

1 [Master Major Encroachment Permit - Sunnydale HOPE SF]

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3 **Resolution granting revocable permission to Sunnydale Infrastructure, LLC, to**
4 **construct and maintain encroachments in the public right-of-way, including but not**
5 **limited to retaining walls, irrigation lines, community gateway and perimeter markers,**
6 **and vehicular directional signs; adopting environmental findings under the California**
7 **Environmental Quality Act; and making findings of consistency with the General Plan,**
8 **and the eight priority policies of Planning Code, Section 101.1.**

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10 WHEREAS, Pursuant to Public Works Code, Sections 786 et seq., Sunnydale
11 Infrastructure LLC, (hereafter referred to as "Permittee") requested permission to construct and
12 maintain various improvements in the public right-of-way in connection with the phased
13 redevelopment of the property commonly known as Sunnydale HOPE SF Project, as
14 delineated in the City-approved Tentative Map 9537, and as described in greater detail in that
15 certain Development Agreement dated as of March 3, 2017, recorded in the Official Records of
16 the City and County of San Francisco (the "Official Records") on March 3, 2017, as Document
17 No. K416604-00 (the "DA"), and pursuant to that certain Master Developer Agreement dated
18 as of March 3, 2017, and recorded in the Official Records of the Official Records on March 3,
19 2017, as Document No. K416598-00 (the "MDA"); together, the DA and MDA approve and
20 describe the comprehensive redevelopment of the above referenced site, including but not
21 limited to the construction of new public housing, new market rate housing, and new public and
22 private infrastructure to support the redevelopment of the site (the "Project"); and

23 WHEREAS, The improvements include: retaining walls, wall-mounted fencing, irrigation
24 lines, stairwell handrails (interim conditions to connect proposed roadway grades to existing
25 residential buildings), community gateway and perimeter markers, vehicular directional signs,

1 light pole mounted banners, and private storm drains and combined sewer laterals and
2 temporary mains; (collectively referred to as the “Encroachments”); and

3 WHEREAS, The Encroachments associated with the first phase (Phase 1A-1, 1A-2)
4 include a CMU wall and fence on the south side of Harmonia Street, Irrigation line in the
5 Harmonia Street Right-of-way, as described in greater detail in that certain Street Improvement
6 Permit 191E-00564 for Phase 1A-1 and 1A-2; and

7 WHEREAS, The Permittee, has proposed to maintain the Encroachments for the life of
8 the encroachment permit in accordance with and subject to that certain Master Major
9 Encroachment Permit and Maintenance Agreement (Permit No. 22ME-00007) (“Encroachment
10 Permit Agreement”); and

11 WHEREAS, The Encroachments are shown in documents and plans on file in the office
12 of the Clerk of the Board of Supervisors in File No. 220707 and incorporated herein by
13 reference; and

14 WHEREAS, The joint Final Environmental Impact Report/Environmental Impact
15 Statement (“FEIR”) prepared for the Project and certified by the Planning Commission on
16 November 17, 2016, together with the CEQA findings (the “Environmental Findings”) and the
17 Mitigation Measures adopted concurrently therewith and set forth in the Mitigation Monitoring
18 and Reporting Program (“MMRP”), comply with CEQA, the CEQA Guidelines, and Chapter 31
19 of the Administrative Code; the FEIR thoroughly analyzes the Project and Project alternatives,
20 and the Mitigation Measures were designed to mitigate significant impacts to the extent they
21 are susceptible to feasible mitigation; and

22 WHEREAS, On November 17, 2016, the Planning Commission held a public hearing on
23 the Project, duly noticed and conducted under the Development Agreement Statute and
24 Chapter 56; following the public hearing, the Planning Commission adopted the CEQA findings
25 and determined among other things that the FEIR thoroughly analyzes the Project, and the

1 Mitigation Measures are designed to mitigate significant impacts to the extent they are
2 susceptible to a feasible mitigation, and further determined that the Project and this Agreement
3 will, as a whole, and taken in their entirety, continue to be consistent with the objectives,
4 policies, general land uses and programs specified in the General Plan, as amended, and the
5 Planning Principles set forth in Section 101.1 of the Planning Code (together the “General Plan
6 Consistency Findings”); and

7 WHEREAS, The Planning Department determination, Environmental Findings, and
8 General Plan Consistency Findings are on file with the Clerk of the Board of Supervisors in File
9 No. 161164 and incorporated herein by reference; and

10 WHEREAS, In Public Works Order No. 206650, dated June 7, 2022, the Director
11 recommended that the Board of Supervisors approve the subject Encroachment Permit and its
12 Encroachment Permit Agreement (collectively, “Permit”) and determined under Public Works
13 Code, Section 786.7(f)(3) that the public right-of-way occupancy assessment fee Sunrise Way
14 between Hahn Street and Malosi Street; Malosi Street between Sunrise Way and Harmonia
15 Street; and Harmonia Street between Malosi Street and Hahn Street.is waived because the
16 Encroachments are a condition of the DA, a City-approved development agreement for the
17 Project; and

18 WHEREAS, Public Works Order No. 206650, is on file with the Clerk of the Board of
19 Supervisors in File No. 220706 and incorporated herein by reference; and

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

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

23 (2) Public Works records the Permit in the County Recorder’s Office
24 ensuring constructive notice of the maintenance of the Encroachments; and

25 WHEREAS, The Permittee, at its sole expense and as is necessary as a result of this

1 permit, shall make the following arrangements:

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

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

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

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

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

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

17 FURTHER RESOLVED, That the Board finds that the Permit is consistent with the
18 General Plan, and the eight priority policies of Planning Code, Section 101.1 for the reasons
19 set forth in the General Plan Consistency Findings; and, be it

20 FURTHER RESOLVED, Pursuant to Public Works Code, Sections 786 et seq., the
21 Board hereby grants revocable, non-exclusive, and non-possessory permission to the
22 Permittee, Sunnydale Infrastructure, LLC, to occupy the public right-of-way for purposes of
23 constructing the Encroachments and to maintain said Encroachments under the terms of the
24 Permit; and, be it

25 FURTHER RESOLVED, The Board accepts the recommendations of the Public Works

1 Order No. 206650 and approves the Permit with respect to the Encroachments; and, be it
2 FURTHER RESOLVED, The Board also authorizes the Director of Public Works to
3 perform and exercise the City's rights and obligations with respect to the Encroachments under
4 the Permit and to enter into any amendments or modifications to the Permit with respect to the
5 Encroachments; and, be it

6 FURTHER RESOLVED, That such actions may include without limitation, those
7 amendments or modifications that the Director of Public Works, in consultation with the City
8 Attorney, determines are in the best interest of the City, do not materially increase the
9 obligations or liabilities of the City or materially decrease the obligations of the Permittee or its
10 successors, are necessary or advisable to effectuate the purposes of the Permit or this
11 resolution with respect to the Encroachments, and are in compliance with all applicable laws;
12 and, be it

13 FURTHER RESOLVED, The Board, under Public Works Code, Section 786.7,
14 acknowledges waiver of the public right-of-way occupancy assessment fee in accordance with
15 the DA and the Public Works Director's determination for the Encroachments.

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