

File No. 220328

Committee Item No. \_\_\_\_\_

Board Item No. 21

# COMMITTEE/BOARD OF SUPERVISORS

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Committee: \_\_\_\_\_

Date: \_\_\_\_\_

Board of Supervisors Meeting

Date: April 12, 2022

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- \_\_\_\_\_
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- \_\_\_\_\_
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- \_\_\_\_\_
- \_\_\_\_\_

Prepared by: Jocelyn Wong

Date: April 8, 2022

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

1 [Granting Petition for Revocation of the Major Encroachment Permit - Pedestrian Bridge  
2 Spanning Kearny Street from the Hilton Hotel to Portsmouth Square]

3 **Motion granting the petition and revoking the Major Encroachment Permit for a**  
4 **pedestrian bridge spanning Kearny Street from the Hilton Hotel to Portsmouth Square;**  
5 **and making environmental findings.**

6  
7 WHEREAS, On April 27, 1970, the Board of Supervisors adopted Resolution No. 238-  
8 70, Granting Permission for Justice Investors to Occupy a Portion of Kearny Street Between  
9 Washington and Merchant Streets for a Pedestrian Bridge (“Major Encroachment Permit”); the  
10 Major Encroachment Permit is on file with the Clerk of the Board of Supervisors in File No.  
11 220327 and is incorporated in this motion as though set forth in its entirety; and

12 WHEREAS, The Major Encroachment Permit authorized the permittee to construct and  
13 maintain an ornamental overhead pedestrian bridge between the Chinese Cultural Center  
14 complex (750 Kearny Street, Assessor’s Parcel Block No. 0208, Lot No. 024) and Portsmouth  
15 Square (Assessor’s Parcel Block No. Block 0209, Lot No. 017); and

16 WHEREAS, The permission granted by the Major Encroachment Permit is revocable at  
17 the will of the Board of Supervisors, and required the permittee, their heirs or assigns, to  
18 “remove or cause to be removed the encroachment permitted by said resolution and all  
19 materials used in connection with its construction without expense to the City and County of  
20 San Francisco, and shall restore the area to a condition satisfactory to the Department of  
21 Public Works[;]” and

22 WHEREAS, On January 13, 2022, by Motion No. 21508, the Planning Commission  
23 certified the Final EIR for the Portsmouth Square Improvement Project (“Project”); the Project  
24 includes, among other improvements to Portsmouth Square, demolishing and removing the  
25 pedestrian bridge spanning Kearny Street that connects Portsmouth Square to Hilton Hotel at

1 750 Kearny Street; the Planning Commission determined that the Final EIR for the Project  
2 reflects the independent judgment and analysis of the City and County of San Francisco, is  
3 adequate, accurate and objective, and in compliance with the California Environmental Quality  
4 Act (California Public Resources Code, Sections 21000 et seq.) and Chapter 31 of the  
5 Administrative Code; and,

6 WHEREAS, On May 25, 2018, 25 petitioners submitted a Street Encroachment Permit  
7 Revocation Petition (“Petition”) to the Department of Public Works to revoke the Major  
8 Encroachment Permit; and,

9 WHEREAS, Pursuant to Public Works Order No. 188406, a Director’s Hearing was  
10 convened by the Director of Public Works on October 10, 2018, to hear the Petition, receive  
11 public comment and evidence in support of and opposing the Petition; and

12 WHEREAS, According to Public Works Code, Section 786(e)(2)(B)(v), “If the Director  
13 does not issue a final written decision resolving a petition filed under this subsection (e)(2)  
14 within 180 days of the filing of the petition, then five members of the Board of Supervisors may  
15 subscribe to a notice requesting an administrative hearing regarding the permit revocation at  
16 the Board of Supervisors;” following the Director’s hearing in this case, the Director of Public  
17 Works did not issue a final written decision resolving the Petition; and

18 WHEREAS, On March 1, 2022, five members of the Board of Supervisors submitted a  
19 notice requesting an administrative hearing regarding the Petition; and

20 WHEREAS, By memorandum dated March 24, 2022, the Department of Public Works  
21 determined that the permittee is responsible for all the costs of removal of the pedestrian  
22 bridge in the event that the Major Encroachment Permit is revoked, and estimated that the  
23 costs for removal of the bridge, including construction management costs and traffic control  
24 will total to \$2,125,200; and

25

1           WHEREAS, On April 12, 2022, this Board held a duly noticed public hearing to  
2 consider the Petition; and

3           WHEREAS, This Board has reviewed and considered the Major Encroachment Permit,  
4 the Petition and related files of the Department of Public Works, the other written records  
5 before the Board of Supervisors including all responses submitted to the Petition, and heard  
6 testimony and received public comment regarding the Major Encroachment Permit; now  
7 therefore be it

8           MOVED, That the Board hereby adopts as its own and incorporates by reference in this  
9 motion, as though fully set forth, the above CEQA Findings; and be it

10          FURTHER MOVED, That the Board hereby revokes the Major Encroachment Permit  
11 and requires the permit holder to remove or cause to be removed the encroachment and all  
12 materials used in connection with its construction without expense to the City and County of  
13 San Francisco, and restore the area to a condition satisfactory to the Department of Public  
14 Works.

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# Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor  inquiries"
- 5. City Attorney Request.
- 6. Call File No.  from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.**

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor:

For Clerk's Use Only