

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

FOR YOUR INFORMATION SEE THE ATTACHED LEGISLATION

DATE SENT: January 6, 2010

FILE #: 091479

DESCRIPTION: Annuling the Privilege to Occupy Certain Subsurface Encroachments
Along the Central Subway Alignment

FROM:

- Budget & Finance
- City Operations & Neighborhood Services
- City & School District Select
- Government Audit & Oversight
- Land Use & Economic Development
- Rules
- Public Safety

This item is scheduled to be heard in Committee on: N/A

URGENT (response needed within one week) OR: No date set yet

Hearing or Legislation referred to:

- Building Inspection Commission *Charter Section D3.750-5*
- Ethics Commission *Campaign & Governmental Conduct Code Section 1.103*
- Historic Preservation Commission *Charter Section 4.135*
- Planning - Code Amendment *Planning Code Section 302(b) and 306(a) (90 days to respond)*
- Planning - Environmental review – 30 days to respond
- Planning - Environmental review (fees) *CEQA CA Public Resources Code § 21000 et seq – 10 days to respond*
- Planning - Interim Controls *Planning Code Section 306.7(c)*
- Retirement Board *Campaign & Governmental Code or Elections Code*
- Small Business Commission *M01-33*
- Youth Commission *Charter Section 3.720-2; Charter Section 4.124 (12 day to respond)*
- FYI – Planning Department
- FYI – Department of Public Works
- FYI – Department of Building Inspection

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 4th, 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: 4th,
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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