

File No. 091278

Committee Item No. _____

Board Item No. 26

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee _____

Date _____

Board of Supervisors Meeting

Date 11/24/09

Cmte Board

- | | | |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form (for hearings) |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
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OTHER (Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>
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Completed by: Joy Lamug

Date 11/19/09

Completed by: _____

Date _____

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.



INTRODUCTION FORM

By a member of the Board of Supervisors or the Mayor

11/3/09

Time Stamp or
Meeting Date

I hereby submit the following item for introduction:

- _____ 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 Committee hearing on a subject matter.
- _____ 4. Request for letter beginning "Supervisor _____ inquires..."
- _____ 5. City Attorney request.
- _____ 6. Call file from Committee.
- _____ 7. Budget Analyst request (attach written motion).
- _____ 8. Substitute Legislation File Nos.
- _____ 9. Request for Closed Session
- ☒ 10. Board to Sit as A Committee of the Whole

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

- | | |
|---|--|
| <input type="checkbox"/> Small Business Commission | <input type="checkbox"/> Youth Commission |
| <input type="checkbox"/> Ethics Commission | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Building Inspection Commission | |

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.]

Sponsor(s): Clerk of the Board – Angela Calvillo

SUBJECT: Public Hearing - Acquisition of Property by Eminent Domain - Subsurface Tunnel Easements in Alameda County and San Mateo County.

Signature of the Clerk of the Board : _____



For Clerk's Use Only:



Regional
OpenSpace

Midpeninsula Regional Open Space District

BOS-11
File 091278

GENERAL MANAGER
Stephen E. Abbors

BOARD OF DIRECTORS
Pete Siemens
Mary Davey
Jed Cyr
Curt Riffle
Nonette Hanko
Larry Hassett
Cecily Harris

November 13, 2009

Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

REF: File No. 091278

Proposed Adoption of Resolution of Necessity for Eminent Domain
Subsurface Tunnel Easements at Ravenswood Open Space Preserve
San Mateo County Assessor's Parcels 063-590-060 and 096-230-110

RECEIVED
SUPERVISORS
NOV 16 AM 11:04

Honorable Board of Supervisors:

The Midpeninsula Regional Open Space District (District) owns and manages public open space land at Ravenswood Open Space Preserve that is subject to your pending action to adopt a resolution of necessity authorizing acquisition a subsurface tunnel easement by eminent domain for the purpose of constructing the new transbay pipeline as part of the Bay Division Pipeline Reliability Upgrade Project. As you may know, SFPUC and District staff have agreed in concept to an exchange of easements that will convey to San Francisco the needed tunnel easement across District lands, and in exchange the District will acquire a trail easement across adjoining San Francisco lands that will serve to provide a critical link in the San Francisco Bay Trail system. The attached map shows the approximate routes of the intended tunnel easement and trail easement.

The proposed exchange of easements was first articulated in a December 18, 2006 letter to SFPUC staff after the District was approached by the SFPUC seeking a purchase acquisition of the needed tunnel easement. Under California Public Resources Code §5540 *et seq.*, an exchange of interests in real property is the only mechanism available to the District to validly convey any interest in lands dedicated for public open space purposes without the necessity of obtaining the consent of a majority of the District's electorate voting at a special election, or in the alternative requiring a concurrent resolution adopted by the State Legislature. The proposed exchange of easements satisfies the conveyance requirements under PRC §5540, and should eliminate San Francisco's need to initiate condemnation proceedings to purchase the tunnel easement.

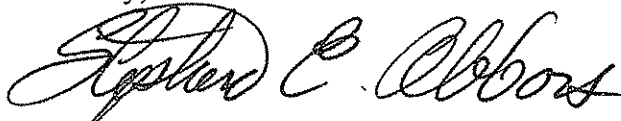
The feasibility of a Bay Trail link in the vicinity of San Francisco's Ravenswood Valve Lot was first studied in 2004-05 in a report commissioned by the City of Menlo Park and involving participation by a stakeholder task force including the SFPUC, the Cities of Menlo Park and East Palo Alto, the County of San Mateo, utility agencies, bicycle and open space advocates, trail

planners, the District, and others. A "Preferred Alignment" for the Bay Trail link was identified in that effort, and has been further refined over the past 2 ½ years in discussions and site visits involving District and SFPUC staff. A draft Agreement to Exchange Interests in Real Property, setting forth the particulars of the proposed exchange of tunnel easement for trail easement, has been submitted by the District to the SFPUC for its review. The District Board of Directors can take action within 60 days of both parties reaching tentative agreement on the terms of this exchange.

As one who spent the last twenty-three years employed by the East Bay Municipal Utility District, I fully understand the critical importance of your transmission project and your concerns about aqueduct security. Please be assured that District staff shares those concerns and has fully considered them in their approach to the draft Agreement. The District looks forward to working with the SFPUC to consummate an exchange that will serve the public's interest twofold by facilitating a vital addition to the region's water supply system, while also serving to provide a critical link in the San Francisco Bay Trail system. Improvements to regional utility infrastructure and regional recreational opportunities can both be achieved.

Please don't hesitate to contact Michael Reeves, Real Property Specialist, at (650) 691-1200 for any question or clarification regarding the proposed exchange of easements, the District's role in supporting the objectives of the San Francisco Bay Trail Project, or our ongoing mission to acquire and preserve a regional green belt of open space land.

Sincerely,



Stephen E. Abbors
General Manager

Map attached

cc: Brian Morelli, SFPUC
Johanna Wong, SFPUC
Carolyn Stein, Office of the City Attorney

FILE NO. 091278

**NOTICE OF PUBLIC HEARING OF THE
BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN
FRANCISCO ON THE PROPERTY ACQUISITION - EMINENT DOMAIN,**
subsurface tunnel easements in real property in Alameda County and San Mateo County,
consisting of portions of Alameda County Assessor's Parcels 537-0551-028, 537-0551-
020 and 537-0551-021-01 in the City of Newark, Alameda County Assessor's Parcel
537-0852-008 in the City of Fremont, San Mateo County Assessor's Parcels 063-590-060
and 096-230-110 in the City of Menlo Park, and in real property owned by San Mateo
County Transit District in the City of Menlo Park, located east of University Avenue
between Assessor's Parcels 093-600-010 and 063-590-060.

NOTICE IS HEREBY GIVEN THAT, in accordance with Section 1245.235 of the Code of Civil Procedure, the Board of Supervisors of the City and County of San Francisco (the "Board"), as a Committee of the Whole, will hold a **PUBLIC HEARING on November 24, 2009, at 3:00 p.m.**, Legislative Chambers (Room 250) located at City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, California, to make findings of whether public interest and necessity require the City and County of San Francisco to acquire, by eminent domain, subsurface tunnel easements in real property in San Mateo and Alameda Counties, California, consisting of portions of Alameda County Assessor's Parcels 537-0551-028, 537-0551-020 and 537-0551-021-01 in the City of Newark, Alameda County Assessor's Parcel 537-0852-008 in the City of Fremont, San Mateo County Assessor's Parcels 063-590-060 and 096-230-110 in the City of Menlo Park, and in real property owned by San Mateo County Transit District in the City of Menlo Park, located east of University Avenue between Assessor's Parcels 093 600-010 and 063-590-060, for Water System Improvement Program-Funded Project CUW36801, Bay Division Pipeline Reliability Upgrade - Tunnel. Descriptions of the required subsurface tunnel easements are set forth in **Schedule 1**, available in the official file.

The purpose of said hearing is to hear all persons interested in the matter and you have a right to appear and be heard on the matters referred to in California Code of Civil Procedure Section 1240.030, including, but not limited to, whether: (1) the public interest and necessity require the project and acquisition of the property identified above; (2) the project is planned and located in a manner that will be most compatible with the greatest public good and the least private injury; (3) the City's acquisition of the property is necessary for the proposed project; and (4) the City has made the required offer(s) to the owner(s) of the property.

Persons who have been notified of such public hearing and who, within fifteen days after receipt of such notice, have filed a written request to do so, may appear and be heard at the public hearing. The Board, at its discretion, need not give an opportunity to any other person to appear and be heard.

The procedure of the Board requires that the finding of public interest and necessity be made by a two-thirds vote of all its members.

At the close of the public hearing, a vote will be made on a resolution entitled **"Resolution authorizing acquisition of subsurface tunnel easements in real property in Alameda County and San Mateo County, consisting of portions of Alameda County Assessor's Parcels 537-0551-028, 537-0551-020 and 537-0551-021-01 in the City of Newark, Alameda County Assessor's Parcel 537-0852-008 in the City of Fremont, San Mateo County Assessor's Parcels 063-590-060 and 096-230-110 in the**

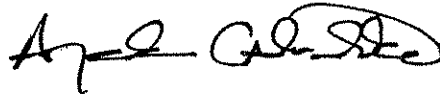
City of Menlo Park, and in real property owned by San Mateo County Transit District in the City of Menlo Park, located east of University Avenue between Assessor's Parcels 093 600-010 and 063-590-060, by eminent domain, for the public purpose of constructing the Public Utilities Commission Water System Improvement Program-Funded Project CUW36801, Bay Division Pipeline Reliability Upgrade - Tunnel; adopting environmental findings under the California Environmental Quality Act ("CEQA"), CEQA Guidelines, and Administrative Code Chapter 31, and adopting findings of consistency with the General Plan and under City Planning Code Section 101.1."

Persons who are unable to attend the hearing may submit written comments regarding this matter prior to the beginning of the hearing. These comments will become part of the official public record.

Mail comments to: Board of Supervisors, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102-4689.

By the order of the Board of Supervisors of the City and County of San Francisco.

DATED: November 8, 2009



Angela Calvillo
Clerk of the Board

Publish: November 8, 2009

**SCHEDULE 1
TO
NOTICE OF PUBLIC HEARING**

**Legal Descriptions and Plats of
Real Property Interests**

See the following pages for legal descriptions and plats of:

- Parcel HH15-02 (Cargill, Incorporated)
- Parcel HH17-02 (Cargill, Incorporated)
- Parcel HH38-02 (Midpeninsula Regional Open Space District)
- Parcel HH39-02 (Midpeninsula Regional Open Space District)
- Parcel HH14-02 (San Mateo County Transit District)
- Parcel HH16-02 (San Mateo County Transit District)
- Parcel HH40-02 (San Mateo County Transit District)

