

1 [Street Encroachment Permit - Eagle Plaza on a Portion of 12th Street at Harrison Street]

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3 **Resolution granting revocable permission to 1532 Harrison Owner, LLC, the property**
4 **owner of 1532 Harrison Street (Assessor’s Parcel Block No. 3521, Lot No. 055-056), to**
5 **install, occupy, and maintain a portion of the 12th Street public right-of-way, between**
6 **Harrison Street and Bernice Street, with a LGBTQ leather-focused public pedestrian**
7 **plaza space and a two-lane roadway; conditionally accepting an offer of public**
8 **improvements and dedicating the improvements to public use; adopting environmental**
9 **findings under the California Environmental Quality Act; and making findings of**
10 **consistency with the General Plan, and the eight priority policies of Planning Code,**
11 **Section 101.1.**

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13 WHEREAS, Pursuant to Public Works Code, Sections 786 et seq., 1532 Harrison
14 Owner, LLC, (hereafter referred to as “Permittee”) requested permission to occupy an
15 approximately 12,500 square foot portion of the public right-of-way to install and maintain
16 along 12th Street between Harrison and Bernice Streets a LGBTQ leather-focused public
17 pedestrian plaza space on a two-lane roadway with landscaping, sidewalk widening, and bulb-
18 outs (hereafter referred to as “Eagle Plaza”) fronting 1532 Harrison Street (Assessor’s Parcel
19 Block No. 3521, Lot No. 055-056); and

20 WHEREAS, The more detailed improvements at Eagle Plaza include, but are not
21 limited to, the following: widened sidewalks; sidewalk landscaping; trees; irrigation; 12th Street
22 roadway realignment from three lanes with parking on each side to two lanes with no parking;
23 special roadway paving; colored crosswalks; removable bollards in the roadway along the
24 crosswalks at Harrison and Bernice Streets; mid-block ADA crossing at the south side of 12th

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1 Street with detectable warning surface and bollards; flag pole; street lights; electrical outlets;
2 and temporary seating (collectively referred to as the “Encroachments”); and

3 WHEREAS, The Permittee will construct Eagle Plaza under a separate Public Works
4 street improvement permit in conjunction with the adjacent residential development, which
5 consists of three seven-story residential buildings at 1532 Harrison Street; and

6 WHEREAS, The Permittee has agreed to maintain the Encroachments for the life of
7 the Major Encroachment Permit; and

8 WHEREAS, The Planning Commission, on October 8, 2015, in Motion No. 19488,
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, The Planning Commission, on February 11, 2016, in Motion No. 19566,
13 authorized an In-Kind Agreement for Eagle Plaza; and

14 WHEREAS, The Planning Department, in a letter dated July 16, 2018, (“Planning
15 Department Letter”), found that the Encroachments are in conformity with the General Plan,
16 and are consistent with the eight priority policies of Planning Code, Section 101.1; and

17 WHEREAS, The Permittee has submitted an irrevocable offer of improvements for the
18 subject Permit dated January 29, 2019 in accordance with the terms of an In-Kind Agreement
19 that the Planning Director approved on February 8, 2018; and

20 WHEREAS, Copies of Planning Commission Motion Nos. 19488 (adopting
21 Environmental Findings) and 19566 (approving the In-Kind Agreement), the In-Kind
22 Agreement dated February 8, 2018, and the irrevocable offer are on file with the Clerk of the
23 Board of Supervisors in File No. 190053 and incorporated herein by reference; and

24 WHEREAS, The Transportation Advisory Staff Committee, at its meeting of July 26,
25 2018, recommended approval of the Encroachments; and,

1 WHEREAS, The Permittee has designed San Francisco Public Utilities Commission
2 (“SFPUC”) facilities in conformance with the San Francisco Stormwater Design Guidelines
3 and SFPUC policies; and

4 WHEREAS, After a public hearing on August 8, 2018, Public Works (“PW”) issued PW
5 Order No. 188111, dated August 8, 2018, recommending Board of Supervisors (“Board”)
6 approval of the Encroachments; and

7 WHEREAS, In PW Order No. 200452, dated January 4, 2019, PW recommended to
8 the Board that it approve both the Encroachments and a Major Encroachment Permit
9 Maintenance Agreement for the maintenance of the Encroachments (collectively, the
10 “Permit”); and

11 WHEREAS, In PW Order No. 200452, the Director determined under Public Works
12 Code Section 786.7(f)(4) that the public right-of-way occupancy assessment fee shall be
13 waived because the Encroachments are associated with a Planning Commission In-Kind
14 Agreement; and

15 WHEREAS, In PW Order No. 200452, the Director also determined and City Engineer
16 certified that the annual maintenance cost for the Permit is \$42,548.00; and

17 WHEREAS, Copies of PW Order Nos. 188111 and 200452 and the Permit are on file
18 with the Clerk of the Board of Supervisors in File No. 190053 and incorporated herein by
19 reference; and

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

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

23 (1) The Permittee executes and acknowledges the Permit and delivers said
24 Permit and all required documents and fees to Public Works, and

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1 (2) Public Works records the Permit ensuring maintenance of the
2 Encroachments in the County Recorder's Office; and

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

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

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

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

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

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

19 RESOLVED, The Board adopts the Environmental Findings in Planning Commission
20 Motion No. 19488 as its own; and be it

21 FURTHER RESOLVED, That the Board finds that the Permit is consistent with the
22 General Plan, and the eight priority policies of Planning Code, Section 101.1 for the reasons
23 set forth in the July 16, 2018, Planning Department Letter; and, be it

24 FURTHER RESOLVED, Pursuant to Public Works Code, Sections 786 et seq., the
25 Board hereby grants revocable, personal, non-exclusive, and non-possessory permission to

1 the Permittee, 1532 Harrison Owner, LLC, to occupy the public right-of-way with the
2 Encroachments and install and maintain said Encroachments under the terms of the Permit;
3 and, be it

4 FURTHER RESOLVED, The Board accepts the recommendations of the PW Order
5 Nos. 188111 and 200452 and approves the Permit with respect to the Encroachments; and,
6 be it

7 FURTHER RESOLVED, The Board, under Public Works Code, Section 786.7(f)(4),
8 acknowledges waiver of the public right-of-way occupancy assessment fee in accordance with
9 the PW Director's determination; and, be it

10 FURTHER RESOLVED, The Board hereby conditionally accepts the irrevocable offer
11 of improvements, dated January 29, 2019, related to this Permit subject to completion in
12 accordance with all City permit requirements, and dedicates said improvements to public use
13 subject to the Permittee's obligations and responsibilities under this Permit; and, be it

14 FURTHER RESOLVED, The Board also authorizes the PW Director to perform and
15 exercise the City's rights and obligations with respect to the Encroachments under the Permit
16 and to enter into any amendments or modifications to the Permit with respect to the
17 Encroachments; and, be it

18 FURTHER RESOLVED, Such actions may include without limitation, those
19 amendments or modifications that the PW Director, in consultation with the City Attorney,
20 determines are in the best interest of the City, do not materially increase the obligations or
21 liabilities of the City or materially decrease the obligations of the Permittee or its successors,
22 are necessary or advisable to effectuate the purposes of the Permit or this resolution with
23 respect to the Encroachments, and are in compliance with all applicable laws.

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