March 27, 2020

Honorable City Council:

RE: Petition No. 1148 by Heirloom Hospitality Group request for encroachment into the right-of-way at 4128 Second Avenue, bounded by Willis Ave. and Alexandrine Ave.

Petition No. 1148 by Heirloom Hospitality Group request for encroachment consisting of an aluminum framed canvas awning. The encroachment is on the east side of Second Boulevard, 100 feet wide, between Alexandrine Avenue, 100 feet wide, and Willis Avenue, 100 feet wide.

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

The request is being made as part of a building renovation for a restaurant known as Sauce: Italian Market and Pizzeria.

The request was approved by the Solid Waste Division – DPW, and City Engineering Division – DPW. The request was approved by DPW – Traffic Engineering Division (TED) provided certain conditions are met. The TED conditions are a part of the resolution.

Detroit Water and Sewerage Department (DWSD) reports involvement. The standard DWSD provisions for encroachments have been made a part of the resolution*.*

All other involved City Departments and privately owned utility companies have reported no objections to the encroachment. Provisions protecting all utility installations are part of the attached resolution.

I am recommending adoption of the attached resolution.

Respectfully submitted,

Richard Doherty, P.E., City Engineer

City Engineering Division – DPW

/JK

Cc: Ron Brundidge, Director, DPW

 Mayor’s Office – City Council Liaison

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

RESOLVED, that the Department of Public Works, City Engineering Division is hereby authorized and directed to issue permits to Heirloom Hospitality Group or their assigns to install and maintain an encroachment consisting of an aluminum framed canvas awning. The encroachment is on the east side of Second Boulevard, 100 feet wide, between Alexandrine Avenue, 100 feet wide, and Willis Avenue, 100 feet wide. Location of the encroachments described as follows: land in the City of Detroit, Wayne County, Michigan being the westerly 2.92 feet of Second Boulevard, 100 feet wide, adjoining the south 60 feet of the north 61 feet of Lot 15, Block 95 “Subdivision of part of the Cass Farm” as recorded in Liber 1, Pages 175-177 of Plats, Wayne County Records. The encroachments further described as follows: Aluminum framed canvas awning 60 feet long, 2 feet and 11 inches wide and 5 feet 2 ½ inches in height with an under clearance of 11 feet 2 ½ inches above the sidewalk grade.

PROVIDED, that if there is any cost for the removing and/or rerouting of any utility facilities, it shall be done at the expense of the petitioner and/or property owner; and be it further

PROVIDED, that access is maintained to all fire department connections, and be it further

PROVIDED, that the petitioner shall maintain a minimum clear height of 8 feet, 6 inches from ground/sidewalk level to underneath the proposed aerial encroachment, and further

PROVIDED, that by approval of this petition the Detroit Water and Sewerage Department (DWSD) does not waive any of its rights to its facilities located in the right-of-way, and at all times, DWSD, its agents or employees, shall have the right to enter upon the right-of-way to maintain, repair, alter, service, inspect, or install its facilities. All costs 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 caused by the encroachment shall be borne by the petitioner. All costs associated with gaining access to DWSD’s facilities, which could normally be expected had the petitioner not encroached into the right-of-way, shall be borne by DWSD; and be it further

PROVIDED, that DWSD requires a vertical clearance of 18 feet above grade for maintenance access and repair, and be it further

PROVIDED, that all construction performed under this petition shall not be commenced until after (5) days written notice to DWSD. Seventy-two (72) hours’ notice shall also be provided in accordance with P.A. 53 1974, as amended, utilizing the MISS DIG one call system; and be it 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 be it further

PROVIDED, that if DWSD facilities located within the right-of-way 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 costs incident to the repair, replacement or relocation of such broken or damaged DWSD facilities; and be it further

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

PROVIDED, Heirloom Hospitality Group or their assigns shall apply to the Buildings and Safety Engineering Department for a building permit prior to any construction. Also, if it becomes necessary to open cut public streets, bore, jack, occupy or barricade city rights-of-way for maintenance of encroachments such work shall be according to detail permit application drawings submitted to the City Engineering Division – DPW prior to any public right-of-way construction; 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; and further

PROVIDED, that all cost for the construction, maintenance, permits and use of the encroachments shall be borne by Heirloom Hospitality Group or their 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 Heirloom Hospitality Group or their assigns. Should damages to utilities occur Heirloom Hospitality Group or their assigns shall be liable for all incidental repair costs and waives all claims for damages to the encroaching installations; 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 Heirloom Hospitality Group or their assigns shall file with the Department of Public Works – City Engineering Division an indemnity agreement 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 of Heirloom Hospitality Group or their assigns of the terms thereof. Further, Heirloom Hospitality Group or their assigns shall agree to pay all claims, damages or expenses that may arise out of the use, repair and maintenance of the proposed encroachments; and further

PROVIDED, that filing of said indemnity agreement and construction of the encroachments shall be construed as acceptance of this Resolution by the “permitee”; and further

PROVIDED, that all cost for the construction, maintenance, permits and use of the encroachments shall be borne by Heirloom Hospitality Group, or their assigns; and further

PROVIDED, this resolution or part thereof is revocable at the will, whim or caprice of the City Council, and Heirloom Hospitality Group 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 be it further

PROVIDED, that the City Clerk shall within 30 days record a certified copy of this resolution with the Wayne County Register of Deeds.