

1 [Encroachment Permit - Hidden Garden Tiled Steps Project - 16th Avenue between
2 Kirkham and Lawton Streets]

3 **Resolution granting revocable permission to The Hidden Garden Steps Organizing**
4 **Committee to occupy a portion of the public right-of-way to install and maintain a**
5 **mosaic tiled mural on the risers, and non-slip paving tiles on the treads of the existing**
6 **City concrete stairway, and a garden habitat adjacent to the existing concrete City**
7 **stairway, along 16th Avenue between Kirkham and Lawton Streets; accepting as a gift**
8 **to the City said tiled steps, garden habitat, and a \$20,000 maintenance fund for the tiled**
9 **steps; and making findings of consistency with the General Plan, and the eight priority**
10 **policies of Planning Code, Section 101.1.**

11
12 WHEREAS, Pursuant to Public Works Code Section 786, permission was requested by
13 The Hidden Garden Steps Organizing Committee to occupy a portion of the public right-of-
14 way to install a mosaic tiled mural on the risers and non-slip paving tiles on the treads of the
15 existing City concrete stairway, a garden habitat adjacent to the existing concrete City
16 stairway along 16th Avenue between Kirkham and Lawton Streets, as shown on the permit
17 plans. The Hidden Garden Steps Organizing Committee has also offered as a gift to the City
18 and County of San Francisco, the tiled steps project, the associated landscaping and a
19 \$20,000 maintenance fund for the tiled steps. Copies of the permit plans and The Hidden
20 Garden Steps Organizing Committee's gift offer are on file in the office of the Clerk of the
21 Board of Supervisors in File No. 130979 and are incorporated herein by reference; and

22 WHEREAS, The Transportation Advisory Staff Committee (TASC) at its meeting of
23 January 10, 2013, recommended approval of the proposed tiled steps and landscaping
24 improvements; and

1 WHEREAS, The Planning Department, by letter dated February 8, 2013, determined
2 that the proposed improvements are in conformity with the General Plan and with the eight
3 priority policies of Planning Code, Section 101.1. A copy of said letter is on file with the Clerk
4 of the Board of Supervisors in File No. 130979 and is incorporated herein by reference; and

5 WHEREAS, The San Francisco Arts Commission by Resolution No. 0206-12-026
6 approved the design of the Hidden Garden Steps project, and a tile mural by Aileen Barr and
7 Colette Crutcher at 16th Avenue at Kirkham Street. A copy of said Resolution is on file with
8 the Clerk of the Board of Supervisors in File No. 130979 and is incorporated herein by
9 reference; and

10 WHEREAS, After a duly noticed public hearing on April 17, 2013, the Department of
11 Public Works by Order No. 181272, approved May 9, 2013, recommended approval of the
12 proposed encroachments. A copy of said Order is on file with the Clerk of the Board of
13 Supervisors in File No. 130979 and is incorporated herein by reference; and

14 WHEREAS, The permit and associated encroachment agreement (the “Encroachment
15 Agreement”) shall not become effective until:

16 (a) The Permittee executes and acknowledges the permit and delivers said permit to
17 the City’s Controller;

18 (b) Permittee delivers to the City Controller a policy of insurance provided for in said
19 agreement and the Controller shall have had approved the same as complying with the
20 requirement of said agreement. The Controller may, in his discretion, accept, in lieu of said
21 insurance policy, the certificate of an insurance company certifying to the existence of such a
22 policy; and

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

1 WHEREAS, The Encroachment Agreement is attached to the permit as Exhibit A.
2 Copies of said Permit and the Agreement are on file with the Clerk of the Board of
3 Supervisors in File No. 130979 and are incorporated herein by reference; and

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

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

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

12 WHEREAS, The Permittee shall procure the necessary permits from the Central Permit
13 Bureau, Department of Building Inspection, Department of Public Works Bureau of Street-Use
14 and Mapping, or both, and pay the necessary permit fees and inspection fees before starting
15 work; and

16 WHEREAS, No structure shall be erected or constructed within the subject street right-
17 of-way except as specifically permitted herein; and

18 WHEREAS, The Department of Public Works recommends that the Board accept the
19 tiled steps and garden habitat, along with a \$20,000 maintenance fund as a gift to the
20 Department of Public Works on behalf of the City and County of San Francisco upon
21 completion of the permit work. The Department further recommends that upon completion,
22 inspection, and approval of the permit work, the maintenance requirements set forth herein
23 shall become the responsibility of the Department of Public Works, and the Permittee shall be
24 released from any duty or obligation whatsoever under the Encroachment Agreement,
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1 including without limitation, any and all indemnification, liability, and insurance obligations
2 provided for therein (the “Encroachment Agreement Release”); and

3 WHEREAS, Notwithstanding the Encroachment Agreement Release, after Department
4 of Public Works final inspection and approval of the permit work, the Permittee, as part of the
5 gift offer to the City, agrees to establish a \$20,000 fund for the purpose of maintaining the tiled
6 steps project until such funds have been fully depleted; now, therefore, be it

7 RESOLVED, That pursuant to Public Works Code Section 786, the Board of
8 Supervisors hereby approves permission, revocable at the will of the Director of the
9 Department of Public Works, to The Hidden Garden Steps Organizing Committee to occupy a
10 portion of the public right-of-way to install a mosaic tiled mural on the risers and non-slip
11 paving tiles on the treads of the existing City concrete stairway and a garden habitat adjacent
12 to the existing concrete City stairway along 16th Avenue between Kirkham and Lawton
13 Streets; and, be it

14 FURTHER RESOLVED, The Board of Supervisors hereby accepts as a gift to the City
15 and County of San Francisco the offer from The Hidden Garden Steps Organizing Committee
16 for said tiled steps project and garden habitat along with a \$20,000 maintenance fund as set
17 forth in the conditions that the Department of Public Works recommended; and, be it

18 FURTHER RESOLVED, That this Board finds the permit to be consistent with the
19 General Plan and priority policies of Planning Code Section 101.1 for the reasons set forth in
20 the City Planning Department letter.

21 APPROVED:

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Mohammed Nuru

25 Director of Public Works