

1 **BY AUTHORITY**

2 RESOLUTION NO. CR20-0789  
3 SERIES OF 2020

COMMITTEE OF REFERENCE:  
Land Use, Transportation & Infrastructure

4 **A RESOLUTION**

5 **Granting a revocable permit to Old South Pearl Street Merchants Association,**  
6 **d/b/a South Pearl Street Merchants Association, to encroach into the right-of-**  
7 **way on South Pearl Street near East Louisiana Avenue, East Iowa Avenue, and**  
8 **East Jewell Avenue.**

9 **BE IT RESOLVED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

10 **Section 1.** The City and County of Denver (“City”) hereby grants to Old South Pearl Street  
11 Merchants Association, d/b/a South Pearl Street Merchants Association, and its successors and  
12 assigns (“Permittee”), a revocable permit to encroach into the right-of-way for a combined total of  
13 264 square feet with three (3) 23-foot high arched "South Pearl Street" gateway signs  
14 (“Encroachments”) on South Pearl Street near East Louisiana Avenue, East Iowa Avenue, and East  
15 Jewell Avenue in the following described area (“Encroachment Area”):

16 **PARCEL DESCRIPTION ROW NO. 2020-ENCROACHMENT-0000209-001:**

17 A PARCEL OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP  
18 4 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF  
19 DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

20  
21 BASIS OF BEARING FOR THIS DESCRIPTION IS THE WEST LINE OF BLOCK 18, SHERMAN  
22 SUBDIVISION, CITY AND COUNTY OF DENVER, STATE OF COLORADO AS RECORDED IN  
23 THE OFFICE OF THE CLERK AND RECORDER OF DENVER COUNTY BETWEEN LOTS 3  
24 AND 24 BEING MONUMENTED BY A CHISELED MALTESE CROSS OFFSET 11.75 FEET  
25 WEST OF THE NORTHWEST CORNER OF LOT 3 AND A CHISELED MALTESE CROSS  
26 OFFSET 11.75 FEET WEST AND 4.00 FEET SOUTH OF THE SOUTHWEST CORNER OF LOT  
27 24, SAID LINE IS ASSUMED TO BEAR SOUTH 00°00’00” EAST WITH ALL BEARINGS HEREON  
28 RELATIVE THERETO;

29  
30 COMMENCING AT THE NORTHWESTERLY MOST CORNER OF LOT 1, BLOCK 18, SHERMAN  
31 SUBDIVISION; THENCE SOUTH 00°00’00” EAST ALONG SAID WESTERLY LINE OF BLOCK  
32 18, A DISTANCE OF 13.19 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY OF SOUTH  
33 PEARL STREET, SAID POINT ALSO BEING ON THE WEST LINE OF BLOCK 18, ALSO BEING  
34 THE TRUE POINT OF BEGINNING;

35  
36 THENCE CONTINUING ALONG SAID EASTERLY RIGHT-OF-WAY, SOUTH 00°00’00” EAST A  
37 DISTANCE OF 20.00 FEET;

1 THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY, NORTH 90°00'00" WEST A  
2 DISTANCE OF 60.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF SOUTH  
3 PEARL STREET;  
4 THENCE ALONG SAID WESTERLY RIGHT-OF-WAY, NORTH 00°00'00" EAST A DISTANCE OF  
5 20.00 FEET;  
6  
7 THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY, NORTH 90°00'00" EAST A  
8 DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING;  
9  
10 SAID PARCEL CONTAINS 1200 SQUARE FEET OR 0.028 ACRES, MORE OR LESS.

11  
12 and

13 **PARCEL DESCRIPTION ROW NO. 2020-ENCROACHMENT-0000209-002:**

14 A PARCEL OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP  
15 4 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF  
16 DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS;  
17

18 BASIS OF BEARING FOR THIS DESCRIPTION IS THE 16.0 FOOT RANGE LINE BETWEEN  
19 BLOCKS 2 AND 3, FLEMMING'S SUBDIVISION, CITY AND COUNTY OF DENVER, STATE OF  
20 COLORADO AS RECORDED IN THE OFFICE OF THE CLERK AND RECORDER OF DENVER  
21 COUNTY BEING MONUMENTED ON THE SOUTH END BY A 2.5 INCH ALLOY CAP STAMPED  
22 PLS 34183 IN A RANGE BOX AND AT THE NORTH END BY A 2.5 INCH ALLOY CAP STAMPED  
23 PLS 34183 IN A RANGE BOX, SAID LINE IS ASSUMED TO BEAR NORTH 00°04'16" EAST WITH  
24 ALL BEARINGS HEREON RELATIVE THERETO;

25  
26 COMMENCING AT THE SOUTHEAST CORNER OF BLOCK 2, FLEMING'S SUBDIVISION  
27 THENCE NORTH 00°04'16" EAST ALONG THE EASTERLY LINE OF BLOCK 2, SAID LINE ALSO  
28 BEING THE WESTERLY RIGHT-OF-WAY OF SOUTH PEARL STREET, A DISTANCE OF 42.14  
29 FEET TO A POINT ON SAID WESTERLY RIGHT-OF-WAY, SAID POINT ALSO BEING THE TRUE  
30 POINT OF BEGINNING;

31  
32 THENCE CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY, NORTH 00°04'16" EAST A  
33 DISTANCE OF 20.00 FEET;

34  
35 THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY, SOUTH 89°55'44" EAST A DISTANCE  
36 OF 60.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY OF SOUTH PEARL STREET;

37  
38 THENCE ALONG SAID EASTERLY RIGHT-OF-WAY, SOUTH 00°04'16" WEST A DISTANCE OF  
39 20.00 FEET;

40  
41 THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY, NORTH 89°55'44" WEST A DISTANCE  
42 OF 60.00 FEET TO THE POINT OF BEGINNING;

43  
44 SAID PARCEL CONTAINS 1200 SQUARE FEET OR 0.028 ACRES, MORE OR LESS

45  
46 and

47  
48

1 **PARCEL DESCRIPTION ROW NO. 2020-ENCROACHMENT-0000209-003:**

2 A PARCEL OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP  
3 4 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF  
4 DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS;  
5

6 BASIS OF BEARING FOR THIS DESCRIPTION IS THE 20.0 FOOT RANGE LINE BETWEEN  
7 BLOCKS 10 AND 11, GRANT SUBDIVISION, CITY AND COUNTY OF DENVER, STATE OF  
8 COLORADO AS RECORDED IN THE OFFICE OF THE CLERK AND RECORDER OF DENVER  
9 COUNTY BEING MONUMENTED ON THE SOUTH END BY STONE WITH A MALTESE CROSS  
10 ON TOP IN A RANGE BOX AND AT THE NORTH END BY A 3 INCH BRASS CAP FLUSH WITH  
11 CONCRETE STAMPED PLS 28669, SAID LINE IS ASSUMED TO BEAR NORTH 00°06'15" EAST  
12 WITH ALL BEARINGS HEREON RELATIVE THERETO;  
13

14 COMMENCING AT THE SOUTHEAST CORNER OF BLOCK 11, GRANT SUBDIVISION THENCE  
15 NORTH 00°06'15" EAST ALONG THE EASTERLY LINE OF BLOCK 11, SAID LINE ALSO BEING  
16 THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH PEARL STREET, A DISTANCE OF 35.38  
17 FEET TO A POINT ON SAID WESTERLY RIGHT-OF-WAY OF SOUTH PEARL STREET, SAID  
18 POINT ALSO BEING THE TRUE POINT OF BEGINNING;  
19

20 THENCE CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY, NORTH 00°06'15" EAST A  
21 DISTANCE OF 20.00 FEET;  
22

23 THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY, SOUTH 89°53'45" EAST A DISTANCE  
24 OF 60.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY OF SOUTH PEARL STREET;  
25

26 THENCE ALONG SAID EASTERLY RIGHT-OF-WAY, SOUTH 00°06'15" WEST A DISTANCE OF  
27 20.00 FEET;  
28

29 THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY, NORTH 89°53'45" WEST A DISTANCE  
30 OF 60.00 FEET TO THE POINT OF BEGINNING;  
31

32 SAID PARCEL CONTAINS 1200 SQUARE FEET OR 0.028 ACRES, MORE OR LESS.  
33

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

36 (a) Permittee shall obtain a street occupancy permit from City's the Department of  
37 Transportation and Infrastructure Permit Operations at 2000 West 3<sup>rd</sup> Avenue, 303-446-3759, prior  
38 to commencing construction.

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

41 (c) If the Permittee intends to install any underground facilities in or near a public road,  
42 street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification  
43 Association of Owners and Operators of Underground Facilities by contacting the Utility Notification  
44 Center of Colorado, 16361 Table Mountain Parkway, Golden, Colorado 80403, at 303-232-1991.

1 Further, Permittee shall contact the Utility Notification Center at 811 to locate underground facilities  
2 prior to commencing any work under this Permit.

3 (d) Permittee is fully responsible for any and all damages incurred to facilities of the Water  
4 Department and/or drainage facilities for water and sewage of the City due to activities authorized  
5 by the Permit. Should the relocation or replacement of any drainage facilities for water and sewage  
6 of the City become necessary as determined by the City's Executive Director of the Department of  
7 Transportation and Infrastructure ("Executive Director"), in the Executive Director's sole and absolute  
8 discretion, Permittee shall pay all cost and expense of the portion of the sewer affected by the  
9 permitted structure. The extent of the affected portion to be replaced or relocated by Permittee shall  
10 be determined by the Executive Director. Any and all replacement or repair of facilities of the Denver  
11 Water and/or drainage facilities for water and sewage of the City attributed to the Permittee shall be  
12 made by the Denver Water and/or the City at the sole expense of the Permittee. In the event  
13 Permittee's facilities are damaged or destroyed due to the Denver Water or the City's repair,  
14 replacement and/or operation of its facilities, repairs will be made by the Permittee at its sole  
15 expense. Permittee agrees to defend, indemnify and save the City harmless and to repair or pay for  
16 the repair of any and all damages to said sanitary sewer, or those damages resulting from the failure  
17 of the sewer to properly function as a result of the permitted structure.

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

21 (f) All construction in, under, on or over the Encroachment Area shall be accomplished in  
22 accordance with the Building Code of the City. Plans and specifications governing the construction  
23 of the Encroachments shall be approved by the Executive Director and the Director of Building  
24 Inspection Division prior to construction. Upon completion, a reproducible copy of the exact location  
25 and dimensions of the Encroachments shall be filed with the Executive Director.

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

32 (h) Permittee shall pay all costs of construction and maintenance of the Encroachments.  
33 Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing the

1 Encroachments from the Encroachment Area and return the Encroachment Area to its original  
2 condition under the supervision of the City Engineer.

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

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

12 (k) This revocable Permit shall not operate or be construed to abridge, limit or restrict the  
13 City in exercising its right to make full use of the Encroachment Area and adjacent rights-of-way as  
14 public thoroughfares nor shall it operate to restrict the utility companies in exercising their rights to  
15 construct, remove, operate and maintain their facilities within the Encroachment Area and adjacent  
16 rights-of-way.

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

32 (m) Permittee shall comply with the provisions of Article IV (Prohibition of Discrimination in  
33 Employment, Housing and Commercial Space, Public Accommodations, Educational Institutions

1 and Health and Welfare Services) of Chapter 28 (Human Rights) of the Revised Municipal Code of  
2 the City and County of Denver. The failure to comply with any such provision shall be a proper basis  
3 for revocation of this Permit.

4 (n) The right to revoke this Permit is expressly reserved to the City.

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

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

16 COMMITTEE APPROVAL DATE: August 11, 2020 by Consent

17 MAYOR-COUNCIL DATE: August 18, 2020

18 PASSED BY THE COUNCIL: \_\_\_\_\_

19 \_\_\_\_\_ - PRESIDENT

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

23 PREPARED BY: Martin A. Plate, Assistant City Attorney DATE: August 20, 2020

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

28 Kristin M. Bronson, Denver City Attorney

29 BY: \_\_\_\_\_, Assistant City Attorney DATE: \_\_\_\_\_  
30  
31