

File No. 100846\*

Committee Item No. \_\_\_\_\_

Board Item No. 53

### COMMITTEE/BOARD OF SUPERVISORS AGENDA PACKET CONTENTS LIST

Committee \_\_\_\_\_

Date \_\_\_\_\_

Board of Supervisors Meeting

Date 07/27/10

#### Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget Analyst Report
- Legislative Analyst Report
- Introduction Form (for hearings)
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Award Letter
- Application
- Public Correspondence

#### OTHER (Use back side if additional space is needed)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Completed by: Joy Lamug

Date 07/22/10

Completed by: \_\_\_\_\_

Date \_\_\_\_\_

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



1 [Authorizing the Acquisition of Fee Simple Interest By Eminent Domain for Central  
2 Subway/Third Street Light Rail Extension - 933-949 Stockton Street]

3 **Resolution authorizing the acquisition of a fee simple interest in real property**  
4 **commonly known as 933-949 Stockton Street, San Francisco, California, Assessor's**  
5 **Parcel No. Block 0211, Lot 001, by eminent domain for the public purpose of**  
6 **constructing the Central Subway/Third Street Light Rail Extension and other**  
7 **improvements; adopting environmental findings under the California Environmental**  
8 **Quality Act (CEQA), CEQA Guidelines, and Administrative Code Chapter 31; and**  
9 **adopting findings of consistency with the General Plan and City Planning Code Section**  
10 **101.1.**

11  
12 WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) plans to  
13 construct a continuation of the T-Third Light Rail Vehicle line from the Caltrain Station at  
14 Fourth and King Streets to an underground station in Chinatown and other improvements (the  
15 "Project") to create a critical transportation improvement linking neighborhoods in the  
16 southeastern portion of the City and County of San Francisco (the "City") with the retail and  
17 employment centers in the City's downtown and Chinatown neighborhoods, a public use, and  
18 will require an interest in the real property described herein to construct the Project tunnels  
19 that will connect the Project's three subway stations and provide direct rail service to the City's  
20 Financial District and Chinatown neighborhoods; and

21 WHEREAS, The Project's primary objectives are to provide direct rail service to  
22 regional destinations, including the City's Chinatown, Union Square, Moscone Convention  
23 Center, Yerba Buena, SoMa and AT&T Park neighborhoods; connect BART and Caltrain;  
24 serve a low-auto-ownership population of transit customers; increase transit use and reduce  
25 travel time; reduce air and noise pollution and provide congestion relief; and

1           WHEREAS, California Government Code Sections 25350.5 and 37350.5 authorize the  
2 City's Board of Supervisors to acquire any property necessary to carry out any of the powers  
3 or functions of the City by eminent domain; and

4           WHEREAS, The City requires the fee simple interest in the real property commonly  
5 known as 933-949 Stockton Street, San Francisco, California, Assessor's Parcel No. Block  
6 0211, Lot 001 (the "Subject Property"), which is more particularly described in Exhibit A and  
7 shown in Exhibit B (the "Project Alignment"), copies of which are on file with the Clerk of the  
8 Board of Supervisors in File No. 100846 and incorporated herein by this reference, for  
9 the construction and improvement of the Project; and

10           WHEREAS, On August 7, 2008, the City's Planning Commission certified that the Final  
11 Supplemental Environmental Impact Report ("Final Supplemental EIR") for the Central  
12 Subway/Third Street Light Rail Phase 2 was in compliance with CEQA and the CEQA  
13 Guidelines in Planning Commission Motion No. 17668. Motion No. 17668 is on file with the  
14 Clerk of the Board of Supervisors in File No. 100846 and is incorporated by reference;  
15 and

16           WHEREAS, On August 19, 2008, the SFMTA's Board of Directors, by Resolution  
17 No. 08-150, approved the Project, adopted CEQA Findings, including a Statement of  
18 Overriding Considerations and a Mitigation Monitoring and Reporting Program (MMRP) as  
19 required by CEQA. Resolution No. 08-150 is on file with the Clerk of the Board of Supervisors  
20 in File No. 100846 and is incorporated by reference; and

21           WHEREAS, On September 16, 2008, the City's Board of Supervisors (this "Board")  
22 adopted Motion No. 08-145, in Board File No. 081138, affirming the City's Planning  
23 Department decision to certify the Final Supplemental EIR. Motion No. 08-145 is on file with  
24 the Clerk of the Board of Supervisors in File No. 100846 and is incorporated by  
25 reference; and

1           WHEREAS, SFMTA staff obtained an appraisal of the Subject Property in compliance  
2 with California Government Code Section 7267 et seq. and all related statutory procedures for  
3 possible acquisition of the Subject Property, submitted an offer to the Subject Property owner  
4 of record to purchase the Subject Property as required by California Government Code  
5 Section 7267.2 on December 28, 2009, and continues to negotiate the possible acquisition of  
6 the Subject Property with the Subject Property owner of record; and

7           WHEREAS, On April 9, 2010, the City's Planning Department found the acquisition of  
8 the Subject Property for the Project to be consistent with the General Plan and the Eight  
9 Priority Policies of City Planning Code Section 101.1 to the extent applicable; and

10           WHEREAS, On April 15, 2010, the City's Planning Department found that there have  
11 been no substantial changes proposed for the Project that would require major revisions to  
12 the Final Supplemental EIR or that would result in significant environmental impacts that were  
13 not evaluated in the Final Supplemental EIR; and no new information has become available  
14 that was not known and could not have been known at the time the Final Supplemental EIR  
15 was certified as complete and that would result in significant environmental impacts not  
16 evaluated in the Final Supplemental EIR; and

17           WHEREAS, On April 20, 2010, the SFMTA's Board of Directors adopted Resolution  
18 No. 10-050, in which it found that (a) the Project will assist SFMTA in meeting the objectives  
19 of Goal No. 1 of the SFMTA Strategic Plan (to provide safe, accessible, clean,  
20 environmentally sustainable service and encourage the use of auto-alternative modes through  
21 the Transit First policy), of Goal No. 2 (to improve transit reliability), of Goal No. 3 (to improve  
22 economic vitality through improved regional transportation), and of Goal No. 4 (to ensure the  
23 efficient and effective use of resources); (b) the Subject Property is needed to construct and  
24 operate the Project; (c) SFMTA has limited any potential private injury; and (d) the acquisition  
25

1 and use of the Subject Property for construction and operation of the Project is compatible  
2 with the existing uses of the Subject Property and the surrounding area; and

3 WHEREAS, On April 20, 2010, the SFMTA Board of Directors, by SFMTA Resolution  
4 No. 10-049, authorized the SFMTA Executive Director/CEO to request that this Board hold a  
5 duly noticed public hearing, as required by State law, to consider the adoption of a Resolution  
6 of Necessity for the acquisition of the Subject Property for its appraised fair market value and,  
7 if this Board adopts such Resolution of Necessity, to take such actions that are consistent with  
8 the City's Charter and all applicable law to proceed to acquire the Subject Property; and

9 WHEREAS, This Board finds and determines that each person whose name and  
10 address appears on the last equalized County Assessment Roll notice as an owner of the  
11 Subject Property has been given notice and a reasonable opportunity to appear and be heard  
12 on this date on the matter referred to in California Code of Civil Procedure Section 1240.030  
13 in accordance with California Code of Civil Procedure Section 1245.235; now, therefore, be it

14 RESOLVED, That by at least a two-thirds vote of this Board under California Code of  
15 Civil Procedure Sections 1240.030 and 1245.230, this Board finds and determines each of the  
16 following:

- 17 1. The public interest and necessity require the proposed Project;
- 18 2. The proposed Project is planned and located in the manner that will be most  
19 compatible with the greatest public good and the least private injury;
- 20 3. The Subject Property sought to be acquired is necessary for the Project;
- 21 4. The offer required by California Government Code Section 7267.2 has been made  
22 to the Subject Property owner of record; and, be it

23 FURTHER RESOLVED, That to the extent that any portion of the Subject Property  
24 sought to be acquired is presently appropriated to a public use, the purpose for which the  
25 acquisition and use of the Subject Property is sought, namely, for construction and operation

1 of the Project, is a more necessary public use under Section 1240.610 of the California Code  
2 of Civil Procedure; and, be it

3 FURTHER RESOLVED, That to the extent that any portion of the Subject Property is  
4 presently appropriated to a public use, the purpose for which the acquisition and use of the  
5 Subject Property is sought, namely, for construction and operation of the Project, is a  
6 compatible public use under Section 1240.510 of the California Code of Civil Procedure; and,  
7 be it

8 FURTHER RESOLVED, That the City Attorney is hereby authorized and directed to  
9 commence proceedings in eminent domain against the Subject Property owner of record and  
10 any and all interests therein or claims thereto for the condemnation thereof for the public use  
11 of the City; together with the authorization and direction to take any actions or comply with any  
12 legal procedures to obtain an order for immediate possession for all or a portion of the Subject  
13 Property as depicted in Exhibit A and Exhibit B, in conformity with existing or amended law;  
14 and, be it

15 FURTHER RESOLVED, That this Board has reviewed and considered the Final  
16 Supplemental EIR and record as a whole, finds that the action taken herein is within the scope  
17 of the Project and activities evaluated in the Final Supplemental EIR, and that the Final  
18 Supplemental EIR is adequate for its use by the decision-making body for the action taken  
19 herein; and, be it

20 FURTHER RESOLVED, That this Board finds that since the Final Supplemental EIR  
21 was finalized, there have been no substantial Project changes and no substantial changes in  
22 Project circumstances that would require major revisions to the Final Supplemental EIR due to  
23 the involvement of new significant environmental effects or an increase in the severity of  
24 previously identified significant impacts, and there is no new information of substantial  
25

1 importance that would change the conclusions set forth in the Final Supplemental EIR; and,  
2 be it

3 FURTHER RESOLVED, That this Board hereby adopts as its own and incorporates by  
4 reference herein, as though fully set forth, the findings of the Planning Department that the  
5 acquisition of the Subject Property is consistent with the General Plan and the Eight Priority  
6 Policies of City Planning Code Section 101.1; and, be it

7 FURTHER RESOLVED, That this Board adopts as its own and incorporates by  
8 reference herein, as though fully set forth, each of the findings made by the SFMTA in  
9 adopting Resolution No. 10-050 on April 20, 2010.

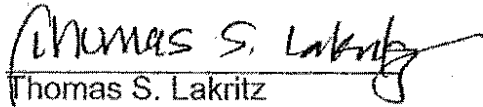
10  
11 **RECOMMENDED:**

12 SAN FRANCISCO MUNICIPAL  
13 TRANSPORTATION AGENCY

14   
15 \_\_\_\_\_  
16 Nathaniel P. Ford Sr.  
Executive Director/CEO

17 Pursuant to SFMTA  
18 Resolution No. 10-050

19 APPROVED AS TO FORM:  
20 DENNIS J. HERRERA, City Attorney

21  
22 By:   
23 \_\_\_\_\_  
24 Thomas S. Lakritz  
25 Deputy City Attorney



**LEGAL DESCRIPTION**

**EXHIBIT "A"**

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:**

Beginning at the point of intersection of the Southerly line of Washington Street and the Westerly line of Stockton Street; running thence Southerly along said line of Stockton Street 137 feet and 6 inches; thence at a right angle Westerly 72 feet and 4-3/4 inches; thence at a right angle Northerly 19 feet and 1-1/2 inches; thence at a right angle Westerly 3 feet and 7 inches; thence at a right angle Northerly 11 feet and 5 inches; thence at a right angle Easterly 3 feet and 7 inches; thence at a right angle Northerly 25 feet and 0-1/2 of an inch; thence at a right angle Easterly 7 inches; thence at a right angle Northerly 32 feet and 4 inches; thence at a right angle Westerly 1 foot and 6-1/2 inches; thence at a right angle Northerly 48 feet and 7 inches to the Southerly line of Washington Street; thence at a right angle Easterly along said line of Washington Street 73 feet and 4-1/4 inches to the point of beginning.

Being a portion of 50 Vara Block No. 136.

APN: Lot 1 Block 211

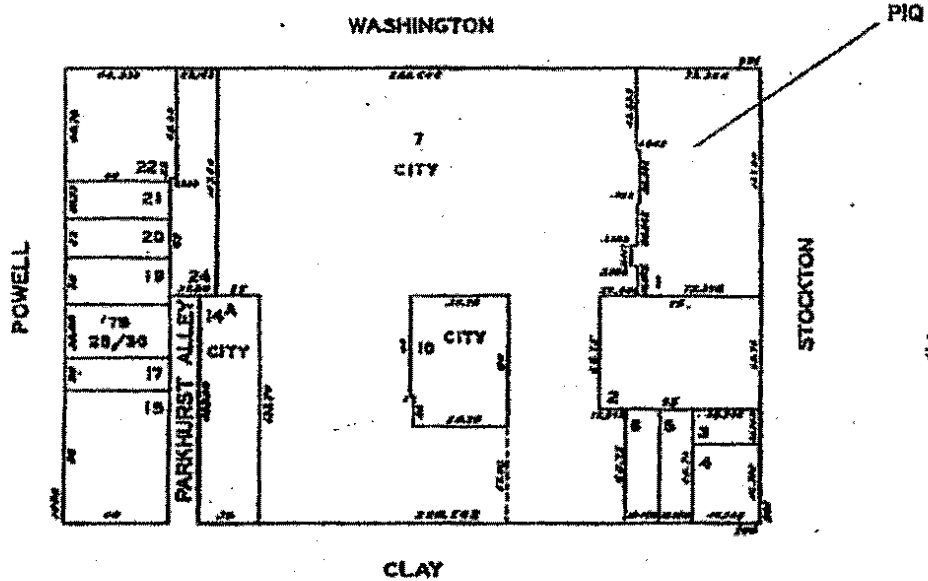
211

50 VARA BLOCK 138

REVISED 1970

**LOTS MERGED**

|       |     |     |      |
|-------|-----|-----|------|
| LOT 2 | 400 | 100 | 1923 |
| 11    | 100 | 100 | 1923 |
| 12    | 100 | 100 | 1923 |
| 13    | 100 | 100 | 1923 |
| 14    | 100 | 100 | 1923 |
| 15    | 100 | 100 | 1923 |
| 16    | 100 | 100 | 1923 |
| 17    | 100 | 100 | 1923 |
| 18    | 100 | 100 | 1923 |
| 19    | 100 | 100 | 1923 |
| 20    | 100 | 100 | 1923 |
| 21    | 100 | 100 | 1923 |
| 22    | 100 | 100 | 1923 |
| 23    | 100 | 100 | 1923 |
| 24    | 100 | 100 | 1923 |
| 25    | 100 | 100 | 1923 |



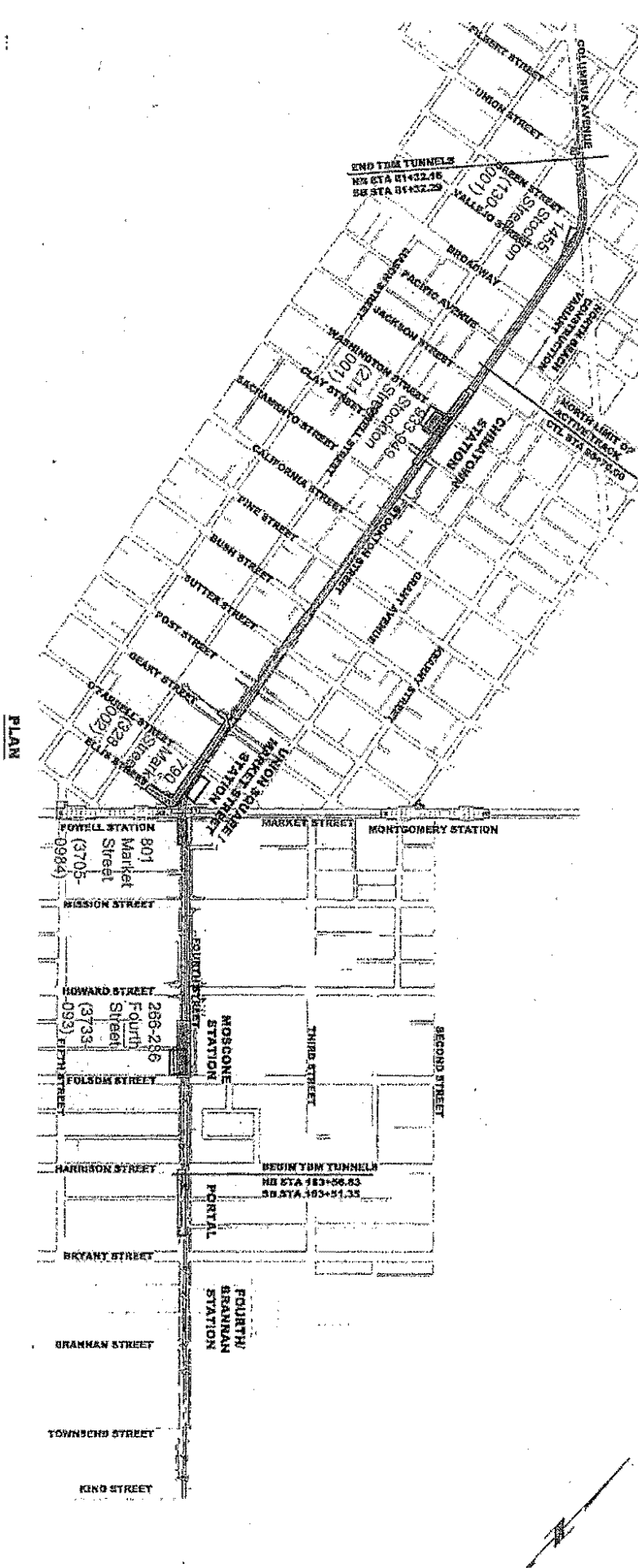
**1022 POWELL STREET**  
**A CONDOMINIUM**

| LOT NO. | UNIT NO. | % COMMON AREA |
|---------|----------|---------------|
| 26      | 1        | 33.333        |
| 29      | 2        | 33.333        |
| 30      | 3        | 33.333        |

ASSESSED 42,484  
CITY 38,075  
BLK. TOTAL 114,268 SQ. FT.

# Central T subway

connecting people. Connecting communities.



PLAN

SFMTA

Municipal Transportation Agency

EXHIBIT B



**Document is available  
at the Clerk's Office  
Room 244, City Hall**

**Index of Documents in Administrative Record for Board File No. 100846**

**933-949 Stockton Street, Assessor's Parcel No. Block 0211, Lot 011**

1. July 20, 2010 Memorandum from Nathaniel P. Ford Sr., Executive Director/CEO of the SFMTA to the Honorable Members of the Board of Supervisors
2. Central Subway Project/Real Estate Acquisitions for Right-of-Way and Stations PowerPoint presentation, July 27, 2010
3. Map of Central Subway Project Alignment
4. Legal Description and diagram of 933-949 Stockton Street (Assessor's Parcel No. Block 0211, Lot 011)
5. Central Subway Final Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report (Final SEIS/SEIR Volume I)  
  
Central Subway Final Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report (Response to Comments Volume II)  
  
Central Subway Final Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report (Response to Comments Volume II/Errata)
6. San Francisco City Planning Commission, Motion No. M-17668
7. San Francisco Municipal Transportation Agency Board of Directors, Resolution No. 08-150
8. San Francisco Board of Supervisors, Motion M08-145
9. Federal Transit Administration, Record of Decision, November 26, 2008
10. April 15, 2010 Determination from the San Francisco Planning Department RE: Central Subway Final Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report

11. May 4, 2009 Determination from the San Francisco Planning Department, in Planning Case No. 2008.084R (General Plan Referral), including Application for General Plan Referral
12. April 9, 2010 Determination from the San Francisco Planning Department, in Planning Case No. 2008.084R (General Plan Referral)
13. San Francisco Municipal Transportation Agency Board of Directors, Resolution No. 10-050
14. February 24, 2009 Letter from John Funghi to Norman P. Chan, Inc., with Property Acquisition Information Brochure ("The Use of Eminent Domain By the City and County of San Francisco")
15. November 17, 2009 Letter from Leslie T. Rogers, Regional Administrator, Federal Transit Administration, to Nathaniel P. Ford
16. December 23, 2009 Letter from Nathaniel P. Ford Sr., Executive Director/CEO of the SFMTA, to Norman P. Chan, Inc., offering to purchase 933-949 Stockton Street, with Appraisal Summary Statement, Legal Description, and Property Acquisition Information Brochure ("The Use of Eminent Domain By the City and County of San Francisco")
17. February 18, 2010 Letter from Kerstin Magary to Norman P. Chan, Inc.
18. Notice of Public Hearing ("Public Hearing to consider Property Acquisition – Eminent Domain"), including Proof of Service