

1 [Street Encroachment Permit - 45 Lansing Development, LLC - Shared Public Way on
2 Lansing Street Fronting 45 Lansing Street]

3 **Resolution granting revocable permission to 45 Lansing Development, LLC, to occupy**
4 **and maintain the Lansing Street Shared Public Way on Lansing Street between Guy**
5 **Place and 1st Street fronting 45 Lansing Street (Assessor’s Parcel Block No. 3749, Lot**
6 **No. 059); adopting environmental findings under the California Environmental Quality**
7 **Act; and making findings of consistency the General Plan, and with the eight priority**
8 **policies of Planning Code, Section 101.1.**

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10 WHEREAS, Pursuant to Public Works Code, Section 786, 45 Lansing Development,
11 LLC, (hereafter referred to as “Permittee”) requested permission to occupy a portion of the
12 public right-of-way to maintain the Lansing Street shared public way improvements along
13 Lansing Street between Guy Place and 1st Street fronting 45 Lansing Street (Assessor’s
14 Parcel Block No. 3749, Lot No. 059); and

15 WHEREAS, The improvements include a shared public street (also known as a
16 “curbless street”), new valley gutter, trench drain and a pedestrian-only spaces, and trees
17 located in the parking lane between on street parking spaces (collectively referred to as the
18 “Lansing Street Shared Public Way”); and

19 WHEREAS, The Permittee constructed the Lansing Street Shared Public Way under
20 Public Works Permit Nos. 071E-0533 and 15ME-0003 in conjunction with their 39-story,
21 residential development, and the Permittee has proposed to maintain the Lansing Street
22 Shared Public Way for the life of the permit; and

23 WHEREAS, The Permittee has designed San Francisco Public Utilities Commission
24 (“SFPUC”) facilities in conformance with the San Francisco Stormwater Design Guidelines
25 and SFPUC policies; and

1 WHEREAS, Under the Lansing Street Shared Public Way design the vehicular path of
2 travel will remain the same, as will the direction of travel, as shown on the plans, a copy of
3 which is on file in the office of the Clerk of the Board of Supervisors in File No. _____ and
4 incorporated herein by reference; and

5 WHEREAS, The Planning Commission, on April 14, 2011, in Motion No. 18316,
6 determined that the actions contemplated in this Resolution comply with the California
7 Environmental Quality Act (California Public Resources Code, Sections 21000 et seq.) and
8 adopted findings in regard to the development project and the associated street
9 improvements; and

10 WHEREAS, The Planning Commission determination and environmental findings are
11 on file with the Clerk of the Board of Supervisors in File No. _____ and are
12 incorporated herein by reference; and

13 WHEREAS, The Board adopts the environmental findings as its own; and

14 WHEREAS, The Transportation Advisory Staff Committee, at its meeting of
15 May 14, 2015, recommended approval of the proposed encroachments; and

16 WHEREAS, The Planning Department, by letter dated March 17, 2015, declared that
17 the proposed encroachments are in conformity with the General Plan, and are consistent with
18 the eight priority policies of Planning Code, Section 101.1; and

19 WHEREAS, A copy of said letter is on file with the Clerk of the Board of Supervisors in
20 File No. _____, and is incorporated herein by reference; and

21 WHEREAS, After a public hearing on January 6, 2016, Public Works recommended to
22 the Board approval of a street encroachment permit (“Street Encroachment Permit” or
23 “Permit”) for the maintenance of the Lansing Street Shared Public Way; and

1 WHEREAS, This recommendation is contained in PW Order No. _____, dated
2 _____, 20__, a copy of which is on file with the Clerk of the Board of Supervisors
3 in File No. _____, and incorporated herein by reference; and

4 WHEREAS, The Street Encroachment Permit and its associated encroachment
5 agreement and declaration of maintenance covenants and restrictions for the Lansing Street
6 Shared Public Way shall not become effective until:

7 (1) The Permittee executes and acknowledges the Permit and delivers said
8 Permit to Public Works, and

9 (2) PW records the Permit and associated encroachment agreement and
10 declaration of maintenance covenants and restrictions ensuring maintenance of the Lansing
11 Street Shared Public Way in the County Recorder's Office, and

12 WHEREAS, The Permit and its associated street encroachment agreement ("Street
13 Encroachment Agreement") and declaration of maintenance covenants and restrictions
14 ("Declaration") are on file with the Clerk of the Board of Supervisors in File
15 No. _____ and incorporated herein by reference; and

16 WHEREAS, The Street Encroachment Agreement and Declaration shall be
17 substantially in the form in the Clerk of the Board of Supervisor's file; and

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

20 (1) To provide for the support and protection of facilities under the jurisdiction of
21 PW, the San Francisco Public Utilities Commission, the San Francisco Fire Department, and
22 other City Departments, and public utility companies;

23 (2) To provide access to such facilities to allow said entities to construct,
24 reconstruct, maintain, operate, or repair such facilities as set forth in the Street Encroachment
25 Agreement;

1 (3) To remove or relocate such facilities if installation of the Lansing Street
2 Shared Public Way requires said removal or relocation and to make all necessary
3 arrangements with the owners of such facilities, including payment for all their costs, should
4 said removal or relocation be required;

5 (4) No structures shall be erected or constructed within said street right-of-way
6 except as specifically permitted herein; and

7 (5) The Permittee shall assume all costs for the maintenance and repair of the
8 encroachment and no cost or obligation of any kind shall accrue to Public Works by reason of
9 this permission granted; now, therefore, be it

10 RESOLVED, Pursuant to Public Works Code, Section 786, the Board of Supervisors
11 hereby grants revocable permission to the Permittee, 45 Lansing Development, LLC, to
12 occupy the public right-of-way with the Lansing Street Shared Public Way improvements and
13 maintain said improvements; and, be it

14 FURTHER RESOLVED, The Board, pursuant to proposed amendments to Public
15 Works Code, Section 786.7, in companion legislation, intends to waive the public right-of-way
16 occupancy assessment fee because the Lansing Street Shared Public Way provides a public
17 benefit contemplated in the City-adopted Rincon Hill Streetscape Plan; and, be it

18 FURTHER RESOLVED, The Board of Supervisors accepts the recommendations of
19 the PW Order No. _____ and approves the Street Encroachment Permit, its associated
20 Street Encroachment Agreement and the Declaration with respect to the Lansing Street
21 Shared Public Way; and, be it

22 FURTHER RESOLVED, The Board also authorizes the PW Director to acknowledge
23 the Declaration on behalf of the City; to perform and exercise the City's rights and obligations
24 with respect to the Lansing Street Shared Public Way under the Permit, Street Encroachment
25 Agreement, and Declaration; and to enter into any amendments or modifications to the

1 Permit, the Street Encroachment Agreement, and/or the Declaration with respect to the
2 Lansing Street Shared Public Way (including without limitation, the exhibits) that the PW
3 Director determines, in consultation with the City Attorney, are in the best interest of the City,
4 do not materially increase the obligations or liabilities of the City or materially decrease the
5 obligations of the Permittee or its successors, are necessary or advisable to effectuate the
6 purposes of the Permit, the Street Encroachment Agreement, the Declaration, or this
7 resolution with respect to the Lansing Street Shared Public Way, and are in compliance with
8 all applicable laws, including the City's Charter; and, be it

9 FURTHER RESOLVED, The Board also delegates the authority to the PW Director,
10 after confirmation from the General Manager of the Public Utilities Commission and the City
11 Engineer's issuance of a determination of completion, to accept the sanitary sewer line in the
12 Lansing Street Shared Public Way for City maintenance and liability purposes, subject to any
13 terms related to its operation and maintenance that are contained in the Permit or Street
14 Encroachment Agreement; and, be it

15 FURTHER RESOLVED, The delegated authority also extends to other limited public
16 improvements within the Lansing Street Shared Public Way that are under the jurisdiction of
17 the MTA, such as parking meters, that the PW Director, in consultation with the MTA Director
18 of Transportation, agrees to accept for City maintenance and liability purposes; and, be it

19 FURTHER RESOLVED, That the Board finds that the Street Encroachment Permit is
20 consistent with the General Plan for the reasons set forth in the March 17, 2015,
21 determination of the Planning Department.

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