

56-09

1 [Settlement of Lawsuit]

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3 Ordinance authorizing settlement of the lawsuit filed by State of California, acting

4 through the Department of Transportation ("Caltrans") against the City and County of

5 San Francisco in exchange for the provision of an easement modification agreement

6 relocating certain access rights and otherwise preserving the pre-existing easement

7 rights of the City and County of San Francisco and making environmental findings; the

8 lawsuit was filed on June 29, 2006 in Alameda County Superior Court, Case No.

9 RG06277087, entitled State of California v. Foley, City and County of San Francisco, et

10 al.; other material terms of said settlement are set forth in the Stipulation For Judgment

11 in Condemnation and [Proposed] Judgment (and exhibits thereto), contained in Board

12 of Supervisors File No. 090212.

13

14 Be it ordained by the People of the City and County of San Francisco:

15 Section 1. The City Attorney is hereby authorized to settle the action entitled State of

16 California v. Foley, City and County of San Francisco, et al., Alameda County Superior Court

17 Case No. RG06277087 in exchange for an easement modification agreement relocating

18 certain access rights provided to the City and County of San Francisco ("CCSF") across

19 property owned by Catherine Foley (the "Property") by an easement indenture in favor of

20 CCSF dated August 7, 1924 from Daniel Sullivan and Annie M. Sullivan (the "1924

21 Easement"). The easement modification specifically permits CCSF to use a portion of certain

22 existing private roads previously restricted under the 1924 Easement. Except as specifically

23 set forth in the agreement of the parties, CCSF's rights under the 1924 Easement, including

24 its right to a 100-foot wide easement for electrical transmission lines, are not extinguished,

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1 and the 1924 Easement shall remain in full force and effect. Caltrans will pay CCSF's costs  
2 associated with the litigation of this Action; the parties shall each bear their own attorney fees.  
3 Additional terms of CCSF's agreement with Caltrans are contained in the Stipulation For  
4 Judgment in Condemnation and [Proposed] Judgment, contained in Board of Supervisors File  
5 No. 090212.

6 Section 2. The above-named action was filed in Alameda County Superior Court on  
7 July 29, 2006, and the following parties were named in the lawsuit: The People of the State of  
8 California (acting by and through the Department of Transportation); Catherine Foley; County  
9 of Alameda; Coleman Foley; First American Title Co.; AXA equitable Life Insurance Company;  
10 Wells Fargo Bank N.A.; Chevron Corporation; Pacific Gas and Electric Company and City  
11 and County of San Francisco.

12 Section 3: The action was brought by Caltrans in furtherance of a Caltrans highway  
13 improvement and utility project, seeking a fee interest in property located in unincorporated  
14 Alameda County. The affected property, owned by Catherine Foley ("Foley"), is encumbered  
15 by the 1924 Easement in favor of CCSF.

16 Section 4: Plaintiff and Foley have agreed to the terms of the Stipulation For Judgment  
17 in Condemnation and [Proposed] Judgment, contained in Board of Supervisors File No.  
18 090212, which terms are incorporated herein by this reference. The remaining parties to  
19 this action have been dismissed, or have disclaimed any interest in the property at issue in the  
20 action.

21 Section 5: By the terms of the proposed settlement, CCSF will receive improved  
22 access over the Foley Property, and Caltrans will be prohibited from interfering with CCSF's  
23 present or reasonable future uses of the Property.  
24  
25

1 Section 6: The San Francisco Public Utilities Commission approved this settlement by  
2 Resolution No. 09-0032 on February 10, 2009. A copy of that resolution is contained in Board  
3 of Supervisors File No. 090212 and is incorporated herein by this reference.

4 Section 7: Environmental Findings. The Planning Department has determined that the  
5 actions contemplated in this Ordinance are in compliance with the California Environmental  
6 Quality Act (California Public Resources Code sections 21000 et seq.). Said determination is  
7 on file with the Clerk of the Board of Supervisors in File No. 090212 and is  
8 incorporated herein by reference.

9  
10 APPROVED AS TO FORM AND  
11 RECOMMENDED:

12 DENNIS J. HERRERA  
13 City Attorney

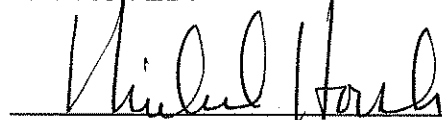
14   
15 KRISTEN A. JENSEN  
16 Deputy City Attorney

RECOMMENDED:

San Francisco Public Utilities Commission

17   
18 ED HARRINGTON  
19 General Manager  
20 San Francisco Public Utilities Commission

21 APPROVED:

22   
23 MICHAEL HOUSH  
24 Secretary  
25 San Francisco Public Utilities Commission



# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails

## Ordinance

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**File Number:** 090212

**Date Passed:**

Ordinance authorizing settlement of the lawsuit filed by State of California, acting through the Department of Transportation ("Caltrans") against the City and County of San Francisco in exchange for the provision of an easement modification agreement relocating certain access rights and otherwise preserving the pre-existing easement rights of the City and County of San Francisco and making environmental findings; the lawsuit was filed on June 29, 2006 in Alameda County Superior Court, Case No. RG06277087, entitled State of California v. Foley, City and County of San Francisco, et al.; other material terms of said settlement are set forth in the Stipulation For Judgment in Condemnation and [Proposed] Judgment (and exhibits thereto), contained in Board of Supervisors File No. 090212.

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March 31, 2009 Board of Supervisors — PASSED ON FIRST READING

Ayes: 1 - Alioto-Pier

April 7, 2009 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi

File No. 090212

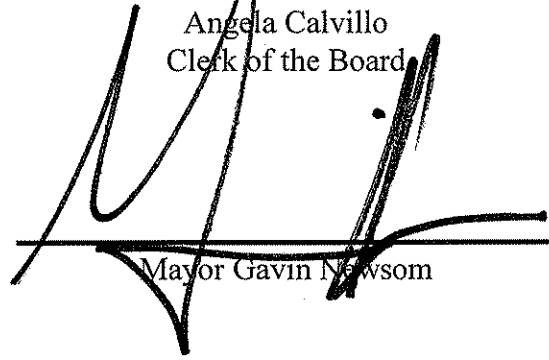
I hereby certify that the foregoing Ordinance was FINALLY PASSED on April 7, 2009 by the Board of Supervisors of the City and County of San Francisco.

4/17/09

Date Approved



Angela Calvillo  
Clerk of the Board



Mayor Gavin Newsom