

1 [Annulling the Privilege to Occupy Certain Subsurface Encroachments Along the Central  
2 Subway Alignment]

3 **Resolution annulling the privilege to occupy certain subsidewalk basement**  
4 **encroachments along 4<sup>th</sup>, Ellis, Geary, Market, O'Farrell and Stockton streets to**  
5 **accommodate the construction of the Central Subway project.**

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7 WHEREAS, Design and construction of the 1.75-mile Central Subway ("Central  
8 Subway Project") is Phase 2 of the Third Street Light Rail Project; and,

9 WHEREAS, The Final Environmental Impact Statement/Environmental Impact Report  
10 ("FEIS/FEIR") for the two-phase Third Street Light Rail Project was completed in November  
11 1998 and analyzed a Central Subway Project alignment which used Third, Fourth, Harrison,  
12 Kearney, Geary and Stockton streets. Under this alignment, North of King Street, rail service  
13 would operate northbound on Third Street and southbound on Fourth Street, transitioning to  
14 subway operation between Brannan and Bryant streets ("Alternative 2"); and,

15 WHEREAS, Subsequent to the FEIS/FEIR, the Fourth/Stockton alignment was  
16 developed as an alternative to Alternative 2 that would operate exclusively on Fourth and  
17 Stockton streets ("Alternative 3"); and,

18 WHEREAS, The alignment under Alternative 3 consisted of two options, Alternative 3A  
19 and Alternative 3B, each of which would start at Fourth and King streets and would proceed  
20 north along Fourth Street to a portal where it would transition from surface to subway  
21 operation, continuing north under Fourth and Stockton Streets to a terminus in the vicinity of  
22 Stockton and Jackson streets. For option A, the portal would be located between Townsend  
23 and Brannan streets, while for option B, the portal would be located between Bryant and  
24 Harrison streets; and,

1           WHEREAS, The San Francisco Municipal Transportation Agency ("SFMTA") Board of  
2 Directors adopted Resolution No. 02-144 on June 7, 2005, which selected Alternative 3A as  
3 the Locally Preferred Alternative for the Central Subway Project; and,

4           WHEREAS, Following comments received during the public scoping process and  
5 preliminary cost estimates prepared for the Central Subway Project, the SFMTA Board of  
6 Directors adopted Resolution No. 08-029 on February 19, 2008 which replaced Alternative 3A  
7 with Alternative 3B as the Locally Preferred Alternative; and,

8           WHEREAS, a Supplemental Environmental Impact Statement/Environmental Impact  
9 Report ("SEIS/SEIR") was prepared to evaluate three options for the Central Subway Project:  
10 a No Project/Transportation Systems Management Alternative ("Alternative 1"), Alternative 2  
11 and Alternative 3; and,

12           WHEREAS, The San Francisco Planning Commission adopted Motion No. M-17668 on  
13 August 7, 2008, which certified completion of the Central Subway Final Supplemental  
14 Environmental Impact Report in accordance with the California Public Resources Code  
15 Sections 21000 et seq., (CEQA), Title 14 California Code of Regulations Sections 15000 et  
16 seq., and San Francisco Administrative Code Chapter 31 ; and,

17           WHEREAS, The SFMTA Board of Directors adopted Resolution No. 08-150 on August  
18 19, 2008, which adopted the Central Subway Project Alternative 3B, a construction variant to  
19 extend the tunnel another 2,000 feet north of Jackson Street, the CEQA Findings and  
20 Statement of Overriding Considerations for the SEIS/SEIR and the Mitigation Monitoring and  
21 Reporting Plan. The SEIS/SEIR, CEQA Findings, background reports, and other documents  
22 in the administrative record associated with the SEIS/SEIR collectively are on file with the  
23 Secretary of the Planning Commission, Secretary of the MTA Board of Directors, and the  
24 Clerk of the Board in File No. 081137. Said documents are incorporated herein by reference  
25 and form the basis for the decisions set forth herein; and,

1           WHEREAS, The Central Subway Project will construct three new underground subway  
2 stations (the "Stations"): the Moscone Station located adjacent to the Moscone Convention  
3 Center; the Union Square Market Street Station located at Stockton and O'Farrell streets; and  
4 the Chinatown Station located at Stockton and Jackson streets; and,

5           WHEREAS, SFMTA staff has determined that construction of the Union Square/Market  
6 Street Station will require that the utilities currently existing under the street must be relocated  
7 beneath the sidewalk ("Utility Relocation") in order to accommodate the construction of the  
8 Central Subway Project; and,

9           WHEREAS, Commencement of the Utility Relocation will require the City to reclaim  
10 use of thirteen (13) subsidewalk basements along the Central Subway Project alignment that  
11 encroach on the public right-of-way and are on property owned by the City; and,

12           WHEREAS, On October 14, 2008, the SFMTA notified the property owners adjacent to  
13 the 13 subsidewalk encroachments, by letter, of its intent to utilize the subsidewalk basement  
14 encroachments for the Central Subway Project, a copy of which letter is on file with the Clerk  
15 of the Board of Supervisors in File No.     , which is hereby declared to be a part of this  
16 Resolution as if set forth fully herein. Said properties are located on the following streets: 4<sup>th</sup>,  
17 Ellis, Geary, Market, O'Farrell and Stockton streets; and,

18           WHEREAS, The October 14, 2008 letter advised said property owners that they would  
19 need to vacate the subsidewalk encroachment by removing all personal property and facilities  
20 from the encroachment at their own expense; and,

21           WHEREAS, SFMTA sent said property owners additional correspondence on  
22 December 24, 2008 requesting that the adjacent property owners provide SFMTA with their  
23 plans for vacating the subsidewalk encroachment by January 16, 2009, a copy of which letter  
24 is on file with the Clerk of the Board of Supervisors in File No.     , which is hereby declared to  
25 be a part of this Resolution as if set forth fully herein. Responses to the aforementioned

1 letters and additional correspondence from SFMTA with the affected owners is on file with the  
2 Secretary of the MTA Board of Directors and is incorporated herein by reference; and,

3 WHEREAS, Section 106A.1.3 of the San Francisco Building Code provides, in relevant  
4 part, that the "Board of Supervisors reserves the right to suspend or annul the privilege of  
5 maintaining such subsidewalk space . . ."; and

6 WHEREAS, Annulment of the privilege to use the 13 subsidewalk basements  
7 encroaching on the public right of way along the subway alignment is necessary to  
8 accommodate the Central Subway Project; and

9 WHEREAS, SFMTA, the San Francisco Department of Public Works and the San  
10 Francisco Building Department acknowledge the need to reclaim the subsidewalk space  
11 occupied by the adjacent property owners and commit to work with adjacent property owners  
12 to facilitate the relocation of personal property from the subsidewalk encroachments. In  
13 addition, the Director of the Department of Building Inspection acknowledges the initiation of  
14 this process under the terms of the Building Code and the need to review permitting  
15 associated with the owners' vacation of removal of the encroachments; now, therefore, be it

16 RESOLVED, That Board of Supervisors does hereby revoke the privilege of using the  
17 subsidewalk space occupied by owners and/or tenants at the following parcels, identified by  
18 address, block and parcel number, adjoining the Central Subway Project alignment:

- 19 1. 212 Stockton Street, Block 309, Lot 011;
- 20 2. 150 Stockton Street, Block 313, Lot 018;
- 21 3. 101 Stockton Street, Block 314, Lots 001 and 002;
- 22 4. 55 Stockton Street, Block 327, Lots 001-003;
- 23 5. 39 Stockton Street, Block 327, Lot 004;
- 24 6. 19 Stockton Street, Block 327, Lot 005;
- 25 7. 1 Stockton Street, Block 327, Lot 025;

- 1           8. 24-34 Ellis Street, Block 327, Lot 008
- 2           9. 77-81 O'Farrell Street, Block 328, Lots 003 and 004;
- 3           10. 838 Market Street, Block 329, Lot 002;
- 4           11. 800-830 Market Street, Block 329, Lot 001;
- 5           12. 790 Market Street, Block 328, Lot 002;
- 6           13. 475 Fourth Street, Block 3762, Lot 032; and, be it

7           FURTHER RESOLVED, All actions heretofore taken by the officers of the City with  
8           respect to removal of the subsidewalk encroachments are hereby approved, confirmed and  
9           ratified, and the Director of Public Works, Director of SFMTA, and Director of the Department  
10          of Building Inspection are hereby authorized and directed to take any and all actions which  
11          they or the City Attorney may deem necessary or advisable in order to effectuate the purpose  
12          and intent of this Resolution.

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