

1 [Conditionally Approving Submission of Sales Tax to Support Caltrain Service - November 3,
2020, Election]

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3 **Resolution conditionally approving submission of one-eighth of one percent (0.125%)**
4 **retail transactions and use tax for Caltrain or its successor agency to use to support its**
5 **immediate and long-term operational and capital costs, at an election to be held on**
6 **November 3, 2020; and affirming the San Francisco Municipal Transportation Agency’s**
7 **determination under the California Environmental Quality Act.**

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9 WHEREAS, The Peninsula Corridor Joint Powers Board (“JPB”) is a joint exercise of
10 powers authority duly formed pursuant to the October 3, 1996, joint powers agreement
11 between the City and County of San Francisco, the San Mateo County Transit District
12 (“SMCTD”), and the Santa Clara Valley Transportation Authority (“VTA”) (together, the
13 "Member Agencies"); and

14 WHEREAS, The JPB operates the Caltrain passenger rail service between San
15 Francisco, California and Gilroy, California, currently serving 32 stations along the 77-mile
16 corridor; and

17 WHEREAS, Since its inception, the JPB has had no dedicated source of funding other
18 than passenger fares and, instead, relies on contributions from its Member Agencies to fill
19 minimum financial requirements in its operating and capital budgets under two different
20 funding formulas; and

21 WHEREAS, For capital costs, each of the Member Agencies (a) contributes an equal
22 amount of capital funding each year and (b) supplements operating funding based on the
23 percentage of system ridership originating in each County; and

24 WHEREAS, The levels of both capital and operating funding are determined by the
25 funding capacity of the Member Agency with the least ability to provide its share of funding in

1 any given year, and the amount that Member Agency can make available then becomes the
2 standard against which the contributions of the other Member Agencies are calculated; and

3 WHEREAS, This approach fosters an uncertain financial and planning environment for
4 the JPB, which is exacerbated by continually-escalating operating, maintenance and repair
5 costs, thereby keeping the JPB from operating at service levels that meet the rising passenger
6 demands for Caltrain service; and

7 WHEREAS, Caltrain, the seventh largest commuter rail service in the nation, operates
8 the most efficient such service based on costs per passenger mile, and has the highest
9 farebox recovery rate of all the commuter rail services nationwide at 70%, which reflects the
10 proportion of operating costs funded by passenger fares; and

11 WHEREAS, The JPB is facing significant and ever-increasing structural funding
12 shortfalls, which impact its ability to meet its operational needs, address its state of good
13 repair requirements and undertake necessary capital improvements to sustain the Caltrain
14 service; and

15 WHEREAS, The JPB has embarked upon a project to electrify its right of way between
16 San Francisco and San Jose, which will transform the Caltrain service into a more
17 environmentally sustainable, quiet and nimble operation commencing in 2022; and

18 WHEREAS, Although the electrified Caltrain service will eliminate the costs of diesel
19 fuel, Caltrain will confront new system and technological costs for operation and maintenance
20 of the electrified system, the electrical multiple unit rail cars, and the positive train control
21 system; and

22 WHEREAS, To provide a means to address the JPB's financial challenges, in 2017 the
23 Governor signed Senate Bill No. 797, introduced by Senator Jerry Hill, authorizing the JPB to
24 implement a new retail transactions and use tax of up to 0.125 percent in San Francisco, San
25 Mateo, and Santa Clara Counties (together, the "Counties") if (i) the Board of Directors of the

1 JPB adopts a resolution submitting the measure to the voters, (ii) the submission of the
2 measure to the voters is approved by the Boards of Supervisors in the Counties, (iii) the
3 submission of the measure to the voters is approved by a majority vote of the governing
4 boards of the San Francisco Municipal Transportation Agency (“SFMTA”), the SMCTD, and
5 VTA, and (iv) the tax is adopted by a two-thirds vote of the three Counties' voters; and

6 WHEREAS, The revenues derived from the one-eighth cent sales tax will provide a
7 dedicated fund source to support the operational and capital cost of the service; and

8 WHEREAS, More specifically, the tax revenues from this measure will be prioritized:

9 • To support the operation of Caltrain service levels throughout the corridor from San
10 Francisco to Gilroy, including, but not limited to, expanded service and increased capacity
11 realized through the operation of an electrified system; the required support includes the
12 maintenance of equipment, infrastructure and systems necessary to sustain and expand the
13 service;

14 • To support the infrastructure, rolling stock, and capital projects necessary to advance
15 the expansion of the Caltrain peak hour service from 6 trains per hour per direction to 8 trains
16 per hour per direction, as well as the expansion of the Gilroy service to a minimum of five
17 morning and five afternoon trains; and

18 • To develop and implement programs to expand access to the Caltrain service and
19 facilitate use of the system by passengers of all income levels, including establishing an
20 affordability program with consideration of discounted passes and/or additional means-based
21 fare discounts informed by Caltrain’s Means Based Fare Pilot Program; and

22 WHEREAS, Revenues will also be available to help leverage other local, regional, state
23 and federal investments to advance capital projects necessary to implement the Caltrain
24 Business Plan’s 2040 Service Vision, adopted by the JPB on October 3, 2019; these projects
25 include, but are not limited to: the San Francisco Downtown Extension project including the

1 Pennsylvania Avenue alignment, the extension of electrified train service to Gilroy, and grade
2 separations throughout the corridor; and

3 WHEREAS, On March 10, 2020, the SFMTA, under authority delegated by the
4 Planning Department, determined that the approval of the Peninsula Corridor Joint Powers
5 Board's placement of a tax on the ballot is not a "project" under the California Environmental
6 Quality Act ("CEQA") pursuant Title 14 of the California Code of Regulations, Sections
7 15060(c) and 15378(b); and

8 WHEREAS, A copy of the CEQA determination is on file with the Clerk of the Board of
9 Supervisors in File No. 200793, and is incorporated herein by reference; and

10 WHEREAS, This tax measure is a district measure governed by the California
11 Elections Code, Division 9, Chapter 4, Section 9300, et seq.; and

12 WHEREAS, Under California Elections Code, Section 9313, the Santa Clara County
13 Counsel's Office shall prepare the impartial analysis of this tax measure for inclusion in San
14 Francisco's Voter Information Pamphlet, shall make the impartial analysis available for public
15 review for ten days, and shall submit the impartial analysis and available translations of that
16 impartial analysis to the San Francisco Department of Elections; and

17 WHEREAS, The San Mateo County Registrar of Voters shall serve as the district
18 elections official for this tax measure, shall make the tax measure's legal text and arguments
19 available for public examination for ten days, and shall submit the final materials to the San
20 Francisco Department of Elections; and

21 WHEREAS, The JPB shall reimburse the San Francisco Department of Elections for its
22 incremental costs incurred due to the inclusion of this tax measure in the City and County of
23 San Francisco's Voter Information Pamphlet, ballots, and associated materials; and

24 WHEREAS, As required by California Revenue and Taxation Code, Section
25 7286.65(b), this Resolution evidences the San Francisco Board of Supervisors' ("Board's")

1 approval for the JPB to place a sales tax measure before the voters of the three Counties to
2 provide the JPB (or its successor agency) with a steady stream of funding to support the
3 annual operating, maintenance, and capital needs of an electrified Caltrain service with
4 increased frequency and capacity, which in turn will reduce traffic congestion and air pollution
5 in the three Counties, subject to the conditions set forth in subparagraphs a) through f); now,
6 therefore, be it

7 RESOLVED, That the San Francisco Board of Supervisors approves placement by the
8 Peninsula Corridor Joint Powers Board of a regional measure on the November 3, 2020,
9 ballot in Santa Clara, San Mateo and San Francisco Counties to impose a one-eighth of one
10 percent (0.125%) retail transactions and use tax for a period of thirty (30) years, throughout
11 the three Counties, to enable Caltrain (or its successor agency) to fund operating and capital
12 expenses of the Caltrain rail service, and support the operating and capital needs required to
13 implement the Service Vision adopted by the JPB on October 3, 2019, as part of the Caltrain
14 Business Plan; and, be it

15 FURTHER RESOLVED, That the Board’s approval of placement of the Caltrain tax
16 measure on the November 3, 2020 ballot is subject to the following conditions:

- 17 a) That the SFMTA, SMCTD, VTA, the San Francisco Board of Supervisors, San
18 Mateo County Board of Supervisors, Santa Clara Board of Supervisors, and the
19 JPB Board of Directors (“JPB Board”) approve placement of the Caltrain tax
20 measure on the November 3, 2020 ballot in the Counties subject to the conditions
21 set forth in paragraphs a) – f) of this resolution, and include these conditions in their
22 resolutions approving the placement of the Caltrain tax measure on the November
23 3, 2020 ballot;
- 24 b) That all Caltrain tax revenue shall be held in a special escrow account under the
25 sole and absolute control of the JPB Board, which may be disbursed by the JPB

1 with the approval of a two-thirds majority of the JPB Board at any time, until such
2 time as the JPB Board has amended the Joint Powers Agreement by a two-thirds
3 vote to modify its governance structure or procedures, at which time the JPB Board
4 may transfer all funds held in the special escrow account to any other accounts held
5 by JPB, and may authorize the unrestricted use of these and all subsequent sales
6 tax revenues for operating or capital expenditures as authorized by the Caltrain tax
7 measure;

8 c) That notwithstanding subparagraph b), if Caltrain receives less than \$40 million in
9 Federal or other emergency relief funds between the date of JPB approval of the
10 Caltrain tax measure and the effective date of the Caltrain tax measure, the first \$40
11 million collected, minus an amount equal to any emergency relief funds received by
12 Caltrain during that period, shall be used to offset member operating contributions
13 and help replace COVID-related fare losses, maintain essential services, and fund
14 operating budgets as approved by the JPB Board;

15 d) That if the JPB Board has not amended the Joint Powers Agreement by a two-thirds
16 majority by September 30, 2021 to modify its governance structure or procedures,
17 the JPB shall release up to \$40 million from the special escrow account to maintain
18 essential services and fund operating budgets as approved by the JPB Board, with
19 the remaining sales tax funds held in the special escrow account until completion of
20 the Caltrain Electrification Project or December 31, 2022, whichever occurs later, at
21 which point funds from the special escrow account may be used for any eligible
22 purpose authorized by the JPB Board with a two-thirds majority, as provided by
23 paragraph b);

24 e) That if the JPB Board has not amended the Joint Powers Agreement by a two-thirds
25 majority by December 31, 2022 to modify its governance structure or procedures,

1 the JPB shall work with the State Legislature to modify the JPB's governance
2 structure or procedures in the 2023 Legislative session; and

- 3 f) That the JPB Board shall appoint an independent special counsel and auditor (and
4 shall not have the same counsel and auditor as SMCTD) within 90 days of
5 placement of the Caltrain tax measure on the November 3, 2020 ballot, to represent
6 the JPB in all future matters.

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