

File No. 201118

Committee Item No. _____

Board Item No. 28

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 Rail Service Adjustments and Associated 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 **Rail Service Adjustments and Associated 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 12, 2020, the Planning Department issued a statutory
10 exemption determination for the San Francisco Municipal Transportation Agency's (MTA's)
11 COVID-19 Muni Rail Service Adjustments and Associated 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, On March 30, 2020, as part of that initial COVID-19 Muni Core Service
11 Plan, Muni Metro light rail service was closed, in order to minimize risk to front-line staff and
12 the community and redirect custodial resources to other facilities; and

13 WHEREAS, As conditions have evolved and transit trips are expected to increase, the
14 MTA proposed to modify COVID-19 Muni Core Service by scheduling the return of a modified
15 Muni Metro rail service on August 22, 2020; and

16 WHEREAS, The proposal would allow the MTA to implement surface rail service for
17 Muni lines that typically operated in the subway pre COVID-19 (specifically, the N Judah, the
18 TM Oceanview, the LK Taraval-Ingleside, the L Taraval, the J Church, and the S Shuttle
19 lines), thus facilitating longer train cars and adequate social distancing on train cars; and

20 WHEREAS, Implementation of the Project would require temporary changes to Muni
21 transit stops, on-street vehicle parking and loading spaces, and traffic restrictions, particularly
22 at the West Portal Station Area and at the J Church Termination Area, between 15th Street and
23 Duboce Avenue; and

24 WHEREAS, These changes to traffic, transit stops, and parking are designed to
25 facilitate the Muni service changes proposed by the Project, as well as to enable adequate

1 social distancing at transit stops by providing more space for riders to wait for, board, and
2 disembark the service routes; and

3 WHEREAS, Implementation of the Project would require temporary striping, signage on
4 existing poles or moveable signage, installation of safe-hit posts or other moveable barriers on
5 the ground, and the placement of wooden ADA platforms on the ground; no excavation would
6 be required; and

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

9 WHEREAS, On August 19, 2020, the MTA Director of Transit approved the Project;
10 and

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

14 WHEREAS, Two appeals were filed of the statutory exemption determination for the
15 Project with the Office of the Clerk of the Board of Supervisors: the first one on September 14,
16 2020, by Justin Zucker of Reuben, Junius & Rose, LLP on behalf of Safeway Inc., and the
17 second one on September 21, 2020, by David Pilpel (collectively, Appellants); and

18 WHEREAS, By memoranda to the Clerk of the Board dated September 23 and 29,
19 2020, the Planning Department's Environmental Review Officer determined that the appeals
20 were timely filed; and

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

23 WHEREAS, In reviewing the appeal of the exemption determination, this Board
24 reviewed and considered the exemption determination, the appeal letter, the responses to the
25 appeal documents that the Planning Department prepared, the other written records before

1 the Board of Supervisors and all of the public testimony made in support of and opposed to
2 the exemption determination appeal; and

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

8 WHEREAS, The written record and oral testimony in support of and opposed to the
9 appeal and deliberation of the oral and written testimony at the public hearing before the
10 Board of Supervisors by all parties and the public in support of and opposed to the appeal of
11 the exemption determination is in the Clerk of the Board of Supervisors File No. 201116, and
12 is incorporated in this Motion as though set forth in its entirety; now, therefore, be it

13 MOVED, That this Board of Supervisors conditionally reverses the determination by the
14 Planning Department that the Project is exempt from environmental review, subject to the
15 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: