

1 [Authorizing the Acquisition of Real Property by Eminent Domain for Transbay Transit Center
2 Program - 564 Howard Street]

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4 **Resolution authorizing the acquisition of real property commonly known as 564**
5 **Howard Street, San Francisco, California (Assessor's Block No. 3721, Lot No. 019) by**
6 **eminent domain for the public purpose of constructing the Transbay Transit Center**
7 **Program; adopting environmental findings under the California Environmental Quality**
8 **Act (CEQA), CEQA Guidelines, and Administrative Code Chapter 31; and adopting**
9 **findings of consistency with the General Plan and City Planning Code Section 101.1.**

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11 WHEREAS, The Transbay Transit Center Program (the Project) consists of, among
12 other things, a new Transit Center at the current site of the Transbay Terminal in the City and
13 County of San Francisco (the City); a temporary terminal on the block bounded by Main,
14 Beale, Folsom, and Howard Streets; reconstructed bus ramps from the Transit Center to the
15 San Francisco-Oakland Bay Bridge; an offsite bus storage/layover area under Interstate 80 on
16 the two blocks bounded by Perry, Stillman, 2nd, and 4th Streets; a Caltrain station near 4th
17 and Townsend Street; and the Transbay Redevelopment Plan; and

18 WHEREAS, The Project's primary objectives include connecting multiple modes of
19 transit; extending Caltrain and High Speed Rail into the new downtown Transit Center;
20 increasing transit use and reducing travel time; and creating a new transit-oriented
21 neighborhood around the Transit Center; and

22 WHEREAS, The Project will provide a critical transportation improvement, including a
23 modern regional transit hub connecting eight Bay Area counties and the State of California
24 through eleven transit systems; and

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

4 WHEREAS, The real property commonly known as 564 Howard Street, San Francisco,
5 California (Assessor's Block 3721, Lot 019) (the Subject Property), which is more particularly
6 described in Exhibit A and shown in Exhibit B, is required for the construction of the Project;
7 and

8 WHEREAS, On April 22, 2004, the City's Planning Commission (the Commission)
9 certified in Motion No. 16773 that the Final Environmental Impact Statement/Environmental
10 Impact Report and Section 4(f) Evaluation (Final EIS/EIR) for the Project was in compliance
11 with CEQA, the CEQA Guidelines, and Chapter 31 of the City Administrative Code. The Final
12 EIS/EIR and Motion No. 16773 are on file with the Clerk of the Board of Supervisors in File
13 No. _____ and are incorporated by reference; and

14 WHEREAS, On April 22, 2004, in Resolution No. 2004-11, the Peninsula Corridor Joint
15 Powers Board also certified the Final EIS/EIR and made findings similar to those of the
16 Commission with regard to CEQA and the CEQA guidelines. Resolution No. 2004-11 is on
17 file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated by
18 reference; and

19 WHEREAS, On April 20, 2004, in Resolution No. 45-2004, the San Francisco
20 Redevelopment Agency also certified the Final EIS/EIR and made findings similar to those of
21 the Commission with regard to CEQA and the CEQA guidelines. Resolution No. 45-2004 is
22 on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated by
23 reference; and

1 WHEREAS, On April 22, 2004, the Board of Directors of the Transbay Joint Powers
2 Authority (TJPA), by Resolution No. 04-004, approved the components of the Project within its
3 jurisdiction and adopted CEQA Findings, including a Statement of Overriding Considerations
4 and a Mitigation Monitoring and Reporting Program. Resolution No. 04-004 is on file with the
5 Clerk of the Board of Supervisors in File No. ____ and is incorporated by reference; and

6 WHEREAS, On June 15, 2004, this Board adopted Motion No. 04-67, in Board File No.
7 040629, affirming the Commission's decision to certify the Final EIS/EIR. Motion No. 04-67 is
8 on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated by
9 reference; and

10 WHEREAS, The Board of Supervisors in Resolution No. 612-04, adopted
11 environmental findings in relation to the Transbay Terminal, Caltrain Downtown Extension,
12 and Transbay Redevelopment Plan. Copies of said Resolution and supporting materials are in
13 Clerk of the Board of Supervisors File No. 41079. The Board of Supervisors, in Ordinance
14 No. 124-05 as part of its adoption of the Transbay Redevelopment Planm, adopted additional
15 environmental findings. Copies of said Ordinance and supporting materials are in Clerk of the
16 Board of Supervisors File No. 50184. Said Resolution and Ordinance and supporting
17 materials are incorporated by reference herein for the purposes of this Resolution; and

18 WHEREAS, The Board of Directors of the TJPA have approved addenda to the Final
19 EIS/EIR as follows: Addendum No. 1 (Resolution No. 06-011) (June 2, 2006); Addendum No.
20 2 (Resolution No. 07-013) (April 19, 2007); Addendum No. 3 (Resolution No. 08-003)
21 (January 17, 2008); Addendum No. 4 (Resolution No. 08-039) (October 17, 2008); and
22 Addendum No. 5 (Resolution No. 09-019) (April 9, 2009) (collectively, Addenda). The
23 Addenda and adopting resolutions are on file with the Clerk of the Board of Supervisors in File
24 No. _____ and are incorporated by reference; and
25

1 WHEREAS, The Final EIS/EIR files and other Project-related Planning Department
2 files are available for review by this Board and the public. The Planning Department files are
3 available at 1660 Mission Street. Those files are part of the record before this Board and are
4 incorporated by reference; and

5 WHEREAS, The City's Planning Department has found that the acquisition of the
6 Subject Property for the Project is consistent with the General Plan and the Eight Priority
7 Policies of the City Planning Code Section 101.1 to the extent applicable; and

8 WHEREAS, The City and TJPA staff obtained appraisals of the Subject Property in
9 compliance with California Government Code Section 7267 et seq. and all related statutory
10 procedures for possible acquisition of the Subject Property, and submitted joint offers to the
11 Subject Property owner of record to purchase the Subject Property as required by California
12 Government Code Section 7267.2; and

13 WHEREAS, On October 14, 2010, the TJPA's Board of Directors adopted Resolution
14 No. 10-045, in which it found that (a) the public interest and necessity require the Project; (b)
15 the Project is planned to maximize the public good and minimize private injury; (c) the Subject
16 Property is necessary for the Project; (d) the City and the TJPA have made sufficient offers of
17 purchase and complied with all procedural prerequisites to the exercise of eminent domain;
18 and (e) acquisition of the Subject Property for the Project will fulfill the mandates of various
19 State and City laws, including San Francisco Proposition H-Downtown Caltrain Station
20 (November 1999), San Francisco Proposition K-San Francisco Transportation Sales Tax
21 (November 2003), California Public Resources Code Section 5027.1(a), and California Streets
22 and Highways Code Sections 2704.04(b) and 30914(c), all of which concern reconstruction of
23 the new Transit Center on the site of the existing Transbay Terminal and the new Transit
24 Center's accommodation of a Caltrain extension and high speed passenger rail line; and
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1 WHEREAS, In adopting Resolution No. 10-045, the TJPA Board of Directors
2 recommended that this Board adopt a Resolution of Necessity to condemn the Subject
3 Property and initiate eminent domain proceedings to acquire the Subject Property for the
4 Project; and

5 WHEREAS, In adopting Resolution No. 10-045, the TJPA Board of Directors also
6 found that in the event that the City elects to adopt a Resolution of Necessity and initiate
7 eminent domain proceedings to acquire the Subject Property, the TJPA will bear the costs of
8 litigating any eminent domain action, and will provide all compensation ordered by the court
9 for the condemned Subject Property; and

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

15 RESOLVED, That this Board, having reviewed and considered the Final EIS/EIR and
16 Addenda, and the record as a whole, finds that the action taken herein is within the scope of
17 the Project and activities evaluated in the Final EIS/EIR and Addenda, that the Final EIS/EIR
18 and Addenda are adequate for use by this Board for the action taken herein, and adopt the
19 Addenda for purposes of the action taken herein; and, be it

20 FURTHER RESOLVED, That this Board finds that since the Final EIS/EIR and
21 Addenda were finalized, there have been no substantial Project changes and no substantial
22 changes in Project circumstances that would require major revisions to the Final EIS/EIR and
23 Addenda due to new significant environmental effects or an increase in the severity of
24 previously identified significant impacts, and there is no new information of substantial
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1 importance that would change the conclusions set forth in the Final EIS/EIR and Addenda;
2 and, 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 by at least a two-thirds vote of this Board under
8 California Code of Civil Procedure Sections 1240.030 and 1245.230, this Board finds and
9 determines each of the following:

- 10 1. The public interest and necessity require the Project;
- 11 2. The Project is planned and located in the manner that will be most compatible with
12 the greatest public good and the least private injury;
- 13 3. The Subject Property is necessary for the Project;
- 14 4. The offer required by California Government Code Section 7267.2 has been made
15 to the owner of record of the Subject Property; and, be it

16 FURTHER RESOLVED, That the City Attorney is hereby authorized and directed to
17 take all steps necessary to commence and prosecute proceedings in eminent domain against
18 the owner of record of the Subject Property and the owner or owners of any and all interests
19 therein or claims thereto for the condemnation thereof for the Project, to the extent such
20 proceedings are necessary, and is authorized and directed to take any and all actions or
21 comply with any and all legal procedures to obtain an order for immediate or permanent
22 possession of the Subject Property, as described in Exhibit A and shown in Exhibit B, in
23 conformity with existing or amended law; and, be it

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1 FURTHER RESOLVED, That this Board adopts as its own and incorporates by
2 reference herein, as though fully set forth, each of the findings made by the TJPA in adopting
3 Resolution No. 10-045 on October 14, 2010.

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5 RECOMMENDED:
6 REAL ESTATE DIVISION, GENERAL SERVICES AGENCY

7 By: _____
8 Amy Brown
9 Director of Real Estate

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

12 By: _____
13 Kristen A. Jensen
14 Deputy City Attorney