



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

Notice of Electronic Transmittal

Planning Department Response to the Appeal of Categorical Exemption for the SFMTA – 13th Street Eastbound Bicycle Facility Project

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DATE: June 19, 2017

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: Lisa Gibson, Environmental Review Officer – (415) 575-9032
Christopher Espiritu, Environmental Planner (415) 575-9022

RE: BOS File No. 170638 [Planning Case No. 2017-001180ENV]
Appeal of Categorical Exemption for the SFMTA – 13th Street Eastbound
Bicycle Facility Project

HEARING DATE: June 27, 2017

In compliance with San Francisco's Administrative Code Section 8.12.5 "Electronic Distribution of Multi-Page Documents," the Planning Department has submitted a multi-page response to the Appeal of Categorical Exemption for the SFMTA – 13th Street Eastbound Bicycle Facility Project [BF 170638] in digital format. Hard copies of this response have been provided to the Clerk of the Board for distribution to the appellants and project sponsor by the Clerk of the Board. A hard copy of this response is available from the Clerk of the Board. Additional hard copies may be requested by contacting the Christopher Espiritu of the Planning Department at 415-575-9022 or Christopher.Espiritu@sfgov.org.



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

Categorical Exemption Appeal

SFMTA – 13th Street Eastbound Bicycle Facility Project

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DATE: June 19, 2017
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Lisa Gibson, Environmental Review Officer – (415) 575-9032
 Devyani Jain, Acting Deputy Environmental Review Officer – (415) 575-9051
 Wade Wietgreffe – (415) 575-9050
 Christopher Espiritu – (415) 575-9022
RE: Planning Case No. 2017-001180ENV
 Appeal of Categorical Exemption for SFMTA – 13th Street Eastbound Bicycle Facility Project
HEARING DATE: June 27, 2017
ATTACHMENTS: A – CEQA CATEGORICAL EXEMPTION DETERMINATION
 B – SFMTA BOARD RESOLUTION NO. 170418-050
 C – APPEAL LETTER

PROJECT SPONSOR: Jennifer Wong, Transportation Planner, San Francisco Municipal Transportation Agency (SFMTA), (415) 701-4551
APPELLANT: Mary Miles, Attorney for Coalition for Adequate Review

INTRODUCTION

This memorandum and the attached documents are a response to a letter of appeal to the Board of Supervisors (the “board”) regarding the Planning Department’s (the “department”) issuance of a Categorical Exemption under the California Environmental Quality Act (“CEQA Determination”) for the proposed San Francisco Municipal Transportation Agency (the “SFMTA”) – 13th Street Eastbound Bicycle Facility Project (the “project”).

The department, issued a categorical exemption for the project on April 10, 2017 finding that the project is exempt from further environmental review under the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 *et seq.*, as a Class 1 and Class 4 categorical exemption (14 Cal.Code Reg. §§ 15301 and 15304).

The decision before the board is whether to uphold the department’s decision to issue a categorical exemption and deny the appeal, or to overturn the department’s decision to issue a categorical exemption and return the project to the department for additional environmental review.

PROJECT DESCRIPTION

The SFMTA proposed the 13th Street Eastbound Bicycle Facility Project (the project). The project includes the reduction in one travel lane (from three to two lanes) on eastbound 13th Street, between South Van Ness Avenue and Folsom Street, and the creation of a new protected bicycle lane through changes to striping, signage, parking relocation and soft hit post installation along eastbound 13th Street, between Folsom Street and Bryant Street. Prior to project implementation, there were no existing bicycle facilities along eastbound 13th Street; the westbound direction of 13th Street between Folsom Street and Bryant Street has an existing Class IV bikeway (parking-protected bike lane).

Given the urgency of safety improvements, and following issuance of the CEQA Determination, approval of the project on April 18, 2017 and prior to the filing of this appeal, the SFMTA implemented Phase 1 of the project on eastbound 13th Street between South Van Ness Avenue and Bryant Street. Project implementation did not involve heavy construction; but rather involved restriping the existing roadway with paint, installing soft-hit posts along the bike lane and installing signage. Given the reversible nature of the signage, paint changes, and installation of soft-hit posts, if the Board of Supervisors upholds this appeal, 13th Street would be returned to its pre-project condition.

Overall, the project removed one travel lane on eastbound 13th Street to accommodate the eastbound bicycle lane. The project also relocated 15 and removed 35 existing on-street parking spaces, restriped portions of the street (i.e., lane marking changes), changed the color of curbs, installed signs within the project limits, installed soft-hit posts along the bike lane, and installed painted bicycle boxes at the intersections of Folsom Street/13th Street and Harrison Street/13th Street.

No excavation was required. Project construction, which included painting and soft-hit posts and sign installation lasted approximately 30 days, which was within the 60-day estimate described in the CEQA Determination. A subsequent phase which includes similar construction activities is anticipated to last approximately 30 days. The project is intended to help meet the City's adopted Vision Zero policy, which seeks to eliminate all traffic-related fatalities by 2024. The project is also intended to fulfill Mayor Edwin Lee's Executive Directive on Pedestrian and Bicycle Safety issued on August 4, 2016.

BACKGROUND

On January 26, 2017, Jennifer Wong, Transportation Planner with the SFMTA (hereinafter "project sponsor") filed an application with the department for a determination under CEQA of the proposed 13th Street Eastbound Bicycle Facility Project which would establish a new eastbound bikeway on 13th Street.

On April 10, 2017, the department determined that the project was categorically exempt under CEQA Class 1 – Existing Facilities and Class 4 – Minor Alterations to Land, and that no further environmental review was required.

On April 18, 2017, the SFMTA Board of Directors (the "SFMTA board") conducted a duly noticed public hearing at a regularly scheduled meeting. At that hearing, the SFMTA board approved the project by SFMTA Board Resolution No. 170418-050.

On May 18, 2017, an appeal of the categorical exemption determination was filed by Mary Miles, Attorney for the Coalition for Adequate Review. The one-page appeal letter from Ms. Miles incorporates by reference a public comment submitted to the SFMTA board on April 18, 2017 from Ms. Miles.

On May 24, 2017, in a letter to the Clerk of the Board of Supervisors, the Environmental Review Officer determined that Ms. Miles' appeal of the categorical exemption determination was timely, because an approval action (SFMTA Board Resolution No. 170418-050 had been taken for the project.

On June 16, 2017, Ms. Miles filed a supplemental brief related to the 13th Street appeal to the Clerk of the Board of Supervisors.

CEQA GUIDELINES

Categorical Exemptions

Section 21084 of the California Public Resources Code requires that the CEQA Guidelines identify a list of classes of projects that have been determined not to have a significant effect on the environment and are exempt from further environmental review.

In response to that mandate, the State Secretary of Resources found that certain classes of projects, which are listed in CEQA Guidelines Sections 15301 through 15333, do not have a significant impact on the environment, and therefore are categorically exempt from the requirement for the preparation of further environmental review.

CEQA State Guidelines Section 15301, or Class 1, provides an exemption from environmental review for minor alterations to "existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purposes of public safety)." This includes traffic channelization measures, minor restriping of streets (e.g., turn lane movements, painted buffers, and parking changes), and other improvements on existing streets.

Also, CEQA State Guidelines Section 15304, or Class 4, provides an exemption from environmental review for minor public or private alterations in the condition of land. Class 4(h) specifically provides an exemption from environmental review for the creation of bicycle lanes on existing rights-of-way. The project includes the installation of a new parking protected bicycle lane on existing eastbound 13th Street, between Folsom Street and Bryant Street.

In determining the significance of environmental effects caused by a project, CEQA State Guidelines Section 15064(f) states that the decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. CEQA State Guidelines 15604(f)(5) offers the following guidance: "Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial

evidence. Substantial evidence shall include facts, reasonable assumption predicated upon facts, and expert opinion supported by facts.”

APPELLANT CONCERNS AND PLANNING DEPARTMENT RESPONSES

The concerns raised in Ms. Miles’ May 18, 2017 appeal letter, and associated attached April 18, 2017 public comment letter, and June 16, 2017 supplemental brief, are cited below and are followed by the department’s responses.

Concern 1: The city’s failure to provide public notice and information on the project violates CEQA’s requirement of informed public participation in the decision making process, as well as open meeting and information requirements.

Response 1: The process by which the project was evaluated complies with applicable sections of CEQA, the CEQA Guidelines, and Chapter 31 of the Administrative Code.

The Appellant states that the department did not provide adequate public notice of a certificate of exemption from environmental review (“exemption certificate”) for the project (dated April 10, 2017). The appellant is incorrect. For all exemption determinations, such as the one prepared for the project, Administrative Code Section 31.08(e)(2) requires that when the Environmental Review Officer issues a “Certificates of Exemption from Environmental Review” a copy shall be posted in the “offices of the Planning Department and on the Planning Department website,” and copies mailed “to the applicant, board(s), commission(s), or department(s) that will carry out or approve the project.” Accordingly, the department duly posted a paper copy of the exemption at the Planning Information Counter as well as on the department’s website. Additionally, copies of the exemption were filed with Roberta Boomer, Secretary to the SFMTA Board of Directors.

Chapter 31 of the Administrative Code also requires the Environmental Review Officer to post on the department’s website the following: “(1) a project description in sufficient detail to convey the location, size, nature and other pertinent aspects of the scope of the proposed project as necessary to explain the applicability of the exemption; (2) the type or class of exemption determination applicable to the project; (3) other information, if any, supporting the exemption determination; (4) the Approval Action for the project, as defined in Section [31.04\(h\)](#); and (5) the date of the exemption determination.” (Administrative Code Section 31.08(e)(1)(A)).

Neither the CEQA statute nor the CEQA Guidelines require any notice of exemption determinations. The department met all of these above-noted requirements in issuing the exemption certificate for the project. The exemption certificate for the project was posted on the department’s website, <http://sf-planning.org/ceqa-exemptions-map>, on April 10, 2017. The department’s website includes a heading titled “Public Agency Exemptions,” with a table of exemptions for projects sponsored by public agencies and the exemption certificate for the project is included. The exemption certificate contains all of the information required by Administrative Code Section 31.08(e)(1)(A); that is, the five specific items mentioned above.

The appellant also contends that the exemption certificate should have been publicly noticed at least 72 hours in advance of SFMTA’s March 17, 2017 Public Hearing for Proposed Parking and Traffic Changes agenda in a readily accessible link. The appellant is incorrect. This public hearing is conducted by the SFMTA to solicit public input on color curb changes and traffic modification projects proposed by SFMTA. No discretionary action occurred at that hearing, and thus CEQA was not required to be completed before this hearing. Given no such discretionary action occurred at the March 17 Public Hearing for Proposed Parking and Traffic Changes, no CEQA determination was required for that hearing. Moreover, even if a discretionary approval had occurred, neither CEQA nor Chapter 31 of the Administrative Code requires posting notice 72 hours in advance of discretionary actions.

Administrative Code section 31(f)(1) did require the SFMTA to provide notice of public hearing on the Approval Action for the project. For this project, that Approval Action occurred when the SFMTA Board approved the project on April 18, 2017. The SFMTA met this requirement by providing a notice of meeting and calendar prior to the public hearing on the Approval Action for the project. In accordance with SFMTA’s Board Accessible Meeting Policy, written reports or background materials for calendar items are available for public inspection and copying at 1 South Van Ness Avenue, 7th Floor, during regular business hours and are available online at www.sfmta.com/board. Chapter 31 of the Administrative Code allows opportunities for appeal up to 30 days after an “Approval Action” occurs, which clearly indicates the appellant was informed of the project and its associated public hearing and exemption certificate, as evidenced by the appellant’s public comment letter on the project at the April 18th SFMTA board hearing, and the appellant’s timely filing of its appeal.

The appellant also contends the SFMTA did not undertake any outreach to the general public on this project. This is not a challenge to the environmental review of the project, and thus not properly a subject of this appeal. However, the following is provided for information purposes. Per SFMTA’s Public Outreach Notification Standards, every SFMTA project requires the following: (1) provide briefings to stakeholders as appropriate to the project, (2) distribute regular notifications and updates using the most effective tactics (i.e. blogs, fliers, phone calls), and (3) hold public meetings when applicable for the scope and complexity of the project. SFMTA staff conducted briefings in March 2017 with various stakeholders, ranging from local businesses to elected officials, communicating the following information: summary of the project goals and objectives, benefits and tradeoffs of the project, activities and impacts occurring as part of the project, and project planning and implementation timeline. SFMTA staff also provided updates using an assortment of communication channels including: email updates, partner lists, website updates, and blog posts.

Concern 2: The department failed to accurately state existing and project conditions.

Response 2: The department did accurately describe existing and project conditions and the appellant misunderstands the exemption certificate.

The appellant contends that the traffic volumes used to assess existing conditions are out of date. Specifically, the appellant claims that these traffic volumes are from the year 2015, and that the exemption certificate does not include the dates these traffic volumes were taken, the time of day, or who took them.

The appellant is incorrect and the exemption certificate does include information related to when and where the traffic counts were collected for the project's transportation analysis. For the project's transportation analysis, SFMTA provided the department with traffic counts collected for three intersections within the project limits: 13th and Folsom streets, 13th and Harrison streets, and 11th, 13th, Bryant, and Division streets. As stated on page 5 in the exemption certificate, the traffic counts were taken by the SFMTA in April 2016 during the p.m. peak hour (between 4:00 p.m. to 6:00 p.m.). More specifically, the traffic counts were taken on Tuesday April 19, 2016.¹ Pursuant the Planning Department's *Transportation Impact Analysis Guidelines*,² to assess normal weekday traffic, counts should be taken on a Tuesday, Wednesday, or Thursday and should be less than two years old. The traffic counts collected for the project's transportation analysis complied with this guidance.

The appellant also contends that the project is removing two, not one, travel lanes. The appellant misrepresents and misunderstands the project, which is accurately described and presented in the exemption certificate. The project would extend approximately 2,100 lineal feet (or less than 0.4 mile) along 13th Street. The existing roadway configuration for eastbound 13th Street, between South Van Ness Avenue and Bryant Street, includes three through travel lanes with a curbside parking lane. Between South Van Ness Avenue and Harrison Street, or for approximately two-thirds of the area covered by the project, the project would remove one eastbound travel lane. On the block between Harrison and Bryant streets, or for approximately one-third of the area covered by the project, the project would remove two eastbound travel lanes, but two travel lanes would still exist, one of which would be a dedicated left turn lane. Between Harrison and Bryant streets, Phase II of the project would add a second left turn lane, which would create a total of three eastbound travel lanes on 13th Street, the same as existing conditions.

The appellant also claims that 5,700 vehicles per hour travel on the existing roadway and that the project would result in the removal of 1,900 vehicles per hour, and thus that the city is required to identify and mitigate impacts related to such delay. The appellant misunderstands the transportation analysis and uses an outdated metric for assessing environmental impacts. As shown in table 1 of the exemption certificate, the existing eastbound pm peak hour volumes for each of the three study intersections are: 13th and Folsom streets, 705 vehicles; 13th and Harrison streets, 670 vehicles; and 11th, 13th, Bryant, and Division streets, 790 vehicles.³

As described in the exemption certificate, the department assessed the effects of the project's roadway capacity reduction for the purposes of understanding whether transit travel times would be substantially affected by project-related congestion delay. "The impact on transit travel times was assessed by comparing anticipated project effects on vehicle capacity along roadway segments where private vehicles and transit operate in mixed-flow travel lanes. The analysis was based on quantitative estimates of average vehicle capacity at intersections within the study area where the highest estimated number of

¹ The date referring to the year 2015 shown in table 1 of the exemption certificate is a clerical error. The correct date of April 2016 is described for the traffic counts in the text of the paragraph that follows Table 1 in the exemption certificate.

² Planning Department, *Transportation Impact Analysis Guidelines*, October 2002, http://sf-planning.org/sites/default/files/FileCenter/Documents/6753-Transportation_Impact_Analysis_Guidelines.pdf, accessed June 8, 2017.

³ This was a clerical error in the exemption certificate. The existing eastbound pm peak hour volume is 790 vehicles and the existing eastbound am peak hour volume is 1,012 vehicles. The existing eastbound pm peak hour traffic volume (790 vehicles) is therefore lower than the one indicated in the exemption certificate (1,012 vehicles).

vehicles were observed during the PM peak hour. This approach was used to assess whether the proposed project could substantially reduce capacity and thereby affect transit vehicles traveling through the study area.”

As described in the Highway Capacity Manual and the Institute of Traffic Engineer’s Traffic Engineering Handbook, the analysis used a traffic saturation flow rate of 1,900 passenger cars per hour per lane, which is a commonly used method for estimating the carrying passenger car capacity of a single travel lane on a given roadway. In other words, this number is an *estimate* of the passenger car capacity of each lane, not the *actual existing* passenger car volumes nor is it the *person throughput* capacity of each lane along eastbound 13th Street. As described above, the actual traffic counts are between 35 and 53 percent of the estimated capacity of *one lane*, not three lanes. In the case of the proposed project, the roadway passenger car capacity of eastbound 13th Street, between South Van Ness Avenue and Bryant Street, was estimated to be 5,700 passenger cars per hour (1,900 times three = 5,700). However, as noted above, the existing volumes for each of the three study intersections are: 13th and Folsom streets, 705 vehicles; 13th and Harrison streets, 670 vehicles; and 11th, 13th, Bryant, and Division streets, 1,012 vehicles. These existing traffic volumes are the baseline conditions against which the project’s impacts are analyzed.

Implementation of the proposed project would reduce the overall passenger car capacity for the 13th Street roadway to two travel lanes or 3,800 passenger cars per hour. This is below the existing traffic volumes documented at the three study intersections. Thus, with project implementation, the analysis determined that the 13th Street would continue to safely have adequate capacity, contrary to the appellant’s claims that the department’s exemption certification would adversely cause congestion and unsafe conditions at major intersections in the project area. Therefore, the project would not cause vehicles traveling on eastbound 13th Street to substantially divert to other nearby streets in the vicinity, which in turn could substantially affect transit travel times. Thus, the project was determined to have no significant impacts related to transit travel times.

Furthermore, pursuant to Planning Commission Resolution No. 19579, adopted March 3, 2016, the department does not use automobile delay as a consideration in assessing impacts on the environment pursuant to CEQA. The appellant is incorrect in stating that the department cannot remove automobile delay prior to adoption of new CEQA Guidelines by the state. CEQA encourages public agencies to develop standards and procedures necessary to evaluate their actions and therefore protect environmental quality, including adopting updated thresholds of significance. Through the Planning Commission resolution, the department, as a lead agency, did just that by removing automobile delay in assessing impacts on the environment pursuant to CEQA.⁴ No substantial evidence has been presented by the appellant to support the appellant’s claim that the project would result in automobile impacts. Regardless, the appellant’s claim of needing to identify and mitigate automobile delay is outdated and incorrect.

⁴ A more detailed discussion regarding this resolution is contained within the March 3, 2016 Executive Summary and associated attachments. Available online here: http://commissions.sfplanning.org/cpcpackets/Align-CPC%20exec%20summary_20160303_Final.pdf.

Concern 3: The department failed to adequately analyze cumulative conditions and the project would result in cumulative considerable impacts.

Response 3: The department's analysis of cumulative conditions is based upon substantial evidence, the project would not result in cumulative considerable impacts, and the appellant has not provided substantial evidence to indicate otherwise.

The approach used in the cumulative analysis for the project was established by applying a future growth of 15 percent in traffic volumes on the eastbound 13th Street roadway. The 2040 Baseline Conditions models were informed by pm peak hour traffic volumes collected for the project by SFMTA. Based on overlapping traffic volume data from nearby projects and other studies, SFMTA staff used the average growth in the study area's cumulative traffic volumes to ascertain the projected growth in vehicle traffic volumes, which was found to be 15 percent. Staff then applied a 15 percent increase to all intersection-level directional vehicle volumes in the Existing Conditions to generate the 2040 Baseline Conditions traffic volumes. This approach was similarly used in the environmental review for other projects such as Safer Market Street, 7th Street, 8th Street, and Turk Street.

The resulting 2040 cumulative traffic volumes for each project intersection were determined to be between 20 and 30 percent of the estimated 3,800-vehicle capacity of the eastbound 13th Street roadway, with implementation of the project. Based on the April 2016 observations of traffic volumes on eastbound 13th Street, the analysis determined that the project would not result in a substantial reduction in available roadway capacity along eastbound 13th Street such that it would lead to a substantial vehicular diversion to other nearby streets in the vicinity, which in turn could substantially affect cumulative transit travel times. Thus, the project was determined, combined with cumulative projects, to result in less-than-significant impacts related to transit travel times under 2040 cumulative conditions.

Furthermore, as described previously, the department does not use automobile delay as a consideration in assessing impacts on the environment pursuant to CEQA. Therefore, even if the project were to result in substantial automobile delay under 2040 cumulative conditions, the appellant's claim of needing to identify and mitigate automobile delay is outdated and incorrect.

Finally, the appellant's claims that the exemption ignores the City's 2009 Bicycle Plan Project is incorrect. The proposed project exhibits independent utility from the bicycle lane projects previously analyzed, including for cumulative conditions, under the 2009 Bicycle Plan EIR and subsequently constructed on portions of 14th, 16th, and 17th streets. The project has independent utility because it neither triggers the bicycle lane projects analyzed under the 2009 Bicycle Plan EIR nor relies on them. Additionally, cumulative impacts related to the proposed project have been adequately addressed in its environmental analysis. The project would not result in cumulative impacts, contrary to the appellant's claims.

Concern 4: No evidence exists to support that 13th Street is a high injury corridor for bicycling.

Response 4: Establishment of San Francisco’s Vision Zero High Injury Network is based upon empirical data and robust scientific methodology.

The appellant contends that there is no evidence to support SFMTA’s finding that 13th Street is a high injury corridor for bicyclists. This contention goes to the project merits and the rationale for adopting the project by the SFMTA Board, and does not raise any issues as to the adequacy or accuracy of the project’s environmental review. Thus, it is not a proper subject for this appeal. Nevertheless, the following is provided for informational purposes.

In February 2014, the San Francisco Municipal Transportation Agency and the San Francisco Board of Supervisors adopted Vision Zero as City policy, with a goal of zero traffic deaths for all modes, including cyclists, pedestrians, and motorists by 2024. The San Francisco Department of Public Health staff performed a comprehensive analysis in collaboration with SFMTA to identify streets where transportation-related injuries are most concentrated to inform targeted, data-driven safety improvements in support of San Francisco’s Vision Zero policy.

The analysis used collision records from the Statewide Integrated Traffic Records System over five-year periods. By geo-referencing and analyzing aggregated injury data, corridor patterns of injury emerged. The analysis found that transportation-related injuries (including those particularly related to bicycle injury collisions) are most concentrated on 12 percent of San Francisco’s local streets. The concentration of cyclist injury collisions along specific corridors of the city (including 13th Street) were resulted from several environmental-level risk factors including traffic volumes, traffic speeds, and other corridor-specific conditions contributing to bicycle traffic injury.

Concern 5: The project would result in air quality, greenhouse gases, energy consumption, public safety, including emergency vehicle movement, noise, and human impacts.

Response 5: The project would not result in air quality, greenhouse gases, energy consumption, public safety, emergency access, noise, and other (human) impacts.

As described in the exemption certificate, the project is categorically exempt from CEQA under Class 1 and 4 and would not involve any unusual circumstances. There is no substantial evidence to suggest that there exists a reasonable possibility of any significant direct or cumulative environmental effects as a result of the project, either from usual or unusual circumstances. The project would accordingly not result in air quality, greenhouse gases, energy consumption, public safety, emergency access, noise, and other (human) impacts.

As documented in the exemption certificate, the project would not exceed local and regional significance thresholds for emissions and other air pollutants or result in significant transportation impacts, including emergency vehicle access and public safety. The exemption certificate did not assess greenhouse gas emissions, energy consumption, or noise impacts. Given the nature of this project, substantial diversion

of vehicular travel or substantial construction would need to occur in order to result in substantial project-related impacts on these topics. Staff determined such an assessment was unnecessary because, as described above, it was determined that the project would not result in substantial diversion of vehicular travel in the project area and the project's construction activities were minor. The appellant has not provided substantial evidence to suggest that there exists a reasonable possibility of any significant impacts on these topics.

Concern 6: The Appellant contends that the project is not categorically exempt from CEQA.

Response 6: The project is categorically exempt from CEQA under Class 1 and 4 and would not involve any unusual circumstances and therefore a categorical exemption is the appropriate level of evaluation for the project.

The determination of whether a project is eligible for a categorical exemption is based on a two-step analysis: (1) determining whether the project meets the requirements of the categorical exemption, and (2) determining whether there are unusual circumstances at the site or with the proposal that would result in a reasonable possibility of a significant effect. The appellant claims that the project does not meet the requirements of the categorical exemption and that the project goes beyond the limited scope of applicable exemptions. However as explained below, the project was determined to be eligible for a categorical exemption under either of two different exemption classes, consistent with determinations for other projects in San Francisco with similar characteristics, and do not involve any unusual circumstances that could result in a reasonable possibility of a significant effect.

As described in the exemption certificate for the project, CEQA Guidelines Section 15301(c) or Class 1(c), and Section 15304(h), or Class 4(h), applies to the project. The project meets the criteria under Class 1 for minor alterations to existing facilities, including highways and streets, sidewalks, gutters, bicycle and pedestrian trails, traffic channelization measures, minor restriping of streets (e.g., turn lane movements, painted buffers, and parking changes). The appellant claims that because the project is changing the "use" of 13th Street by adding a bicycle facility, the project is not a minor alteration, and thus Class 1 does not apply. City streets have typically been used for a variety of purposes since their inception. These purposes often vary and may include standing, resting, walking, bicycling, and driving motor vehicles. This is acknowledged in San Francisco's Transit-First Policy, San Francisco Charter, Section 8A.115(a)(3), which states: "Decisions regarding the use of limited public street and sidewalk space shall encourage the use of public rights of way by pedestrians, bicycles, and public transit, and shall strive to reduce traffic and improve public health and safety." Here, the project has resulted in minor restriping and other changes that maintain the street as serving some of the aforementioned purposes. Therefore, the appellant is incorrect and the Class 1 exemption was properly applied.

The project also meets the criteria under Class 4, which involves the creation of bicycle lanes on existing rights-of-way. The appellant once again claims that the project is changing the use of the right-of-way and that the project is not a minor alteration, and thus the Class 4 does not apply. Specifically, the appellant states the 13th Street consists of three eastbound traffic lanes and a parking lane. Therefore, the project results in a change of this street's use. The appellant ignores the Class 4(h) language regarding

permitting or allowing the “creation of bicycle lanes on existing rights-of-way.” If one were to interpret the Class 4(h) language as the appellant suggests, it is unclear how any project that creates a bicycle lane on existing right-of-way, including this project, could meet this exemption. Therefore, the appellant is incorrect and the Class 4 exemption was properly applied.

Finally, the appellant has not described any unusual circumstances that are related to the project. CEQA Guidelines Section 15300.2(a) states that a categorical exemption is qualified by consideration of where the project is to be located; that is, a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. The appellant has not submitted any evidence to demonstrate that the project would result in individual or cumulative impacts under CEQA due to usual circumstances or that there are unusual circumstances involved with the project, as required by CEQA.

CEQA Guidelines Section 15300.2(c) states that a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. Overall as described throughout this appeal response, there is no substantial evidence to suggest that there exists a reasonable possibility of any significant direct or cumulative environmental effects as a result of the project, either from usual or unusual circumstances.

CONCLUSION

No substantial evidence supporting a fair argument that a significant environmental effect may occur as a result of the project has been presented that would warrant preparation of further environmental review. The department has found that the project is consistent with the cited exemption. The appellant has not provided any substantial evidence or expert opinion to refute the conclusions of the department.

For the reasons stated above and in the April 10, 2017 CEQA Categorical Exemption Determination, the CEQA Determination complies with the requirements of CEQA and the project is appropriately exempt from environmental review pursuant to the cited exemption. The department therefore recommends that the board uphold the CEQA Categorical Exemption Determination and deny the appeal of this CEQA Determination.

Attachment A

CEQA Categorical Exemption Determination



SAN FRANCISCO PLANNING DEPARTMENT

Certificate of Determination Exemption from Environmental Review

Case No.: 2017-001180ENV
 Project Title: **SFMTA – 13th Street Eastbound Bicycle Facility Project**
 Location: 13th Street between South Van Ness Avenue and Bryant Street
 Project Sponsor: Jennifer Wong, SFMTA – (415) 701-4551
 Staff Contact: Christopher Espiritu – (415) 575-9022
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PROJECT DESCRIPTION:

The San Francisco Municipal Transportation Agency (SFMTA) proposes the 13th Street Eastbound Bicycle Facility Project (proposed project). The proposed project would include the installation of a new bicycle facility on eastbound 13th Street, between South Van Ness Avenue and Bryant Street. Currently, there are no existing bicycle facilities along eastbound 13th Street; the westbound direction of 13th Street between Folsom Street and Bryant Street has an existing Class IV bikeway (parking-protected bike lane).

The proposed project would generally remove one travel lane along eastbound 13th Street to accommodate the proposed bicycle lane. The proposed project would also relocate and remove existing on-street parking, restripe portions of the street (i.e., lane marking changes), change the color of curbs, install signs within the project limits, and install painted bicycle boxes at the intersections of Folsom Street/13th Street, Harrison Street/13th Street, and Bryant Street/13th Street.

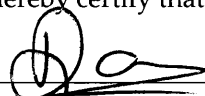
No excavation is required. Project construction, which includes painting and sign installation, is anticipated to last approximately 60 days. A subsequent phase which includes similar construction activities is anticipated to last approximately 30 days. The proposed project is intended to help meet the City’s adopted Vision Zero policy which seeks to eliminate all traffic-related fatalities by 2024. The proposed project is also intended to fulfill Mayor Ed Lee’s Executive Directive on Pedestrian and Bicycle Safety issued on August 4, 2016, as it relates to safety improvements on 13th Street. (Continued on page 2)

EXEMPT STATUS:

Categorical Exemption, Class 1 (California Environmental Quality Act [CEQA] Guidelines Section 15301) and Categorical Exemption, Class 4 (CEQA Guidelines Section 15304)

DETERMINATION:

I do hereby certify that the above determination has been made pursuant to State and local requirements.

for 
 Lisa M. Gibson
 Acting Environmental Review Officer

April 10, 2017
 Date

cc: Jennifer Wong, SFMTA
 Andrea Contreras, SFMTA

Virna Byrd, M.D.F.
 Supervisor Kim, District 5 (via Clerk of the Board)
 Supervisor Ronen, District 9 (via Clerk of the Board)

PROJECT DESCRIPTION (continued):

The objective of the proposed project is to improve safety conditions along 13th Street for bicyclists, pedestrians, and vehicles. The 13th Street corridor is on San Francisco's High Injury Network for vehicles and bicycles, a network of streets that experience a disproportionate number of bicycle collisions compared to other streets.¹

Within the project limits of South Van Ness Avenue and Bryant Street, 13th Street is a two-way street with a width of 120 feet, including 16-foot-wide sidewalks on both sides of the street. As shown in Figure 1 (Existing Conditions), the existing configuration of westbound 13th Street consists of: a 6-foot-wide bicycle lane, a 6-foot-wide painted buffer, an 8-foot-wide parking lane, two 10-foot-wide travel lanes, and an 8-foot-wide concrete median. The existing roadway configuration of eastbound 13th Street includes: two 10-foot-wide and one 12-foot-wide mixed-flow travel lanes, as well as an 8-foot-wide curbside parking lane.

The proposed project would not involve any changes to the existing westbound lanes along 13th Street. The proposed project would include changes to the eastbound lanes along 13th Street. Between Harrison Street and Bryant Street, the proposed project would include two phases.

The proposed project would maintain the width of the existing 120-foot-wide roadway, including the locations of the existing curbs (i.e., sidewalk widths). However, the proposed project would restripe the 13th Street roadway between South Van Ness Avenue and Bryant Street and remove an existing travel lane. As shown on Figure 2 (Proposed Conditions), on the segment between South Van Ness Avenue and Folsom Street, the project would result in a typical mid-block eastbound cross-section of (parentheses indicate change to existing conditions): two 10 ½-foot-wide mixed-flow travel lanes (a ½-foot increase in width each), a 9-foot-wide painted buffer (new), and a 10-foot-wide right turn pocket (new).

On the segment between Folsom Street and Harrison Street, the proposed project would result in a typical mid-block eastbound cross-section of (parentheses indicate change to existing conditions): two 10-foot-wide mixed-flow travel lanes (no change in width), a 2-foot-wide painted buffer (new), a 6-foot-wide bicycle lane (new), a 2-foot-wide painted buffer (new), and a 10-foot-wide right turn pocket (new). Figure 2 shows the proposed configuration on this segment of 13th Street.

In Phase I, on the segment between Harrison Street and Bryant Street, the proposed project would result in a mid-block eastbound cross-section of (parentheses indicate change to existing conditions): a 10-foot-wide left turn lane (new), a 10-foot-wide mixed-flow travel lane (no change in width), an 8-foot-wide parking lane (relocated), a 5-foot-wide painted buffer (new), and a 7-foot-wide bicycle lane (new).

¹ Memorandum - *Environmental Clearance for the 13th Street Eastbound Bicycle Facility Project* (February 17, 2017) from Jennifer Wong (SFMTA) to Christopher Espiritu (Environmental Planning - San Francisco Planning Department). This document is available for review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA 94103 as part of Case File No. 2017-001180ENV.

In Phase II, on the segment between Harrison Street and Bryant Street, the proposed project would result in a mid-block eastbound cross-section of (parentheses indicate change to Phase I conditions): two 10-foot-wide left turn lanes (no change in width), a 10-foot-wide mixed-flow travel lane (no change in width), and a 20-foot-wide through/right travel lane (new). The proposed Phase I and II conditions, between Harrison and Bryant streets, are shown in Figure 3.

As shown in Figures 4A and 4B (Striping Plans), the proposed project would include the removal of on-street parking (approximately 35 spaces) on 13th Street. The proposed project would not relocate or remove any existing commercial vehicle loading zones (yellow zones) or accessible parking spaces (blue zones) throughout the project limits.

Project Approvals

The proposed project is subject to internal review by SFMTA staff, a recommendation for approval by Transportation Advisory Staff Committee, Public Hearing with an SFMTA Hearing Officer, and finally approval by SFMTA Board. The proposed project is subject to notification through a Public Notice of Intent. If no objections are received to the Notice or the Public Hearing, the proposed project would be routed to the SFMTA Board of Directors for approval.

Approval Action: The Approval Action for the proposed project would be approval by the SFMTA Board of Directors, which approves the proposed roadway improvements to be implemented or constructed on the public right-of-way. The Approval Action date establishes the start of the 30-day appeal period for this CEQA exemption determination pursuant to Section 31.04(h) of the San Francisco Administrative Code.

EXEMPT STATUS (continued):

CEQA Guidelines Section 15301(c) or Class 1(c), provides an exemption from environmental review for minor alterations to “existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purposes of public safety).” This includes traffic channelization measures, minor restriping of streets (i.e., turn lane movements, painted buffers, and parking changes), and other improvements on existing streets. As described above, the proposed project includes these measures; therefore, the proposed project would be exempt from CEQA under Class 1(c).

In addition, CEQA State Guidelines Section 15304, or Class 4, provides an exemption from environmental review for minor public or private alterations in the condition of land. Class 4(h) specifically provides an exemption from environmental review for the creation of bicycle lanes on existing rights-of-way. The proposed project would include the installation of a new Class II and Class IV bicycle lane along eastbound 13th Street, between South Van Ness Avenue and Bryant Street. Therefore, the proposed project would also be exempt from CEQA under Class 4(h).

DISCUSSION OF ENVIRONMENTAL ISSUES:

CEQA Guidelines Section 15300.2 establishes exceptions to the application of a categorical exemption for a project. None of the established exceptions applies to the proposed project.

Guidelines Section 15300.2, subdivision (b), provides that a categorical exemption shall not be used where the cumulative impact of successive projects of the same type in the same place, over time, is significant. As discussed below under "Transportation" and "Air Quality" there is no possibility of a significant cumulative effect on the environment due to the proposed project.

Guidelines Section 15300.2, subdivision (c), provides that a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. As discussed below, there is no possibility of a significant effect on the environment due to unusual circumstances.

TRANSPORTATION

The proposed project was analyzed in a memorandum prepared by the SFMTA and reviewed by the Planning Department for transportation impacts in the study area.² The following relies on the analysis conducted in that memorandum, as well as additional supplemental analysis.

Transit Impacts

The proposed project is a transportation project and the project is not anticipated to induce growth that would generate new trips, including transit trips, unlike a land use development project. In addition, the proposed project would not change transit service (e.g., decrease service, such that capacity may increase). Thus, a transit capacity utilization analysis is not necessary in considering CEQA impacts. However, transit travel time may change due to project-related traffic congestion delay. As traffic congestion increases in the area, traffic delays could result in delays to transit while traveling along the transit route corridor if the transit vehicles share right-of-way with other vehicles (i.e., mixed-flow lanes).

The proposed project would include roadway modifications along eastbound 13th Street, between South Van Ness Avenue and Bryant Street, where no existing Muni bus routes operate. However, there are nearby bus routes (12-Folsom, 27-Bryant, 9-San Bruno) which operate along the intersecting streets of Folsom Street, Bryant Street, and Division Street. The proposed modifications along the 13th Street eastbound roadway would not affect existing bus stops for the abovementioned bus routes. While there are existing bus stops for Muni bus routes 12 (Folsom), 27 (Bryant), and 9 (San Bruno) within the project vicinity, the proposed project would not remove (or relocate) any existing bus stops for these bus routes.

The impact on transit travel times was assessed by comparing projected project effects on vehicle capacity along roadway segments where private vehicles and transit operate in mixed-flow travel lanes. The

² SFMTA Memorandum to Planning Department – 13th Street Eastbound Bicycle Facility Project, February 17, 2017. This document (and all other documents cited in this report, unless otherwise noted), is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, as part of Case File No. 2017-001180ENV.

analysis was based on quantitative estimates of average vehicle capacity at intersections within the study area where the highest estimated number of vehicles were observed during the PM Peak hour. This approach was used to assess whether the proposed project could substantially reduce capacity and thereby affect transit vehicles traveling through the study area.

Using Highway Capacity Manual assumptions, eastbound 13th Street has an estimated capacity of 1,900 vehicles per hour per lane. The existing eastbound 13th Street roadway, between South Van Ness Avenue and Bryant Street, consists of three travel lanes which was estimated to have vehicle capacity in one direction with 5,700 vehicles per hour. SFMTA analyzed the most recent traffic counts available for intersections within the project limits, as shown in Table 1 below.

Table 1 – Traffic Volumes (PM Peak)

Intersection	Traffic Control	Traffic Volumes (EB Direction)		
		Existing	Traffic Volume Growth	Cumulative 2040
13th and Folsom (2015)	Signal	705 vehicles	+ 106 vehicles	811 vehicles
13th and Harrison (2015)	Signal	670 vehicles	+ 101 vehicles	771 vehicles
11th/13th/Bryant/Division (2015)	Signal	1,012 vehicles	+ 152 vehicles	1,164 vehicles

Notes: - Existing Roadway Capacity = 5,700 vehicles per hour; Proposed Roadway Capacity = 3,800 vph

- Traffic volume growth was derived using a 15% average growth rate over a 20-year period of traffic in the area

Source: SFMTA - 13th Street Traffic Count Data, Andrea Contreras (SFMTA) to Christopher Espiritu (SF Planning), February 2017

With implementation of the proposed project, roadway capacity in the eastbound direction would be reduced to approximately 3,800 vehicles per hour. As observed by SFMTA on April 2016, the existing traffic volumes on each project intersection of 13th/Folsom (705 vehicles), 13th/Harrison (670 vehicles), and 13th/Bryant Streets (1,012 vehicles) traveling within the project limits would be accommodated by the roadway capacity (3,800 vehicles per hour) under the proposed roadway configuration.

In order to assess cumulative effects of the proposed project, SFMTA staff used the average growth in the study area's traffic volumes to ascertain the projected growth in vehicle traffic volumes. This growth was found to be approximately 15 percent. Staff then applied a 15 percent increase to all intersection-level directional vehicle volumes in the Existing Conditions to generate the 2040 Baseline Conditions traffic volumes.

As shown in Table 1 above, cumulative traffic volumes on each project intersection of 13th/Folsom (811 vehicles), 13th/Harrison (771 vehicles), and 13th/Bryant Streets (1,164 vehicles) traveling eastbound within the project limits would continue to be accommodated within the eastbound 13th Street roadway. The proposed roadway capacity of 1,900 vehicles per hour per eastbound lane (3,800 vehicles for two travel lanes) after implementation of the project would continue to provide adequate vehicle capacity on 13th Street in the future.

Given the capacity of the proposed eastbound roadway reconfiguration, it is not anticipated that vehicle trips would substantially divert to nearby streets that could substantially affect transit travel times on intersecting streets such as Folsom, Harrison, and Bryant streets. Thus, the proposed project would not substantially impede transit operations on intersecting streets where transit service operates. Therefore, given that the proposed project would not substantially affect transit operations, the transit impacts associated with the implementation of the project would be less than significant.

Pedestrian Impacts

The proposed project is not anticipated to induce growth that would generate new pedestrian trips. Therefore, the proposed project would not result in substantial overcrowding on nearby public sidewalks. In addition, the proposed project would not include sidewalk narrowing, roadway widening, or other conditions that could create potentially hazardous conditions or otherwise interfere with pedestrian accessibility to the site and adjoining areas.

13th Street is identified as a High Injury Corridor for vehicles and bicycles only. In addition, intersecting streets such as South Van Ness Avenue, Folsom Street, Harrison Street, and Bryant Street were also identified as a High Injury Corridor for vehicles and cyclists. The proposed project would not include any narrowing of existing sidewalks or other components that could negatively affect pedestrian circulation within the project area. Therefore, the proposed project would result in a less-than-significant impact to pedestrians.

Bicycle Impacts

The proposed project includes the installation of a new Class II and Class IV bicycle lane on 13th Street, between South Van Ness Avenue and Bryant Street. The proposed project would not generate new bicycle trips, but would continue to accommodate bicyclists traveling along nearby bicycle facilities (South Van Ness Avenue, Folsom Street, and Harrison Street). The proposed bicycle facility would create a new bicycle connection to other nearby bicycle facilities, including north-south bicycle facilities located on Folsom Street and Harrison Street and other east-west bicycle facilities on 11th Street and Division Street.

The proposed project would generally enhance cycling conditions along the eastbound 13th Street corridor. Provision of a new Class II and Class IV bicycle lane within the project limits would increase bicyclists' visibility. The dedicated 6-foot-wide bicycle lane, painted buffers and a physical separation from adjacent travel lanes, would reduce the potential for injury to bicyclists due to "dooring" (i.e., when a vehicle driver or passenger opens a door in the path of an oncoming bicyclist, causing a collision). Further, implementation of the proposed project would enhance bicycle circulation and safety within the project area, and improve connectivity with other east-west and north-south bicycle facilities. Thus, for these reasons, the impact of the proposed project on bicycle facilities and circulation would be less than significant.

Emergency Vehicle Access Impacts

In general, implementation of the proposed project would not hinder or preclude emergency vehicle access. Between South Van Ness Avenue and Bryant Street, two 10-foot-wide, mixed-flow travel lanes would be retained on eastbound 13th Street. Although this would not be considered a significant impact, the new Class II and Class IV bicycle lane on 13th Street would not include any raised separation that would restrict vehicles from accessing these lanes in the event of an emergency. The design of proposed project improvements, including the new bicycle lane would be reviewed by SFMTA's Transportation Advisory Staff Committee (TASC)³ prior to SFMTA approval and implementation. The Transportation Advisory Staff Committee will provide a recommendation for approval regarding the proposed project, which will include a review of applicable standards, including emergency vehicle access.

SFMTA staff conducted a field survey to collect the location of emergency assets (i.e., fire alarm box, low-pressure fire hydrant, high-pressure fire hydrant, stand pipe, valves). The proposed project would not include closures or modifications to any existing streets or entrances to nearby buildings. Therefore, the proposed project would not create conditions resulting in inadequate emergency vehicle access.

Overall, with implementation of the proposed project, adequate street widths, clearance, and capacity for emergency vehicle access would be maintained, and therefore, the proposed project's impact on emergency vehicle access would be less than significant.

Loading

As observed by SFMTA, there are no existing loading zones located along 13th Street. Further, the proposed project would not eliminate any existing loading zones located on intersecting streets such as South Van Ness Avenue, Folsom Street, Harrison Street, and Bryant Street.

Further, the proposed project would not create additional demand for loading. Given that the number of existing loading zones would not be reduced, the proposed project would not result in significant loading impacts.

AIR QUALITY

Criteria Air Pollutants

The proposed project would not generate any new vehicle trips in the project area. However, the proposed project would result in physical roadway changes along the extent of 13th Street, between South Van Ness Avenue and Bryant Street, where the reduction in roadway capacity and the reconfiguration of lane geometries would potentially alter travel patterns in and around the project area. As stated above, the proposed project would not generate additional vehicles trips, but reducing roadway capacity may result in increased delay at some locations, and therefore increased emissions of criteria pollutants or

³ SFMTA's Transportation Advisory Staff Committee is an interdepartmental committee that includes representatives from Public Works, SFMTA, the Police Department, the Fire Department, and the Planning Department.

ozone precursors would occur in those locations. These increases are likely to be minor because drivers would be expected to modify their travel routes, or in some cases change their travel modes. Any changes in travel mode to buses, bicycles, and/or walking would reduce vehicle-generated emissions that would otherwise occur. Furthermore, changes in criteria air pollutant and ozone precursor emissions are evaluated on an average daily and maximum annual basis. The proposed project would not generate new vehicle trips, would not divert a substantial number of trips to alternate corridors, and would increase delay at some intersections, thus the air quality impact related to vehicle delay at intersections would be relatively minor. Therefore, impacts would be less than significant.

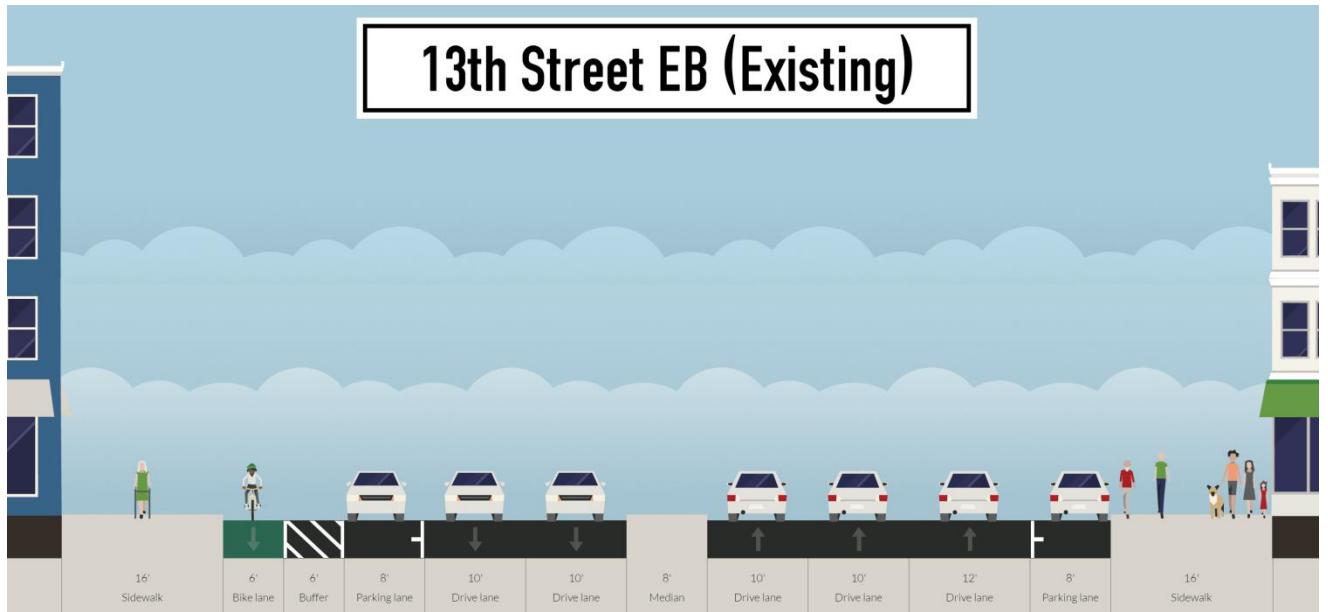
Overall, the proposed project would not result in significant impacts related to any environmental topics.

Conclusion. The proposed project satisfies the criteria for exemption under the above-cited classification(s). In addition, none of the CEQA Guidelines Section 15300.2 exceptions to the use of a categorical exemption applies to the proposed project. For the above reasons, the proposed project is appropriately exempt from environmental review.

Figure 1 – Existing Cross-Sections

13th Street EB Bicycle Facility Project

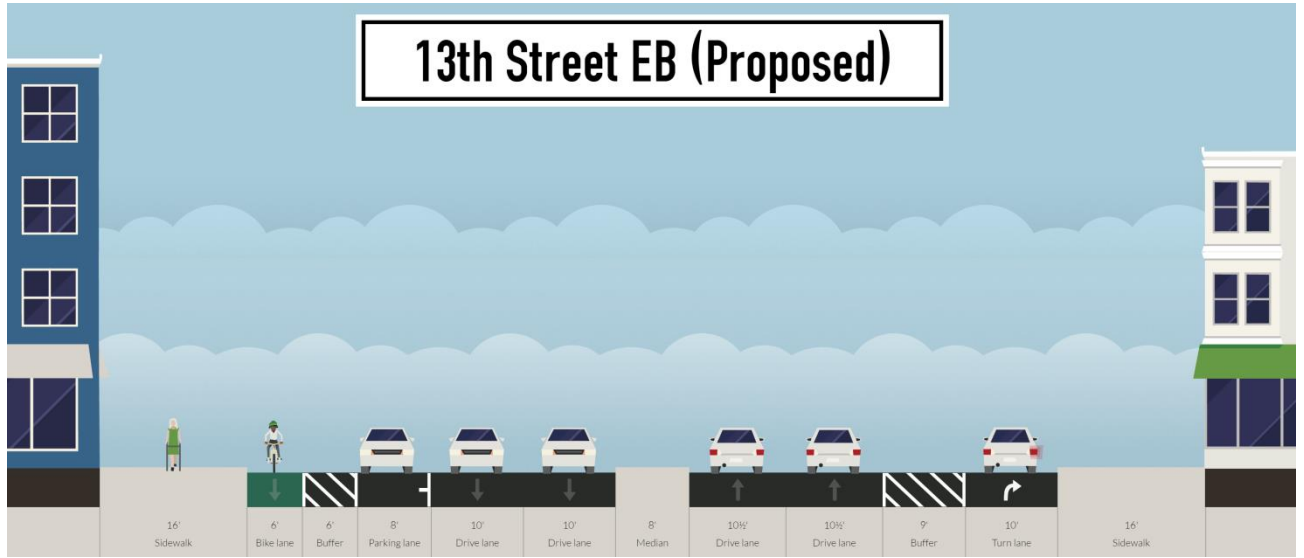
13th Street EB (Existing)



13th Street – Existing Conditions (Mid-block) (Between South Van Ness Avenue and Bryant Street)

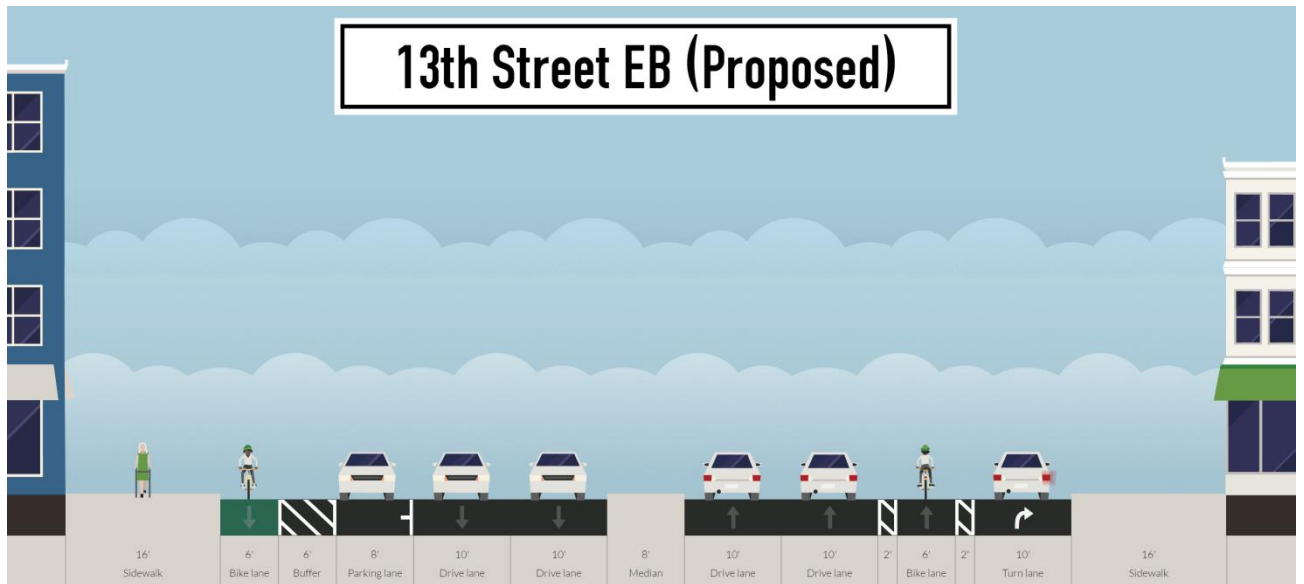
Figure 2 – Proposed Cross-Sections

13th Street EB Bicycle Facility Project



13th Street – Proposed Conditions (Mid-block)
(Between South Van Ness Avenue and Folsom Street)

Not to Scale

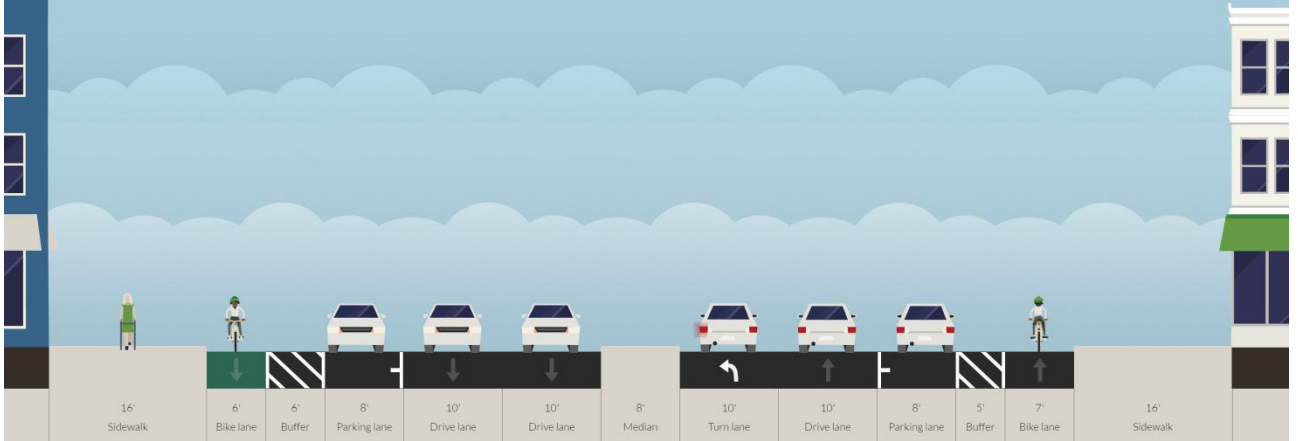


13th Street – Proposed Conditions (Mid-block)
(Between Folsom Street and Harrison Street)

Figure 3 – Proposed Cross-Sections

13th Street EB Bicycle Facility Project

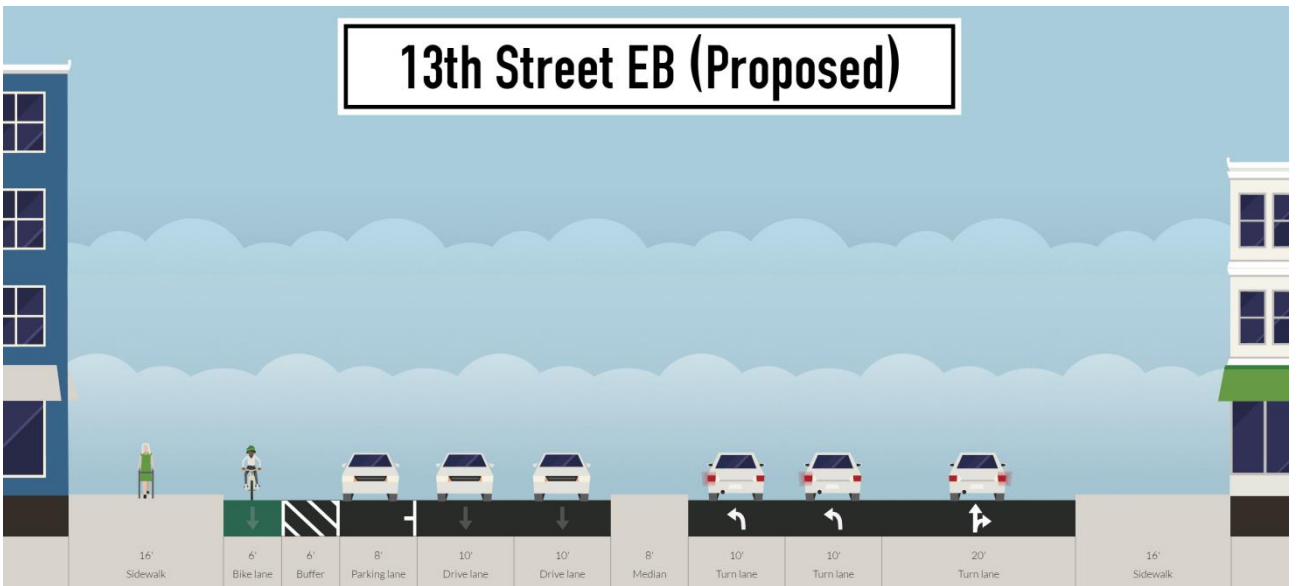
13th Street EB (Proposed)



13th Street – Proposed Conditions (Phase I)
(Between Harrison Street to Bryant Street)

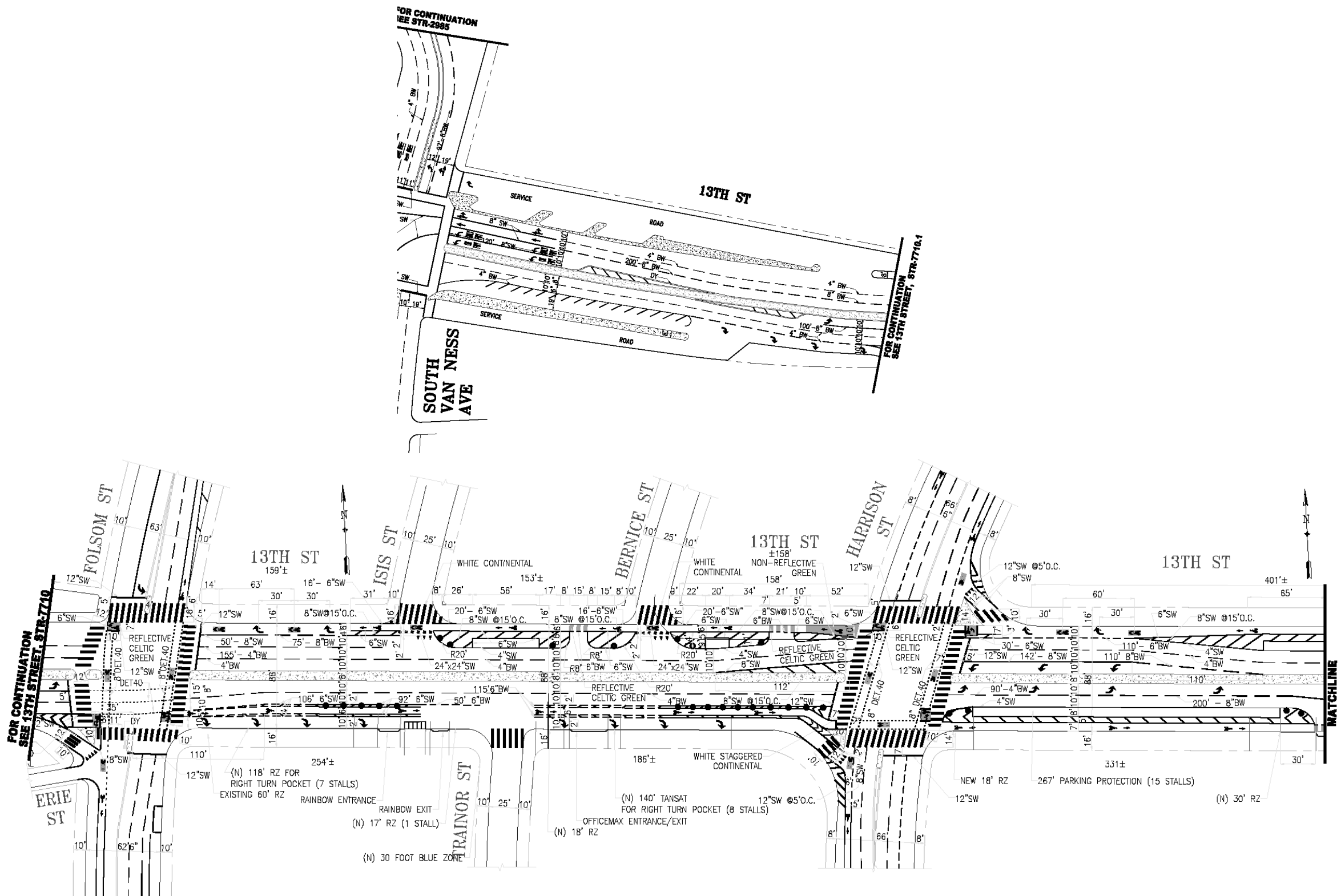
Not to Scale

13th Street EB (Proposed)



13th Street – Proposed Conditions (Phase II)
(Between Harrison Street and Bryant Street)

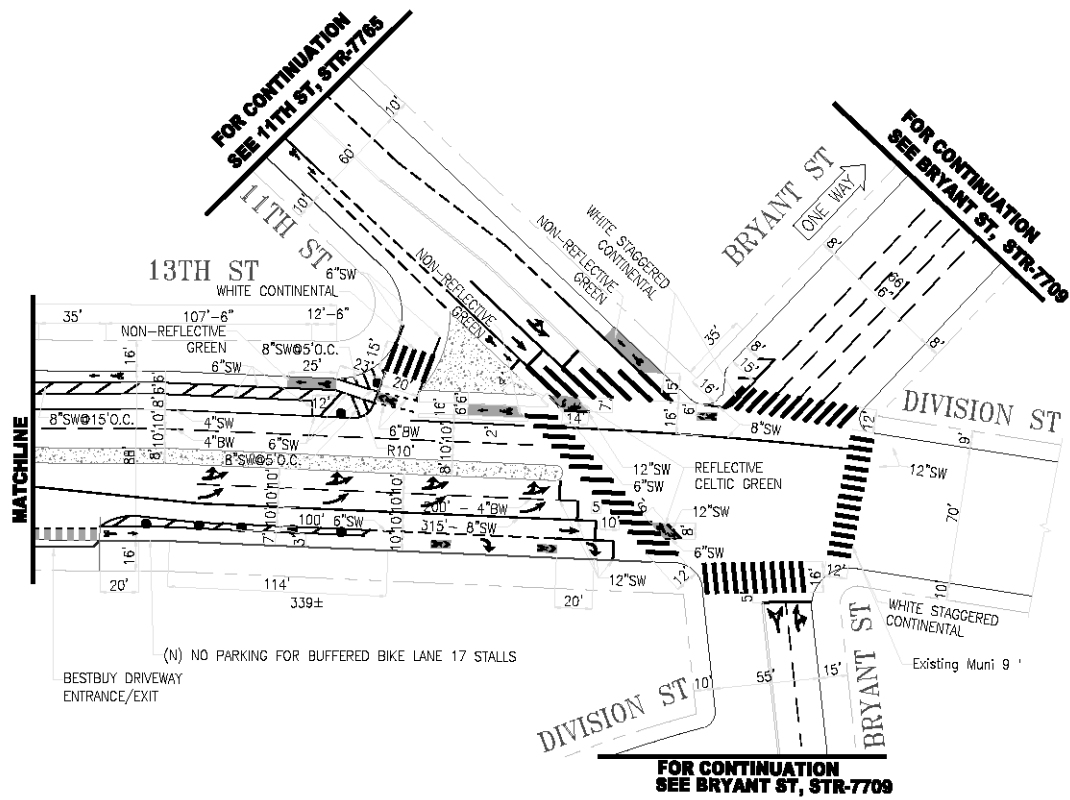
Not to Scale



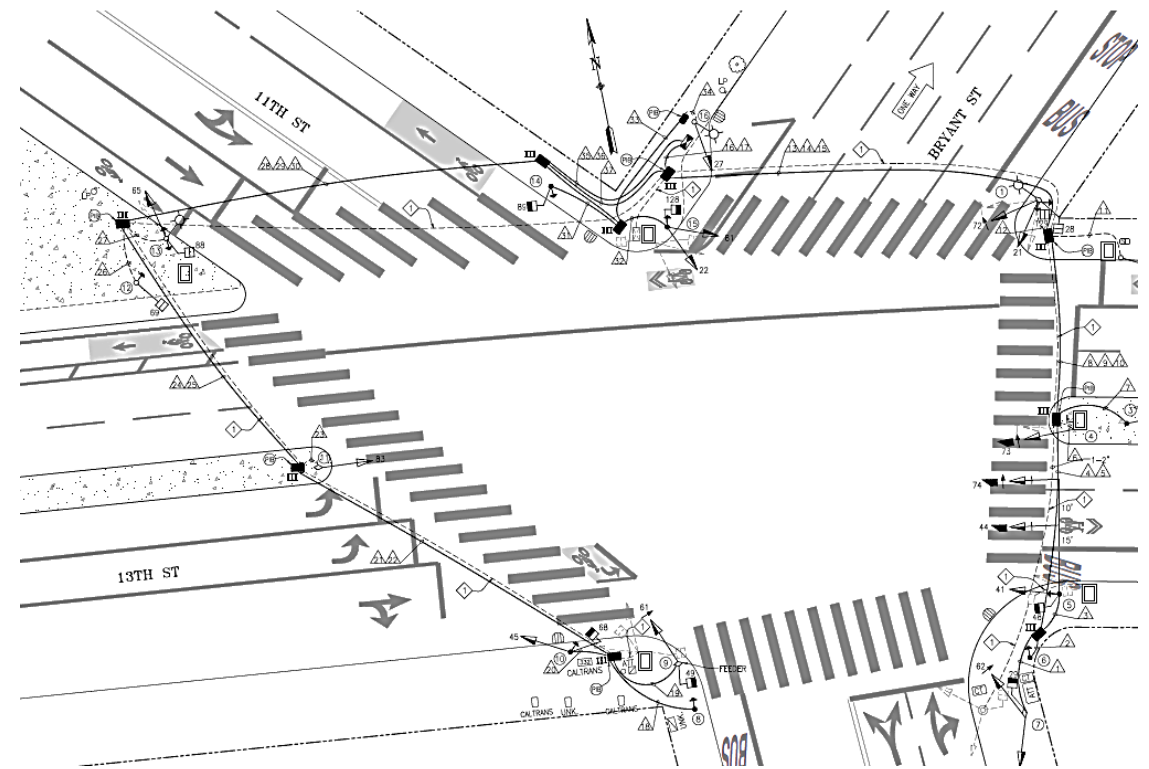
Source: SFMTA, 2017

Figure 4A – 13th Street EB Bicycle Facility - Striping Plan
 (Between South Van Ness Avenue and Harrison Street)

Not to Scale



Phase I - 13th Street Configuration
(Between Harrison Street and Bryant Street Only)



Phase II - 13th Street Configuration
(Between Harrison Street and Bryant Street Only)

Figure 4B – 13th Street EB Bicycle Facility - Striping Plan

Attachment B

SFMTA Resolution No. 170418-050

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 170418-050

WHEREAS, The San Francisco Municipal Transportation Agency is committed to achieving Vision Zero goals and implementing safety improvements on eastbound 13th Street as outlined in Mayor Lee's Executive Directive on Bicycle and Pedestrian Safety; and,

WHEREAS, The San Francisco Municipal Transportation Agency is committed to making San Francisco a Transit First city that prioritized non-private automobile transportation.

WHEREAS, Section 891 of the Streets and Highways Code provides that agencies responsible for the development or operation of bikeways or roadways where bicycle travel is permitted may utilize minimum safety design criteria other than those established by Section 890.6 if the following conditions are met: the alternative criteria are reviewed and approved by a qualified engineer, the alternative criteria is adopted by resolution at a public meeting after public comment and proper notice, and the alternative criteria adheres to the guidelines established by a national association of public agency transportation officials; and

WHEREAS, The parking protected cycletrack proposed as part of the project meets these three requirements; and

WHEREAS, The parking protected cycletrack has been reviewed and approved by a qualified engineer prior to installation; and,

WHEREAS, The alternative criteria for the project are to discourage motor vehicles from encroaching or double parking in the bicycle facility, provide a more inviting and greater sense of comfort for bicyclists, and to provide a greater perception of safety for bicyclists; and,

WHEREAS, The project's alternative criteria adhere to guidelines set by the National Association of City Transportation Officials; and,

WHEREAS, The San Francisco Municipal Transportation Agency has proposed the installation of a protected bikeway and parking and traffic modifications along eastbound 13th Street between Folsom Street and Bryant Street as follows:

- A. ESTABLISH – CLASS IV BIKEWAY – 13th Street, eastbound, south side, between Folsom Street to Bryant Street
- B. ESTABLISH – TOW-AWAY NO STOPPING ANYTIME – 13th Street, south side, between Folsom Street and Trainor Street; 13th Street, south side, between Trainor Street and Harrison Street; 13th Street, south side, from Harrison Street to 36 feet easterly; 13th Street, south side, from 290 feet to 320 feet east of Harrison Street; 13th Street, south side, from Bryant Street to 304 feet westerly
- C. ESTABLISH – NO RIGHT TURN ON RED (EXCEPT BICYCLES) – Harrison Street, northbound, at 13th Street
- D. ESTABLISH – STOP – Bernice Street, southbound, at 13th Street; Isis Street,

PAGE 2.

southbound, at 13th Street; Trainor Street, northbound at 13th Street

- E. ESTABLISH – LEFT LANE MUST TURN LEFT – 13th Street, eastbound, at Bryant Street
- F. ESTABLISH – 2 HOUR PARKING 8 AM TO 6 PM MONDAY THROUGH SATURDAY – 13th Street, south side, between Harrison Street and Bryant Street

WHEREAS, The proposed Eastbound 13th Street Safety Project is subject to the California Environmental Quality Act (CEQA); CEQA provides an exemption from environmental review for operation, repair, maintenance, or minor alteration of existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities, as well as for minor public alterations in the condition of land including the creation of bicycle lanes on existing rights-of-way as defined in Title 14 of the California Code of Regulations Sections 15301 and 15304 respectively; and,

WHEREAS, On April 10, 2017, the Planning Department determined (Case Number 2017-001180ENV) that the proposed Eastbound 13th Street Safety Project is categorically exempt from CEQA, pursuant to Title 14 of the California Code of Regulations Section 15301 and 15304; the proposed action is the Approval Action as defined by the S. F. Administrative Code Chapter 31; and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors, and may be found in the records of the Planning Department at 1650 Mission Street in San Francisco, and is incorporated herein by reference; and,

WHEREAS, The public has been notified about the proposed modifications and has been given the opportunity to comment on those modifications through the public hearing process; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors approves a protected bikeway and parking and traffic modifications set forth in items A through F above along eastbound 13th Street between Folsom Street and Bryant Street.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of April 18, 2017.



Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

Attachment C1

**Appeal Letter dated May 18, 2017 from
Mary Miles, Coalition for Adequate Review**

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2017 MAY 18 PM 2:19

BY BJ

FROM:
Mary Miles (SB #230395)
Attorney at Law
for Coalition for Adequate Review
364 Page St., #36
San Francisco, CA 94102
(415) 863-2310


TO:
Angela Calvillo
Clerk, San Francisco Board of Supervisors
City Hall, Room 244
San Francisco, CA 94102

DATE: May 18, 2017

NOTICE OF APPEAL

PLEASE TAKE NOTICE that Coalition for Adequate Review hereby appeals the environmental determination of the San Francisco Planning Department and the "approval action" of the San Francisco Municipal Transportation Agency ("MTA") to the San Francisco Board of Supervisors.

Grounds for this appeal lie in the California Environmental Quality Act ("CEQA") (Cal. Pub. Res. Code §§21000 *et seq.* and other applicable statutes and regulations, as generally stated in the attached public comment to the MTA Board for its hearing on April 18, 2017. Appellant will submit further briefing and comment on or before the scheduled hearing date on this appeal.



Mary Miles
Attorney for Coalition for Adequate Review

cc: Lisa Gibson, Environmental Review Officer, San Francisco Planning Department

ATTACHMENTS:

- A: Public Comment submitted to MTA Board, April 18, 2017
- B: MTA Board Resolution No. 170418-050, April 18, 2017
- C: Certificate of Determination Exemption from Environmental Review, San Francisco Planning Department, April 10, 2017

ATTACHMENT A

FROM:

Mary Miles (SB #230395)
Attorney at Law
364 Page St., #36
San Francisco, CA 94102
(415) 863-2310

TO:

Edward Reiskin, Director
Roberta Boomer, Secretary, and
Members of the Board
San Francisco Municipal Transportation Agency ("MTA")
1 S. Van Ness Ave., 7th Floor
San Francisco, CA 94103

DATE: April 18, 2017

PUBLIC COMMENT, AGENDA ITEM 11, APRIL 18, 2017 MTA BOARD MEETING
["Approving a protected bikeway and parking and traffic modifications along eastbound
13th Street between Folsom Street and Bryant Street..."], aka "Eastbound 13th Street
Safety Project," aka "SFMTA – 13th Street Eastbound Bicycle Facility Project" (referred to
in this Comment as the "Project")

This is public comment on Agenda Item 11 of the April 18, 2017 MTA Board meeting. Please provide a copy of this Comment to all MTA Board Members and place a copy in all applicable MTA files. As noted on the MTA Board Agenda, a determination under the California Environmental Quality Act ("CEQA") is subject to appeal to the Board of Supervisors within 30 days.

The Project will clearly have significant impacts under CEQA, including transportation, air quality, safety, and parking impacts, and the claimed "categorical exemptions" do not apply. The Project must also be rejected for the following reasons.

1. FAILURE TO PROVIDE PUBLIC NOTICE AND INFORMATION ON THE PROJECT VIOLATES CEQA'S REQUIREMENT OF INFORMED PUBLIC PARTICIPATION IN THE DECISIONMAKING PROCESS, AS WELL AS OPEN MEETING AND INFORMATION REQUIREMENTS

There has been no outreach to the general public on this Project, only "stakeholder meetings" between the Project sponsor, the MTA's "Sustainable Streets" division, promoters of the Project, and a few local businesses. The claimed "public hearing" on March 17, 2017 was conducted by the Project sponsor, the MTA's "Sustainable Streets," the same entity that created the Project in private with no opportunity for input from the general public and then held the alleged "hearing" before its own "Engineering" subdivision. Even members of the public who requested public notice, including this Commenter, received no notice of this Project after submitting many requests to MTA for notices of proceedings on all bicycle projects in San Francisco.

Further, neither the MTA nor the lead agency conducting the alleged “environmental review,” the Planning Department, gave public notice of its Exemption dated April 10, 2017. That Exemption did not exist and was not publicly available at the time of the claimed “public hearing” on March 17, 2017, and it is not readily available today but instead requires complicated linking to documents not readily available to the general public or easily found by using the internet. Documents related to CEQA review should have been publicly noticed at least 72 hours in advance and placed on the March 17, 2017 “public hearing” agenda in a readily-accessible link so that the public could know what the Project Sponsor, the lead agency, and the San Francisco Bicycle Coalition were actually proposing. They were not.

The Project sponsor, the MTA's "Sustainable Streets" Division, claims that its "staff performed door-to-door outreach" to four businesses along eastbound 13th Street from January to March 2017. (MTA “Sustainable Streets” memorandum dated April 10, 2017 [“Project Sponsor’s Staff Report”], page 6.) That alleged "outreach" ignores that this Project is of citywide and regional importance, affecting traffic to and through the area by thousands of daily travelers, access to freeways, and travel to downtown, the train station, and the ballpark, as well as major shopping destinations.

2. FAILURE TO ACCURATELY STATE EXISTING CONDITIONS AND TO IDENTIFY AND MITIGATE THE PROJECT’S SIGNIFICANT IMPACTS VIOLATES CEQA

The proposed Project, part of the “Vision Zero” Project, removes two heavily used travel lanes and at least 35 parking spaces on eastbound 13th Street, reducing traffic capacity on this major traffic corridor **from three existing lanes to one lane in the eastbound direction.** (San Francisco Planning Department: Certificate of Determination Exemption from Environmental Review, Case No. 2017-001180ENV, April 10, 2017 [“Exemption”], pages 2-3, 5, 9-13.) That proposed capacity reduction will bottleneck and back up the already heavy traffic on eastbound 13th Street to outside the immediate Project area, affecting major intersections at South Van Ness Avenue, Folsom Street, Bryant Street, Harrison Street, and 11th/13th/Bryant/ Division Streets. (Exemption, page 5.)

Traffic volumes allegedly measured in 2015 are out of date, and in any event contain no supporting evidence, including the dates they were taken, the time of day, or who took them. Even so, the Exemption admits that traffic capacity on eastbound 13th Street will be reduced from the existing roadway capacity of 5,700 vehicles per hour to 3,800 vehicles per hour. Both the vehicle volume and the reduction attest to the regional importance of this corridor, and the failure to identify and mitigate the impacts of **delaying 1,900 vehicles per hour.** (Exemption, page 5.)

The Exemption document fails to establish the cumulative area affected by the Project, and fails to state that the City and the Project Sponsor, City and its MTA "Sustainable Streets" Department, have already provided bicycle lanes on 14th Street, 15th Street, 16th Street, and 17th Street in City's 2009 Bicycle Plan Project, and a dedicated 12-foot-wide bicycle lane with buffer on westbound 13th Street, removing hundreds of parking spaces and traffic lane capacity in nearby corridors. The failure to accurately state existing conditions results in an inaccurate baseline for analyzing impacts in violation of CEQA. The figures in the Exemption document

and the obvious direct impacts from delaying 1,900 vehicles per hour show that the claim of no direct and cumulative significant impacts is false.

In addition to the proposed drastic capacity reduction, which it terms a "road diet," the Project also proposes forced turns from existing through lanes and installing "painted bicycle boxes at the intersections of Folsom Street/13th Street, and Bryant Street/13th Street to construct a "new bicycle facility on eastbound 13th Street." (Exemption, page 1.) The Project also proposes prohibiting right turns at red traffic signals at northbound Harrison Street approaching 13th Street and a special "two-stage" left turn box to enable bicyclists to turn left from the right lane to "make an intersection more inviting for...bicycles." (Project Sponsor's Staff Report, page 5.) The Project will also introduce time limits for whatever parking remains on 13th Street. (*Id.*)

No evidence supports the Project sponsor's spurious claim that this is a "high injury corridor for bicycling" or establishes justification for the significant adverse impacts this Project will cause on traffic, air quality, noise, and safety, and the "high injury corridor for bicycling" fiction is irrelevant to establishing baseline existing conditions for analyzing the impacts caused by the proposed Project. Claims that there have been "a total of 57 traffic collisions along 13th Street between Folsom Street and Bryant Street" are unsubstantiated, with no documentation showing the circumstances of such alleged "collisions" or that this is a "high injury corridor for bicycling." (Project Sponsor's Staff Report, page 1.) Indeed, the fictitious "high injury corridors" created by City's "Vision Zero" Project include the Project Sponsor's extensive wish list to create adverse traffic conditions for vehicles throughout San Francisco and extend the already-expansive Bicycle Plan agenda that benefits less than 4 percent of travelers and adversely affects the other 96%.

The Project Sponsor's Staff Report also contradicts the lead agency's Exemption document and misstates existing conditions and the Project description, including falsely stating that the Project would only remove one eastbound traffic lane, when in fact it proposes removing two traffic lanes on eastbound 13th Street. (Project Sponsor's Staff Report, page 3.) That document also misstates the number of eastbound vehicles on 13th Street, which is 5,700 counted vehicles per hour per the Exemption document. Conveying false and misleading information to the public violates CEQA. Both the Exemption and the Project Sponsor's Staff Report ignore that City's 2009 Bicycle Plan Project also provided bicycle lanes on 14th Street, 15th Street, 16th Street, and 17th Street, removing hundreds of parking spaces and traffic lane capacity in nearby corridors, along with the dedicated 12-foot-wide bicycle lane with buffer on westbound 13th Street.

The Project Sponsor's Staff Report claims that, "146 people were counted bicycling in the morning and 50 people in the evening peak hour periods along eastbound 13th Street." (Project Sponsor's Staff Report, page 3.) That means that bicyclists are *less than three percent* of travelers in the immediate Project area. Further, the Exemption states that "The proposed project would not generate new bicycle trips..." (Exemption, page 6.) The insular special interests evident from these figures do not justify the extensive significant impacts on transportation, air quality, parking, public safety, and human impacts caused by the proposed Project on the other 97 percent of the traveling public.

The Project will clearly have significant direct and cumulative impacts on transportation throughout the area, and significant impacts on air quality, public safety, including emergency vehicle movement, noise, and human impacts that must be identified, analyzed, and mitigated under CEQA.

3. THE PROJECT IS NOT CATEGORICALLY EXEMPT FROM CEQA

The Project will clearly have significant impacts on the environment, and therefore is not categorically exempt. (See, *e.g.*, 14 Cal. Code Regs. ["Guidelines"] §§15064, 15065(a)(3), 15300, 15300.2, 15301, 15304.)

The exemptions invoked, *i.e.*, Guidelines §§15301 and 15304, do not apply. (Exemption, page 3.) Guidelines §15301(c) does not apply because the Project does not propose "minor alterations" of "[e]xisting highways and streets, sidewalks gutters, bicycle and pedestrian trails." Both the Project Sponsor's Staff Report and the Exemption admit that there are *no* existing bicycle lanes on eastbound 13th Street. (Project Sponsor's Staff Report, page 3; Exemption, page 4.) Further, the Project does not propose "minor alterations," but proposes major changes affecting and significantly impacting transportation, air quality, parking, noise, and public safety, both in the immediate and cumulative areas. Guidelines §15301 explicitly states that in determining the types of "existing facilities" subject to such an exemption, "The key consideration is whether the project involves negligible or no expansion of an existing use." Far from being negligible or no expansion, the Project proposes usurping two-thirds of the existing roadway capacity and parking for a currently non-existent use of that corridor.

The Guidelines section 15304(h) exemption also invoked (Exemption, page 3) also does not apply to the proposed Project, because bicycle lanes do not currently exist on 13th Street, and because the Project does not propose minor "alterations in the conditions of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes." (Guidelines §15304.) The Project instead proposes major alterations to a heavily travelled urban corridor causing significant impacts.

The Exemption's unsupported conclusory statement, "None of the established exceptions applies to the proposed project" under Guidelines §15300.2 is also false, as are the claims that the Project will have no cumulative impacts, and that no "unusual circumstances" are presented by the Project.

There is no adequate analysis of cumulative impacts in the Exemption, with that document claiming with no supporting evidence that the Project sponsor's staff found "projected growth in vehicle traffic volumes" between now and 2040 to be "approximately 15 percent." Cumulative impacts must also measure "successive project of the same type in the same place, over time." (Guidelines §15300.2). This Project, moreover, has "possible environmental effects" that are "cumulatively considerable," meaning "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." (Guidelines §15065(a)(3).)

The City's past, present, and planned future incursions onto City's roadways to impede vehicle transportation, remove parking, force turns, and otherwise adversely impact traffic include past

extensive transportation impacts due to the Bicycle Plan, "Sustainable Streets," "Vision Zero," and other Projects that, combined with the present Project, clearly have cumulative impacts on transportation, air quality, parking, and public safety, that cannot be considered in a vacuum and are plainly significant cumulative impacts.

Further, in this instance, the very large traffic volumes and the proposed drastic reduction in street capacity constitute unusual circumstances. (Guidelines, §15300.2(c).)

For the above reasons, the proposed 13th Street Project is not exempt, and it has significant impacts that must be analyzed and mitigated under CEQA. The MTA Board must therefore reject the proposed approval of the Project at Item 11.

Mary Miles

Attachment C2

**Supplemental Appeal Letter dated June 16, 2017 from
Mary Miles, Coalition for Adequate Review**

FROM:

Mary Miles (SB #230395)
Attorney at Law for
Coalition for Adequate Review
364 Page St., #36
San Francisco, CA 94102
(415) 863-2310

TO:

Angela Calvillo, Clerk, and
San Francisco Board of Supervisors
Room 244 City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

DATE: June 16, 2017

RE: BOS File No. 170638

**APPELLANT'S BRIEF IN SUPPORT OF APPEAL TO BOARD OF SUPERVISORS OF
CATEGORICAL EXEMPTION, APPROVAL, AND IMPLEMENTATION OF
"EASTBOUND 13TH STREET BICYCLE FACILITY PROJECT"**

INTRODUCTION

This Appeal is of the San Francisco Planning Department's environmental determination on the new bicycle "facility" on eastbound 13th Street between Folsom Street and Bryant Street ("the Project"). Please distribute a copy of this Statement to every Supervisor and place a copy in all applicable Project files.

Initially, Appellant objects to the Board of Supervisors ("Board" or "BOS") procedures requiring comment eleven days in advance of the Board's hearing, which is contrary to the California Environmental Quality Act ("CEQA") (Pub. Res. Code ["PRC"] §§21000 *et seq.*). CEQA allows public comment up to and including the date of the hearing or final disposition of the Board. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1202; 14 Cal.Code Regs. ["Guidelines"] §15202(b); PRC §21177(a).) The right to public comment is curtailed by the Board's improper time constraints, which deprive Appellant and the public of the right to more fully set forth their position and be heard. Further, Appellant is not subject to "exhaustion" requirements in future proceedings where the lead agency does not conduct public proceedings before its environmental determination. (*Ibid.*; see also, *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster ["Azusa"]* (1997) 52 Cal.App.4th 1165, 1209-1210.)

Since the Project clearly has significant direct, indirect, and cumulative impacts adversely affecting transportation, air quality, GHG, public safety (including emergency vehicle access), parking, energy consumption, and human impacts, it is not exempt under CEQA. (*e.g.*, PRC §§21001; 21083.05, 21084(e); Guidelines §§15064, 15065(a).)

Moreover, the categorical exemptions for "minor alterations" and "existing conditions" invoked by the City do not apply to this Project, because there are no existing bicycle "facilities" on 13th Street. This Project is not a "minor alteration" but instead makes major changes on a heavily traveled street in San Francisco with significant impacts on the environment. Even if in theory a categorical exemption could apply to this Project, the exceptions described in Guidelines section 15300.2(a) would negate such a theory. Both cumulative impacts and the extraordinary traffic conditions specific to this location, and the fact that other bicycle "facilities" are present and/or proposed on 14th, 15th, 16th, and 17th Streets, show that the Project is subject to the "cumulative impacts" and "unusual circumstances" exceptions described in Guidelines section 15300.2(a).

By implementing the Project without providing the public the right of appeal, City violated CEQA's fundamental mandate of allowing the public to participate meaningfully in environmental determinations *before* Project approval and to receive information necessary to do so. (*Laurel Heights Improvement Assn. v. Regents of the University of California* ["*Laurel Heights I*"] (1988) 47 Cal. 3d 376, 394.)

The Project will have significant impacts on transportation, it is not categorically exempt, and its approval and illegal implementation by the Municipal Transportation Agency ("MTA") before the Board's hearing violates CEQA and the City's own Code providing for public review. To remedy the City's illegal implementation actions, the Board of Supervisors should therefore grant this Appeal, direct MTA to remove the Project's physical changes, including pavement markings, bollards, hit posts, obstructions, cement curbs and dividers, traffic lane alterations, and parking lane alterations, and set aside both the Planning Department's April 10, 2017 categorical exemption and the MTA Board's April 18, 2017 resolution approving the Project.

FACTS

City's Planning Department claimed on April 10, 2017 that the Project was categorically exempt from CEQA. (A copy of that determination ("Exemption") is attached hereto as **Exhibit ["Ex. "] A.**) Before that, on February 17, 2017, MTA staff wrote a "Memorandum -- Environmental Clearance for the 13th Street Eastbound Bicycle Facility Project" ("Staff Memo"), attached hereto as **Ex. B.**

On April 10, 2017, MTA's "Sustainable Streets" Division, the Project sponsor, issued a "Summary" ("Staff Report") with a proposed Resolution to the MTA Board of Directors. (**Ex. C**, attached hereto.)

The Project reduces road capacity for vehicles on 13th Street from three eastbound lanes to two lanes from South Van Ness Avenue to Harrison Street and from three eastbound lanes to one lane on 13th Street from Harrison to Bryant Streets, and removes most or all of the parking on 13th Street in the immediate area. (Ex. A, pp. 2-3, 9-13.) The Project's "Phase II" removes two traffic lanes on 13th Street from Harrison to Bryant Streets. (Ex. A, pp. 9-13.)

The April 10, 2017 Exemption document admits that at least 1,900 vehicles per hour will be delayed for *each* lane removed by the Project. Thousands of vehicles per hour now use this important corridor to get to freeway ramps, and to travel downtown, to the ballpark, and to major shopping destinations both in the area and elsewhere. According to MTA's traffic count data, the volume on eastbound 13th Street at Mission Street on October 25, 2006 was 23,085 vehicles daily, with 1,799 in the AM peak and 1,390 in the PM peak. ("SFMTA Traffic Count Data

1993-2013," p. 81, [https:// www.sfmta.com/sites/default/files/adtcounets.accessible5.pdf](https://www.sfmta.com/sites/default/files/adtcounets.accessible5.pdf) [viewed 6/15/17].)

On April 11, 2017, *before the MTA Board hearing on the Project*, MTA's Sustainable Streets Division improperly issued a Work Order to implement it the Project. (Ex. D, attached hereto.)

Relying on the Planning Department's erroneous exemption, the MTA Board of Directors adopted a Resolution No. 170418-050 on April 18, 2017. (Ex. E, attached hereto.) The MTA Board did not discuss the environmental impacts of the Project and ignored public comment opposing the Project. (Guidelines, §15202 (b); see also, Public Comment, Mary Miles to the MTA Board, April 18, 2017, attached to May 18, 2017 Notice of Appeal.)

A number of Immediate Disclosure Requests under the San Francisco Sunshine Ordinance and Public Records Act were submitted to both the Planning Department and the MTA. Those Requests were not promptly answered and/or the agencies failed to respond with the requested records.¹

Without allowing the public the opportunity to appeal its actions to the Board of Supervisors, the MTA immediately implemented the Project on 13th Street in violation of its own Codes and CEQA, which provide for appeal of exemption determinations to this elected body. (See Ex. D attached hereto [E-mail correspondence between MTA staff, work orders, and other records received May 18, 2017 pursuant to Immediate Disclosure Request; see also, PRC §21151(c); SF Admin. Code §§31.16(b)(3) [other departments "shall not carry out...the project " until the "CEQA decision is affirmed by the Board [of Supervisors];" 31.16(b)(5) [the public may submit materials to the Board of Supervisors prior to scheduled hearing on an appeal]; and 31.16(e) ["The date the project shall be considered finally approved shall occur no earlier than either the expiration date of the appeal period if no appeal is filed, or the date the Board affirms the CEQA decision, if the CEQA decision is appealed."].)

ARGUMENT

I. FAILURE TO ACCURATELY IDENTIFY AND MITIGATE THE PROJECT'S SIGNIFICANT IMPACTS VIOLATES CEQA

The proposed Project, part of City's "Vision Zero" Project, removes one or two heavily used travel lanes (depending on segments) and at least 35 parking spaces on eastbound 13th Street, reducing traffic capacity on this major traffic corridor **from three existing lanes to one lane in the eastbound direction**. (Ex. A, pp. 2-3, 5, 9-13.) Although City's MTA staff falsely claimed that the Project would remove only one traffic lane, City's diagrams show that it actually removes two eastbound lanes between Harrison Street and Bryant Street in "Phase II" of its implementation, reducing street capacity to one through lane where there formerly were three. (*Id.*)

¹ On May 1, 2017 an Immediate Disclosure Request was submitted to MTA for the checklist referred to in MTA's February 17, 2017 Staff Memorandum on 13th Street. (IDR No. 17-267.) The alleged PRC §21099 "checklist" claimed by MTA staff to support the exemption was never produced by MTA. On May 4, 2017, an Immediate Disclosure Request was submitted to MTA for all records on implementation of the Project, with no timely response. (IDR No. 17-273.) Two weeks later, a disc arrived in the mail from MTA that included records attached in Exhibit D, herein.

The Planning Department's Exemption document admits that proposed capacity reduction will bottleneck and back up the already heavy traffic on eastbound 13th Street, adversely causing congestion and unsafe conditions at major intersections in the immediate Project area, including 13th Street at South Van Ness Avenue, Folsom Street, Bryant Street, Harrison Street, and 11th/13th/Bryant/ Division Streets. (Ex. A, p. 5.) The Exemption document also admits that reducing roadway capacity "may result in increased delay at some locations, and therefore increased emissions of criteria pollutants or ozone precursors in those locations." (Exh. A, p. 7-8.) Where City's own documents admit a Project's potential significant impacts, the Project cannot be categorically exempt. (*Azusa, supra*, 52 Cal.App.4th at p. 1199.)

The Project will also clearly cause cumulative impacts on transportation, parking, air quality, GHG, energy consumption, public safety (including emergency vehicle access), and human impacts in the surrounding area.

A. The City Failed To Accurately State Existing Conditions And Describe The Project

1. The Conclusion of No Impacts Is False And Unsupported Since Vehicles Are Omitted From The Impacts Analysis

The Exemption document does not analyze impacts on vehicles. Rather it only discusses "Transit Impacts" (p. 5), "Pedestrian Impacts" (p. 6), "Bicycle Impacts" (p.6), "Emergency Vehicle Access Impacts" (p. 7), and "Loading" (p. 7.) While completely omitting any coherent analysis of traffic impacts on vehicles, the Exemption document admits that traffic capacity on eastbound 13th Street will be reduced from the existing roadway capacity of 5,700 vehicles per hour to 1,900 vehicles per hour. (Ex. A, p. 5.)²

The Exemption document fails to establish the cumulative area affected by the Project, and fails to state that MTA's Sustainable Streets Division has already planned and/or provided bicycle lanes on 14th, 15th, 16th, and 17th Streets under City's 2009 Bicycle Plan Project, and a dedicated 12-foot-wide bicycle lane with buffer on westbound 13th Street, removing hundreds of parking spaces and traffic lane capacity in nearby corridors.

The failure to accurately state existing conditions results in an inaccurate baseline for analyzing impacts, in violation of CEQA. (*e.g., Poet, LLC. v. State Air Resources Bd. ["Poet II"]* (2017) 10 Cal.App.5th 764,797 [agency's failure to justify use of correct baseline is an abuse of discretion and invalidates the impacts analysis].) The required baseline for analyzing impacts must establish, with substantial evidence, the existing conditions applying to the impact to be analyzed. The baseline of existing conditions is then compared with an accurate Project

² The Exemption document refers to alleged "Traffic Volumes (PM Peak)" for three intersections at the "PM Peak" in "2015," but it contains no supporting evidence, including the dates the counts were taken, the time of day, or who took them. (Ex. A, p.5.) Those alleged counts are substantially different from MTA's 2006 counts for eastbound 13th Street at Mission, which on October 25, 2006 were 23,085 vehicles, with 1,799 in the AM peak and 1,390 in the PM peak. ("SFMTA Traffic Count Data 1993-2013," p. 81, www.sfmta.com/sites/default/files/adtcounets.accessible5.pdf [viewed 6/15/17].) The Staff Report instead states that there are 1,012 eastbound vehicles in the AM peak and only 790 "in the evening." (Ex. C, p.3.) The Exemption document implausibly predicts that traffic volume will grow by only 152 vehicles by 2040. (Ex. A, p.5.)

description to determine whether the Project will have significant impacts. That analysis did not take place here, because the baseline description and the Project description are inaccurate, incomplete, and unsupported by substantial evidence. (*Id.*)

In addition to the drastic capacity reduction, which it terms a "road diet," the Project also forces turns from existing through lanes and installs "painted bicycle boxes" at the intersections of Folsom Street/13th Street, and Bryant Street/13th Street to construct a "new bicycle facility on eastbound 13th Street." (Ex. A, p. 1.) The Project also proposes prohibiting right turns at red traffic signals at northbound Harrison Street approaching 13th Street and a special "two-stage" left turn box to enable bicyclists to turn left from the right lane to "make an intersection more inviting for...bicycles." (Ex. C, p. 5.) The Project also introduces time limits for whatever parking remains on 13th Street. (*Id.*) All of those plans will further obstruct and delay traffic with significant adverse impacts on transportation, air quality, GHG, energy consumption, and public safety, including emergency vehicle access.

The obvious direct impacts from delaying thousands of vehicles, which City admits in its Exemption document show that any claim of no direct and cumulative significant impacts is false. (Exh. A, p. 6-7.)

2. City's "Vision Zero" Claims Are Irrelevant, Inaccurate, And Unsupported

The exaggerated "vision zero" collision data is irrelevant to the impacts analysis required by CEQA, and cannot justify the Project's claimed exemption. (*California Building Industry Assn. v. Bay Area Air Quality Management Dist. ["CBIA"]* (2016) 2 Cal.App.5th 1067, 1073; *Parker Shattuck Neighbors v. Berkeley City Council ["Parker Shattuck"]* (2013) 222 Cal.App.4th 768, 783 [identifying impacts of the existing environment on users of the project is inconsistent with CEQA, since the issue is not about safety risks to the project from existing conditions but about impacts of the project on the environment].)

City's "vision zero" data are irrelevant to the description of existing conditions required by CEQA. The required analysis is not about the impacts of the environment on the Project, but of the Project on the environment. (*CBIA, supra*, 2 Cal.App.5th at p. 1073 ["[T]he Supreme Court held CEQA 'does not generally require an agency to consider the effects of existing environmental conditions on a proposed project's future users or residents,'" citing *California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 392]; *Parker Shattuck, supra*, 222 Cal.App.4th at p. 783.)

No evidence supports MTA's spurious claim that this is a "high injury corridor for bicycling" or justifies the significant adverse impacts that the Project will cause on traffic, air quality, noise, and safety. The "high injury corridor for bicycling" fiction is irrelevant to establishing existing baseline conditions for analyzing the impacts caused by the Project. MTA's claims that there have been "a total of 57 traffic collisions along 13th Street between Folsom Street and Bryant Street" from May 31, 2012 through May 31, 2016 are unsubstantiated, with no documentation showing the circumstances of such alleged "collisions," or that this is a "high injury corridor for bicycling." (Ex. C, page 1]; Ex. B, p. 2.) Indeed, the fictitious "high injury corridors" created by City's "Vision Zero" Project include MTA's extensive wish list to create adverse traffic conditions for vehicles throughout San Francisco and extend the already-expansive Bicycle Plan agenda that benefits less than 4 percent of travelers and adversely affects the other 96%-plus.

According to the little information provided by MTA in response to a records request, the alleged "traffic collisions" on 13th Street include collisions involving all travel modes in a general area, not just those involving bicycles, with only seven collisions on 13th Street involving bicycles. That data is not statistically significant, does not support drastic changes to 13th Street, and in any event is irrelevant to analyzing the Project's impacts. (*CBIA, supra*, 2 Cal.App.5th at p. 1073; *Parker Shattuck, supra*, 222 Cal.App.4th at p.783.) The Project nevertheless proposes changes that result in significant adverse impacts on *all* other users of the 13th Street roadway by eliminating traffic lanes, parking, and turning lanes to create a lane for exclusive use of bicyclists.

The MTA's Staff Report also contradicts the Exemption document and misstates existing conditions and the Project description, including falsely stating that the Project would only remove one eastbound traffic lane, when in fact it proposes removing two traffic lanes on eastbound 13th Street. (Ex. C, p. 3.)

The MTA's Staff Report claims that "146 people were counted bicycling in the morning and 50 people in the evening peak hour periods along eastbound 13th Street." (Ex. C, p. 3].) That means that bicyclists are *less than three percent* of travelers in the immediate Project area. Further, the Exemption states that "The proposed project would not generate new bicycle trips ..." (Exh. A, page 6.) The insular special interests evident from these figures do not justify the extensive significant impacts on transportation, air quality, parking, energy consumption, public safety, and human impacts caused by the proposed Project on the other 97 percent of the traveling public. (See, *e.g.*, *Parker Shattuck, supra*, 222 Cal.App.4th at p. 783.)

Both the Exemption and the MTA's Staff Report ignore that City's 2009 Bicycle Plan Project also planned and/or implemented, bicycle lanes on 14th, 15th, 16th, and 17th Streets, removing hundreds of parking spaces and traffic lane capacity in nearby corridors, along with the dedicated 12-foot-wide bicycle lane with buffer on westbound 13th Street.

The failure to set forth accurate existing conditions and an accurate Project description violate CEQA, since the public and decisionmakers are deprived of the information necessary to determine the Project's significant impacts. (*Poet II, supra*, 10 Cal. App. 5th at p. 797; *County of Amador, supra*, 76 Cal.App.4th at p. 955.) Conveying false, contradictory, incomplete, and misleading information to the public and decisionmakers is a prejudicial abuse of discretion under CEQA.

B. The Project May Have Significant Impacts On The Environment

The Project will clearly have significant impacts on the environment, and therefore is not categorically exempt. (See, *e.g.*, Guidelines §§15064, 15065(a)(3).) Before declaring the Project exempt, City was required to do a preliminary analysis exploring the possibility of the Project's significant impacts on the environment. (Guidelines §15060(c), 15061.) A significant impact is "a substantial, or potentially substantial adverse change in the environment." (PRC §21068; §21060.5 [defining "the environment" as "the physical conditions which exist within the area which will be affected by a proposed project..."].) There is no evidence that a preliminary analysis ever took place or any evidence provided that supports the exemption determination.

In fact, City's own documents show that the Project *will* have significant impacts on transportation, and will obstruct and slow traffic and create unsafe conditions for pedestrians and have impacts on air quality. (Ex. A, p. 6-7.) The Project will also have direct and cumulative

impacts on GHG, energy consumption, and public safety (including emergency vehicle access). Major businesses in the immediate and cumulative area will also be affected by removing street parking and creating barriers to parking provided by those businesses, including large stores like Rainbow Grocery (one of the largest natural foods stores in San Francisco), Office Max, and Best Buy. The Exemption shows that the Project will also block and inhibit access to the parking provided by those businesses, and remove street parking that is often fully occupied.

The Project's significant direct, indirect, and cumulative impacts on transportation throughout the area, as well as impacts on air quality, GHG, energy consumption, public safety (including emergency vehicle access), noise, and human impacts must be identified, analyzed, and mitigated under CEQA. This Project is not exempt from these requirements.

C. There Is No Analysis Of Cumulative Impacts

The cumulative impacts analysis also must precede City's exemption determination as part of the preliminary review. (PRC §21065; Guidelines §§15065(a)(3).) There is no adequate analysis of cumulative impacts in the Exemption document. That document claims, with no supporting evidence, that MTA staff found "projected growth in vehicle traffic volumes" between now and 2040 to be "approximately 15 percent" or "152" vehicles. (Ex. A, p. 5.) The failure to support those implausible "growth" numbers with substantial evidence based on actual known growth data in San Francisco renders them invalid on their face.

A cumulative impacts analysis must set forth existing conditions and compare those conditions with anticipated future conditions. The cumulative impacts analysis must also show *other* current and anticipated future projects in the cumulative area that will *also* affect traffic, public safety, air quality, etc., and then must compare present conditions with conditions assuming those other projects. No such analysis is evident here. (Guidelines §15065(a)(3).) This Project has "possible environmental effects" that are "cumulatively considerable," meaning "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." (Guidelines §15065(a)(3).)

City's failure to analyze cumulative impacts does not excuse its improper conclusion of *no* impacts. (*Azusa, supra*, 52 Cal.App.4th at p. 1198; *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.) City's failure to analyze the Project's impacts, including its cumulative impacts, violates CEQA's informational requirements and results in improper piecemealed implementation of such projects, also prohibited by CEQA.

The City's past, present, and planned future projects on City's roadways to impede and obstruct vehicle transportation, remove parking, including the Bicycle Plan, "Sustainable Streets," "Vision Zero," and other projects, when combined with this Project, clearly have significant cumulative impacts on transportation, air quality, parking, and public safety that cannot be considered in a vacuum.

II. THE PROJECT IS NOT CATEGORICALLY EXEMPT FROM CEQA

A. City Fails To Show With Substantial Evidence That The Project Fits Within A Categorical Exemption

The agency bears the burden of showing with substantial evidence that a proposed project fits within a categorical exemption. (*Azusa, supra*, 52 Cal.App.4th at p.1192; *Save Our Big Trees v.*

City of Santa Clara (2015) 241 Cal.App.4th 694, 705.) Exemptions are construed narrowly and may not be expanded beyond their terms or CEQA's statutory purpose. (*County of Amador v. El Dorado County Water Agency* ["*County of Amador*"] (1999) 76 Cal.App.4th 931, 966; *Azusa, supra*, 52 Cal.App.4th at p. 1192.) That strict construction allows CEQA to be interpreted in a manner affording the fullest possible environmental protection within the reasonable scope of statutory language. (*Ibid.*) Strict construction "also comports with the statutory directive that exemptions may be provided only for projects which have been determined not to have a significant environmental effect." (*County of Amador, supra*, 76 Cal.App.4th at p. 966.)

City has failed to meet its burden to provide substantial evidence that the exemptions invoked, *i.e.*, Guidelines §§15301 and 15304, apply to this Project.

1. The Section 15301(c) Categorical Exemption Does Not Apply To The Project

Guidelines §15301(c) does not apply because the Project does not propose "minor alterations" of "[e]xisting highways and streets, sidewalks gutters, bicycle and pedestrian trails."

Both the MTA's Staff Report and the Exemption document admit that there are *no* existing bicycle lanes on eastbound 13th Street. (Ex. C, p. 3]; Ex. A, p. 4.) The Guidelines § 15301(c) exemption therefore is inapplicable on its face. (*Save Our Carmel River v. Monterey Peninsula Water Mgmt. Dist.* ["*Save Our Carmel River*"] (2006) 141 Cal.App.4th 677, 697.)

Guidelines §15301 explicitly states that in determining the types of "existing facilities" subject to such an exemption, "The key consideration is whether the project involves negligible or no expansion of an existing use." Far from being negligible or no expansion, the Project proposes *usurping two-thirds of the existing roadway capacity and parking to implement a currently non-existent use of that corridor.*

The Project's proposed change of *use* of 13th Street from a heavily traveled major thoroughfare for 5,700 vehicles per hour to a "bikeway" for 146 bicyclists makes it ineligible for an "existing facilities" exemption. (*County of Amador, supra*, 76 Cal.App.4th at p.967 [existing facilities exemption did not apply to project that changed use of an existing hydroelectric facility from non-consumptive to consumptive use]; *Save Our Carmel River, supra*, 141 Cal.App.4th at p. 698 [rejecting Class 2 exemption where city failed to show that a proposed "replacement structure...will have substantially the same purpose and capacity as the replaced structure"].)

In addition to reducing the street capacity on 13th by two-thirds and removing nearly all parking, the Project excludes the vast majority of users of 13th Street by creating new facilities that are inaccessible to anyone not using a bicycle. The Project thus changes the street's use from a *public* roadway for *all* users to one that exclusively serves a special interest consisting of less than 3 percent of street users. Such a change of use does not fall within the "existing facilities" categorical exemption. (*County of Amador, supra*, 76 Cal.App.4th at p. 967.)

Further, the Project does not propose "minor alterations," but proposes major changes affecting and significantly impacting transportation, air quality, parking, noise, and public safety, both in the immediate and cumulative areas by reducing street capacity. (*e.g., Azusa, supra*, 52 Cal.App.4th at p. 1194 [project proposing to dump tons of additional waste into an existing landfill was not a "minor alteration" to an "existing facility"].)

The rationale for the "'existing facilities' exemption is that the environmental effects of the operation of such facilities must already have been considered." (*Azusa, supra*, 52 Cal.App.4th at

p. 1195-1196.) Here, as in *Azusa*, the lack of prior consideration of the Project's impacts should defeat any determination that the "existing facilities" categorical exemption applies.

The Project therefore does not fit within the Guidelines section 15301(c) exemption.

2. The Section 15304(h) Exemption Does Not Apply To The Project

The Guidelines section 15304(h) exemption also invoked (Ex. A, p. 3) also does not apply to the proposed Project, because bicycle lanes do not currently exist on 13th Street, and because the Project does not propose minor "alterations in the *conditions* of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes." (Guidelines §15304.) The Project instead proposes major alterations to a heavily traveled urban corridor causing significant impacts and a complete change of use of 13th Street.

City claims that "Class 4(h)" exempts the "creation of bicycle lanes on existing rights-of-way." However, the existing right of way on 13th Street consists of three eastbound traffic lanes and street parking. The Project's proposed *change of use* of 13th Street does not fit this exemption. As with the Class 1 exemption, the Class 4 Exemption under Guidelines §15304 does not allow a change of *use*, but only *minor* alterations in the *conditions* of land, water and/or vegetation.

"The exemption in 14 Cal. Code Regs. §15304 relates to minor changes in the condition of land, water, or vegetation...[A]uthorizing a change in the permanent use of land rather than a minor alteration in the condition of the land, does not fit within this exemption." (Kostka and Zischke, Practice Under the California Environmental Quality Act (2d ed., 2017 CEB On-Law, §5.82; e.g., *Myers v. Board of Supervisors* (1976) 58 Cal.App.3d 413.) The changes here are not minor but instead eliminate traffic lanes and drastically reduce street capacity, eliminate parking, and create a change in the permanent use of the street rather than a minor alteration in the "condition" of the street. (*Id.*; *California Farm Bureau Fed'n. v. California Wildlife Conserv. Bd.* (2006) 143 Cal.App.4th 173, 192 [Project to "improve habitat" where there was no existing habitat was not within section 15304 exemption, and was not a "minor" alteration.]) City fails to meet its burden to establish that the Project proposes only *minor* alterations in the *conditions* of land, water, and/or vegetation. (Guidelines §15304.)

Further, City's own Exemption document admits that reducing roadway capacity "may result in increased delay at some locations, and therefore increased emissions of criteria pollutants or ozone precursors in those locations." (Ex. A, p. 7-8.) Where City's own documents admit a Project's potential significant impacts, the Project cannot be categorically exempt. (*Azusa, supra*, 52 Cal.App.4th at p. 1199.)

Under City's own standards and documents this Project is not categorically exempt.

B. City's PRC Section 21099 "Checklist" Does Not Support Its Claimed Exemption

City's claim that a "checklist" that it improperly developed to implement PRC §21099 justifies the Project is invalid on its face, since the State has not yet certified amended guidelines under that provision. (Ex. B, p.3.) City may not adopt its own speculative "checklist" or requirements in anticipation of a Guidelines change that has not yet been certified by the State.

"Amendments to the guidelines apply prospectively only." (Guidelines §15007(b).) Public agencies may only implement guidelines amendments *after* the effective date of the amended guidelines. (Guidelines §15007; see also, *East Sacramento Partnership for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th 281, 299-300, fn. 6 [LOS standards remain in effect].)

Moreover, such "checklists" do not support or provide a foundation for City's environmental determination. (*Parker Shattuck, supra*, 222 Cal.App.4th at p.784.) In fact, there is no evidence that City used any checklist in a preliminary review of this Project.

III. EXCEPTIONS UNDER GUIDELINES §15300.2 ALSO APPLY TO THIS PROJECT

The Exemption's unsupported conclusory statement, "None of the established exceptions applies to the proposed project" under Guidelines §15300.2 is also false, as are the claims that the Project will have no cumulative impacts, and that no "unusual circumstances" are presented by the Project. (Ex. A, p.4.) City fails to meet its burden to show that the exceptions do not apply.

A. The Project Will Have Cumulative Impacts As Defined By Guidelines §15300.2(a)(3)

City fails to address whether "successive projects of the same type in the same place, over time" is an exception under Guidelines §15300.2(a)(3). Here, the Project is one of many City bicycle projects in the same area, over time. City's 2009 EIR on its Bicycle Plan Project proposed and City has developed or plans to develop bicycle "improvements" on 14th, 15th, 16th, and 17th Streets, as well as on Market, Folsom, Bryant, Howard, Harrison, and Division Streets. City has also proposed and developed similar successive projects of the same type on nearby 7th, 8th, Folsom, Bryant, Howard, Harrison, Market, Brannan, and Division Streets. City's implementation of those other "successive projects...over time" creates an exception to any claimed exemption from CEQA. Those successive projects over time also eliminate traffic lanes, parking and turning, with cumulative impacts on transportation, air quality, GHG, energy consumption, noise, and public safety (including emergency vehicle access). Those cumulative impacts trigger the Guidelines section 15300.2(a)(3) exception and invalidate City's unsupported claim that the Project is exempt.

Furthermore, the Project signals City's improper return to a strategy of piecemealed environmental review that has already been disapproved by the courts and led directly to a permanent Injunction against City's Bicycle Plan Project.

B. Large Traffic Volumes And Proposed Drastic Reduction of Street Capacity Also Are Unusual Circumstances

Further, in this instance, the very large traffic volumes and proposed drastic reduction in street capacity constitute unusual circumstances under Guidelines §15300.2(c). (*Azusa, supra*, 52 Cal. App. 4th at p.1198.) As in *Azusa*, City's admission that this Project *will* have a significant impact by degrading Level of Service creates an exception to a categorical exemption.

C. The Project's Location Also Presents Unusual Circumstances

The Project area is a major urban traffic corridor beneath a freeway that, without the Project, moves 5,700 vehicles per hour and has *no existing bicycle lanes*. That is not the usual setting for categorical exemptions under Guidelines §15301, which typically involve *minor* alterations to *existing* facilities, or Guidelines §15304(h), which typically involve *minor* alterations to either maintenance or improvement of *existing* bicycle lanes. The location is also unusual due to the proximity of a major shopping area with large stores, such as Best Buy, Costco, Office Max, and Rainbow Grocery, which generate significant traffic and the need for customer parking.

IV. FAILURE TO PROVIDE PUBLIC NOTICE AND INFORMATION ON THE PROJECT VIOLATES CEQA'S REQUIREMENT OF INFORMED PUBLIC PARTICIPATION IN THE DECISIONMAKING PROCESS

The April 10, 2017 Exemption did not exist at the time of the claimed public hearing conducted by MTA's Sustainable Streets Division. Nor was the Exemption document readily available before the MTA Board's April 18, 2017 hearing, and even today finding it is difficult, requiring complicated linking to documents not readily available to the general public or easily found on the internet. Other documents, such as MTA's Staff Memo, were never publicly available and required Public Records Act requests to get. Even members of the public who requested public notice, including this Commenter, received no notice of this Project after submitting many requests to MTA for notices of proceedings on all bicycle projects in San Francisco.

Documents on the CEQA review of the Project should have been publicly noticed at least 72 hours in advance and placed on the March 17 and April 18, 2017 public hearing agendas in a readily-accessible link so that the public could know what was being proposed. They were not. (Guidelines §15202(b).)

The Project sponsor, MTA's Sustainable Streets Division claims that its "staff performed door-to-door outreach" to four businesses along eastbound 13th Street from January to March 2017. (Ex. C, p. 6.) That alleged "outreach" ignores that this Project is of citywide and regional importance, affecting traffic to and through the area by thousands of daily travelers, access to freeways, and travel to downtown, the train station, and the ballpark, as well as nearby major shopping destinations.

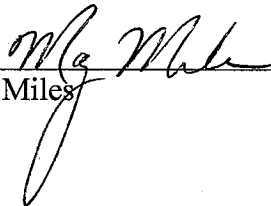
V. IMPLEMENTING THE PROJECT VIOLATES THE PUBLIC'S RIGHT TO INFORMATION AND THE OPPORTUNITY TO PARTICIPATE IN INFORMED DECISIONMAKING AND MUST BE REVERSED

Implementing the Project by City's MTA without allowing the public's right to appeal to an elected decisionmaking body violates CEQA's most basic mandate to give the public a meaningful voice in the decisionmaking process. (PRC §§21000, 21003.1, 21151(c); Guidelines §§15061(e), 15201, 15202(b); *e.g., Laurel Heights I, supra*, 47 Cal. 3d at p.394.) This Board should send a firm message that MTA's illegal implementation of such projects in violation of CEQA and against the public interest will not be tolerated.

CONCLUSION

The proposed 13th Street Project may have significant impacts on the environment, and it is not exempt from CEQA. This Board should grant this Appeal, set aside the Planning Department's April 10, 2017 Categorical Exemption and the MTA Board's April 18, 2017 Project approval, and order the MTA to immediately remove all physical changes and restore 13th Street and the surrounding area to the way they were before MTA's illegal implementation of the Project, pending further environmental review in compliance with CEQA.

DATED: June 16, 2017



Mary Miles

LIST OF EXHIBITS

- A** 4/10/17 Planning Department: Certificate of Exemption from Environmental Review, Case No. 2017-001180ENV, April 10, 2017
- B** 2/17/17 MTA: Memorandum from Jennifer Wong to Jeanie Poling in "Application for Environmental Review"
- C** 4/10/17 MTA: Staff Summary
- D** 4/11/17 MTA: Sustainable Streets Work Order and other documents on implementation of the Project
- E** 4/18/17 MTA Board of Directors: Resolutions No. 170418-050