

1 [Eminent Domain – Resolution of Necessity]

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3 **Resolution authorizing acquisition of Lots 45A, 46, 53, and 54 in Assessor's Block 3721**  
4 **in San Francisco by Eminent Domain for the Transbay Terminal/Caltrain Downtown**  
5 **Extension/Redevelopment Project; adopting environmental findings under the**  
6 **California Environmental Quality Act, State Guidelines, and Administrative Code**  
7 **Chapter 31; and adopting findings under the General Plan and City Planning Code**  
8 **Section 101.1.**

9 WHEREAS, The Transbay Terminal/Caltrain Downtown Extension/Redevelopment  
10 Project (the "Project") consists of a new Transbay Terminal at its current site; the extension of  
11 Caltrain and accommodation of high speed passenger trains into a new Terminal building; a  
12 temporary terminal on the block bounded by Main, Beale, Folsom, and Mission Streets;  
13 reconstructed bus ramps from the permanent terminal to the Bay Bridge; an offsite bus  
14 storage/layover area under Highway Route 80 on the two blocks bounded by Perry, Stillman,  
15 2<sup>nd</sup> and 4<sup>th</sup> Streets; a Caltrain storage yard and station near 4<sup>th</sup> and Townsend Street; and the  
16 Transbay Redevelopment Plan; and

17 WHEREAS, The actions listed in Attachment A and incorporated by reference (the  
18 "Actions") are part of a series of considerations in connection with the approval and  
19 implementation of the Project, as more particularly defined in Attachment A (the  
20 "Environmental Findings"). A copy of Attachment A is on file with the Clerk of the Board of  
21 Supervisors in File No. \_\_\_\_\_; and

22 WHEREAS, On April 22, 2004, the Planning Commission (the "Commission") and the  
23 Peninsula Corridor Joint Powers Board (the "JPB"), at a duly noticed joint public hearing,  
24 considered the certification of the final environmental impact statement/environmental impact  
25 report for the Project (the "Final EIS/EIR") (SCH No. 95063004), which consisted of the draft

1 EIS/EIR, the Draft Summary of Comments and Responses, revisions to the draft EIS/EIR, and  
2 related documents; and

3 WHEREAS, On April 22, 2004, in Motion No. 16773, the Commission found that the  
4 contents of the Final EIS/EIR and the procedures through which it was prepared, publicized,  
5 and reviewed complied with the provisions of the California Environmental Quality Act (Cal.  
6 Public Resources Code sections 21000 et seq. ["CEQA"]), the State CEQA Guidelines (Cal.  
7 Code of Regulations Title 14, sections 15000 et seq. ["CEQA Guidelines"]), and Chapter 31 of  
8 the San Francisco Administrative Code ("Chapter 31"); and

9 WHEREAS, By Motion No. 16773, the Commission also found that the Final EIS/FEIR  
10 reflected its independent judgment and analysis and was adequate, accurate, and objective,  
11 and certified the Final EIR in compliance with CEQA, the CEQA Guidelines, and Chapter 31.  
12 Motion No. 16773 is on file with the Clerk of the Board in File No. 040616 and is incorporated  
13 by reference; and

14 WHEREAS, On April 22, 2004, in Motion No. 16773, the JPB also certified the Final  
15 EIR and made findings similar to those of the Commission in regard to CEQA and the CEQA  
16 Guidelines. Motion No. 16773 is on file with the Clerk of the Board in File No. 040616 and is  
17 incorporated by reference; and

18 WHEREAS, On April 20, 2004, in Resolution No. 45-2004, the San Francisco  
19 Redevelopment Agency, at a duly noticed public hearing, also certified the Final EIR and  
20 made findings similar to those of the Commission and JPB in regard to CEQA and the CEQA  
21 Guidelines. Resolution No. 45-2004 is on file with the Clerk of the Board in File No. 040616  
22 and is incorporated by reference; and

23 WHEREAS, On April 22, 2004, at a duly noticed public hearing, the Transbay Joint  
24 Powers Authority (the "TJPA"), in Resolution No. 04-004, approved the components of the  
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1 Project within its jurisdiction. Resolution No. 04-004 is on file with the Clerk of the Board in  
2 File No.           and is incorporated by reference; and

3           WHEREAS, On June 15, 2004, at a duly noticed hearing concerning appeals of the  
4 Commission certification of the Final EIR, this Board affirmed the Commission's certification of  
5 the Final EIR and rejected the appeals in Motion No. 04-67. Motion No. 04-67 is on file with  
6 the Clerk of the Board in File No. 040629 and is incorporated by reference; and

7           WHEREAS, The Final EIS/EIR files and other Project-related Planning Department  
8 files are available for review by this Board of Supervisors and the public. The Planning  
9 Department files are available at 1660 Mission Street. Those files are part of the record  
10 before this Board of Supervisors and are incorporated by reference; now, therefore, be it

11           RESOLVED, That this Board of Supervisors finds on the basis of substantial evidence  
12 in light of the whole record that: (1) modifications incorporated into the Project and reflected in  
13 the Actions will not require important revisions to the Final EIS/EIR due to the involvement of  
14 new significant environmental effects or substantial increase in the severity of previously  
15 identified significant effects; (2) no substantial changes have occurred with respect to the  
16 circumstances under which the Project or the Actions were undertaken which would require  
17 major revisions to the Final EIS/EIR due to the involvement of new significant environmental  
18 effects, or a substantial increase in the severity of effects identified in the Final EIS/EIR; and  
19 (3) no new information of substantial importance to the Project or the Actions has become  
20 available since the Commission's certification of the Final EIR that would indicate (a) the  
21 Project or the Actions will have significant effects not discussed in the Final EIS/EIR;  
22 (b) significant environmental effects will be substantially more severe; (c) mitigation measures  
23 or alternatives found not feasible which would reduce one or more significant effects have  
24 become feasible; or (d) mitigation measures or alternatives which are considerably different  
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1 from those in the Final EIS/EIR would substantially reduce one or more significant effects on  
2 the environment; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors reviewed and considered the  
4 Final EIS/EIR and hereby adopts the Environmental Findings in Attachment A, which includes  
5 rejection of Project alternatives, adoption of mitigation measures, and approval of a statement  
6 of overriding considerations in regard to significant unavoidable impacts. Attachment A also  
7 includes Exhibits 1 (Final EIS/EIR Mitigation Measures) and 2 (Transbay Terminal Project  
8 Mitigation Monitoring and Reporting Program); and, be it

9 FURTHER RESOLVED, That the Project fulfills the mandates of various local and  
10 State laws including San Francisco's Proposition H-Downtown Caltrain Station (November  
11 1999), Proposition K-San Francisco Transportation Sales Tax (November 2002), California  
12 Public Resources Code Section 5027.1 (a), and California Streets and Highways Code  
13 Sections 2704.04 (b) and 30914 (c), all of which concern reconstruction of the Transbay  
14 Terminal at its current site and the Terminal's accommodation of a Caltrain extension and  
15 high speed passenger rail line; and, be it

16 FURTHER RESOLVED, That the public interest and necessity require the acquisition  
17 by eminent domain by the City and County of San Francisco, a municipal corporation, of the  
18 following described real property and any and all improvements and fixtures thereon, situated  
19 in the City (the "Property")

<u>Assessor's Block No.</u>	<u>Lot Nos.</u>
20 3721	21 45A, 46, 53, 54

22 and, be it

23 FURTHER RESOLVED, That the City intends to use the Property for the TJPA's  
24 extension of the Caltrain to a new Transbay Terminal; and, be it

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1 FURTHER RESOLVED, That the Director of Planning in his letter dated \_\_\_\_\_,  
2 2004, a copy of which is on file with the Clerk of the Board of Supervisors in File No.\_\_\_\_\_,  
3 found that the acquisition of the Property is consistent with the City's General Plan and with  
4 the Eight Priority Policies of City Planning Code Section 101.1; and, be it

5 FURTHER RESOLVED, That the Board of Supervisors now adopts as its own and  
6 incorporates by reference the Director of Planning's findings of consistency with the City's  
7 General Plan and the Eight Priority Policies of City Planning Code Section 101.1; and, be it

8 FURTHER RESOLVED, That acquisition of the Property by eminent domain is  
9 planned or located in the manner that will be most compatible with the greatest public good  
10 and the least private injury; and, be it

11 FURTHER RESOLVED, That acquisition of the Property by eminent domain is  
12 necessary for the public use of the City for the Project; and, be it

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

15 FURTHER RESOLVED, That, as provided under Sections 37350.5, 37351, 37352,  
16 37352.1, 37353, 40401, 40404, and 65302(b) of the California Government Code, and  
17 Sections 1240.010 through 1240.050 of the California Code of Civil Procedure, which  
18 authorize the City to acquire the property by eminent domain, the City Attorney is hereby  
19 authorized and directed to commence proceedings in eminent domain against the owners of  
20 the Property, and any and all interests therein or claims thereto, for the condemnation thereof  
21 for the public use by the City for the Project.

1 RECOMMENDED:

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4 \_\_\_\_\_  
5 Maria Ayerdi, Executive Director, TJPA  
6 Under TJPA Commission Resolution No. \_\_\_\_\_

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11 Director of Property

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14 APPROVED AS TO FORM:

15 DENNIS J. HERRERA, City Attorney

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17 By: \_\_\_\_\_  
18 Deputy City Attorney

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