

1 [Mint Plaza public improvements on a portion of Jessie, Mint, and Stevenson Streets.]

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3 **Ordinance approving the issuance of a major encroachment permit and encroachment**  
4 **maintenance agreement to Friends of Mint Plaza to permit the construction and**  
5 **maintenance of certain improvements on Jessie and Mint Streets and a portion of**  
6 **Stevenson Street near the intersection of Fifth Street, including authorization to allow**  
7 **certain specified uses and occupancy in said area, including café tables and chairs and**  
8 **moveable public seating; waiving public right-of-way occupancy assessment fees for**  
9 **said permit; conditionally accepting an offer from Friends of Mint Plaza for said**  
10 **improvements; conditionally dedicating said improvements for public use and**  
11 **designating portions of Jessie and Mint Streets as a public plaza; making**  
12 **environmental findings and findings of consistency with the General Plan and Planning**  
13 **Code Section 101.1; accepting offers of quitclaim deeds for abutters' rights of vehicular**  
14 **access to Jessie Street; and authorizing official acts in furtherance thereof.**

15 Note: Additions are *single-underline italics Times New Roman*;  
16 deletions are *strikethrough italics Times New Roman*.  
17 Board amendment additions are double underlined.  
Board amendment deletions are ~~strikethrough normal~~.

18 Be it ordained by the People of the City and County of San Francisco:

19 Section 1. Findings.

20 (a) On May 16, 2006, and June 20, 2006, the Urban Preservation Foundation, doing  
21 business as Friends of Mint Plaza, a California nonprofit corporation, ("FMP"), in coordination  
22 with the Planning Department, the Mayor's Livable City Initiative and Supervisor Daly's office  
23 hosted a series of publicly-noticed community workshops to share information about the  
24 potential to transform portions of Jessie and Mint Streets into a new pedestrian plaza and to  
25 collect specific feedback on design ideas and programming. Approximately 70 community

1 stakeholders attended each community workshop. Feedback from these two workshops  
2 informed the development of a schematic design proposal and street improvement permit to  
3 create a new pedestrian plaza on a portion of Jessie and Mint Streets.

4 (b) On July 14, 2006, FMP submitted a street improvement permit application to the  
5 Department of Public Works ("DPW") to close a portion of the Jessie and Mint Street public  
6 right-of-ways to automobile traffic and install certain improvements thereon and on a portion of  
7 the Stevenson and Mint Street public right-of-ways not closed to automobile traffic  
8 (collectively, the "Mint Plaza Public Improvements").

9 (c) On July 17, 2006, after a duly noticed public hearing, the Civic Design Review  
10 Committee of the San Francisco Arts Commission, recommended that the Arts Commission  
11 grant Phase 1 Schematic Design approval for the Mint Plaza Public Improvements.

12 (d) On July 19, 2006, after a duly noticed public hearing, the San Francisco  
13 Landmarks Preservation Advisory Board (LPAB), reviewed and commented on the proposed  
14 Mint Plaza Public Improvements.

15 (e) On September 11, 2006, after a duly noticed public hearing, the Arts Commission  
16 approved Resolution No. 0911-06-164, granting Phase 1 Schematic Design approval for the  
17 Mint Plaza Improvements contingent upon further study of the entry grove along Fifth Street.  
18 A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No.  
19 \_\_\_\_\_ and is incorporated herein by reference.

20 (f) On September 14, 2006, after a duly noticed public hearing, the Planning  
21 Commission approved Resolution No. 17308 finding that the Mint Plaza Public Improvements  
22 set forth in the street improvement permit were, on balance, in conformity with the General  
23 Plan, based on its consistency with the policies and objectives of the Transportation, Urban  
24 Design and Downtown Elements of the General Plan. A copy of said Resolution is on file with  
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1 the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is incorporated herein  
2 by reference.

3 (g) On September 28, 2006, after a duly noticed public hearing, ISCOTT approved the  
4 street improvement permit for the Mint Plaza Public Improvements.

5 (h) On October 3, 2006, after a duly noticed public hearing, this Board approved  
6 Resolution No. 579-06 recommending approval of the formation of a Community Facilities  
7 District ("CFD") and the issuance of special tax bonds to construct the Mint Plaza Public  
8 Improvements by the Association of Bay Area Governments-Finance Authority For Nonprofit  
9 Corporations (ABAG-FANC) related to the Mint Plaza Public Improvements; making findings;  
10 approving a related joint community facilities agreement; and granting general authority to City  
11 officials to take actions necessary to implement said Resolution. A copy of said Resolution is  
12 on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is  
13 incorporated herein by reference.

14 (i) On November 3, 2006, after a duly noticed public hearing, the Department of  
15 Parking and Traffic approved all traffic and transit changes related to the street improvement  
16 permit for the Mint Plaza Public Improvements.

17 (j) On December 5, 2006, after a duly noticed public hearing, the Board of the  
18 Metropolitan Transportation Authority approved all traffic and transit changes related to the  
19 street improvement permit for the Mint Plaza Public Improvements.

20 (k) On December 20, 2006, after a duly noticed public hearing, the Executive  
21 Committee of the Board of Directors of ABAG-FANC approved Resolutions 06-41, 06-42, 06-  
22 43, and 06-44, to finalize the formation of Community Facilities District No. 2006-2 (San  
23 Francisco Mint Plaza Area). The CFD will facilitate the sale and delivery of a single series of  
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1 special property tax-secured debt by the Authority, of up to \$3.5 million, to finance the  
2 construction of the Mint Plaza Public Improvements.

3 (l) On January 4, 2007, a map of Community Facilities District No. 2006-2 (San  
4 Francisco Mint Plaza Area) and a Notice of Special Tax Lien were recorded in the City's  
5 Recorder's Office.

6 (m) The Department of City Planning, by letter dated January 18, 2007, declared that  
7 the actions contemplated herein are consistent with the General Plan and with the priority  
8 policies of Planning Code Section 101.1. A copy of said letter is on file with the Clerk of the  
9 Board of Supervisors in File No. \_\_\_\_\_ and is incorporated herein by reference.  
10 The Board adopts as its own the findings in said letter concerning consistency with the City's  
11 General Plan and the priority policies of Planning Code Section 101.1.

12 (n) On February 1, 2007, at the request of FMP, the Department of Public Works  
13 modified the street improvement permit to include a major encroachment permit, pursuant to  
14 Public Works Code Section 786, to construct and maintain the Mint Plaza Public  
15 Improvements and allow for certain specified future activities on Mint Plaza.

16 (o) On February 26, 2006, after a duly noticed public hearing, the Civic Design Review  
17 Committee of the San Francisco Arts Commission, recommended that the full Arts  
18 Commission grant Phase 2 Design Development approval for the Mint Plaza Public  
19 Improvements, incorporating recent changes made in the street improvement permit since the  
20 Committee's July 17, 2006. Phase 1 authorization.

21 (p) On March 7, 2007, after a duly noticed public hearing, the Director of DPW  
22 recommended approval of the proposed major encroachment permit to construct and maintain  
23 the Mint Plaza Public Improvements as set forth in DPW Order No. \_\_\_\_\_, approved  
24 March \_\_\_\_, 2007. In addition, this permit includes authorization to conduct certain specified  
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1 uses and occupancy in the public right-of-way, including installation of café tables and chairs,  
2 which shall be subject to subsequent authorization from the DPW Director but included as part  
3 of this encroachment permit. The permit also is accompanied by a Mint Plaza Public  
4 Improvements Maintenance Agreement (the "Maintenance Agreement"). In DPW Order No.  
5 \_\_\_\_\_, the Director further recommended that, contingent on completion of the  
6 Mint Plaza Public Improvements and the City's Engineer's issuance of a notice of completion  
7 that said improvements have been properly constructed according to the approved street  
8 improvement permit plans on file with DPW and that such improvements are ready for their  
9 intended use, this Board conditionally accept the offer from FMP for the Mint Plaza Public  
10 Improvements, dedicate said improvements for public use, and designate Jessie Street  
11 between 5<sup>th</sup> Street and its terminus at Mint Street as a pedestrian plaza. Copies of the DPW  
12 Order, the major encroachment permit and associated design plans, and the Maintenance  
13 Agreement are on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_  
14 and are incorporated herein by reference.

15 (q) FMP has made an offer of dedication of the Mint Plaza Public Improvements to the  
16 City (the "Offer of Dedication"). Said Offer also includes a commitment from FMP to maintain  
17 the Mint Plaza Public Improvements Area conditioned on issuance of the abovementioned  
18 major encroachment permit and Maintenance Agreement to FMP. A copy of the Offer of  
19 Dedication is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and  
20 is incorporated herein by reference.

21 Section 2. Environmental Findings. In Board of Supervisors Resolution No. 547-06,  
22 this Board adopted findings pursuant to the California Environmental Quality Act (California  
23 Public Resources Code Sections 21000 et seq., "CEQA") for the Old Mint project and related  
24 actions. Said findings and associated materials are on file with the Clerk of the Board of  
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1 Supervisors in File No. 061225 and are incorporated herein by reference. The Board of  
2 Supervisors reaffirms the abovementioned findings it made in accordance with CEQA for  
3 purposes of the actions contemplated herein.

4 Section 3. Approval of Major Encroachment Permit and Waiver of Fees.

5 (a) Pursuant to Public Works Code Section 786 and notwithstanding Public Works  
6 Code Sections 176 et seq. (café tables and chairs), 800 et seq. (planting of trees and right-of-  
7 way landscaping), Section 724 et seq. (temporary occupancy of streets), Section 723.1  
8 (sidewalk barriers), and any other Public Works Code sections applicable to use and  
9 occupancy of streets or sidewalks that are contained within the major encroachment permit's  
10 terms, Board hereby grants revocable permission to FMP to occupy a portion of the public  
11 right-of-way to construct the Mint Plaza Public Improvements subject to the conditions set  
12 forth herein and those contained in the permit or its Maintenance Agreement. Said permit  
13 also shall specifically allow for future maintenance services of the Mint Plaza Public  
14 Improvements Area as set forth in the Maintenance Agreement, moveable outdoor café tables  
15 and chairs of up to five approximately 1,000 square foot areas for the benefit of up to five  
16 future restaurants adjacent to the Mint Plaza Improvements Area, moveable public seating  
17 throughout the Mint Plaza Public Improvements Area for the use of the general public along  
18 with maintenance and storage of such public seating by FMP. The permit also authorizes  
19 other specific uses and occupancies of the public right-of-way as specifically described in the  
20 permit. The Board hereby authorizes the DPW Director to approve, subject to any conditions  
21 that the Director deems appropriate, such uses that are specifically described in the permit.  
22 The Director shall incorporate such uses and conditions into the permit to establish a record of  
23 such actions. Any proposed use or occupancy of the public right-of-way outside the scope of  
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1 those specifically described in the permit approved herein shall be subject to all applicable  
2 provisions of the Public Works Code and local law.

3 (b) In addition to the other conditions set forth herein, the Permittee, at the Permittee's  
4 sole expense and as is necessary as a result of this permit, shall make the following  
5 arrangements:

6 (1) To provide for the support and protection of facilities belonging to the  
7 Department of Public Works, San Francisco Water Department, the San Francisco Fire  
8 Department and other City Departments, and public utility companies;

9 (2) To provide future access to such facilities to allow said entities to construct,  
10 reconstruct, maintain, operate, or repair such facilities at said entities' sole expense; and,

11 (3) To remove or relocate such facilities if installation of the encroachment  
12 requires said removal or relocation and to make all necessary arrangements with the owners  
13 of such facilities, including payment for all their costs, should said removal or relocation be  
14 required solely for the installation of said encroachment.

15 (c) The Permit also is subject to the following conditions:

16 (1) Permittee shall procure the necessary permits from the Central Permit  
17 Bureau, Department of Building Inspection and/or Bureau of Street-Use and Mapping,  
18 Department of Public Works, and pay all permit and inspection fees before starting work.

19 (2) No structures shall be erected or constructed within said street right-of-way  
20 except as specifically permitted herein.

21 (3) The Permittee shall become a member of, participate in and share in the  
22 costs associated with Underground Service Alert (U.S.A.) Northern California Region.

23 (4) The Permittee shall assume all costs for the maintenance and repair of the  
24 encroachments and no cost or obligation related to the encroachments shall accrue to the  
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1 Department of Public Works or any other City entity by reason of this permission granted as  
2 further set out in the Maintenance Agreement.

3 (d) Pursuant to Public Works Code Section 786, the Board finds that a benefit will  
4 accrue to the public from this major encroachment, and therefore the Board hereby waives the  
5 public right-of-way occupancy assessment fee as set forth in Public Works Code Section  
6 786.7.

7 (e) The Permittee shall be subject to any permit and inspection fees associated with  
8 café tables and chairs for each specific area associated with a restaurant (up to five areas as  
9 set forth above) pursuant to Public Works Code Sections 2.1 et seq.

10 Section 3. Conditional acceptance of FMP's Offer of Dedication; and Dedication for  
11 Public Use.

12 (a) The Board of Supervisors hereby approves the recommendations contained in  
13 DPW Order No. \_\_\_\_\_ regarding FMP's Mint Plaza Public Improvements.

14 (b) Contingent on completion of the Mint Plaza Public Improvements as set forth  
15 above, the Board conditionally accepts FMP's Offer of Improvements.

16 (c) Contingent on completion of the Mint Plaza Public Improvements as set forth  
17 above, the Board conditionally dedicates said improvements for public use and designates  
18 Jessie Street between 5<sup>th</sup> Street and its terminus at Mint Street as a pedestrian plaza.

19 Section 4. Acceptance for Quitclaim Deeds for Vehicular Access from Jessie Street.

20 (a) With one exception, all of the property owners adjacent to Jessie and Mint Streets  
21 support the closure of this street to vehicular traffic and, in furtherance thereof, have offered to  
22 the City quitclaim deeds of abutters' rights for vehicular access to Jessie Street. The owner of  
23 424 Jessie Street and the City are continuing to resolve vehicular access issues to that site.

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1 The quitclaim deeds are on file with the Clerk of the Board of Supervisors in File No.  
2 \_\_\_\_\_ and are attached hereto by reference.

3 (b) The Board, on behalf of the City and County of San Francisco, accepts the offer  
4 from the adjacent property owners of the quitclaim deeds of abutters' rights of vehicular  
5 access to portions of Jesse Street in substantially the same form as those on file with the  
6 Clerk of the Board of Supervisors.

7 Section 5. Authorization to Effectuate the Ordinance. The Board of Supervisors  
8 approves and authorizes all necessary actions to effectuate the intent of this Ordinance and  
9 directs the Clerk of the Board, the Director of the Department of Public Works, and the  
10 Director of the Department of Real Estate to take any and all actions which they or the City  
11 Attorney may deem necessary or advisable in order to effectuate the purpose and intent of  
12 this Ordinance (including, without limitation, authorizing the Director of Real Estate to execute  
13 and record the abovementioned quitclaim deeds of abutters' rights of vehicular access and  
14 authorizing the Director of the Department of Public Works to sign the aforementioned major  
15 encroachment permit and Maintenance Agreement and filing such documents in the official  
16 records of the Department of Public Works).

17 RECOMMENDED:

APPROVED:

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20 \_\_\_\_\_  
21 Robert P. Beck  
22 City Engineer and  
23 Deputy Director for Engineering  
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\_\_\_\_\_  
Fred V. Abadi, Ph.D.  
Director of Public Works

1 APPROVED AS TO FORM:  
2 DENNIS J. HERRERA, City Attorney

3 By: \_\_\_\_\_  
4 John D. Malamut  
5 Deputy City Attorney

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