

File No. 100220

Committee Item No. _____
Board Item No. 37

COMMITTEE/BOARD OF SUPERVISORS

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Committee:

Date: _____

Board of Supervisors Meeting

Date 5/4/2010

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OTHER

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Completed by: Victor Young
Completed by: Victor Young

Date April 29, 2010
Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [Committee of the Whole - Public Hearing on Adopting a Resolution to Acquire Real Property
2 Interests By Eminent Domain]

3
4 **Motion that the Board of Supervisors hold a public hearing on May 18, 2010, at 3:00**
5 **p.m., with the Board of Supervisors, sitting as a Committee of the Whole, to consider**
6 **adopting a Resolution of Necessity to authorize acquisition of: (1) a temporary interest**
7 **in real property in Alameda County known as Assessor's Parcel #513-0065-011-02 in**
8 **Fremont, owned by Malik A. Alarab, Trustee, and Barbara E. Alarab, Trustee; (2) a**
9 **temporary interest in real property in Alameda County known as Assessor's Parcel #**
10 **096-0001-020-03 in Sunol, owned by Kenneth and Janice Mackin; and (3) a temporary**
11 **interest and a permanent interest in portions of real property in Alameda County known**
12 **as Assessor's Parcel # 096-0080-004 in Sunol, owned by Carolyn Marie Garcia and**
13 **Stanley A. Garcia, Trustees, by eminent domain, for the public purpose of constructing**
14 **the San Francisco Public Utilities Commission Water System Improvement Program-**
15 **Funded Project CUW35901, New Irvington Tunnel Project; adopting environmental**
16 **findings under the California Environmental Quality Act (CEQA), CEQA Guidelines, and**
17 **Administrative Code Chapter 31; and adopting findings of consistency with the General**
18 **Plan and under City Planning Code Section 101.1.**

19
20 WHEREAS, On April 13, 2010, the San Francisco Public Utilities Commission (SFPUC)
21 adopted Resolution No. 10-0057 in which the SFPUC found that the acquisition by eminent
22 domain of the interests in real property consisting of temporary or permanent easements in
23 the following parcels of real property in Alameda County: (1) Assessor's Parcel #513-0065-
24 011-02 in Fremont, owned by Malik A. Alarab, Trustee, and Barbara E. Alarab, Trustee, (2)
25 Assessor's Parcel # 096-0001-020-03 in Sunol, owned by Kenneth and Janice Mackin, and

1 (3) Assessor's Parcel # 096-0080-004 in Sunol, owned by Carolyn Marie Garcia and Stanley
2 A. Garcia, Trustees (collectively, the Subject Properties), is necessary for construction of the
3 Water System Improvement Program-Funded Project CUW35901, New Irvington Tunnel
4 Project (the Project), and that failure to acquire such easements in the Subject Properties
5 (collectively, the Subject Easements) and construct the Project would substantially impair the
6 ability of the SFPUC to meet the adopted Water Supply Improvement Program (WSIP) levels
7 of service of seismic and delivery reliability; and,

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

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

23 MOVED, That it is the intention of this Board of Supervisors to hold a public hearing of
24 the full Board of Supervisors to consider adopting a resolution to acquire the Subject
25 Easements by eminent domain; and be it

1 FURTHER MOVED, This public hearing is being set in such a manner that a minimum
2 of fifteen (15) days notice shall be given to each person whose name and address appears on
3 the last equalized county assessment roll for the Subject Properties; and, be it

4 FURTHER MOVED, Said public hearing is to be held in accordance with California
5 Code of Civil Procedure §1245.235, and notice is hereby given that on the 18th day of May,
6 2010, at 3:00 p.m. the Board of Supervisors will hold such public hearing; and, be it

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

16 FURTHER MOVED, That the Resolution to acquire the Subject Easements by eminent
17 domain must be adopted by a two-thirds vote of all the members of the Board of Supervisors;
18 and, be it

19 FURTHER MOVED, That at the close of the public hearing, the Board of Supervisors
20 will vote to decide whether or not to adopt the Resolution captioned "Resolution authorizing
21 acquisition of the following interests in real property in Alameda County: (1) a temporary
22 construction easement in a portion of Assessor's Parcel #513-0065-011-02 in Fremont,
23 owned by Malik A. Alarab, Trustee, and Barbara E. Alarab, Trustee, (2) a temporary
24 construction easement in a portion of Assessor's Parcel # 096-0001-020-03 in Sunol, owned
25 by Kenneth and Janice Mackin, and (3) a temporary construction easement and a permanent

1 subsurface soil nail easement in portions of Assessor's Parcel # 096-0080-004 in Sunol,
2 owned by Carolyn Marie Garcia and Stanley A. Garcia, Trustees, by eminent domain, for the
3 public purpose of constructing the San Francisco Public Utilities Commission Water System
4 Improvement Program-Funded Project CUW35901, New Irvington Tunnel Project; adopting
5 environmental findings under the California Environmental Quality Act (CEQA), CEQA
6 Guidelines, and Administrative Code Chapter 31; and adopting findings of consistency with
7 the General Plan and under City Planning Code Section 101.1" on file with the Clerk of the
8 Board of Supervisors in File No. [/ 00222], which is hereby declared to be a part of this
9 motion as if set forth fully herein.

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