

1 [Master Encroachment Permit and Major Encroachment Permit - Mission Rock]

2
3 **Resolution granting revocable permission to the Port to maintain encroachments in the**
4 **public right-of-way, including but not limited to non-standard roadway and sidewalk**
5 **treatments, stormwater drainage elements and infrastructure, street furnishings, public**
6 **art installations, custom benches and trash receptacles, non-standard way-finding**
7 **signage, operational pedestals for retractable bollards, streetlight protection elements**
8 **and stone blocks, landscaping and irrigation, shared public way improvements under**
9 **an Interdepartmental Master Encroachment Permit; granting revocable permission to**
10 **Mission Rock Horizontal Sub (Phase I), L.L.C., a Delaware limited liability company, to**
11 **maintain monitoring instruments associated with the required monitoring of**
12 **lightweight cellular concrete installed throughout Phase 1A of the Mission Rock project**
13 **under a Lightweight Cellular Concrete Monitors Major Encroachment Permit; adopting**
14 **environmental findings under the California Environmental Quality Act; making**
15 **findings of consistency with the General Plan, and the eight priority policies of**
16 **Planning Code, Section 101.1; and authorizing the Director of Public Works to enter**
17 **into amendments or modifications to the Interdepartmental Master Encroachment**
18 **Permit, the Lightweight Cellular Concrete Monitors Major Encroachment Permit, and**
19 **the associated maintenance agreements, as defined herein, that do not materially**
20 **increase the obligations or liabilities to the City and are necessary to effectuate the**
21 **purposes of the Permit and associated Agreements, as defined herein, or this**
22 **Resolution.**

23
24 WHEREAS, This Resolution addresses the Board of Supervisors' ("Board") approval of
25 the following revocable encroachment permits and the associated maintenance agreements

1 for improvements installed within the Mission Rock Special Use District, as defined in
2 Planning Code, Section 249.80, as part of Phase 1A of the Mission Rock project ("Project"):

3 (1) Master encroachment permit and associated encroachment and maintenance
4 agreement (collectively, the "Interdepartmental Master Encroachment Permit" or "IMEP") to
5 authorize the City and County of San Francisco acting by and through its Port Commission
6 ("Port") to maintain certain improvements installed in the public right-of-way, including but not
7 limited to non-standard roadway and sidewalk treatments, stormwater drainage elements and
8 infrastructure, street furnishings, public art installations, custom benches and trash
9 receptacles, non-standard way-finding signage, operational pedestals for retractable bollards,
10 streetlight protection elements and stone blocks, landscaping and irrigation, shared public way
11 improvements (collectively, the "Port Encroachments");

12 (2) Major encroachment permit and associated encroachment and maintenance
13 agreement (collectively, "LCC Monitors MEP") to authorize Mission Rock Horizontal Sub
14 (Phase I), L.L.C., a Delaware limited liability company ("Mission Rock Permittee"), to install
15 and maintain in place the lightweight cellular concrete ("LCC") monitoring instruments ("LCC
16 Monitors"), as required under Street Improvement Permit No. 20 IE-00486 (Phase 1A), as
17 modified by Instructional Bulletins #1 and #13, and to perform routine monitoring for the period
18 specified in Public Works Order 207782; and

19 WHEREAS, California Statutes of 1968, Chapter 1333 (as amended, the "Burton Act"),
20 and San Francisco Charter, Section 4.114 and Appendix B empower the Port to use, conduct,
21 operate, maintain, manage, regulate, and control the lands within the Port's jurisdiction
22 subject to the public trust; and

23 WHEREAS, The Project is subject to that certain Disposition and Development
24 Agreement between the City, acting by and through the Port and Seawall Lot 337 Associates,
25 LLC, a Delaware limited liability company ("Developer"), approved by the Board through the

1 passage of Resolution No. 42-18 and partially assigned to the Mission Rock Permittee, and
2 recorded in the official records of the Office of the Assessor-Recorder (“Official Records”) on
3 August 17, 2018 as Document No. 2018-K656938 (as amended, “DDA”) and that certain
4 Development Agreement between the City and Developer, which was partially assigned to the
5 Mission Rock Permittee, which the Board approved through Ordinance No. 33-18
6 (“Development Agreement”); and

7 WHEREAS, In Public Works Order 211444, dated February 20, 2025 (the “Order”), the
8 Director and the City Engineer (collectively, the “Director”) recommended that the Board
9 approve the IMEP and the LCC Monitors MEP; and the Order, the IMEP, and the LCC
10 Monitors MEP, including the associated maintenance agreement and other documents, are on
11 file with the Clerk of the Board of Supervisors in File No. 250285 and incorporated herein by
12 reference; and

13 WHEREAS, In the Order, the Director also recommended that the Board delegate to
14 the Director authority to approve contiguous and non-contiguous annexation of new areas of
15 the project site into the IMEP, as applicable, and assignments of rights and obligations from
16 the original permittee to the permittee’s agent or assignee, all based on terms, conditions, and
17 obligations consistent with the Permit and Public Works Code, Sections 786 et seq.; and

18 WHEREAS, The Director also recommended that the Board delegate to the Director
19 the ability to divide the IMEP into separate master permits or individual street encroachment
20 permits in accordance with Public Works Code, Sections 786 et seq.; and

21 WHEREAS, In a letter dated February 6, 2025 (“Planning Department Letter”), the
22 Planning Department determined that the actions contemplated in this Resolution comply with
23 the California Environmental Quality Act (California Public Resources Code, Sections 21000
24 et seq.) and do not trigger the need for subsequent environmental review; said determination
25

1 is on file with the Clerk of the Board of Supervisors in File No. 250285 and is incorporated
2 herein by reference; and

3 WHEREAS, In the Planning Department Letter, the Planning Department also
4 determined that the actions contemplated in this Resolution are consistent, on balance, with
5 the General Plan, and eight priority policies of Planning Code, Section 101.1; and

6 WHEREAS, On February 11, 2025, the Port Commission approved Resolution
7 No. 25-06 authorizing the Port Director to enter into and/or amend the IMEP; now, therefore,
8 be it

9 RESOLVED, The Board adopts as its own the environmental findings and the General
10 Plan and Planning Code, Section 101.1 consistency findings in the Planning Department
11 Letter; and, be it

12 FURTHER RESOLVED, That the Board finds that the IMEP and the LCC Monitors
13 MEP are consistent with the General Plan, and the eight priority policies of Planning Code,
14 Section 101.1 for the reasons set forth in the Planning Department Letter; and, be it

15 FURTHER RESOLVED, The Board accepts the recommendations of the Public Works
16 Order No. 211444 and approves the IMEP and LCC Monitors MEP, as set forth below; and,
17 be it

18 FURTHER RESOLVED, Pursuant to Public Works Code, Sections 786 et seq., the
19 Board hereby grants revocable, non-exclusive, and non-possessionary permission to the Port to
20 occupy the public right-of-way for purposes of maintaining the Port Encroachments under the
21 terms of the IMEP; and, be it

22 FURTHER RESOLVED, Pursuant to Public Works Code, Sections 786 et seq., the
23 Board hereby grants revocable, non-exclusive, and non-possessionary permission to the Mission
24 Rock Permittee to occupy the public right-of-way for purposes of maintaining the LCC
25 Monitors under the terms of the LCC Monitors MEP; and, be it

1 FURTHER RESOLVED, The IMEP shall not become effective until the Port executes
2 and acknowledges the IMEP and delivers said IMEP and all required documents to Public
3 Works; and, be it

4 FURTHER RESOLVED, That the LCC Monitors MEP shall not become effective until
5 the Mission Rock Permittee executes and acknowledges the LCC Monitors MEP and delivers
6 said LCC Monitors MEP and all required documents to Public Works; and, be it

7 FURTHER RESOLVED, The Port, at its sole expense and as is necessary as a result
8 of the IMEP, shall maintain and repair the Port Encroachments, and accept liability for claims
9 directly related to (1) the Port Encroachments, and (2) the maintenance and repair of the Port
10 Encroachments by Port and its agents, all as more particularly described in the IMEP; and, be
11 it

12 FURTHER RESOLVED, The Mission Rock Permittee, at its sole expense and as is
13 necessary as a result of the LCC Monitors MEP, shall make the following arrangements:

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

17 (2) To provide access to such facilities to allow said entities to construct, reconstruct,
18 maintain, operate, or repair such facilities as set forth in the LCC Monitors MEP; and

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

23 (4) The Mission Rock Permittee shall assume all costs for the maintenance and repair
24 of the encroachments pursuant to the LCC Monitors MEP and no cost or obligation of any
25 kind shall accrue to Public Works by reason of this permission granted; and, be it

1 FURTHER RESOLVED, No structures shall be erected or constructed within the public
2 right-of-way except as specifically permitted therein; and, be it

3 FURTHER RESOLVED, The Board delegates to the Public Works Director the
4 authority to: 1) approve and, if approved by Port, record said IMEP and associated agreement
5 on substantially the same terms as the drafts on file with the Clerk of the Board in Board File
6 No. 250285 and incorporated herein by reference; 2) divide the IMEP into separate master
7 encroachment permits, major encroachment permits, or individual street encroachment
8 permits; 3) approve contiguous and non-contiguous annexation of new areas of the project
9 site into the IMEP; and 4) approve assignments of rights and obligations from the original
10 permittee to the permittee's agent or assignee; and, be it

11 FURTHER RESOLVED, That the Board directs the Public Works Director to submit a
12 copy of the final IMEP, the final LCC Monitors MEP, and the associated agreements within 30
13 days of final issuance or execution, whichever last occurs, to the Clerk of the Board; and, be it

14 FURTHER RESOLVED, The Board also authorizes the Director of Public Works to
15 perform and exercise the City's rights and obligations under the IMEP and the LCC Monitors
16 MEP and to enter into amendments or modifications to the IMEP and the LCC Monitors MEP
17 and the associated Agreements; and, be it

18 FURTHER RESOLVED, That such actions may include without limitation, those
19 amendments or modifications that the Public Works Director, in consultation with the City
20 Attorney, determines are in the best interest of the City, do not materially increase the
21 obligations or liabilities of the City or materially decrease the obligations of the Mission Rock
22 Permittee, or its successors, as applicable, are necessary or advisable to effectuate the
23 purposes of the IMEP, the LCC Monitors MEP, or this resolution, as applicable, with respect
24 to the respective encroachments, and are in compliance with all applicable laws; and, be it
25

1 FURTHER RESOLVED, The Board, under Public Works Code, Section 786.7,
2 acknowledges waiver of the public right-of-way occupancy assessment fee in accordance with
3 the DDA, Development Agreement, and the Public Works Director's determination for the
4 IMEP and the LCC Monitors MEP.

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