

1 [Street Encroachment Permit - Public Stair and Scenic Overlook on 22nd Street]

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3 **Resolution granting revocable permission to RP Pennsylvania, LLC to occupy and**
4 **maintain a portion of 22nd Street, between Missouri and Texas Streets, fronting 1395**
5 **22nd Street and 790 Pennsylvania Avenue (Assessor’s Parcel Block No. 4167, Lot No.**
6 **013), with a public stair and scenic overlook; adopting environmental findings under**
7 **the California Environmental Quality Act; making findings of consistency with the**
8 **General Plan, and the eight priority policies of Planning Code, Section 101.1; and to**
9 **authorize the Director or Public Works to enter into amendments or modifications to**
10 **the Permit with respect to the encroachments that do not materially increase the**
11 **obligations or liabilities to the City and are necessary to effectuate the purposes of the**
12 **Permit or this Resolution.**

13
14 WHEREAS, Pursuant to Public Works Code, Sections 786 et seq., RP Pennsylvania,
15 LLC (hereafter referred to as “Permittee”), requested permission to occupy and maintain a
16 portion of the public right-of-way along 22nd Street between Missouri and Texas Streets
17 fronting 1395 22nd Street and 790 Pennsylvania Avenue (Assessor’s Parcel Block No. 4167,
18 Lot No. 013) with a public stair and overlook; and

19 WHEREAS, The improvements include, but are not limited to: A publicly-accessible
20 stair and overlook, which will provide a pedestrian connection on 22nd Street between
21 Missouri and Texas Streets; an entry plaza at Texas Street; a winding staircase; planters;
22 public art; lighting; and an overlook at the top of the grade at Missouri Street (collectively
23 referred to as the “Encroachments”); and

1 WHEREAS, The Permittee will construct the Encroachments in conjunction with its
2 residential and Production, Distribution, and Repair project at 1395 22nd Street; and

3 WHEREAS, The Permittee has proposed to maintain the Encroachments for the life of
4 the permit; and

5 WHEREAS, The Encroachments shall be constructed in substantial conformity with the
6 accompanying documents and plans, copies of which are on file in the office of the Clerk of
7 the Board of Supervisors in File No. 240386 and incorporated herein by reference; and

8 WHEREAS, The Planning Commission, on December 3, 2015, in Motion No. 19523,
9 determined that the actions contemplated in this Resolution comply with the California
10 Environmental Quality Act (California Public Resources Code, Sections 21000 et seq.) and
11 adopted findings in regard to the Encroachments (“Environmental Findings”); and

12 WHEREAS, A copy of said Motion and Environmental Findings are on file with the
13 Clerk of the Board of Supervisors in File No. 240386 and incorporated herein by reference;
14 and

15 WHEREAS, The Planning Department, in a letter dated November 9, 2017 (“Planning
16 Department Letter”), found that the Encroachments are in conformity with the General Plan,
17 and are consistent with the eight priority policies of Planning Code, Section 101.1; and

18 WHEREAS, A copy of the Planning Department Letter is on file with the Clerk of the
19 Board of Supervisors in File No. 240386 and incorporated herein by reference; and

20 WHEREAS, The Transportation Advisory Staff Committee, at its meeting of March 22,
21 2018, recommended approval of the proposed encroachments; and

22 WHEREAS, After a public hearing on April 25, 2018, Public Works recommended to
23 the Board of Supervisors (“Board”) approval of a street encroachment permit and associated
24 encroachment permit and maintenance agreement (collectively, “Permit”) for the maintenance
25 of the Encroachments; and

1 WHEREAS, This recommendation is contained in PW Order No. 187659, dated May
2 11, 2018, a copy of which is on file with the Clerk of the Board of Supervisors in File No.
3 240386 and incorporated herein by reference; and

4 WHEREAS, The Permit is on file with the Clerk of the Board of Supervisors in File No.
5 240386 and incorporated herein by reference; and

6 WHEREAS, The final approved Permit shall be in substantially the same form as that in
7 the Clerk of the Board of Supervisor’s file; and

8 WHEREAS, In Public Works Order No. 187659, dated May 10, 2018, the Director
9 recommended approval of the Encroachment Permit Agreement to the Board of Supervisors;
10 and

11 WHEREAS, Pursuant to Public Works Code, Section 786.7(f)(1) the public right-of-way
12 occupancy assessment fee shall be waived because the Encroachments will be installed in
13 furtherance of the Better Streets Plan requirements under Planning Code, Section 138.1; and

14 WHEREAS, A copy of PW Order No. 187659, dated May 10, 2018, is on file with the
15 Clerk of the Board of Supervisors in File No. 240386 and incorporated herein by reference;
16 and

17 WHEREAS, The Permit for the Encroachments shall not become effective until:

18 (1) The Permittee executes and acknowledges the Permit and delivers said
19 Permit and all required documents and fees to Public Works;

20 (2) Public Works records the Permit ensuring maintenance of the
21 Encroachments in the County Recorder’s Office; and

22 WHEREAS, The Permittee, at its sole expense and as is necessary as a result of this
23 permit, shall make the following arrangements:
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25

1 (1) To provide for the support and protection of facilities under the jurisdiction of
2 Public Works, the Public Utilities Commission, the San Francisco Fire Department, other City
3 Departments, and public utility companies;

4 (2) To provide access to such facilities to allow said entities to construct,
5 reconstruct, maintain, operate, or repair such facilities as set forth in the Permit;

6 (3) To remove or relocate such facilities if installation of Encroachments
7 requires said removal or relocation and to make all necessary arrangements with the owners
8 of such facilities, including payment for all their costs, should said removal or relocation be
9 required;

10 (4) The Permittee shall assume all costs for the maintenance and repair of the
11 Encroachments pursuant to the Permit and no cost or obligation of any kind shall accrue to
12 Public Works by reason of this permission granted; and

13 WHEREAS, No structures shall be erected or constructed within the public right-of-way
14 except as specifically permitted herein; now, therefore, be it

15 RESOLVED, The Board adopts the Planning Commission's Environmental Findings as
16 its own; and, be it

17 FURTHER RESOLVED, That the Board finds that the Permit is consistent with the
18 General Plan, and the eight priority policies of Planning Code, Section 101.1 for the reasons
19 set forth in the Planning Department Letter; and, be it

20 FURTHER RESOLVED, Pursuant to Public Works Code, Sections 786 et seq., the
21 Board hereby grants revocable, personal, non-exclusive, and non-possessory permission to
22 the Permittee, RP Pennsylvania, LLC, to occupy the public right-of-way with the
23 Encroachments and maintain said Encroachments under the terms of the Permit; and, be it

24 FURTHER RESOLVED, The Board accepts the recommendations of the PW Order
25 No. 187659 and approves the Permit with respect to the Encroachments; and, be it

1 FURTHER RESOLVED, The Board also authorizes the Director of Public Works to
2 perform and exercise the City's rights and obligations with respect to the Encroachments
3 under the Permit and to enter into any amendments or modifications to the Permit with
4 respect to the Encroachments, which may include without limitation, those amendments or
5 modifications that the Director of Public Works, in consultation with the City Attorney,
6 determines are in the best interest of the City, do not materially increase the obligations or
7 liabilities of the City or materially decrease the obligations of the Permittee or its successors,
8 are necessary or advisable to effectuate the purposes of the Permit or this Resolution with
9 respect to the Encroachments, and are in compliance with all applicable laws; and, be it

10 FURTHER RESOLVED, The Board, under Public Works Code, Section 786.7,
11 acknowledges waiver of the public right-of-way occupancy assessment fee in accordance with
12 the Public Works Director's determination.