



City of South San Francisco

P.O. Box 711 (City Hall,
400 Grand Avenue)
South San Francisco, CA

City Council

Resolution: RES 85-2018

File Number: 18-484

Enactment Number: RES 85-2018

RESOLUTION ESTABLISHING NOVEMBER 6, 2018 AS THE DATE FOR A MUNICIPAL ELECTION ON A PROPOSED BALLOT MEASURE TO ADOPT AN ORDINANCE AMENDING CHAPTER 4.20 OF THE SOUTH SAN FRANCISCO MUNICIPAL CODE IN ORDER TO INITIALLY INCREASE THE CITY'S TRANSIENT OCCUPANCY TAX (TOT) RATE BY TWO PERCENT (2%) EFFECTIVE JANUARY 1, 2019, AND AUTHORIZING AN ADDITIONAL ONE PERCENT (1%) INCREASE EACH SUBSEQUENT JANUARY 1 UP TO A TOTAL MAXIMUM OF FOURTEEN PERCENT (14%) FOR UNRESTRICTED GENERAL REVENUE PURPOSES, SUBJECT TO THE APPROVAL OF THE VOTERS; ESTABLISHING POLICIES AND PROCEDURES IN CONNECTION WITH SUCH ELECTION; AND REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN MATEO CONSOLIDATE THE ELECTION WITH THE STATEWIDE GENERAL ELECTION PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE.

FILED IN THE OFFICE OF THE
CHIEF ELECTIONS OFFICER
OF SAN MATEO COUNTY, CALIF.

JUL 09 2018

MARK CHURCH, Chief Elections Officer
By: _____
DEPUTY CLERK

WHEREAS, the City of South San Francisco ("City ") adopted Ordinance No. 554, codified as Chapter 4.20 of the Municipal Code, which provided for the imposition and collection of a general excise tax on the privilege of using hotel accommodations in the City, otherwise known as the "transient occupancy tax" ("TOT") to be paid by hotel users and collected by hotel operators. The TOT rate has subsequently been amended several times by the City Council and the voters of South San Francisco; and

WHEREAS, Article XIIC, section 2(b) of the California Constitution requires that any general tax for unrestricted general revenue purposes, such as the TOT rate, must be submitted to and approved by a majority vote of the voters voting on the issue of increasing the tax; and

WHEREAS, pursuant to section 7280 of California Revenue and Taxation Code, the legislative body of a city may levy a tax on the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist home or house, motel, or other lodging for a period of less than 30 days; and

WHEREAS, the City Council of the City of South San Francisco ("City Council") last adjusted the TOT rate from nine percent (9%) to ten percent (10%) during the duly noticed regular meeting held July 23, 2009; and

WHEREAS, the City's current TOT rate of ten percent (10%) ranks among the lowest in San Mateo County; and

WHEREAS, a substantial portion of the City's General Fund is used for public safety purposes and the City Council has determined that an additional increment to the TOT rate is an effective way of recouping costs associated with the impacts travelers and visitors have on the City's many amenities, such as but not limited to police and fire protection services, traffic circulation, parks and recreation programs, and public roads; and

WHEREAS, the proposed increase in TOT rate would generate additional funds for unrestricted general revenue purposes, including but not limited to helping offset the costs of public safety, community development, rising infrastructure needs related to streets and storm drains, and reducing the per capita cost of general municipal program and services paid by local residents and businesses; and

WHEREAS, after receiving information at its June 13, 2018 City Council meeting, and after subsequently receiving testimony from the public, the City Council determined that the public interest would be well served by asking the voters of South San Francisco to authorize an additional two percent (2%) increment to the existing TOT rate with an additional automatic one percent (1%) increment over two years, initially raising the total TOT rate from ten percent (10%) to twelve percent (12%) effective January 1, 2019, subsequently raising the total TOT rate to thirteen percent (13%) effective January 1, 2020, and finally raising the TOT rate to a maximum fourteen percent (14%) effective January 1, 2021; and

WHEREAS, Article XIIC, section 2(b) also requires that an election by the voters to approve a general tax must be consolidated with an election for City Councilmembers; and

WHEREAS, the November 6, 2018 election includes an election of members of the City Council; and

WHEREAS, as a general tax for unrestricted general revenue purposes, the two percent (2%) increment with an additional one percent (1%) increment over subsequent years up to a maximum of fourteen percent (14%) effective January 1, 2021 must be approved by a majority vote; and

WHEREAS, a proposed ordinance attached hereto and incorporated herein by reference as Exhibit A ("Ordinance") would, following voter approval, implement the adoption of this tax; and

WHEREAS, pursuant to Government Code section 53724 and Election Code section 9222, the City Council desires to submit the Ordinance to the voters of the City.

WHEREAS, after considering the foregoing information, the City Council believes that the proposed incremental adjustment to the existing TOT rate should be authorized by the voters of South San Francisco in the amount described herein, with implementation of the initial two percent (2%) increment effective January 1, 2019; and

WHEREAS, the cost of conducting the election is included in the City Clerk's Fiscal Year 2018-19 Operating Budget; and

WHEREAS, based on all of the information presented at the June 13, 2018 City Council meeting, both written and oral, including without limitation the public comment, staff reports, minutes, and other relevant

materials (hereafter the "Record"), the City Council finds that under CEQA Guidelines 15060(c)(2) and 15378(b)(4), this tax does not constitute a project under CEQA and therefore review under CEQA is not required.

NOW, THEREFORE, BE IT RESOLVED that the City Council of South San Francisco hereby RESOLVES as follows:

SECTION 1. Findings. The City Council finds and determines that each of the findings set forth above are true and correct.

SECTION 2. Call for Election. Pursuant to California Elections Code Section 9222, the City Council hereby calls an election at which it shall submit to the qualified voters of the City of South San Francisco a measure that, if approved by a majority vote, would increase the Transient Occupancy Tax from ten percent (10%) to twelve percent (12%) and an additional one percent (1%) increase in subsequent years up to a maximum of fourteen percent (14%), with the additional funds generated to be used for unrestricted general revenue purposes. This measure shall be designated by letter by the San Mateo County Registrar of Voters. Pursuant to California Elections Code Section 10400 et seq., the election for this measure shall be consolidated with the established statewide election to be conducted on November 6, 2018.

SECTION 3. Ballot Language. The ballot language for the proposed measure shall be as follows:

<p>10 8 7 9 8 11 12 8 1</p>	<p>To maintain the quality of life in South San Francisco by providing services and improvements to accommodate visitors and residents, enhance public safety, community development, parks and recreation programs, street repair and traffic circulation, and for unrestricted general revenue purposes, shall an ordinance be adopted increasing the ongoing tax on hotel guests from 10% to 12% with a 1% increase each subsequent year up to a maximum rate of 14%, providing approximately an additional \$5,920,000 annually?</p>	<p>YES</p> <hr/> <p>NO</p>
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This question requires the approval of a majority of those casting votes.

SECTION 4. Proposed Measure. The full text of the proposed measure to be submitted to the voters is attached as Exhibit A hereto, authorizing the general tax to be approved by the voters pursuant to Section 3. The City Council hereby approves the proposed measure, the form thereof, and its submission to the voters of the City at the November 6, 2018 election.

SECTION 5. Publication of Measure. The City Clerk is hereby directed to cause notice of the measure to be published once in an official newspaper, in accordance with Section 12111 of the California Elections Code and Section 6061 of the California Government Code.

SECTION 6. Request to Consolidate and Conduct Election and Canvass Returns.

(a) The City Council hereby requests that the San Mateo County Board of Supervisors consolidate the election called by this Resolution with the statewide election to be conducted on November 6, 2018

and order the election to be conducted by the Registrar of Voters. The City Clerk is directed to file a certified copy of this Resolution with the Board of Supervisors of San Mateo County and the Registrar of Voters of San Mateo County on or before August 10, 2018.

(b) The election on the measure set forth in Section 3 shall be held and conducted, the voters canvassed and the returns made, and the results ascertained and determined as provided for herein. In all particulars, the election shall be held in accordance with the Elections Code of the State of California.

(c) The election on the measure set forth in Section 3 shall be held in San Mateo County in the City of South San Francisco on November 6, 2018, as required by law, and the Board of Supervisors of San Mateo County is authorized to canvass the returns of the election with respect to the votes cast in the City of South San Francisco and certify the results to the City Council of the City of South San Francisco.

(d) At the next regular meeting of the City Council of the City of South San Francisco occurring after the returns of the election for the measure set forth in Section 3 have been canvassed and the results have been certified to the City Council, or at a special meeting called for such purpose if required by law, the City Council shall cause to be entered in its minutes a statement of the results of the election.

SECTION 7. Submission of Ballot Arguments and Impartial Analysis.

(a) The last day for submission of direct arguments for or against the measure shall be by 5:00 p.m. on Friday, August 17, 2018.

(b) The last day for submission of rebuttal arguments for or against the measure shall be by 5:00 p.m. on Monday, August 27, 2018.

(c) Direct arguments shall not exceed three hundred (300) words and shall be signed by not more than five (5) persons.

(d) Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five (5) persons; those persons may be different persons than the persons who signed the direct arguments.

(e) The City Attorney shall prepare, by August 17, 2018, an impartial analysis of the measure showing the effect of the measure.

(f) Council Member Richard Garbarino is hereby authorized to file a written argument, not to exceed three hundred (300) words, in favor of the proposed measure, on behalf of the City Council. At the Mayor's discretion, the argument may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote. In the event that an argument is filed against the measure, the Mayor and Vice Mayor/Council Member are also authorized to file a rebuttal argument, not to exceed two hundred fifty (250) words, on behalf of the City Council. The rebuttal argument may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote.

(g) Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against it, and copies of the argument against it to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument that it seeks to rebut.

SECTION 8. Appropriation of Necessary Funds. The City Manager is hereby authorized and directed to appropriate the necessary funds to pay for the City's cost of placing the measure on the election ballot.

SECTION 9. Services of City Clerk. The City Clerk is hereby authorized and directed to take all steps necessary to place the measure on the ballot and to cause the ordinance or measure to be printed. A copy of the ordinance or measure shall be made available to any voter upon request.

* * * * *

At a meeting of the City Council on 6/13/2018, a motion was made by Richard Garbarino, seconded by Mark Addiego, that this Resolution be approved. The motion passed.

Yes: 5 Mayor Normandy, Mayor Pro Tem Matsumoto, Councilmember Garbarino, Councilmember Gupta, and Councilmember Addiego

Attest by

Krista Martinelli

STATE OF CALIFORNIA }
COUNTY OF SAN MATEO } SS

I, Krista Martinelli, City Clerk of the city of South San Francisco, County of San Mateo, State of California, do hereby certify that the above and foregoing is a full, true and correct copy of Resolution 85-2018 the original of which is on file in my office, and that I have carefully compared the same with the original.

IN WITNESS WHEREOF I have hereunto set my hand and the seal of the City of South San Francisco this 25th day of June 2018

KRISTA MARTINELLI
City Clerk of the City of South San Francisco

By _____
City Clerk

Full Text starts
NOT to include in Full Text

Exhibit A

.Title

An ordinance of the City Council of the City of South San Francisco amending Chapter 4.20 of the South San Francisco Municipal Code concerning the Transient Occupancy Tax.

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WHEREAS, the City of South San Francisco ("City") adopted Ordinance No. 554, codified as Chapter 4.20 of the Municipal Code, which provided for the imposition and collection of a general excise tax on the privilege of using hotel accommodations in the City to be paid by hotel users and collected by hotel operators, otherwise known as the "transient occupancy tax" ("TOT") rate. The TOT rate has subsequently been amended several times by the City Council and the voters of South San Francisco; and

WHEREAS, Article XIII C, section 2(b) of the California Constitution requires that any general tax for unrestricted general revenue purposes, such as the TOT rate, must be submitted to and approved by a majority vote of the voters voting on the issue of increasing the tax; and

WHEREAS, pursuant to section 7280 of California Revenue and Taxation Code, the legislative body of a city may levy a tax on the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist home or house, motel, or other lodging for a period of less than 30 days; and

WHEREAS, the City Council of the City of South San Francisco ("City Council") last adjusted the TOT rate from nine percent (9%) to ten percent (10%) during the duly noticed regular meeting held July 23, 2009; and

WHEREAS, the City's current TOT rate of ten percent (10%) ranks among the lowest in San Mateo County; and

WHEREAS, a substantial portion of the City's General Fund is used for public safety purposes and the City Council has determined that an additional increment to the TOT rate is an effective way of recouping costs associated with the impacts travelers and visitors have on the City's many amenities, such as but not limited to police and fire protection services, traffic circulation, parks and recreation programs, and public roads; and

WHEREAS, the proposed increase in TOT rate would generate additional funds for unrestricted general revenue purposes, including but not limited to helping offset the costs of public safety, community development, rising infrastructure needs related to streets and storm drains, and reducing the per capita cost of general municipal program and services paid by local residents and businesses; and

WHEREAS, after receiving information at its June 13, 2018 City Council meeting, and after subsequently receiving testimony from the public, the City Council determined that the public interest would be well served by asking the voters of South San Francisco to authorize an additional two percent (2%) increment to the existing TOT rate with an additional automatic one percent (1%) increment over two years, initially raising the total TOT rate from ten percent (10%)

to twelve percent (12%) effective January 1, 2019, subsequently raising the total TOT rate to thirteen percent (13%) effective January 1, 2020, and finally raising the TOT rate to a maximum fourteen percent (14%) effective January 1, 2021; and

WHEREAS, Article XIIC, section 2(b) also requires that an election by the voters to approve a general tax must be consolidated with an election for City Councilmembers; and

WHEREAS, the November 6, 2018 election includes an election of members of the City Council; and

WHEREAS, as a general tax for unrestricted general revenue purposes, the two percent (2%) increment with an additional one percent (1%) increment over subsequent years up to a maximum of fourteen percent (14%) effective January 1, 2021 must be approved by a majority vote; and

WHEREAS, pursuant to Government Code section 53724 and Election Code section 9222, the City Council desires to submit the Ordinance to the voters of the City.

WHEREAS, after considering the foregoing information, the City Council believes that the proposed incremental adjustment to the existing TOT rate should be authorized by the voters of South San Francisco in the amount described herein, with implementation of the initial two percent (2%) increment effective January 1, 2019; and

WHEREAS, based on all of the information presented at the June 13, 2018 City Council meeting, both written and oral, including without limitation the public comment, staff reports, minutes, and other relevant materials (hereafter the "Record"), the City Council finds that under CEQA Guidelines 15060(c)(2) and 15378(b)(4), this tax does not constitute a project under CEQA and therefore review under CEQA is not required.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH SAN FRANCISCO, SUBJECT TO VOTER APPROVAL, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals.

The City Council of South San Francisco, subject to voter approval, finds that all Recitals are true and correct and are incorporated herein by reference.

SECTION 2. Amendments

Chapter 4.20 of the South San Francisco Municipal Code is hereby amended to read as follows:

Section 4.20.030 Amended: "**Tax Imposed.** For the privilege of occupancy in any hotel, each transient is subject to and shall pay a general tax for unrestricted general revenue purposes in the amount of eleven percent of the rent charged by the operator and a special tax of one percent. The general tax rate shall automatically increase each calendar year after the effective date at a rate of one percent per year up to a maximum rate of thirteen percent. The total general and special taxes imposed pursuant to this chapter shall equal no more than fourteen percent of the rent charged by the operator. If a room is rented by a firm, corporation, partnership, joint venture or any other organization on a long term

basis, the tax imposed by this section shall fall upon and be borne by each individual who occupies or has the right to occupy the room for a period of thirty consecutive days or less. The tax constitutes a debt owed by the transient to the city, which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax shall be paid directly to the tax administrator."

SECTION 3. Compliance with the California Environmental Quality Act

The approval of this ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). This ordinance imposes a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the ordinance is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060, CEQA analysis is not required.

SECTION 4. Severability

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 5. Effective Date of Tax

If this ordinance is approved by a majority of the voters voting on the issue at the November 6, 2018 election, pursuant to Elections Code Section 9217, this ordinance shall be considered adopted on that date and the tax shall become effective January 1, 2019, or no sooner than 10 days after the City Council certifies the results of the election, whichever occurs later.

SECTION 6. Voter Approval Required

This ordinance shall only become operative if the tax imposed is approved by a simple majority of voters voting on the question at the November 6, 2018 election.

SECTION 7. Publication

This Ordinance shall be published once, with the names of those City Councilmembers voting for or against it, in the South San Francisco Examiner, a newspaper of general circulation in the City of South San Francisco, in accordance with Government Code Section 36933.

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Full Text
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