

1 [Affirming the Statutory Exemption Determination - MTA’s Panhandle Social Distancing and
2 Safety Project]

3 **Motion affirming the determination by the Planning Department that the Municipal**
4 **Transportation Agency's Panhandle Social Distancing and Safety Project is statutorily**
5 **exempt from environmental review.**

6
7 WHEREAS, July 16, 2020, the Planning Department issued a statutory exemption
8 determination for the Municipal Transportation Agency's (MTA’s) Panhandle Social Distancing
9 and Safety Project (Project) under the California Environmental Quality Act (CEQA, Public
10 Resources Code Sections 21,000 et seq.), the CEQA Guidelines (California Code of
11 Regulations Title 14, Sections 15,000 et seq.) and Chapter 31 of the City’s Administrative
12 Code; and

13 WHEREAS, The Planning Department found that the Project is exempt from CEQA per
14 CEQA, Section 21080(b)(4), and the CEQA Guidelines, Section 15269(c), which exempt
15 projects “specific actions necessary to prevent or mitigate an emergency;” and

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

19 WHEREAS, On February 25, Mayor London Breed issued a Proclamation Declaring
20 the Existence of a Local Emergency, finding that the COVID-19 pandemic posed a threat to
21 the lives, property or welfare of the City and County and its residents; and

22 WHEREAS, On March 6, 2020, the San Francisco Health Officer declared a public
23 health emergency due to the COVID-19 pandemic and subsequently enacted Health Orders
24 to protect the public health, including Health Order No. C19-07 (Stay Safer at Home), which
25

1 requires individuals to maintain six feet of social distance from others not in their household;
2 and

3 WHEREAS, As a result of the COVID-19 public health emergency, the MTA proposed
4 the Project, a parking-protected bikeway on Fell Street between Baker Street and Shrader
5 Street, to provide relief to crowding on the multi-use paths within the Panhandle, a portion of
6 Golden Gate Park located on the east side between Oak, Fell, Baker, and Stanyan Streets;
7 and

8 WHEREAS, Before the COVID-19 public health emergency, the multi-use paths in the
9 Panhandle already carried high volumes of bicyclists and pedestrians; and

10 WHEREAS, These paths are up to 12-feet wide; and

11 WHEREAS, Use of the Panhandle multi-use paths has increased as a result of the
12 COVID-19 public health emergency, which has made it difficult for pedestrians and bicyclists
13 to maintain the six feet of social distance required by the city's Public Health Order C19-07;
14 and

15 WHEREAS, Providing a parking protected bikeway on Fell Street adjacent to the
16 Panhandle gives bicycles an alternative route to the Panhandle paths, thereby providing relief
17 to the overcrowding and supporting social distancing between users within the Panhandle;
18 and

19 WHEREAS, As part of the Project, a westbound parking-protected bike lane would be
20 installed on the south side of Fell Street between Baker Street and Shrader Street, and would
21 run curbside with a painted buffer between cyclists and parking; and

22 WHEREAS, The installation of the parking-protected bike lane would include the
23 removal of one travel lane and the removal of approximately 12 parking spaces along Fell
24 Street between Baker and Shrader streets. No loading spaces would be removed; and

25

1 WHEREAS, Implementation of the project would require paint and the installation of
2 safe-hit posts. No excavation would be required; and

3 WHEREAS, Following installation, the MTA would monitor and evaluate conditions
4 along Fell Street and make adjustments, if necessary, to address travel circulation for all
5 modes as well as emergency response times; and

6 WHEREAS, The changes implemented as part of the Project are temporary and will
7 expire 120 days after the City's proclamation of the COVID-19 local emergency (dated
8 February 25, 2020) is lifted; and

9 WHEREAS, On July 15, 2020, the MTA Department Operation Center approved the
10 Project, under the authority delegated by the City Traffic Engineer; and

11 WHEREAS, On July 17, 2020, the Statutory Exemption determination was posted in
12 the Planning Department's website, as required by Chapter 31 of the Administrative Code;
13 and

14 WHEREAS, On August 14, 2020, an appeal of the Statutory Exemption determination
15 was filed by Mary Miles, on behalf of the Coalition for Adequate Review (Appellant); and

16 WHEREAS, By memorandum to the Clerk of the Board dated August 27, 2020, the
17 Planning Department's Environmental Review Officer determined that the appeal was timely
18 filed; and

19 WHEREAS, On September 29, 2020, this Board held a duly noticed public hearing to
20 consider the appeal of the exemption determination filed by Appellant; and

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

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

5 WHEREAS, The written record and oral testimony in support of and opposed to the
6 appeals and deliberation of the oral and written testimony at the public hearing before the
7 Board of Supervisors by all parties and the public in support of and opposed to the appeals of
8 the exemption determination is in the Clerk of the Board of Supervisors File No. 200987, and
9 is incorporated in this motion as though set forth in its entirety; now, therefore, be it

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

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

17 FURTHER MOVED, That after carefully considering the appeal of the exemption
18 determination, including the written information submitted to the Board of Supervisors and the
19 public testimony presented to the Board of Supervisors at the hearing on the exemption
20 determination, this Board concludes that the Project qualifies for an exemption determination
21 under CEQA.

22
23 n:\land\as2020\1900434\01477920.docx