

File No. 201114

Committee Item No. \_\_\_\_\_

Board Item No. 24

## COMMITTEE/BOARD OF SUPERVISORS

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Date: \_\_\_\_\_

Board of Supervisors Meeting

Date: November 10, 2020

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Prepared by: Lisa Lew

Date: October 30, 2020

Prepared by: Lisa Lew

Date: November 6, 2020

1 [Conditionally Reversing the Statutory Exemption Determination - SFMTA - COVID-19 Muni  
2 Bus Service Adjustments and Associated Stop, Street, and Parking Changes]

3 **Motion conditionally reversing the determination by the Planning Department that the**  
4 **proposed San Francisco Municipal Transportation Agency's (SFMTA) COVID-19 Muni**  
5 **Bus Service Adjustments and Associated Stop, Street, and Parking Changes project is**  
6 **statutorily exempt from environmental review, subject to the adoption of written**  
7 **findings of the Board in support of this determination.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25

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

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

11           MOVED, That this Board of Supervisors conditionally reverses the determination by the  
12 Planning Department that the Project is exempt from environmental review, subject to the  
13 adoption of written findings of the Board in support of this determination.

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# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date \_\_\_\_\_

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

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

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

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

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

**Sponsor(s):**

**Subject:**

**The text is listed below or attached:**

Signature of Sponsoring Supervisor: \_\_\_\_\_

For Clerk's Use Only: