

File No. 201115

Committee Item No. _____

Board Item No. 21

COMMITTEE/BOARD OF SUPERVISORS

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Committee: _____

Date: _____

Board of Supervisors Meeting

Date: November 3, 2020

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OTHER

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Prepared by: Lisa Lew

Date: October 30, 2020

Prepared by: _____

Date: _____

1 [Preparation of Findings to Reverse the Statutory Exemption Determination - SFMTA -
2 COVID-19 Muni Bus Service Adjustments and Associated Stop, Street, and Parking Changes]

3 **Motion directing the Clerk of the Board to prepare findings reversing the determination**
4 **by the Planning Department that the proposed San Francisco Municipal Transportation**
5 **Agency's COVID-19 Muni Bus Service Adjustments and Associated Stop, Street, and**
6 **Parking Changes project is statutorily exempt from environmental review.**

7
8 WHEREAS, On August 14, 2020, the Planning Department issued a statutory
9 exemption determination for the San Francisco Municipal Transportation Agency's (MTA's)
10 COVID-19 Muni Bus Service Adjustments and Associated Stop, Street, and Parking Changes
11 (Project) under the California Environmental Quality Act (CEQA, Public Resources Code,
12 Sections 21,000 et seq.), the CEQA Guidelines (California Code of Regulations Title 14,
13 Sections 15,000 et seq.) and Chapter 31 of the City's Administrative Code; and

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

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

22 WHEREAS, On February 25, 2020, Mayor N. London Breed issued a Proclamation
23 Declaring the Existence of a Local Emergency, finding that the COVID-19 pandemic posed a
24 threat to the lives, property or welfare of the City and County and its residents; and

1 WHEREAS, On March 6, 2020, the San Francisco Health Officer declared a public
2 health emergency due to the COVID-19 pandemic and subsequently enacted Health Orders
3 to protect the public health, including Health Order No. C19-07 (Stay Safer at Home), which
4 requires individuals to maintain six feet of social distance from others not in their household;
5 and

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

10 WHEREAS, Since implementation of the COVID-19 Muni Core Service Plan, there has
11 been an increase in the number of riders that are using transit for their essential trips; and

12 WHEREAS, To address that increased demand, the MTA proposes to modify its Muni
13 Core Service Plan by making bus service changes to increase the amount of transit service
14 provided, adding more frequent service on targeted routes would address crowding, pass-ups,
15 and improve physical distancing between riders onboard buses; and

16 WHEREAS, The project site consists of changes to 12 Muni bus routes spread across
17 several neighborhoods throughout San Francisco: 7 Haight-Noriega, 12 Pacific Community
18 Shuttle, 14 Mission, 28 19th Avenue, 37 Corbett, 38 Geary, 44 O'Shaughnessy, 45 Union-
19 Stockton, 48 Quintara-24th Street, 49 Van Ness-Mission, 54 Felton, 67 Bernal Heights; and

20 WHEREAS, In addition, the project would implement more frequent service to provide
21 more capacity for physical distancing between riders on the following routes: 8 Bayshore; 9
22 San Bruno; 9R San Bruno Rapid; 12 Pacific Community Shuttle; 14 Mission; 19 Polk; 22
23 Fillmore; 24 Divisadero; 25 Treasure Island; 28 19th Ave; 29 Sunset; 43 Masonic; and 44
24 O'Shaughnessy; and

1 WHEREAS, The Project also encompassed small parking and traffic changes to
2 implement these changes to the bus routes - for example, the creation of new bus zones and
3 removal of some parking spaces to that effect, or the creation of a left-turn lane; and

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

6 WHEREAS, On August 19, 2020, the Director of Transit approved the Muni Bus
7 Service adjustments; and

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

11 WHEREAS, Two appeals were filed of the statutory exemption determination for the
12 Project with the Office of the Clerk of the Board of Supervisors: the first one on September 14,
13 2020, by Justin Zucker of Reuben, Junius & Rose, LLP on behalf of Safeway Inc., and the
14 second one on September 21, 2020, by David Pilpel (collectively, Appellants); and

15 WHEREAS, By memoranda to the Clerk of the Board dated September 23 and 29,
16 2020, the Planning Department's Environmental Review Officer determined that the appeals
17 were timely filed; and

18 WHEREAS, On November 3, 2020, this Board held a duly noticed public hearing to
19 consider the appeal of the exemption determination filed by Appellants; and

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

25

1 WHEREAS, Following the conclusion of the public hearing, the Board of Supervisors
2 conditionally reversed the exemption determination subject to the adoption of written findings
3 of the Board in support of such determination based on the written record before the Board of
4 Supervisors, as well as all of the testimony at the public hearing in support of and opposed to
5 the appeal; and

6 WHEREAS, The written record and oral testimony in support of and opposed to the
7 appeal and deliberation of the oral and written testimony at the public hearing before the
8 Board of Supervisors by all parties and the public in support of and opposed to the appeal of
9 the exemption determination is in the Clerk of the Board of Supervisors File No. 201112, and
10 is incorporated in this Motion as though set forth in its entirety; now, therefore, be it

11 MOVED, That the Board of Supervisors directs the Clerk of the Board to prepare the
12 findings specifying the basis for its decision on the appeal of the exemption determination
13 issued by the Planning Department for the Project.

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Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date _____

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor inquires"
- 5. City Attorney request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Subject:

The text is listed below or attached:

Signature of Sponsoring Supervisor: _____

For Clerk's Use Only: