[Affirming the Statutory Exemption Determination - SFMTA - COVID-19 Muni Rail Service Adjustments and Associated Street and Parking Changes]

Motion affirming the determination by the Planning Department that the proposed San Francisco Municipal Transportation Agency's (SFMTA) COVID-19 Muni Rail Service Adjustments and Associated Street and Parking Changes project is statutorily exempt from environmental review.

WHEREAS, On August 12, 2020, the Planning Department issued a statutory exemption determination for the San Francisco Municipal Transportation Agency's (MTA's) COVID-19 Muni Rail Service Adjustments and Associated Street and Parking Changes (Project) under the California Environmental Quality Act (CEQA, Public Resources Code, Sections 21,000 et seq.), the CEQA Guidelines (California Code of Regulations Title 14, Sections 15,000 et seq.) and Chapter 31 of the City's Administrative Code; and

WHEREAS, The Planning Department found that the Project is exempt from CEQA per CEQA, Section 21080(b)(4) and the CEQA Guidelines, Section 15269(c), which exempt projects “specific actions necessary to prevent or mitigate an emergency,” as well as per the CEQA Guidelines, Section 15275, which exempts “a mass transit project” that would “institut[e] or increase … passenger or commuter service on rail lines;” and

WHEREAS, CEQA defines an “emergency” as “a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate attention to prevent or mitigate loss of, or damage to, life, health, property, or essential public services;” and

WHEREAS, On February 25, 2020, Mayor London N. Breed issued a Proclamation Declaring the Existence of a Local Emergency, finding that the COVID-19 pandemic posed a threat to the lives, property or welfare of the City and County and its residents; and
WHEREAS, On March 6, 2020, the San Francisco Health Officer declared a public health emergency due to the COVID-19 pandemic and subsequently enacted Health Orders to protect the public health, including Health Order No. C19-07 (Stay Safer at Home), which requires individuals to maintain six feet of social distance from others not in their household; and

WHEREAS, In response to the COVID-19 public health emergency and shortly after San Francisco's Stay Safer at Home order was issued in March, the MTA implemented its COVID-19 Muni Core Service Plan, which allowed it to operate limited transit services and to allocate resources to the locations where they were most needed; and

WHEREAS, On March 30, 2020, as part of that initial COVID-19 Muni Core Service Plan, Muni Metro light rail service was closed, in order to minimize risk to front-line staff and the community and redirect custodial resources to other facilities; and

WHEREAS, As conditions have evolved and transit trips are expected to increase, the MTA proposed to modify COVID-19 Muni Core Service by scheduling the return of a modified Muni Metro rail service on August 22, 2020; and

WHEREAS, The proposal would allow the MTA to implement surface rail service for Muni lines that typically operated in the subway pre COVID-19 (specifically, the N Judah, the TM Oceanview, the LK Taraval-Ingleside, the L Taraval, the J Church, and the S Shuttle lines), thus facilitating longer train cars and adequate social distancing on train cars; and

WHEREAS, Implementation of the Project would require temporary changes to Muni transit stops, on-street vehicle parking and loading spaces, and traffic restrictions, particularly at the West Portal Station Area and at the J Church Termination Area, between 15th Street and Duboce Avenue; and

WHEREAS, These changes to traffic, transit stops, and parking are designed to facilitate the Muni service changes proposed by the Project, as well as to enable adequate
social distancing at transit stops by providing more space for riders to wait for, board, and
dismark the service routes; and

WHEREAS, Implementation of the Project would require temporary striping, signage on
existing poles or moveable signage, installation of safe-hit posts or other moveable barriers on
the ground, and the placement of wooden ADA platforms on the ground; no excavation would
be required; and

WHEREAS, The Project is temporary in nature, and would expire 120 days of the
repeal of the City’s proclamation of the COVID-19 local public health emergency; and

WHEREAS, On August 19, 2020, the MTA Director of Transit approved the Project;
and

WHEREAS, On August 20, 2020, the Statutory Exemption determination was posted in
the Planning Department’s website, as required by Chapter 31 of the Administrative Code;
and

WHEREAS, Two appeals were filed of the statutory exemption determination for the
Project with the Office of the Clerk of the Board of Supervisors: the first one on September 14,
2020, by Justin Zucker of Reuben, Junius & Rose, LLP on behalf of Safeway Inc., and the
second one on September 21, 2020, by David Pilpel (collectively, Appellants); and

WHEREAS, By memoranda to the Clerk of the Board dated September 23 and 29,
2020, the Planning Department’s Environmental Review Officer determined that the appeals
were timely filed; and

WHEREAS, On November 10, 2020, this Board held a duly noticed public hearing to
consider the appeal of the exemption determination filed by Appellants; and

WHEREAS, In reviewing the appeals of the exemption determination, this Board
reviewed and considered the exemption determination, the appeal letters, the responses to
the appeal documents that the Planning Department prepared, the other written records
before the Board of Supervisors and all of the public testimony made in support of and
opposed to the exemption determination appeals; and

WHEREAS, Following the conclusion of the public hearing, the Board of Supervisors
affirmed the exemption determination for the Project based on the written record before the
Board of Supervisors as well as all of the testimony at the public hearing in support of and
opposed to the appeals; and

WHEREAS, The written record and oral testimony in support of and opposed to the
appeals and deliberation of the oral and written testimony at the public hearing before the
Board of Supervisors by all parties and the public in support of and opposed to the appeals of
the exemption determination is in the Clerk of the Board of Supervisors File No. 201116, and
is incorporated in this Motion as though set forth in its entirety; now, therefore, be it

MOVED, That the Board of Supervisors hereby adopts as its own and incorporates by
reference in this Motion, as though fully set forth, the exemption determination; and, be it

FURTHER MOVED, That the Board of Supervisors finds that based on the whole
record before it there are no substantial Project changes, no substantial changes in Project
circumstances, and no new information of substantial importance that would change the
conclusions set forth in the exemption determination by the Planning Department that the
Project is exempt from environmental review; and, be it

FURTHER MOVED, That after carefully considering the appeal of the exemption
determination, including the written information submitted to the Board of Supervisors and the
public testimony presented to the Board of Supervisors at the hearing on the exemption
determination, this Board concludes that the Project qualifies for an exemption determination
under CEQA.
Motion affirming the determination by the Planning Department that the proposed San Francisco Municipal Transportation Agency's (SFMTA) COVID-19 Muni Rail Service Adjustments and Associated Street and Parking Changes project is statutorily exempt from environmental review.

November 03, 2020 Board of Supervisors - CONTINUED
  Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

November 10, 2020 Board of Supervisors - APPROVED
  Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

File No. 201117

I hereby certify that the foregoing Motion was APPROVED on 11/10/2020 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board