

1 [Street Encroachment along Market Street from Van Ness Avenue to The Embarcadero]

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3 **Resolution granting revocable permission to Illuminate The Arts to occupy a portion of**
4 **the public right-of-way to install and maintain a public art project comprised of a**
5 **subway-responsive light sculpture (LightRail) along Market Street between Van Ness**
6 **Avenue and The Embarcadero, affirming the Planning Department’s determination**
7 **under the California Environmental Quality Act; and making findings of consistency**
8 **with the General Plan, and the eight priority policies of Planning Code, Section 101.**

9

10 WHEREAS, Pursuant to Public Works Code Section 786, permission was requested by
11 Illuminate The Arts requested permission, to occupy a portion of the public right-of-way with
12 *LightRail*, a public art project comprised of a subway-responsive light sculpture, that
13 illuminatinges two (2) miles of Market Street from Van Ness Avenue to The Embarcadero.
14 The *LightRail* shall identify and project real-time movement of underground trains, to
15 transform San Francisco’s preeminent thoroughfare into a scene of wonder and awe for
16 millions of people. The *LightRail* will visually connect Market Street along the fragmented
17 communities and further fuel efforts that aiming to revitalize Market Street while reinforcing the
18 corridor’s historic creative essence. The public art project shall be a temporary installation, for
19 a duration of approximately four (4) years. ,The project as is shown on the plans, a copy
20 copies of which is are on file in the office of the Clerk of the Board of Supervisors in File
21 No.141273; and,

22 WHEREAS, The Transportation Advisory Staff Committee (TASC), at its meeting of
23 September 25, 2014, considered the proposed encroachments and recommended them for
24 approval; and,

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1 WHEREAS, The Planning Department/Historic Preservation Committee, by letter dated
2 October 22, 2014, found the proposed project, on balance, to be in conformity with the
3 General Plan and consistent with the eight priority policies of Planning Code Section 101.1. A
4 copy of said letter is on file with the Clerk of the Board of Supervisors in File No. 141273, and
5 is incorporated herein by reference; and,

6 WHEREAS, On June 18, 2014, the Historic Preservation Commission issued a
7 certificate of appropriateness for the LightRail light sculpture pursuant to Article 10 of the
8 Planning Code. Prior to that approval, the Planning Department determined that the
9 encroachment was categorically exempt under the California Environmental Quality Act
10 ("CEQA", the California Public Resources Code sections 21000 et seq.). These actions are
11 described in the abovementioned Planning Department letter; and,

12 WHEREAS, The Arts Commission, at its meeting of October 6, 2014, recommended
13 approval of the proposed encroachments by a Resolution No. 1006-14-254. A copy of said
14 Resolution is on file with the Clerk of the Board of Supervisors in File No. 141273; and,

15 WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) Overhead
16 Lines Division, per an email dated November 6 September 4, 2014, confirmed approval of the
17 design and maintenance plan for the proposed encroachments; and,

18 WHEREAS, The San Francisco Public Utilities Commission (SFPUC) Power
19 Enterprise, in an email dated November 18, 2014, recommended the proposed public art
20 encroachments for approval; and,

21 WHEREAS, The San Francisco Fire Department (SFFD), in an email dated December
22 1, 2014, confirmed that SFFD does not object to the proposed *LightRail* Art Project provided
23 that when the minimum dimension from the curb to light rail support and light tubes is
24 determined to be less than (12) feet, the SFFD shall be consulted and the aerial access
25 condition addressed to the satisfaction of the SFFD during installation.; and,

1 WHEREAS, The permit and associated encroachment agreement, which are
2 incorporated herein by reference and attached hereto as identified as Exhibit A, shall not
3 become effective until:

4 (a) The Permittee executes and acknowledges the permit and delivers said permit to
5 the City's Controller, and;

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

11 (c) The City Controller records the permit and associated agreement in the office of the
12 County Recorder; and,

13 WHEREAS, Said permit is on file with the Clerk of the Board in File No. 141273 and is
14 incorporated herein by reference; and,

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

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

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

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

3 WHEREAS, The public right-of-way occupancy assessment fee shall be waived based
4 on the subject encroachments being a public amenity, and shall because it will provide a
5 visual benefit to the residents and visitors of the City, and that the subject improvements
6 satisfy and are in compliance with the Better Streets Plan, per Section 786 and Section
7 786.7(f) subsection (b) respectively, of the Public Works Code; and,

8 WHEREAS, No structure shall be erected or constructed within said street right-of-way
9 except as specifically permitted herein; and,

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

13 RESOLVED, That pursuant to Public Works Code Section 786, the Board of
14 Supervisors hereby grants permission, revocable at the will of the Director of the Department
15 of Public Works, to Illuminate The Arts to install and maintain a public art subway-responsive
16 light sculpture within Market Street from Van Ness Avenue Street to The Embarcadero.; and,
17 be it

18 FURTHER RESOLVED, That this Board adopts as its own the findings of the Planning
19 Department's which determined findings that said permit is consistent with the General Plan
20 and eight priority policies of Planning Code Section 101.1 and affirms the CEQA
21 determination contained in the Planning Department letter.

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