

1 [Committee of the Whole - Public Hearing on Adopting a Resolution to Acquire Real Property
2 Interest By Eminent Domain - 790 Market 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 a subsurface easement**
6 **in real property commonly known as 790 Market Street, San Francisco, California,**
7 **Assessor's Parcel No. Block 0328, Lot 002, 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.**

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14 WHEREAS, On February 26, 2010, the SFMTA's Board of Directors adopted
15 Resolution No. 10-025, in which the SFMTA found that the acquisition by eminent domain of a
16 subsurface easement in real property commonly known as 790 Market Street, San Francisco,
17 California, Assessor's Parcel No. Block 0328, Lot 002 (the "Subsurface Easement"), is
18 necessary for construction of the Central Subway/Third Street Light Rail Extension and other
19 improvements (the "Project"); and

20 WHEREAS, In adopting Resolution No. 10-025, 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 Subsurface Easement is needed to construct and operate the Project; (c) SFMTA has
2 limited any potential private injury by seeking to acquire only a subsurface easement and
3 leaving the remainder of the subject property in private ownership; and (d) the acquisition and
4 use of the Subsurface Easement for construction and operation of the Project is compatible
5 with the existing uses of the subject property and the surrounding area; and

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

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

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

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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 notice for the subject property; 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 27th day of July,
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 Roll notice for the subject property and
9 who has filed a written request to appear within fifteen (15) days after the notice was mailed to
10 them by first class mail may appear and be heard at the public hearing on whether (1) the
11 public interest and necessity require CCSF to acquire the Subsurface Easement, (2) the
12 Project is planned and located in the manner that will be most compatible with the greatest
13 public good and least private injury, (3) the Subsurface Easement sought to be acquired is
14 necessary for the Project, and (4) CCSF has made the offer(s) required by California
15 Government Code §7267.2 to the owner(s) of record of the subject property; and be it

16 FURTHER MOVED, That the Resolution to acquire the Subsurface Easement by
17 eminent domain must be adopted by a two-thirds vote of all the members of the Board of
18 Supervisors; 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 the acquisition of a subsurface easement in real property commonly known as 790 Market
22 Street, San Francisco, California, Assessor's Parcel No. Block 0328, Lot 002, by eminent
23 domain for the public purpose of constructing the Central Subway/Third Street Light Rail
24 Extension and other improvements; adopting environmental findings under the California
25 Environmental Quality Act (CEQA), CEQA Guidelines, and Administrative Code Chapter 31;

1 and adopting findings of consistency with the General Plan and City Planning Code Section
2 101.1" on file with the Clerk of the Board of Supervisors in File No. _____, which is
3 hereby declared to be a part of this motion as if set forth fully herein.

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