

1 BY AUTHORITY

2 RESOLUTION NO. CR13-0493
3 SERIES OF 2013
4

COMMITTEE OF REFERENCE:
Land Use, Transportation & Infrastructure

5 A RESOLUTION

6 **Granting a revocable permit to 2601 Walnut Street, LLC, to encroach into the**
7 **right-of-way at 2601 Walnut Street.**
8

9 **NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY AND COUNTY**
10 **OF DENVER:**

11 **Section 1.** The City and County of Denver hereby grants to 2601 Walnut Street, LLC
12 and its successors and assigns ("Permittee"), a revocable permit to encroach into the right-of-way
13 with a handicap entrance, two patio spaces, stairs, railing and retaining walls ("Encroachments")
14 at 2601 Walnut Street in the following described area ("Encroachment Area"):
15

16 **PW LEGAL DESCRIPTION NO. 2010-0532-03-001**

17
18 **PROPERTY DESCRIPTION – EAST PATIO**

19
20 A PORTION OF THE 26TH STREET RIGHT OF WAY ADJOINING BLOCK 2, CASE AND EBERT'S
21 ADDITION TO THE CITY OF DENVER, SITUATED IN THE SOUTHEAST QUARTER OF SECTION
22 27, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND
23 COUNTY OF DENVER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS
24 FOLLOWS:
25

26 **COMMENCING** AT THE SOUTH CORNER OF LOT 17, SAID BLOCK 2; THENCE N45°20'27"W
27 ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF 26TH STREET A DISTANCE OF 10.00
28 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE S44°39'33"W A DISTANCE OF 8.54
29 FEET; THENCE N45°20'27"W PARALLEL WITH AND 8.54 FEET AS MEASURED AT A RIGHT
30 ANGLE FROM THE NORTHEASTERLY RIGHT OF WAY LINE OF 26TH STREET A DISTANCE OF
31 37.00 FEET; THENCE N44°39'33"E A DISTANCE OF 8.54 FEET TO A POINT ON THE
32 NORTHEASTERLY RIGHT OF WAY LINE OF 26TH STREET; THENCE S45°20'27"E ALONG SAID
33 NORTHEASTERLY LINE A DISTANCE OF 37.00 FEET TO THE **TRUE POINT OF BEGINNING**;
34

35 CONTAINING 316 SQUARE FEET OR 0.007 ACRE, MORE OR LESS

36
37 BASIS OF BEARINGS: N45°20'27"W ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF
38 26TH STREET.
39

40 and
41
42
43

1 **PW LEGAL DESCRIPTION NO. 2010-0532-03-002**

2
3 **PROPERTY DESCRIPTION – WEST PATIO & RAMP**

4
5 A PORTION OF THE 26TH STREET RIGHT OF WAY ADJOINING BLOCK 2, CASE AND EBERT'S
6 ADDITION TO THE CITY OF DENVER, SITUATED IN THE SOUTHEAST QUARTER OF SECTION
7 27, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND
8 COUNTY OF DENVER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS
9 FOLLOWS:

10
11 **COMMENCING** AT THE SOUTH CORNER OF LOT 17, SAID BLOCK 2; THENCE N45°20'27"W
12 ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF 26TH STREET A DISTANCE OF 53.71
13 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE S44°39'33"W A DISTANCE OF 8.54
14 FEET; THENCE N45°20'27"W PARALLEL WITH AND 8.54 FEET AS MEASURED AT A RIGHT
15 ANGLE FROM THE NORTHEASTERLY RIGHT OF WAY LINE OF 26TH STREET A DISTANCE OF
16 32.17 FEET; THENCE N64°08'27"E A DISTANCE OF 3.75 FEET; THENCE N45°20'27"W
17 PARALLEL WITH AND 5.00 FEET AS MEASURED AT A RIGHT ANGLE FROM THE
18 NORTHEASTERLY RIGHT OF WAY LINE OF 26TH STREET A DISTANCE OF 20.58 FEET;
19 THENCE N44°39'33"E A DISTANCE OF 5.00 FEET TO A POINT ON THE NORTHEASTERLY
20 RIGHT OF WAY LINE OF 26TH STREET; THENCE S45°20'27"E ALONG SAID NORTHEASTERLY
21 LINE A DISTANCE OF 51.50 FEET TO THE **TRUE POINT OF BEGINNING**;

22
23 CONTAINING 369 SQUARE FEET OR 0.008 ACRE, MORE OR LESS

24
25 BASIS OF BEARINGS: N45°20'27"W ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF
26 26TH STREET.
27

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

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

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

34 (c) If the Permittee intends to install any underground facilities in or near a public road,
35 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification
36 Association of Owners and Operators of Underground Facilities by contacting the Utility
37 Notification Center of Colorado, 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado
38 80215, at 303-232-1991. Further, Permittee shall contact the Utility Notification Center at 1-800-
39 922-1987 to locate underground facilities prior to commencing any work under this permit.

40 (d) Permittee is fully responsible for any and all damages incurred to facilities of the
41 Water Department and/or drainage facilities for water and sewage of the City and County of
42 Denver due to activities authorized by the permit. Should the relocation or replacement of any
43 drainage facilities for water and sewage of the City and County of Denver become necessary as
44 determined by the Manager of Public Works, in the Manager's sole and absolute discretion,

1 Permittee shall pay all cost and expense of the portion of the sewer affected by the permitted
2 structure. The extent of the affected portion to be replaced or relocated by Permittee shall be
3 determined by the Manager of Public Works. Any and all replacement or repair of facilities of the
4 Water Department and/or drainage facilities for water and sewage of the City and County of
5 Denver attributed to the Permittee shall be made by the Water Department and/or the City and
6 County of Denver at the sole expense of the Permittee. In the event Permittee's facilities are
7 damaged or destroyed due to the Water Department's or the City and County of Denver's repair,
8 replacement and/or operation of its facilities, repairs will be made by the Permittee at its sole
9 expense. Permittee agrees to defend, indemnify and save the City harmless and to repair or pay
10 for the repair of any and all damages to said sanitary sewer, or those damages resulting from the
11 failure of the sewer to properly function as a result of the permitted structure.

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

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

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

27 (h) Permittee shall pay all costs of construction and maintenance of the Encroachments.
28 Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing the
29 Encroachments from the Encroachment Area and return the Encroachment Area to its original
30 condition under the supervision of the City Engineer.

31 (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and
32 curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that
33 become broken, damaged or unsightly during the course of construction. In the future, Permittee

1 shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that
2 become broken or damaged when, in the opinion of the City Engineer, the damage has been
3 caused by the activity of the Permittee within the Encroachment Area. All repair work shall be
4 accomplished without cost to the City and under the supervision of the City Engineer.

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

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

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

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

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

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

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

15 COMMITTEE APPROVAL DATE: July 25, 2013 [by consent]

16 MAYOR-COUNCIL DATE: July 30, 2013

17 PASSED BY THE COUNCIL: _____, 2013

18 _____ - PRESIDENT

19 ATTEST: _____ - CLERK AND RECORDER,
20 EX-OFFICIO CLERK OF THE
21 CITY AND COUNTY OF DENVER
22

23 PREPARED BY: Brent A. Eisen, Assistant City Attorney DATE: August 1, 2013

24
25 Pursuant to section 13-12, D.R.M.C., this proposed resolution has been reviewed by the office of
26 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
27 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to §
28 3.2.6 of the Charter.

29
30 Douglas J. Friednash, Denver City Attorney

31 BY: _____, Assistant City Attorney DATE: _____, 2013