

1 [Telecommunication conduit across Minna Street for SFMOMA.]

2 **Resolution granting revocable permission to San Francisco Museum of Modern Art**  
3 **(SFMOMA) to occupy a portion of the public right-of-way to excavate, install and**  
4 **maintain one (1) 4-inch Schedule 40 conduit across Minna Street, between 3<sup>rd</sup> and New**  
5 **Montgomery Streets to interconnect the SFMOMA at 151 3<sup>rd</sup> Street (Block 3722, Lot 078)**  
6 **with auxiliary office space at 667 Mission Street/170 Minna Street (Block 3722, Lot 067)**  
7 **for providing voice and data connection between the two buildings and making**  
8 **findings of consistency with the priority policies of Planning Code Section 101.1.**

9 WHEREAS, pursuant to Public Works Code Section 786, permission was requested by  
10 SFMOMA to occupy a portion of the public right-of-way to excavate, install and maintain one  
11 (1) 4-inch conduit across Minna Street for telecommunication purposes, as shown on the  
12 plans, a copy of which is on file in the office of the Clerk of the Board of Supervisors in File  
13 No. ; and

14 WHEREAS, The Department of City Planning, by letter dated May 7, 2002, declared  
15 that the proposed encroachment is in conformity with the General Plan and with the priority  
16 policies of Planning Code Section 101.1. A copy of said letter is on file with the Clerk of the  
17 Board of Supervisors in File No. , and is incorporated herein by reference; and

18 WHEREAS, The permit and associated encroachment agreement, which are  
19 incorporated herein by reference and attached hereto as Exhibit A, shall not become effective  
20 until:

21 (a) The Permittee executes and acknowledges the permit and delivers said permit to  
22 the City's Controller, and

23 (b) Permittee delivers to the City Controller a policy of insurance provided for in said  
24 agreement and the Controller shall have had approved the same as complying with the  
25 requirement of said agreement. The Controller may, in his discretion, accept, in lieu of said

1 insurance policy, the certificate of an insurance company certifying to the existence of such a  
2 policy; and,

3 (c) The City Controller records the permit and associated agreement in the office of the  
4 County Recorder; and

5 WHEREAS, The Permittee, at the Permittee's sole expense and as is necessary as a  
6 result of this permit, shall make the following arrangements:

7 (a) To provide for the support and protection of facilities belonging to the Department of  
8 Public Works, San Francisco Water Department, the San Francisco Fire Department and  
9 other City Departments, and public utility companies; and

10 (b) To remove or relocate such facilities and provide access to such facilities for the  
11 purpose of constructing, reconstructing, maintaining, operating, or repairing such facilities;  
12 and

13 WHEREAS, The Permittee, in accordance with Government Code Section 4216.1,  
14 shall become a member of, participate in, and share in the costs of Underground Service  
15 Alert-Northern California (U.S.A.) regional notification center; and

16 WHEREAS, The rights granted herein do not constitute a cable TV franchise and do  
17 not authorize transmission of video programming over City right-of-way or any other signals  
18 that would constitute Cable TV service; and

19 WHEREAS, The Permittee shall procure the necessary permits from the Central Permit  
20 Bureau, Department of Building Inspection and/or Bureau of Street-Use and Mapping,  
21 Department of Public Works, and pay the necessary permit fees and inspection fees before  
22 starting work; and

23 WHEREAS, The Board of Supervisors reserves the right to exact a permit fee or rental  
24 for the use of said street area; and

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1           WHEREAS, No structure shall be erected or constructed within said street right-of-way  
2 except as specifically permitted herein; and,

3           WHEREAS, The Permittee shall assume all costs for the maintenance and repair of the  
4 encroachments and no cost or obligation of any kind shall accrue to the City and County of  
5 San Francisco by reason of this permission granted; now, therefore be it

6           RESOLVED, That pursuant to Public Works Code Section 786, the Board of  
7 Supervisors hereby grants permission, revocable at the will of the Director of the Department  
8 of Public Works, to SFMOMA to occupy a portion of the public right-of-way to excavate, install  
9 and maintain one (1) 4-inch Schedule 40 conduit across Minna Street, between 3<sup>rd</sup> and New  
10 Montgomery Streets to interconnect the SFMOMA at 151 3<sup>rd</sup> Street (Block 3722, Lot 078) with  
11 auxiliary office space at 667 Mission Street/170 Minna Street (Block 3722, Lot 067) for  
12 providing voice and data connection between the two buildings; and, be it

13           FURTHER RESOLVED, That this Board adopts the findings of the Planning  
14 Department which determined that said permit is consistent with the priority policies of  
15 Planning Code Section 101.1.

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17 RECOMMENDED:

APPROVED:

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20 Harlan L. Kelly, Jr.  
21 Deputy Director for Engineering  
22 and City Engineer

Edwin M. Lee  
Director of Public Works

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