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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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City and County of San Francisco Tails

City Hall 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4689

Motion: M22-054

File Number: 220328 Date Passed: April 12, 2022

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

April 12, 2022 Board of Supervisors - APPROVED

Ayes: 10 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai

and Walton

Excused: 1 - Stefani

File No. 220328

I hereby certify that the foregoing Motion was APPROVED on 4/12/2022 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo Clerk of the Board