

1 [Street Encroachment Permit - Dogpatch Arts Plaza on a Portion of 19th Street]

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3 **Resolution granting revocable permission to 650 Indiana Street LLC, the property**  
4 **owner of 650 Indiana Street (Assessor’s Parcel Block No. 4041, Lot No. 009), to occupy**  
5 **and maintain a portion of the 19th Street public right-of-way, between Indiana Street**  
6 **and Interstate Highway 280, with an arts-focused public pedestrian plaza; accepting an**  
7 **offer of public improvements and dedicating the improvements to public use; adopting**  
8 **environmental findings under the California Environmental Quality Act; and making**  
9 **findings of consistency with the General Plan, and the eight priority policies of**  
10 **Planning Code, Section 101.1.**

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12 WHEREAS, Pursuant to Public Works Code, Sections 786 et seq., 650 Indiana Street  
13 LLC, (hereafter referred to as “Permittee”) requested permission to occupy and maintain an  
14 approximately 8,000 square feet of the 19th Street public right-of-way, between Indiana Street  
15 and Interstate Highway 280, for an arts-focused public pedestrian plaza (hereafter referred to  
16 as “Dogpatch Arts Plaza”) fronting 650 Indiana Street (Assessor’s Parcel Block No. 4041, Lot  
17 No. 009); and

18 WHEREAS, The improvements at Dogpatch Arts Plaza, located within the boundaries  
19 shown on Public Works draft Q-Map 20-857 include, but are not limited to, the following: a  
20 concrete slab on the full width of the 19th Street right-of-way from the western curb line of  
21 Indiana Street to Interstate Highway 280; concrete bleachers abutting the Caltrans  
22 jurisdictional line associated with Highway 280; fixed and mobile planter boxes; storm  
23 drainage system from within Dogpatch Arts Plaza to the connection to the City’s sewer main  
24 in Indiana Street; landscaping; trees; in grade lighting and a light post; and, for purposes of

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1 placing or erecting works of art, a special section of concrete slab located near the center of  
2 Dogpatch Arts Plaza (collectively referred to as the “Encroachments”); and

3 WHEREAS, Copies of Public Works Q Map 20-857 and the plan for Dogpatch Arts  
4 Plaza are on file with the Clerk of the Board of Supervisors in File No. 190050; and

5 WHEREAS, The Permittee constructed the Dogpatch Arts Plaza in accordance with  
6 Public Works at-risk Street Improvement Permit No. 14-ME-0023 and in conjunction with a  
7 residential development consisting of two five-story residential buildings along 660-680  
8 Indiana Street; and

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

11 WHEREAS, The Planning Department, in a letter dated March 28, 2014, (the “Planning  
12 Department Letter”), determined that the actions contemplated in this resolution comply with  
13 the California Environmental Quality Act (California Public Resources Code, Sections 21000  
14 et seq.) and adopted findings in regard to the Encroachments (“Environmental Findings”); and

15 WHEREAS, The Planning Department Letter, including its Environmental Findings, is  
16 on file with the Clerk of the Board of Supervisors in File No. 190050 and incorporated herein  
17 by reference; and

18 WHEREAS, The Planning Commission, by Motion No. 19150, dated May 15, 2014,  
19 authorized an In-Kind Agreement for Dogpatch Arts Plaza and determined that the  
20 Encroachments are in conformity with the General Plan, and are consistent with the eight  
21 priority policies of Planning Code Section 101.1; and

22 WHEREAS, The Permittee has submitted an irrevocable offer of improvements for the  
23 subject Encroachments, dated August 1, 2014, in furtherance of the Planning Commission In-  
24 Kind Agreement; and

1           WHEREAS, Copies of Planning Commission Motion No. 19150 approving the In-Kind  
2 Agreement and making General Plan findings, the In-Kind Agreement dated August 1, 2014,  
3 and the irrevocable offer are on file with the Clerk of the Board of Supervisors in File No.  
4 190050 and incorporated herein by reference; and

5           WHEREAS, The Transportation Advisory Staff Committee, at its meeting of August 27,  
6 2015, recommended approval of the Encroachments; and,

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

10           WHEREAS, After a public hearing on November 4, 2015, Public Works (“PW”) issued  
11 PW Order No. 184286, dated December 11, 2015, that approved at-risk Street Improvement  
12 Permit No. 14ME-0023, which allowed Permittee to construct the Encroachments in advance  
13 of Board of Supervisors action on the Major Encroachment Permit Maintenance Agreement  
14 for the maintenance of the Encroachments; and

15           WHEREAS, In PW Order No. 200455, dated January 4, 2019, PW recommended to  
16 the Board of Supervisors that it approve the Encroachments as constructed in accordance  
17 with PW Permit No. 14ME-0023 and the Major Encroachment Permit Maintenance Agreement  
18 (collectively, the “Permit”); and

19           WHEREAS, In PW Order No. 200455, the Director determined under Public Works  
20 Code Section 786.7(f)(4) that the public right-of-way occupancy assessment fee shall be  
21 waived because the Encroachments are associated with a Planning Commission In-Kind  
22 Agreement; and

23           WHEREAS, In PW Order No. 200455, the Director also determined and City Engineer  
24 certified that the annual maintenance cost for the Permit is \$23,790.00; and

1           WHEREAS, Copies of PW Order Nos. 184286 and 200455 and the Permit are on file  
2 with the Clerk of the Board of Supervisors in File No. 190050 and incorporated herein by  
3 reference; and

4           WHEREAS, The final approved Permit shall be in substantially the same form as that in  
5 the Clerk of the Board of Supervisor's file; and

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

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

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

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

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

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

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

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

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

3           RESOLVED, The Board adopts the Environmental Findings in the Planning  
4 Department Letter as its own; and be it

5           FURTHER RESOLVED, That the Board finds that the Permit is consistent with the  
6 General Plan, and the eight priority policies of Planning Code, Section 101.1, for the reasons  
7 set forth in Planning Commission Motion No. 19150; and, be it

8           FURTHER RESOLVED, Pursuant to Public Works Code, Sections 786 et seq., the  
9 Board hereby grants revocable, personal, non-exclusive, and non-possessory permission to  
10 the Permittee, 650 Indiana Street LLC, to occupy the public right-of-way with the  
11 Encroachments and maintain said Encroachments under the terms of the Permit; and, be it

12           FURTHER RESOLVED, The Board accepts the recommendations of the PW Order  
13 Nos. 184286 and 200455 and approves the Permit with respect to the Encroachments; and,  
14 be it

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

18           FURTHER RESOLVED, The Board hereby accepts the irrevocable offer of  
19 improvements, dated January 29, 2019, related to this Permit and dedicates said  
20 improvements to public use subject to the Permittee's obligations and responsibilities under  
21 this Permit; and, be it

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

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

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