

1 [Committee of the Whole - Public Hearing on Adopting a Resolution to Acquire Real Property
2 Interest By Eminent Domain - 266-286 - 4th Street]

3 **Motion that the Board of Supervisors hold a public hearing on July 27, 2010, at 3:00**
4 **p.m., with the Board of Supervisors, sitting as a Committee of the Whole, to consider**
5 **adopting a Resolution of Necessity to authorize acquisition of the fee simple interest in**
6 **real property commonly known as 266-286 4th Street, San Francisco, California,**
7 **Assessor's Parcel No. Block 3733, Lot 093, by eminent domain, for the public purpose**
8 **of constructing the Central Subway/Third Street Light Rail Extension and other**
9 **improvements; adopting environmental findings under the California Environmental**
10 **Quality Act (CEQA), CEQA Guidelines, and Administrative Code Chapter 31; and**
11 **adopting findings of consistency with the General Plan and City Planning Code Section**
12 **101.1.**

13
14 WHEREAS, On April 20, 2010, the SFMTA's Board of Directors adopted Resolution
15 No. 10-049, in which the SFMTA found that the acquisition by eminent domain of the fee
16 simple interest in real property commonly known as 266-286 4th Street, San Francisco,
17 California, Assessor's Parcel No. Block 3733, Lot 093 (the "Subject Property"), is necessary
18 for construction of the Central Subway/Third Street Light Rail Extension and other
19 improvements (the "Project"); and

20 WHEREAS, In adopting Resolution No. 10-049, the SFMTA found that (a) the Project
21 will assist SFMTA in meeting the objectives of Goal No. 1 of the SFMTA Strategic Plan (to
22 provide safe, accessible, clean, environmentally sustainable service and encourage the use of
23 auto-alternative modes through the Transit First policy), of Goal No. 2 (to improve transit
24 reliability), of Goal No. 3 (to improve economic vitality through improved regional
25 transportation), and of Goal No. 4 (to ensure the efficient and effective use of resources);

1 (b) the Subject Property is needed to construct and operate the Project; (c) SFMTA has
2 limited any potential private injury; and (d) the acquisition and use of the Subject Property for
3 construction and operation of the Project is compatible with the existing uses of the Subject
4 Property and the surrounding area; and

5 WHEREAS, Under California Code of Civil Procedure §1245.235, the governing body
6 of the public entity may adopt a resolution of necessity only after the governing body has
7 given each person whose property is to be acquired by eminent domain and whose name and
8 address appears on the last equalized County Assessment Roll notice and a reasonable
9 opportunity to appear and be heard on the matters referred to in California Code of Civil
10 Procedure §1240.030; and

11 WHEREAS, California Code of Civil Procedure §1245.235 requires that a public
12 hearing be held by the Board of Supervisors sitting as a Committee of the Whole in order for
13 the Board of Supervisors to make a finding that (1) there is a public interest and necessity for
14 the City and County of San Francisco (CCSF) to acquire the Subject Property for construction
15 of the Project; (2) the Project is planned and located in a manner that will be most compatible
16 with the greatest public good and the least private injury; (3) the Subject Property to be
17 acquired is necessary for the Project; and (4) CCSF has made the offer required by California
18 Government Code Section §7267.2 to the owner of record of the property; now, therefore, be
19 it

20 MOVED, That it is the intention of this Board of Supervisors to hold a public hearing of
21 the full Board of Supervisors to consider adopting a resolution to acquire the Subject Property
22 by eminent domain; and be it

23 FURTHER MOVED, This public hearing is being set in such a manner that a minimum
24 of fifteen (15) days notice shall be given to each person whose name and address appears on
25 the last equalized County Assessment Roll notice for the subject property; and, be it

1 FURTHER MOVED, Said public hearing is to be held in accordance with California
2 Code of Civil Procedure §1245.235, and notice is hereby given that on the 27th day of July,
3 2010, at 3:00 p.m. the Board of Supervisors will hold such public hearing; and, be it

4 FURTHER MOVED, At the public hearing, each person whose name and address
5 appears on the last equalized County Assessment Roll notice for the subject property and
6 who has filed a written request to appear within fifteen (15) days after the notice was mailed to
7 them by first class mail may appear and be heard at the public hearing on whether (1) the
8 public interest and necessity require CCSF to acquire the Subject Property, (2) the Project is
9 planned and located in the manner that will be most compatible with the greatest public good
10 and least private injury, (3) the Subject Property sought to be acquired is necessary for the
11 Project, and (4) CCSF has made the offer(s) required by California Government
12 Code §7267.2 to the owner of record of the subject property; and be it

13 FURTHER MOVED, That the Resolution to acquire the Subject Property by eminent
14 domain must be adopted by a two-thirds vote of all the members of the Board of Supervisors;
15 and, be it

16 FURTHER MOVED, That at the close of the public hearing, the Board of Supervisors
17 will vote to decide whether or not to adopt the Resolution captioned "Resolution authorizing
18 the acquisition of a fee simple interest in real property commonly known as 266-286 4th
19 Street, San Francisco, California, Assessor's Parcel No. Block 3733, Lot 093, by eminent
20 domain for the public purpose of constructing the Central Subway/Third Street Light Rail
21 Extension and other improvements; adopting environmental findings under the California
22 Environmental Quality Act (CEQA), CEQA Guidelines, and Administrative Code Chapter 31;
23 and adopting findings of consistency with the General Plan and City Planning Code Section
24 101.1" on file with the Clerk of the Board of Supervisors in File No. _____, which is
25 hereby declared to be a part of this motion as if set forth fully herein.