Resolution conditionally approving submission of one-eighth of one percent (0.125%) retail transactions and use tax for Caltrain or its successor agency to use to support its immediate and long-term operational and capital costs, at an election to be held on November 3, 2020; and affirming the San Francisco Municipal Transportation Agency’s determination under the California Environmental Quality Act.

WHEREAS, The Peninsula Corridor Joint Powers Board ("JPB") is a joint exercise of powers authority duly formed pursuant to the October 3, 1996, joint powers agreement between the City and County of San Francisco, the San Mateo County Transit District ("SMCTD"), and the Santa Clara Valley Transportation Authority ("VTA") (together, the "Member Agencies"); and

WHEREAS, The JPB operates the Caltrain passenger rail service between San Francisco, California and Gilroy, California, currently serving 32 stations along the 77-mile corridor; and

WHEREAS, Since its inception, the JPB has had no dedicated source of funding other than passenger fares and, instead, relies on contributions from its Member Agencies to fill minimum financial requirements in its operating and capital budgets under two different funding formulas; and

WHEREAS, For capital costs, each of the Member Agencies (a) contributes an equal amount of capital funding each year and (b) supplements operating funding based on the percentage of system ridership originating in each County; and

WHEREAS, The levels of both capital and operating funding are determined by the funding capacity of the Member Agency with the least ability to provide its share of funding in
any given year, and the amount that Member Agency can make available then becomes the
standard against which the contributions of the other Member Agencies are calculated; and
WHEREAS, This approach fosters an uncertain financial and planning environment for
the JPB, which is exacerbated by continually-escalating operating, maintenance and repair
costs, thereby keeping the JPB from operating at service levels that meet the rising passenger
demands for Caltrain service; and
WHEREAS, Caltrain, the seventh largest commuter rail service in the nation, operates
the most efficient such service based on costs per passenger mile, and has the highest
farebox recovery rate of all the commuter rail services nationwide at 70%, which reflects the
proportion of operating costs funded by passenger fares; and
WHEREAS, The JPB is facing significant and ever-increasing structural funding
shortfalls, which impact its ability to meet its operational needs, address its state of good
repair requirements and undertake necessary capital improvements to sustain the Caltrain
service; and
WHEREAS, The JPB has embarked upon a project to electrify its right of way between
San Francisco and San Jose, which will transform the Caltrain service into a more
environmentally sustainable, quiet and nimble operation commencing in 2022; and
WHEREAS, Although the electrified Caltrain service will eliminate the costs of diesel
fuel, Caltrain will confront new system and technological costs for operation and maintenance
of the electrified system, the electrical multiple unit rail cars, and the positive train control
system; and
WHEREAS, To provide a means to address the JPB’s financial challenges, in 2017 the
Governor signed Senate Bill No. 797, introduced by Senator Jerry Hill, authorizing the JPB to
implement a new retail transactions and use tax of up to 0.125 percent in San Francisco, San
Mateo, and Santa Clara Counties (together, the "Counties") if (i) the Board of Directors of the
JPB adopts a resolution submitting the measure to the voters, (ii) the submission of the measure to the voters is approved by the Boards of Supervisors in the Counties, (iii) the submission of the measure to the voters is approved by a majority vote of the governing boards of the San Francisco Municipal Transportation Agency ("SFMTA"), the SMCTD, and VTA, and (iv) the tax is adopted by a two-thirds vote of the three Counties' voters; and

WHEREAS, The revenues derived from the one-eighth cent sales tax will provide a dedicated fund source to support the operational and capital cost of the service; and

WHEREAS, More specifically, the tax revenues from this measure will be prioritized:

• To support the operation of Caltrain service levels throughout the corridor from San Francisco to Gilroy, including, but not limited to, expanded service and increased capacity realized through the operation of an electrified system; the required support includes the maintenance of equipment, infrastructure and systems necessary to sustain and expand the service;

• To support the infrastructure, rolling stock, and capital projects necessary to advance the expansion of the Caltrain peak hour service from 6 trains per hour per direction to 8 trains per hour per direction, as well as the expansion of the Gilroy service to a minimum of five morning and five afternoon trains; and

• To develop and implement programs to expand access to the Caltrain service and facilitate use of the system by passengers of all income levels, including establishing an affordability program with consideration of discounted passes and/or additional means-based fare discounts informed by Caltrain’s Means Based Fare Pilot Program; and

WHEREAS, Revenues will also be available to help leverage other local, regional, state and federal investments to advance capital projects necessary to implement the Caltrain Business Plan’s 2040 Service Vision, adopted by the JPB on October 3, 2019; these projects include, but are not limited to: the San Francisco Downtown Extension project including the
Pennsylvania Avenue alignment, the extension of electrified train service to Gilroy, and grade separations throughout the corridor; and

WHEREAS, On March 10, 2020, the SFMTA, under authority delegated by the Planning Department, determined that the approval of the Peninsula Corridor Joint Powers Board's placement of a tax on the ballot is not a “project” under the California Environmental Quality Act (“CEQA”) pursuant Title 14 of the California Code of Regulations, Sections 15060(c) and 15378(b); and

WHEREAS, A copy of the CEQA determination is on file with the Clerk of the Board of Supervisors in File No. 200793, and is incorporated herein by reference; and

WHEREAS, This tax measure is a district measure governed by the California Elections Code, Division 9, Chapter 4, Section 9300, et seq.; and

WHEREAS, Under California Elections Code, Section 9313, the Santa Clara County Counsel's Office shall prepare the impartial analysis of this tax measure for inclusion in San Francisco's Voter Information Pamphlet, shall make the impartial analysis available for public review for ten days, and shall submit the impartial analysis and available translations of that impartial analysis to the San Francisco Department of Elections; and

WHEREAS, The San Mateo County Registrar of Voters shall serve as the district elections official for this tax measure, shall make the tax measure’s legal text and arguments available for public examination for ten days, and shall submit the final materials to the San Francisco Department of Elections; and

WHEREAS, The JPB shall reimburse the San Francisco Department of Elections for its incremental costs incurred due to the inclusion of this tax measure in the City and County of San Francisco's Voter Information Pamphlet, ballots, and associated materials; and

WHEREAS, As required by California Revenue and Taxation Code, Section 7286.65(b), this Resolution evidences the San Francisco Board of Supervisors' (“Board's”)
approval for the JPB to place a sales tax measure before the voters of the three Counties to provide the JPB (or its successor agency) with a steady stream of funding to support the annual operating, maintenance, and capital needs of an electrified Caltrain service with increased frequency and capacity, which in turn will reduce traffic congestion and air pollution in the three Counties, subject to the conditions set forth in subparagraphs a) through f); now, therefore, be it

RESOLVED, That the San Francisco Board of Supervisors approves placement by the Peninsula Corridor Joint Powers Board of a regional measure on the November 3, 2020, ballot in Santa Clara, San Mateo and San Francisco Counties to impose a one-eighth of one percent (0.125%) retail transactions and use tax for a period of thirty (30) years, throughout the three Counties, to enable Caltrain (or its successor agency) to fund operating and capital expenses of the Caltrain rail service, and support the operating and capital needs required to implement the Service Vision adopted by the JPB on October 3, 2019, as part of the Caltrain Business Plan; and, be it

FURTHER RESOLVED, That the Board’s approval of placement of the Caltrain tax measure on the November 3, 2020 ballot is subject to the following conditions:

a) That the SFMTA, SMCTD, VTA, the San Francisco Board of Supervisors, San Mateo County Board of Supervisors, Santa Clara Board of Supervisors, and the JPB Board of Directors (“JPB Board”) approve placement of the Caltrain tax measure on the November 3, 2020 ballot in the Counties subject to the conditions set forth in paragraphs a) – f) of this resolution, and include these conditions in their resolutions approving the placement of the Caltrain tax measure on the November 3, 2020 ballot;

b) That all Caltrain tax revenue shall be held in a special escrow account under the sole and absolute control of the JPB Board, which may be disbursed by the JPB...
with the approval of a two-thirds majority of the JPB Board at any time, until such
time as the JPB Board has amended the Joint Powers Agreement by a two-thirds
vote to modify its governance structure or procedures, at which time the JPB Board
may transfer all funds held in the special escrow account to any other accounts held
by JPB, and may authorize the unrestricted use of these and all subsequent sales
tax revenues for operating or capital expenditures as authorized by the Caltrain tax
measure;

c) That notwithstanding subparagraph b), if Caltrain receives less than $40 million in
Federal or other emergency relief funds between the date of JPB approval of the
Caltrain tax measure and the effective date of the Caltrain tax measure, the first $40
million collected, minus an amount equal to any emergency relief funds received by
Caltrain during that period, shall be used to offset member operating contributions
and help replace COVID-related fare losses, maintain essential services, and fund
operating budgets as approved by the JPB Board;

d) That if the JPB Board has not amended the Joint Powers Agreement by a two-thirds
majority by September 30, 2021 to modify its governance structure or procedures,
the JPB shall release up to $40 million from the special escrow account to maintain
essential services and fund operating budgets as approved by the JPB Board, with
the remaining sales tax funds held in the special escrow account until completion of
the Caltrain Electrification Project or December 31, 2022, whichever occurs later, at
which point funds from the special escrow account may be used for any eligible
purpose authorized by the JPB Board with a two-thirds majority, as provided by
paragraph b);

e) That if the JPB Board has not amended the Joint Powers Agreement by a two-thirds
majority by December 31, 2022 to modify its governance structure or procedures,
the JPB shall work with the State Legislature to modify the JPB’s governance structure or procedures in the 2023 Legislative session; and

f) That the JPB Board shall appoint an independent special counsel and auditor (and shall not have the same counsel and auditor as SMCTD) within 90 days of placement of the Caltrain tax measure on the November 3, 2020 ballot, to represent the JPB in all future matters.
Resolution conditionally approving submission of one-eighth of one percent (0.125%) retail transactions and use tax for Caltrain or its successor agency to use to support its immediate and long-term operational and capital costs, at an election to be held on November 3, 2020; and affirming the San Francisco Municipal Transportation Agency’s determination under the California Environmental Quality Act.

July 28, 2020 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE
Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

July 28, 2020 Board of Supervisors - ADOPTED AS AMENDED
Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

I hereby certify that the foregoing Resolution was ADOPTED AS AMENDED on 7/28/2020 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

Date Approved: 7.30.20