, 31 AND 30, OF SAID BLOCK 162 A DISTANCE OF 53.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG THE PREVIOUS COURSE ALONG THE NORTHWEST LINE OF SAID LOT 30 A DISTANCE OF 3.34 FEET; THENCE ON A DEFLECTION ANGLE TO THE RIGHT OF 89°44'34" A DISTANCE OF 3.55 FEET; THENCE ON A DEFLECTION ANGLE TO THE RIGHT OF 90°00'00" A DISTANCE OF 3.34 FEET; THENCE ON A DEFLECTION ANGLE TO THE RIGHT OF 90°00'00" A DISTANCE OF 3.56 FEET TO THE POINT OF BEGINNING;

2 SAID PARCEL CONTAINS 12 SQUARE FEET, MORE OR LESS.

3 **Section 2.** The revocable permit ("Permit") granted by this Resolution is expressly
4 granted upon and subject to each and all of the following terms and conditions:

5 (a) Permittee shall obtain a street occupancy permit from Public Works Permit
6 Operations at 2000 West 3rd Avenue, 303-446-3759, prior to commencing construction.

7 (b) Permittee shall be responsible for obtaining all other permits and shall pay all costs
8 that are necessary for installation and construction of items permitted herein.

9 (c) If the Permittee intends to install any underground facilities in or near a public road,
10 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification
11 Association of Owners and Operators of Underground Facilities by contacting the Utility
12 Notification Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado
13 80215, at 303-232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-
14 922-1987 to locate underground facilities prior to commencing any work under this permit.

15 (d) Permittee is fully responsible for any and all damages incurred to facilities of the
16 Water Department and/or drainage facilities for water and sewage of the City and County of
17 Denver due to activities authorized by the permit. Should the relocation or replacement of any
18 drainage facilities for water and sewage of the City and County of Denver become necessary as
19 determined by the Manager of Public Works, in the Manager's sole and absolute discretion,
20 Permittee shall pay all cost and expense of the portion of the sewer affected by the permitted
21 structure. The extent of the affected portion to be replaced or relocated by Permittee shall be
22 determined by the Manager of Public Works. Any and all replacement or repair of facilities of the
23 Water Department and/or drainage facilities for water and sewage of the City and County of

1 Denver attributed to the Permittee shall be made by the Water Department and/or the City and
2 County of Denver at the sole expense of the Permittee. In the event Permittee's facilities are
3 damaged or destroyed due to the Water Department's or the City and County of Denver's repair,
4 replacement and/or operation of its facilities, repairs will be made by the Permittee at its sole
5 expense. Permittee agrees to defend, indemnify and save the City harmless and to repair or pay
6 for the repair of any and all damages to said sanitary sewer, or those damages resulting from the
7 failure of the sewer to properly function as a result of the permitted structure.

8 (e) Permittee shall comply with all requirements of affected utility companies and pay
9 for all costs of removal, relocation, replacement or rearrangement of utility company facilities.
10 Existing telephone facilities shall not be utilized, obstructed or disturbed.

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

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

23 (h) Permittee shall pay all costs of construction and maintenance of the
24 Encroachment. Upon revocation of the permit or upon abandonment, Permittee shall pay all
25 costs of removing the Encroachment from the Encroachment Area and return the Encroachment
26 Area to its original condition under the supervision of the City Engineer.

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

1 (j) The City reserves the right to make an inspection of the Encroachments contained
2 within the Encroachment Area. An annual fee, subject to change, of \$200.00 shall be assessed.

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

8 (l) During the existence of the Encroachments and this permit, Permittee, its
9 successors and assigns, at its expense, and without cost to the City and County of Denver, shall
10 procure and maintain a single limit comprehensive general liability insurance policy with a limit of
11 not less than \$500,000.00. All coverages are to be arranged on an occurrence basis and include
12 coverage for those hazards normally identified as X.C.U. during construction. The insurance
13 coverage required herein constitutes a minimum requirement and such enumeration shall in no
14 way be deemed to limit or lessen the liability of the Permittee, its successors or assigns, under
15 the terms of this permit. All insurance coverage required herein shall be written in a form and by
16 a company or companies approved by the Risk Manager of the City and County of Denver and
17 authorized to do business in the State of Colorado. A certified copy of all such insurance policies
18 shall be filed with the Manager of Public Works, and each such policy shall contain a statement
19 therein or endorsement thereon that it will not be canceled or materially changed without written
20 notice, by registered mail, to the Manager of Public Works at least thirty (30) days prior to the
21 effective date of the cancellation or material change. All such insurance policies shall be
22 specifically endorsed to include all liability assumed by the Permittee hereunder and shall name
23 the City and County of Denver as an additional insured.

24 (m) Permittee shall comply with the provisions of Article IV (Prohibition of
25 Discrimination in Employment, Housing and Commercial Space, Public Accommodations,
26 Educational Institutions and Health and Welfare Services) of Chapter 28 (Human Rights) of the
27 Revised Municipal Code of the City and County of Denver. The failure to comply with any such
28 provision 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 agree to indemnify and always save the City and County of Denver
32 harmless from all costs, claims or damages arising, either directly or indirectly, out of the rights
33 and privileges granted by this permit.

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

10 COMMITTEE APPROVAL DATE: N/A MAYOR-COUNCIL DATE: July 1, 2008
11 PASSED BY THE COUNCIL _____ 2008

12 _____ - PRESIDENT

13 ATTEST: _____ - CLERK AND RECORDER,
14 EX-OFFICIO CLERK OF THE
15 CITY AND COUNTY OF DENVER
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17 PREPARED BY: KERRY A. BUCKEY, ASSISTANT CITY ATTORNEY, July 3, 2008

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19 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of
20 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
21 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to
22 § 3.2.6 of the Charter.

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24 David R. Fine, City Attorney

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26 BY: _____, Assistant City Attorney DATE: July 3, 2008

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