



November 17, 2015

**RE: Petition No. 869, Bedrock Real Estate Services, request to expand the encroachment granted August 25, 2014 (via petition No. 147) First National Building, 660 Woodward Avenue, Detroit, MI 48226.**

Honorable City Council:

Petition No. 869– Bedrock Real Estate Services on behalf of 660 Woodward Associates LLC, whose address is 660 Woodward Avenue, Detroit, Michigan 48226 request permission to expand an existing encroachment from 8 feet wide to 11.6 feet wide to allow for year-round placement of the outdoor café furnishings, heating and enclosure area on the sidewalk of Cadillac Square, 200 feet wide, at the First National Building.

The encroachment petition was referred to the City Engineering Department – DPW for investigation and report. This is our report.

Two related petitions were previously granted by your Honorable Body:

1. Petition # 147 to permit an encroachment, 8 feet wide, and maintain outdoor seating areas, bicycle racks, benches and planters etcetera on the sidewalk at the ground floor of the First National Building on Woodward Avenue, 190 feet wide and Cadillac Square, 200 feet wide. The petition was approved on August 25, 2014.
2. Petition # 705 to permit Central Kitchen and Bar to install and maintain an seasonal outdoor café, contingent upon licensee of such premises obtaining approval of the Michigan Liquor Control Commission, if necessary and compliance with applicable City ordinances in connection with outdoor café activities. Resolution dated June 9, 2015.

Traffic Engineering Division – DPW reports no objection to the requested area of encroachments provided an eight and one half (8.5) feet wide clear sidewalk for pedestrian traffic is maintained. City Engineering Division – DPW reports no objection provided there is no obstruction to a continuous path for the use by wheel chairs and that City policy, provisions and requirements are followed.

The Public Lighting Department (PLD) reports no objections.

Detroit Water and Sewerage Department (DWSD) reports no objections to the encroachments provided that the provisions for encroachments are followed. The specific DWSD encroachment provisions are a part of this resolution.



The Planning and Development Department has approved and issued a Certificate Of Appropriateness (COA) containing certain conditions that must be kept. This resolution contains a provision requiring compliance with the COA.

All other involved City departments and privately owned utility companies request the petitioner(s) make use of "Miss Dig" facilities before any construction take place.

There is an appropriate resolution, granting the encroachment petition, attached for consideration by your Honorable Body.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard Doherty".

Richard Doherty, P.E., City Engineer  
City Engineering Division – DPW

JMK/

Cc: Ron Brundidge, Director, DPW  
Mayor's Office – City Council Liaison

BY COUNCIL MEMBER \_\_\_\_\_

**Whereas**, Petition # 147 to permit an encroachment, 8 feet wide, and maintain outdoor seating areas, bicycle racks, benches and planters etcetera on the sidewalk at the ground floor of the First National Building on Woodward Avenue, 190 feet wide and Cadillac Square, 200 feet wide was approved by your Honorable Body on August 25, 2014, and

**Whereas**, Petition # 705 to permit Central Kitchen and Bar to install and maintain an seasonal outdoor café, contingent upon licensee of such premises obtaining approval of the Michigan Liquor Control Commission, if necessary and compliance with applicable City ordinances in connection with outdoor café activities. Resolution dated June 9, 2015 an approved by your Honorable Body, therefore be it,

**RESOLVED**, that the City Engineering Division – DPW is hereby authorized and directed to issue permits to 660 Woodward Associates LLC and/or his/her assigns, to install and maintain encroachments with outdoor café furnishings, heating and enclosure area on the sidewalk of Cadillac Square, 200 feet wide, between Woodward Avenue, 190 feet wide, and Bates Street, 60 feet wide; also being more particularly described follows:

Land in the City of Detroit, Wayne County, Michigan being the South 11.5 feet of Cadillac Square, 200 feet wide lying North of and adjoining the North line of part of Lots 50, 51 and 52 (being that part used by Central Kitchen and Bar) “Plan of Section numbered one in the City of Detroit, in the Territory of Michigan confirmed by the Governor and Judges on the 27<sup>th</sup> day of April, 1807 and ordered to be a record and to be signed by the Governor and attested by the Secretary of the Board. Attest: Peter Audrain, Sec’y.” as recorded in Liber 34, Page 550 of Deeds, Wayne County Records.

Provided, that approval of this petition/request the Detroit Water and Sewerage Department (DWSD) does not waive any of its rights to its facilities located in the street, and at all time, DWSD its agent or employees, shall have the right to enter upon the street to maintain, repair, alter, service, inspect, or install its facilities. All cost incident to the damaging, dismantling, demolishing, removal and replacement of structures or other improvements herein permitted and incurred in gaining access to DWSD’s facilities for maintenance, repairing, alteration, servicing or inspection by DWSD shall be borne by the petitioner. All cost associated with gaining access to DWSD’s facilities, which could normally be expected had the petitioner not encroached into the street shall be borne by DWSD; and further

Provided, that all construction performed under this petition shall not be commence until after (5) days written notice to DWSD. Seventy-two hours notice shall also be provided in accordance with P.A. 53 1974, as amended, utilizing the MISS DIG one call system; and further

Provided, that construction under this petition is subject to inspection and approval by DWSD forces. The cost of such inspection shall, at the discretion of DWSD, be borne by the petitioner; and further

Provided, that if DWSD facilities located within the street shall break or be damaged as the result of any action on the part of the petitioner, then in such event the petitioner agrees to be liable for all cost incident to the repair, replacement, or relocation of such broken or damage DWSD facilities; and further

Provided, that the petitioner shall hold DWSD harmless for any damage to the encroaching device constructed or installed under this petition, which may be caused by the failure of DWSD's facilities; and further

Provided, that if at any time in the future the petitioner shall request removal and/or relocation of DWSD's facilities in the street being encroached upon the petitioner agrees to pay all cost for such removal and/or relocation; and further

Provided, that the encroachments with outdoor café furnishings, heating and enclosure area within the rights-of-way must maintain a pedestrian sidewalk path that is at least 8.5 feet wide; and further

Provided, that the necessary permits shall be obtained from the City Engineering Division – DPW and the Buildings and Safety Engineering Department. The encroachments shall be constructed and maintained under their rules and regulations.

Provided, that all cost for the construction, maintenance, permits and use of the encroachments shall be borne by “660 Woodward Associates LLC” and/or its assigns; and further

Provided, that all costs incurred by privately owned utility companies and/or city departments to alter, adjust, and/or relocate their existing utility facilities located in close proximity to the encroachments shall be borne by “660 Woodward Associates LLC” and/or its assigns. Should damages to any utilities occur “660 Woodward Associates LLC” and/or its assigns shall be liable for all incidental repair costs and waives all claims for damages to the encroaching installations; and further

Provided, that if it becomes necessary to repair or replace the utilities located or to be located within the public rights-of-way, by acceptance of this permission, “660 Woodward Associates LLC” (owners) for themselves, or their assigns, (by acceptance of permits for construction near underground utility lines, conduits, people mover facilities or mains) waives all claims for damages to the encroaching installations and agree to pay all costs incurred in their removal (or alteration), if removal (or alteration) becomes necessary; and further

Provided, that “660 Woodward Associates LLC” and/or its assigns shall file with the Finance Department and/or City Engineering Division – DPW an indemnity in form approved by the Law Department. The agreement shall save and protect the City of Detroit from any and all claims, damages or expenses that may arise by reason of the issuance of the permits and the faithful or unfaithful performance by “660 Woodward Associates LLC” of the terms thereof. Further, “660 Woodward Associates LLC” and/or its assigns shall agree to pay all claims, damages or expenses that may arise out of the maintenance of the proposed encroachments; and further

Provided, that the property owned by “660 Woodward Associates LLC” and the encroachment shall be subject to proper zoning or regulated use (board of Zoning Appeals Grant); and further

Provided, that the encroachments comply with the Certificate of Appropriateness (COA) as issued May15, 2014. Included in the COA that the seating areas other than the permanent enclosed seating area be removed during the months of December through March and no off premises advertising signs be installed; and further

Provided, that no other rights in the public streets, alleys or other public place shall be considered waived by this permission which is granted expressly on the condition that said encroachments shall be removed at any time when so directed by the City Council, and the public property affected shall be restored to a condition satisfactory to the City Engineering Division – DPW; and further

Provided, that this resolution is revocable at the will, whim or caprice of the City Council, and “660 Woodward Associates LLC” acquires no implied or other privileges hereunder not expressly stated herein; and be it also

**RESOLVED**, That the Department of Public Works – City Engineering Division is hereby authorized and directed to issue a Use-permit to Central Kitchen and Bar, Detroit “permitee” whose address is 660 Woodward, Detroit, Michigan 48226 to install and maintain a year-round outdoor café contingent upon licensee of such premises obtaining approval of the Michigan Liquor Control Commission, if necessary and compliance with applicable City Ordinance in connection with outdoor café activities, prior to the issuance of said use-permit; and

Provided, that the area being used as an Outdoor Café shall meet the general requirements set by the “Outdoor Café Guidelines” as adopted by the City Council and guided by Section 50-2-8.1 of the City Code; and further

Provided, that the petitioner obtains all necessary licenses and permits every year from Departments having jurisdiction over the outdoor café process; and further

Provided, that said activities are conducted under the rules and regulations of the Department of Public Works and the supervision of the Police Department.

Provided, that the sale of food or soft drinks is held under the direction and inspection of the Institute of Population Health; and further

Provided, that the petitioner is responsible to obtain approval of the Michigan Liquor Control Commission, if necessary and approval from the Detroit Police Liquor License Bureau if serving liquor; and further

Provided, that the encroachments within the right-of-way must maintain a pedestrian path that is at least 8.50 feet wide; and further

Provided, that the necessary permits shall be obtained from the City Engineering Division – DPW and the Buildings and Safety Engineering Department. The encroachments shall be constructed and maintained under their rules and regulations.

Provided, that all cost for the construction, maintenance, permits and use of the encroachments shall be borne by “Central Kitchen and Bar” and/or its assigns; and further

Provided, that “Central Kitchen and Bar”, and/or its assigns shall file with the Finance Department and/or City Engineering Division – DPW an indemnity in form approved by the Law Department. The agreement shall save and protect the City of Detroit from any and all claims, damages or expenses that may arise by reason of the issuance of the permits and the faithful or unfaithful performance by “Central Kitchen and Bar”, of the terms thereof. Further, “Central Kitchen and Bar”, and/or its assigns shall agree to pay all claims, damages or expenses that may arise out of the maintenance of the proposed encroachments; and further

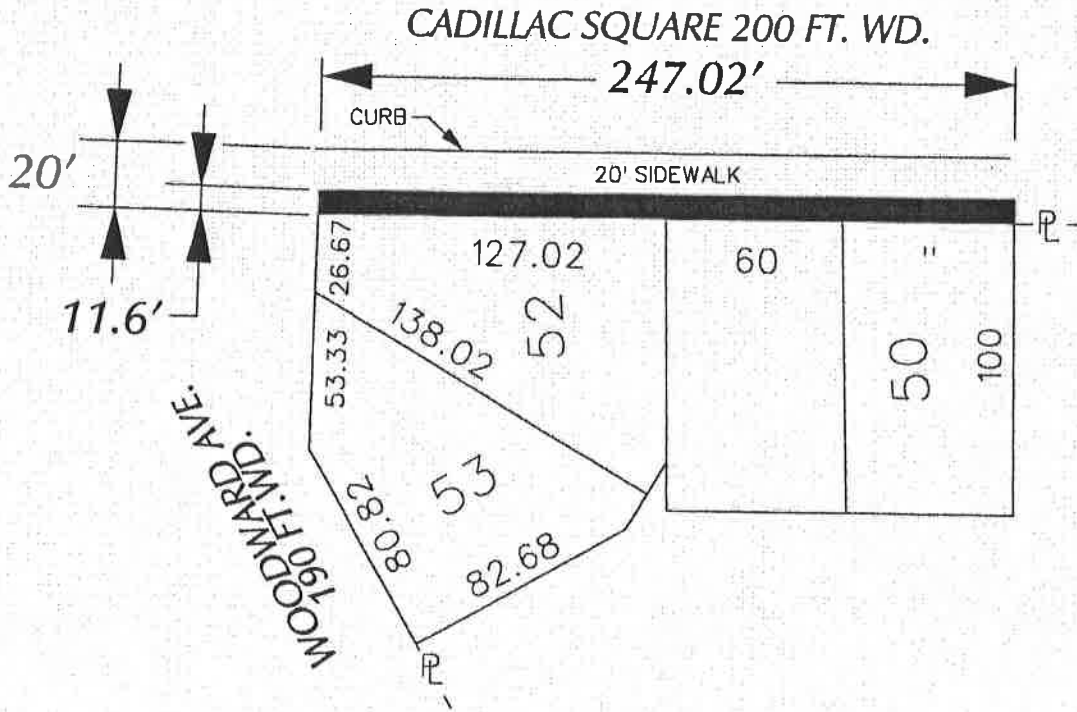
Provided, that no other rights in the public streets, alleys or other public place shall be considered waived by this permission which is granted expressly on the condition that said encroachments shall be removed at any time when so directed by the City Council, and the public property affected shall be restored to a condition satisfactory to the City Engineering Division – DPW; and further

Provided, this resolution is revocable at the will, whim or caprice of the City Council, and “Central Kitchen and Bar”, acquires no implied or other privileges hereunder not expressly stated herein; and further

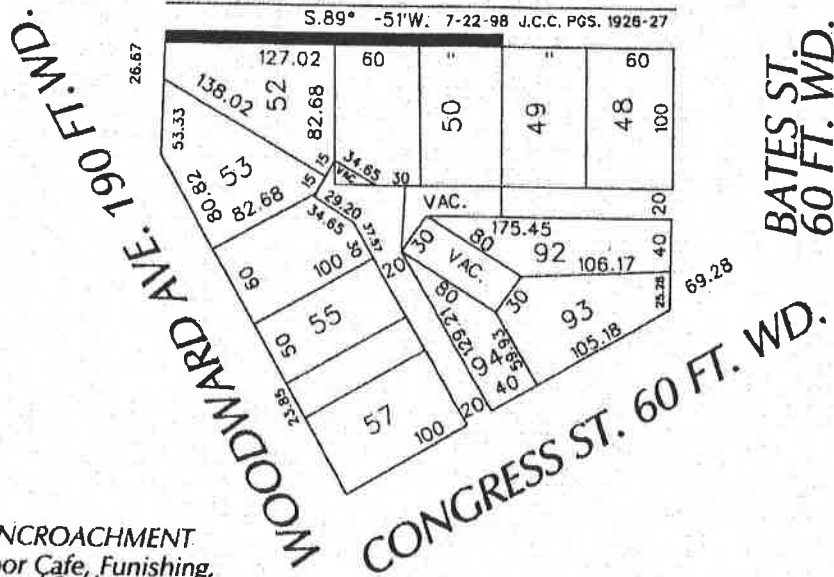
Provided, that the encroachment permits shall not be assigned or transferred without the written approval of the City Council and this encroachment will be/shall be assigned under “Central Kitchen and Bar”, and further


Provided, That the City Clerk shall within 30 days record a certified copy of this resolution and indemnity agreement with the Wayne County Register of Deeds.

PETITION NO. 869  
 BEDROCK REAL ESTATE SERVICES  
 660 WOODWARD  
 DETROIT, MICHIGAN 48226  
 C/O VERONICA RICKETT  
 PHONE NO. 313 373-8700



CADILLAC SQUARE 200 FT. WD.



 - AREA OF ENCROACHMENT  
 (With Outdoor Cafe, Funishing,  
 Heating and Enclosure)

(FOR OFFICE USE ONLY)

CARTO 28 F

|             |  |           |      |          |      |   |   |  |
|-------------|--|-----------|------|----------|------|---|---|--|
| B           |  |           |      |          |      | <b>REQUEST TO ENCROACH INTO<br/>         CADILLAC SQ.<br/>         IN THE BLOCK BOUND BY<br/>         WOODWARD AVE., CADALLIC SQ.<br/>         BATES AND CONGRESS ST.</b> | <b>CITY OF DETROIT<br/>         CITY ENGINEERING DEPARTMENT</b> |  |
| A           |  |           |      |          |      |   | <b>SURVEY BUREAU</b>  |  |
| DESCRIPTION |  | DRWN      | CHKD | APPD     | DATE |   | JOB NO. 01-01   |  |
| DRAWN BY    |  | REVISIONS |      |          |      |   | DRWG. NO. X 869   |  |
| DATE        |  | CHECKED   |      | APPROVED |      |   |   |  |
| 10-27-15    |  | WLW       |      |          |      |   |   |  |