

1 [Street Encroachment Permit - Retroactive - Harlan Place - 300 Grant Avenue]

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3 **Resolution retroactively granting revocable permission to A-Z300 Grant LLC, to occupy**
4 **and maintain the pavers, benches, bollards, and raised crosswalk improvements within**
5 **the public right-of-way on Harlan Place between Grant Avenue and Mark Lane fronting**
6 **300 Grant Avenue (Assessor’s Parcel Block No. 0287, Lot No. 014) effective November**
7 **16, 2020; adopting environmental findings under the California Environmental Quality**
8 **Act, and making findings of consistency with the priority policies of Planning Code,**
9 **Section 101.1.**

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11 WHEREAS, Pursuant to Public Works Code, Sections 786 et seq., A-Z300 Grant, LLC,
12 (hereafter referred to as “Permittee”) requested permission to occupy a portion of the public
13 right-of-way to maintain the pavers, benches, bollards and raised crosswalk improvements
14 along Harlan Place between Grant Avenue and Mark Lane fronting 300 Grant Avenue
15 (Assessor’s Parcel Block No. 0287, Lot No. 014); and

16 WHEREAS, The encroachment permit elements include:

- 17 (1) A raised crosswalk across Harlan Place east of Grant Avenue;
- 18 (2) Pavers within the sidewalk furnishing zones of Sutter Street, Grant Avenue, and
19 Harlan Place fronting 300 Grant Avenue;
- 20 (3) Three benches within proposed pavers along Harlan Place fronting 300 Grant
21 Avenue;
- 22 (4) Pavers on Harlan Place beginning approximately fifty feet from Grant Avenue for a
23 distance of one hundred and five feet in an easterly direction; and

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1 (5) Two bollards, one on the north sidewalk and the other on the south sidewalk of
2 Harlan Place fronting 469 Bush Street and 300 Grant Avenue respectively (collectively
3 referred to as the “Encroachments”); and

4 WHEREAS, The Permittee has constructed the Encroachments under Public Works
5 Permit No. 17IE-0591 in conjunction with its development of a new, 67,000+/- square foot
6 commercial building known as 300 Grant Avenue, and the Permittee has proposed to
7 maintain the Encroachments for the life of the permit; and

8 WHEREAS, The Encroachments associated with Public Works Permit No. 17IE-0591
9 are shown in the accompanying documents and plans, copies of which are on file in the office
10 of the Clerk of the Board of Supervisors in File No. 201316 and incorporated herein by
11 reference; and

12 WHEREAS, On December 8, 2016, the Planning Commission adopted Motion No.
13 19811 that approved a Downtown Project Authorization for this property and determined that
14 the actions contemplated in this Resolution would comply with the California Environmental
15 Quality Act (California Public Resources Code, Sections 21000 et seq.) (“Environmental
16 Findings”); and

17 WHEREAS, The Planning Commission’s Environmental Findings in its Motion No.
18 19811 are on file with the Clerk of the Board of Supervisors in File No. 201316 and
19 incorporated herein by reference; and

20 WHEREAS, The Planning Department, by letter dated November 15, 2017, declared
21 that the Encroachments are in conformity with the General Plan, and are consistent with the
22 eight priority policies of Planning Code, Section 101.1; and

23 WHEREAS, A copy of said letter is on file with the Clerk of the Board of Supervisors in
24 File No. 201316 and incorporated herein by reference; and

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1 WHEREAS, The Transportation Advisory Staff Committee, at its meeting of October
2 24, 2019, recommended approval of the proposed encroachments; and

3 WHEREAS, After a public hearing on February 12, 2020, Public Works (“PW”)
4 recommended to the Board of Supervisors (“Board”) approval of a street encroachment permit
5 and associated encroachment permit and maintenance agreement (collectively, “Permit”) for
6 the maintenance of the Encroachments; and

7 WHEREAS, This recommendation is contained in PW Order No. 202973, dated April
8 12, 2020, a copy of which is on file with the Clerk of the Board of Supervisors in File No.
9 201316 and incorporated herein by reference; and

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

12 WHEREAS, Because the Encroachments have been constructed and are ready for
13 public use in advance of the holiday season, Permittee has requested that the Permit be
14 effective as of November 16, 2020, and Public Works has no objection to this request; and

15 WHEREAS, In its Motion No. 19811, the Planning Commission, in accordance with
16 Planning Code, Section 138.1 (the Better Streets Plan), required the majority of the
17 improvements associated with this Permit, and therefore, the public right-of-way occupancy
18 assessment fee should be waived under Public Works Code, Section 786.7(f) because the
19 Encroachments provide a public benefit; and

20 WHEREAS, PW Order No. 202563 is on file with the Clerk of the Board of Supervisors
21 in File No. 201316 and incorporated herein by reference; 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 Permit and
24 all required documents and fees to Public Works, and

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1 (2) Public Works records the Permit ensuring maintenance of the Encroachments in
2 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 Public
6 Works, the SFPUC, the San Francisco Fire Department, other City Departments, and public
7 utility companies;

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

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

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

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

18 RESOLVED, The Board adopts the Environmental Findings as its own; and, be it

19 FURTHER RESOLVED, That the Board finds that the Permit is consistent with the
20 General Plan for the reasons set forth in the November 15, 2017, determination of the
21 Planning Department; and, be it

22 FURTHER RESOLVED, Pursuant to Public Works Code, Sections 786 et seq., the
23 Board hereby grants revocable, personal, non-exclusive, and non-possessory permission to
24 the Permittee, A-Z300 Grant LLC, to occupy the public right-of-way with the Encroachments
25 and maintain said Encroachments under the terms of the Permit; and, be it

1 FURTHER RESOLVED, The Board accepts the recommendations of the PW Order
2 Nos. 202973 and 202563 and approves the Permit with respect to the Encroachments; and,
3 be it

4 FURTHER RESOLVED, Because the Encroachments already have been constructed
5 and are ready for public use in advance of the holiday season, the Board finds that the
6 Permit's effective date and this Resolution shall be retroactive to November 16, 2020; and, be
7 it

8 FURTHER RESOLVED, The Board of Supervisors intends that Public Works exercise
9 administrative discretion to allow activation of the Permit area during the period before the
10 effective date of this Resolution; and, be it

11 FURTHER RESOLVED, The Board also authorizes the Director of Public Works to
12 perform and exercise the City's rights and obligations with respect to the Encroachments
13 under the Permit and to enter into any amendments or modifications to the Permit with
14 respect to the Encroachments; and, be it

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

22 FURTHER RESOLVED, The Board, under Public Works Code, Section 786.7(f),
23 acknowledges waiver of the public right-of-way occupancy assessment fee in accordance with
24 Planning Commission Motion No. 19811.
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