

1 [Resolution To Acquire Property By Eminent Domain—Islais Creek MUNI Maintenance  
2 Facility.]

3 **Resolution authorizing acquisition of 2.8 acres of property adjacent to City property at**  
4 **Indiana and Cesar Chavez Streets, consisting of portions of Assessor's Lots 2, 2A and**  
5 **13 in Block 4349 and a portion of Assessor's Lot 3 in Block 4382, in the City and**  
6 **County of San Francisco, for construction of the Municipal Railway's new Islais Creek**  
7 **Motor Coach Operations and Maintenance Facility; adopting environmental findings**  
8 **under the California Environmental Quality Act ("CEQA"), CEQA Guidelines, and**  
9 **Administrative Code Chapter 31, and adopting findings under the General Plan and City**  
10 **Planning Code Section 101.1.**

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12 WHEREAS, The Municipal Transportation Authority ("MTA") plans to replace the  
13 existing Municipal Railway ("MUNI") Kirkland Motor Coach Division with a new Islais Creek  
14 Motor Coach Operations and Maintenance Facility ("Project"); the Project will include parking  
15 for MUNI Alternative Fuel vehicles and other non-revenue vehicles, three buildings with 16  
16 service bays, and facilities for operations, maintenance, administration, fuel and wash, and  
17 extensive shoreline improvements along the edge of Islais Creek including an art installation  
18 reflecting the historical industrial and port uses of the Project area; and

19 WHEREAS, The public interest and necessity require the acquisition by the City and  
20 County of San Francisco ("City"), a municipal corporation, of certain real property adjacent to  
21 City property at Indiana and Cesar Chavez Streets, consisting of portions of Assessor's Lots  
22 2, 2A and 13 in Block 4349 and a portion of Assessor's Lot 3 in Block 4382, in the City and  
23 County of San Francisco (the "Property") for the Project as reflected in the document entitled  
24 Exhibit "A", a copy of which is on file with the Clerk of the Board of Supervisors in File No.  
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1 and incorporated herein by this reference; and,

2 WHEREAS, On April 6, 2004 the Municipal Transportation Agency Board ("MTAB")  
3 adopted Resolution No. 04-048 in which the MTAB found that acquisition of the Property by  
4 eminent domain is necessary for construction of the Project, and that failure to acquire the  
5 Property and construct the Project would substantially impair the performance of MUNI; and,

6 WHEREAS, In Planning case 1988.700R, the Department of City Planning found the  
7 acquisition of property and relocation of MUNI's Bus Storage and maintenance Facilities to a  
8 twelve-acre site at the Southwest corner of Army and Indiana Streets to be in conformity with  
9 the General Plan; and

10 WHEREAS, In Planning case 1996.678R, the Department of City Planning found the  
11 transfer of two parcels (lot 06 in Assessor's Block 4352 and lot 4 in Assessor's Block 4382) on  
12 the Southwest corner of Cesar Chavez and Indiana Streets from the Public Utilities  
13 Commission ("PUC") to the Department of Public Transportation (MUNI) in connection with  
14 the Project to be in conformity with the General Plan; and

15 WHEREAS, On June 20, 1989, the Planning Department issued a Final Negative  
16 Declaration ("Negative Declaration"), File No. 88.700E, in accordance with the California  
17 Environmental Quality Act ("CEQA"), a copy of which is on file with the Clerk of the Board of  
18 Supervisors in File No. and incorporated herein by this reference, for development of  
19 the Project; and

20 WHEREAS, On April 6, 1990, the Board of Supervisors adopted the Final Negative  
21 Declaration by Resolution 243-90 and approved acquisition of property for the Project by  
22 Resolution 244-90, copies of which are on file with the Clerk of the Board in File No.

23 and incorporated herein by this reference; and

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1           WHEREAS, On April 16, 1990, the Planning Department issued a Notice of  
2 Determination in file No. 88.700, a copy of which is on file with the Clerk of the Board in File  
3 No.           and incorporated herein by this reference; and

4           WHEREAS, On September 9, 1998, the Department of City Planning issued  
5 Memorandum to File No. 88.700E/MUNI Diesel Coach Operating Division & Central  
6 Maintenance Facility, pursuant to CEQA Guidelines Section 15164 ("Addendum"), a copy of  
7 which is on file with the Board of Supervisors in File No.           and is incorporated herein  
8 by this reference, in which the Planning Department concluded that no additional  
9 environmental review was required pursuant to CEQA as a result of new information, changes  
10 in the Project or changes in the circumstances under which the Project would occur, in  
11 accordance with CEQA Guidelines Section 15164; and

12           WHEREAS, On July 7, 1999, the Regional Administrator of the U.S. Department of  
13 Transportation, Federal Transit Administration approved MUNI's request for a categorical  
14 exclusion from review under the National Environmental Policy Act ("NEPA") for the Project  
15 pursuant to 49 CFR 771.117(d)(8); and

16           WHEREAS, In December, 2000, the Regional Administrator of the U.S. Department of  
17 Transportation, Federal Transit Administration issued findings that there are no new  
18 substantial impacts, new information, or new circumstances caused by proposed design  
19 changes to the Project that would warrant preparation of a Supplemental Environmental  
20 Impact Statement or Environmental Assessment under NEPA, and concluding that such  
21 design changes do not include new significant environmental impacts to planned growth or  
22 land use for the area, do not cause the relocation of significant numbers of people, do not  
23 have a significant impact on natural, cultural, recreational, historical or other resources, do not

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1 have significant impacts on traffic or travel patterns, and do not otherwise, individually or  
2 cumulatively, have any other significant environmental impacts; and

3 WHEREAS, On May 31, 2005, the Director of Planning issued a Note to File on Cases  
4 1988.700R and 1996.678R, a copy of which is on file with the Clerk of the Board of  
5 Supervisors in File No. , in which the Department found that the Project, including  
6 acquisition of the Property, facility construction and the proposed land use for the Project are,  
7 on balance, in conformity with the General Plan; and

8 WHEREAS, Design engineering for the Project has recently been completed, including  
9 public access improvements along Islais Creek in conjunction with development of the  
10 Property; the Project area, including the Property, is identified in the document entitled Exhibit  
11 "B", a copy of which is on file with the Clerk of the Board of Supervisors in File No.

12 and incorporated herein by this reference, and

13 WHEREAS, In connection with certain public access improvements and related  
14 drainage rerouting, filling and paving for the Project, MUNI has applied for permits from the  
15 Bay Conservation and Development Commission and the Army Corps of Engineers, which  
16 permit processes will assure that the public access improvements and related work of the  
17 Project will be carried out through regulatory programs that will assure protection of the  
18 environment and will not result in any new significant environmental impacts beyond those  
19 identified and discussed in the previous Negative Declaration and Addendum; and

20 WHEREAS, In a companion Resolution No. which is on file with the Clerk of  
21 the Board of Supervisors in File No. , the Board of Supervisors transferred jurisdiction  
22 of certain real property identified as portions of Assessor's Parcel Nos. 4352/001 and  
23 4382/005 from the Public Utilities Commission to MTA as part of the Project, adopted findings  
24 pursuant to CEQA, and adopted findings that the transfer of jurisdiction is consistent with the  
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1 City's General Plan and the Eight Priority Policies of Planning Code Section 101.1, which  
2 findings are incorporated herein by this reference; now, therefore be it

3 RESOLVED, That the Board of Supervisors, in exercising its independent judgment,  
4 incorporates by reference all prior CEQA findings adopted by the Board of Supervisors for the  
5 Project including, without limitation, the Board's findings in Resolution No. 243-90 and the  
6 CEQA findings set forth in companion Resolution No. with respect to the approval of  
7 this Resolution in conformance with CEQA and finds that, based on substantial evidence and  
8 in light of the whole record, there are no changes in the Project or the circumstances under  
9 which the Project will occur and no new information has become available since adoption of  
10 the Negative Declaration or preparation of the Addendum that would alter the findings of the  
11 Planning Department and the previous CEQA findings of the Board of Supervisors pertaining  
12 to this Project; and be it

13 FURTHER RESOLVED, That the Board of Supervisors hereby adopts as its own and  
14 incorporates by reference herein, as though fully set forth, the findings of the Director of  
15 Planning that the acquisition of the Property is in conformity with the General Plan and  
16 consistent with the Eight Priority Policies of City Planning Code Section 101.1; and, be it

17 FURTHER RESOLVED, That the Board of Supervisors adopts as its own and  
18 incorporates by reference herein, as though fully set forth, the findings made by the MTA  
19 Board in adopting Resolution No. 04-048 on April 6, 2004, finding that the acquisition of the  
20 Property is necessary for construction of the Project, and that failure to acquire the Property  
21 and construct the Project would substantially impair the performance of and provision of  
22 services by MUNI; and, be it

23 FURTHER RESOLVED, That the acquisition of the Property is suitable, adaptable,  
24 necessary and required for the public use of the City and County of San Francisco, to wit:

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1 construction and operation of the new MUNI Islais Creek Motor Coach Operations and  
2 Maintenance Facility. The acquisition and use of the Property is planned and located in a  
3 manner that will be most compatible with the greatest public good and least private injury and  
4 is necessary for the Project; and, be it

5 FURTHER RESOLVED, That to the extent that any portion of the Property sought to be  
6 acquired other than the portions of the Property identified as "Easement Parcel 2" on Exhibit  
7 "A," is presently appropriated to a public use, the purpose for which the acquisition and use of  
8 the Property is sought, namely, for construction and operation of the new MUNI Islais Creek  
9 Motor Coach Operations and Maintenance Facility, is a more necessary public use under  
10 Section 1240.610 of the California Code of Civil Procedure; and, be it

11 FURTHER RESOLVED, That to the extent that the portions of the Property identified  
12 as "Easement Parcel 2" on Exhibit "A," a copy of which is on file with the Clerk of the Board of  
13 Supervisors in File No. , is presently appropriated to a public use, the purpose for  
14 which the acquisition and use of the Property is sought, namely, for construction and  
15 operation of the new MUNI Islais Creek Motor Coach Operations and Maintenance Facility, is  
16 a compatible public use under Section 1240.510 of the California Code of Civil Procedure;  
17 and, be it

18 FURTHER RESOLVED, That the City has made the offer as required by California  
19 Government Code Section 7267.2 to the owner of record of the Property; and, be it

20 FURTHER RESOLVED, That as provided by Sections 37350.5, 37351, 37352, 37501,  
21 and 40404 of the California Government Code and Sections 1240.010 through 1240.040,  
22 1240.510 and 1240.610 of the California Code of Civil Procedure, authorizing the City to  
23 acquire the Property by eminent domain, the City Attorney is hereby authorized and directed  
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1 to commence proceedings in eminent domain against the owner of the Property and any and  
2 all interests therein or claims thereto for the condemnation thereof for the public use of the  
3 City and County of San Francisco; together with the authorization and direction to file any  
4 actions or comply with any legal procedures to obtain an order for immediate possession for  
5 all or a portion of the Property as depicted in "Exhibit A", in conformity with existing or  
6 amended law; and, be it

7           FURTHER RESOLVED, That the cost of acquiring the Property shall be paid from  
8 Appropriation No. CPT 432.1 356672.

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**RECOMMENDED:**

**\$ 1,945,000.00 Available:**

MUNICIPAL TRANSPORTATION AGENCY

OFFICE OF THE CONTROLLER

\_\_\_\_\_  
Nathaniel P. Ford, Sr.  
Executive Director/CEO, MTA  
Pursuant to MTAB  
Resolution No. 04-048

\_\_\_\_\_  
Edward M. Harrington  
Controller  
  
Appropriation No. CPT 432.1 356672

REAL ESTATE DIVISION

\_\_\_\_\_  
Director of Property

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

By: \_\_\_\_\_  
Deputy City Attorney