

1 [Approving Street Encroachment - 10 Niantic Avenue]

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3 **Resolution overturning Department of Public Works' recommendation for disapproval**
4 **and granting revocable permission to Lee Yun Ling & Cindy Zhou, for the occupancy of**
5 **a portion of the public right-of-way of a portion of a new single family dwelling**
6 **encroaching 3-feet into the public right-of-way at 10 Niantic Avenue (Block No. 7178,**
7 **Lot No. 001), conditioned upon the payment of an annual assessment fee as prescribed**
8 **under Article 15, Section 786.7 of the Public Works Code; this project is consistent with**
9 **the General Plan Referral and General Planning Code, Section 101.1.**

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11 WHEREAS, Pursuant to Public Works Code Section 786, permission was requested by
12 Jaidin Consulting Group, agent for the owner, Lee Yun Ling & Cindy Zhou to occupy a portion
13 of the public right-of-way for a new single family dwelling encroaching 3-feet into the public
14 right-of-way at 10 Niantic Avenue, as shown on the plans, a copy of which is on file in the
15 office of the Clerk of the Board of Supervisors in File No. 120704; and

16 WHEREAS, San Francisco Municipal Transportation Agency (SFMTA), at the
17 September 13, 2011 of the Transportation Advisory Staff Committee (TASC), recommended
18 that this project be re-addressed back to the appropriate City agencies; Planning Department
19 and Department of Building Inspection for further review and action. SFMTA has
20 recommended that the Permittee install "Dead End" signs to minimize unnecessary traffic and
21 mitigate potential vertical clearance issues, especially for large vehicles; and

22 WHEREAS, The Department of City Planning, by letter dated February 17, 2012,
23 declared that the proposed encroachment is in conformity with the General Plan and to the
24 priority policies of Planning Code Section 101.1. A copy of said letter is on file with the Clerk
25 of the Board of Supervisors in File No.120704, and is incorporated herein by reference; and

1 WHEREAS, At a duly noticed public hearing on March 28, 2012, the Department of
2 Public Works recommended disapproval of the proposed encroachment; and

3 WHEREAS, Notwithstanding the determination set forth above, it is the decision of the
4 Board of Supervisors that the proposed encroachment is in the best interest of the general
5 public, is desirable and convenient with the owner's use and enjoyment of its property, and is
6 appropriate use of the public right-of-way; and

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

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

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

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

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

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

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

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

8 WHEREAS, The Board of Supervisors shall implement an annual assessment fee as
9 required under Article 15, Section 786.7 of the Public Works Code for the use of said right-of-
10 ways, as adjusted per Article 2.1 of said code; and

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

14 RESOLVED, That pursuant to Public Works Code Section 786, the Board of
15 Supervisors hereby grants permission, revocable at the will of the Director of the Department
16 of Public Works, to Lee Yun Ling and Cindy Zhou to occupy a portion of the public right-of-
17 way of a portion of a new single family dwelling encroaching 3-feet into the public right-of-way
18 at 10 Niantic Avenue (Block 7178, Lot 001), conditioned upon the payment of an annual
19 assessment fee per Article 15, Section 786.7 and adjusted annually per Article 2.1 of said
20 code, submittal of a complete DPW Street Improvement permit application for reconstruction
21 of new curbs and sidewalk fronting both Niantic Avenue and Panama Street and a final signoff
22 on their Building Permit Application; and, be it

23 FURTHER RESOLVED, That said permit is consistent with the priority policies of
24 Planning Code Section 101.1. A copy of said findings is on file with the Clerk of the Board of
25 Supervisors in the File No. 120704.