



# City of South San Francisco

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

## City Council

Resolution: RES 139-2022

File Number: 22-667

Enactment Number: RES 139-2022

RESOLUTION CALLING FOR THE SUBMISSION TO SOUTH SAN FRANCISCO VOTERS OF AN INITIATIVE ORDINANCE TO ENACT AN ANNUAL PARCEL TAX ON SOME COMMERCIAL OFFICE PROPERTIES FOR EARLY CARE AND EDUCATION AND CHILDCARE AND DEVELOPMENT PROGRAMS AT THE GENERAL MUNICIPAL ELECTION OF NOVEMBER 8, 2022, ESTABLISHING THE SCHEDULE FOR SUBMISSION OF BALLOT ARGUMENTS, AND AUTHORIZING THE COUNTY OF SAN MATEO ELECTIONS DIVISION TO CONDUCT THE ELECTION.

**FILED** IN THE OFFICE OF THE CHIEF ELECTIONS OFFICER OF SAN MATEO COUNTY

AUG 15 2022

By:  s Officer  
DEPUTY CLERK

WHEREAS, at the City Council meeting of July 13, 2022, City Council received a Report regarding adoption of a Resolution accepting a Certificate of Sufficiency of Signatures on a Petition for an Initiative Ordinance of an Annual Parcel Tax on Some Commercial Office Properties for Early Care and Education and Childcare and Development Programs; and

WHEREAS, the Report provided a history of the number of signatures received, and the sequence of submittals and actions required for the Initiative to qualify for the Certificate of Sufficiency of Signatures; and

WHEREAS, on July 13, 2022, the City Council approved a Resolution accepting a Certificate of Sufficiency of Signatures on a Petition for an Initiative Ordinance of an Annual Parcel Tax on Some Commercial Office Properties for Early Care and Education and Childcare and Development Programs; and

WHEREAS, at the July 13, 2022 City Council meeting the Council deferred taking action on the Initiative until after consideration of a Study of the effects of the Initiative as provided for in Elections Code Section 9212, and the Elections Code requires that this study, known as a 9212 Impact Report, be provided to Council by City staff within 30 days; and

WHEREAS, the 9212 Impact Report on the Initiative Ordinance of an Annual Parcel Tax on Some Commercial Office Properties for Early Care and Education and Childcare and Development Programs was presented at the City Council meeting of August 10, 2022; and

WHEREAS, the City Council now wishes to call for an election on the Initiative to be held on November 8, 2022.

NOW, THEREFORE, BE IT RESOLVED, that:

1. Pursuant to the laws of the State of California relating to general law cities there is called and ordered an election to be held in the City of South San Francisco, California, on November 8, 2022.
2. Pursuant to Elections Code Section 9214, subdivision (b) and Section 1405, subdivision (a)(1), the City Council hereby orders the Initiative to be placed on an all-mailed ballot Statewide General Election without alteration and does order the following question submitted to the voters at the election:

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Shall the measure imposing an annual tax on parcels of land in South San Francisco that are developed and used as commercial office parcels, as defined in the measure, and 25,000 square feet or larger, at a rate of \$2.50 per square foot of parcel size, generating approximately \$55,900,000 annually, not expiring automatically, to fund early learning and care for children (primarily aged 2.5 to 5) of families living or working in the South San Francisco Unified School District boundaries be adopted?

YES

NO

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3. The text of the Initiative is attached to this resolution as Exhibit A. The full text of the Initiative shall be printed in the ballot materials and be available for public inspection in the City Clerk's office and on the City's website at [www.ssf.net](http://www.ssf.net) <<http://www.ssf.net>>.
4. The City Council directs the City Clerk to transmit a copy of the Initiative to the City Attorney and directs the City Attorney to prepare an impartial analysis of the Initiative pursuant to Elections Code Section 9280.
5. Arguments in favor of or against the Initiative shall be submitted to the City Clerk no later than August 19, 2022, by 5:00 p.m. Arguments for and against the Initiative shall not exceed 300 words and shall be signed by not more than five people. If the City Clerk receives more than one argument for and/or against, the priorities established by Elections Code Section 9287 shall control.
6. Rebuttal arguments shall be controlled by the provisions of Elections Code Section 9285 and shall not exceed 250 words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the primary arguments. The deadline for filing rebuttal arguments shall be August 29, 2022, by 5:00 p.m.
7. The initiative proposes to impose a special tax, as defined in the California Constitution, Article XIII C, section 1(d). The California Constitution, Article XIII C, section 2(d) states, "No local government may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote." The First Appellate District of the California Court of Appeals has issued multiple decisions holding that a simple majority vote is sufficient to pass a special tax submitted to voters pursuant to a voter-sponsored initiative. (*See Jobs & Housing Coalition v. City of Oakland* (2021) 73 Cal.App.5th 505; *City and County of San Francisco v. All Persons Interested in the Matter of Proposition G* (2021) 66 Cal.App.5th 1058; *Howard Jarvis Taxpayers Association v. City and County of San Francisco* (2021) 60 Cal.App.5th 227; *City and County of San Francisco v. All Persons Interested in Matter of Proposition C* (2020) 51 Cal.App.5th 703.)

Under the currently applicable precedent of the First Appellate District, the Initiative requires only a simple majority of “yes” votes to pass. Notwithstanding the immediately preceding sentence, a two-thirds majority of “yes” votes will be required to pass the Initiative if the California Supreme Court overrules the First Appellate District, and the California Supreme Court’s decision applies to the Initiative; or if a court of competent jurisdiction rules that a two-thirds majority of “yes” votes is required to pass the Initiative.

8. Pursuant to the Elections Code commencing with Section 10400, the City Council hereby requests the County of San Mateo to take all actions which are necessary or appropriate in connection with the election, including, but not limited to, printing and mailing sample ballots, arguments and applications for absentee ballots, canvassing election returns and certifying the results of the election to the Council. Pursuant to Elections Code Section 10002, the Board of Supervisors of San Mateo County is requested to permit the Registrar of Voters to render all services specified by Elections Code Section 10418 relating to the election. The City of South San Francisco acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code Section 10418. The City hereby agrees to reimburse San Mateo County in full for any services performed by each for the City upon presentation of an invoice to the City Clerk.

9. The jurisdictional boundaries of the City of South San Francisco have not changed since the last general municipal election.

10. The City Clerk is hereby authorized and directed to publish a notice of the election within the time and in the manner specified in Elections Code Section 12112. The City Clerk is further authorized and directed to do all other things required by law to hold the election above provided.

11. The City Clerk is hereby authorized and directed to certify to the adoption of this resolution and to transmit a certified copy to the Board of Supervisors of the County of San Mateo and to the Registrar of Voters of the County of San Mateo.

12. If any section, subsection, phrase, or clause of this Resolution is for any reason found to be invalid, such section, subsection, phrase or clause shall be severed from, and shall not affect the validity of, all remaining portions of this Resolution which can be given effect without the severed portion.

13. This Resolution shall become effective immediately upon its passage and adoption

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At a meeting of the City Council on 8/10/2022, a motion was made by Councilmember Coleman, seconded by Councilmember Addiego, that this Resolution be approved. The motion passed.

**Yes:** 5 Mayor Nagales, Vice Mayor Nicolas, Councilmember Coleman, Councilmember Flores, and Councilmember Addiego

Attest by



Rosa Govea Acosta, City Clerk

STATE OF CALIFORNIA }  
COUNTY OF SAN MATEO } SS


I, Rosa Govea Acosta, 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 No. 139-2022

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 15th day of August 2022

ROSA GOVEA ACOSTA  
City Clerk of the City of South San Francisco

By  City Clerk

↑ FULL TEXT STARTS

EXHIBIT A Not to print

**Section 4.40.010. Title.**

This ordinance may be referred to as the "South San Francisco Early Care for All Parcel Tax Act."

**Section 4.40.020. Findings and Purpose.**

- A. Approximately half of the children between the ages of 2.5 and 5 years old in South San Francisco do not have access to early care and education in the City due to high costs and space shortages. The City's publicly funded early care and education services, administered through the City's Parks and Recreation Department, are popular but lack funding to fully meet the City's need. Currently, approximately seven hundred families are on the program's 4-year waitlist.
- B. A child's brain develops dramatically during the first five years of life. This critical period is a window of opportunity to lay the foundation for a person's entire life. Therefore, children who cannot access early care and education may enter kindergarten less prepared to flourish than their peers. Societal benefits of early care and education include higher graduation rates, lower teen pregnancy rates, and lower incarceration rates.
- C. Increases in commercial offices in South San Francisco have led to sharp increases in property values, which reduces the availability of property for Early Learning and Care Centers and increases the operation costs for Family Childcare Providers—thereby reducing the space available for early care and education and increasing the costs of existing Centers and Providers in South San Francisco.
- D. Increases in commercial offices in the City have also created new jobs which attract new residents to the City. As the City's population increases, the need for early care and education increases as well.
- E. Many new job opportunities in the City are for low-wage service jobs that often do not pay sufficient wages for workers to cover the increasing costs of early care and education.
- F. Early Learning and Care Centers and Family Childcare Providers in the City have limited opportunities to recruit and retain teachers and staff because they are unable to increase their wages commensurate with the increases in operating costs and the need for early care and education in the City.
- G. Although state and federal funds provide some additional resources for early care and education in South San Francisco, these funds are insufficient to cover the needs of all Eligible Children.
- H. By imposing a parcel tax on commercial offices, the City intends to generate revenue to create and support an Early Care for All Program, with the goals of (1) providing free early

care and education for all children between the ages of 2.5 and 5 years old who have a parent, legal guardian, foster parent, or authorized caregiver residing or working in the boundaries of the South San Francisco Unified School District; (2) expanding the infrastructure necessary to provide such early care and education; and (3) increasing the wages of teachers and staff who provide early care and education under this ordinance.

**Section 4.40.030. Code Amendment.**

A new Chapter is hereby added to the South San Francisco Municipal Code to read as follows:

Chapter 4.40 Early Care for All Parcel Tax

Section 4.40.010. Title

Section 4.40.020. Findings and Purpose

Section 4.40.030. Code Amendment

Section 4.40.040. Definitions

Section 4.40.050. Tax on Commercial Office Parcels

Section 4.40.060. Exemptions

Section 4.40.070. Appeal

Section 4.40.080. Use of Revenue

Section 4.40.090. Early Care for All Program

Section 4.40.100. Administration

Section 4.40.110. Oversight Committee

Section 4.40.120. Severability

Section 4.40.130. California Environmental Quality Act

Section 4.40.140. Approval; Effective Date

**Section 4.40.040. Definitions**

"Administering Organization" means the organization or entity the City designates to administer the Program, as described in Section 4.40.100 of this ordinance.

"Family Childcare Provider" or "Provider" means a provider of early care and education that is either (1) an individual who operates a family daycare home, as defined in Section 1596.78 of the Health and Safety Code, and who is licensed pursuant to Section 1596.80 of the Health and Safety Code; or (2) an individual who provides early care and education in their own home or in the home of the child receiving care and is exempt from licensing requirements pursuant to Section 1596.792 of the Health and Safety Code.

"City" means the City of South San Francisco.

"County" means San Mateo County.

"Commercial Office Parcel" means any Parcel that is developed and used by a business entity primarily for operations or services that are professional, scientific, or technical in nature. Such

services or operations include but are not limited to computer programming, data processing, research and development activities, or operation of an internet retailing business. Such services or operations do not include warehousing, industrial, or retail activities.

“Early Learning and Care Center” or “Center” means any state-licensed or license-exempt childcare and development program outside of a home setting and operated by a person, association, organization, school district, or public agency. A public agency includes the City of South San Francisco’s Parks and Recreation Department.

“Eligible Child” means a child who both (a) has a parent, legal guardian, foster parent, or an authorized caregiver under California Family Code Sections 6550 and 6552, that resides or is employed within the boundaries of the South San Francisco Unified School District, and (b) is between 2.5 to 5 years of age by September 1 of the year in which the child seeks to enroll in an Early Learning and Care Center or with a Family Childcare Provider.

“Fund” means the Early Care for All Fund established by this ordinance.

“Owner” means a person or entity holding fee title to a Parcel. If multiple persons or entities possess an ownership interest in a Parcel, “Owner” refers to each person or entity holding any portion of the fee interest in the Parcel, and the Owners’ obligations under this ordinance shall be joint and several.

“Oversight Committee” means the public oversight body described in Section 4.40.110 of this ordinance.

“Parcel” means a parcel of real estate in the City of South San Francisco as shown on the most current official assessment roll of the San Mateo County Assessor.

“Parks and Recreation Department” means the City of South San Francisco Parks and Recreation Department.

“Program” means the Early Care for All Program established by this ordinance.

“Seat” means an enrollment slot at an Early Learning and Care Center or with a Family Childcare Provider in which an Eligible Child may enroll.

“Tax” means the tax established by this ordinance.

#### **Section 4.40.050. Tax on Commercial Office Parcels**

A special non-*ad valorem* parcel tax shall be levied annually on the Owner of each Commercial Office Parcel within the City, at a rate of \$2.50 per square foot of parcel size, starting with the Fiscal Year that begins on July 1, 2023.

#### **Section 4.40.060. Exemptions**

The Tax shall not be imposed on any Commercial Office Parcel for which the parcel size is less than 25,000 square feet.

#### **Section 4.40.070. Appeal**

- A. Any Owner of a Commercial Office Parcel aggrieved by any decision of the tax administrator with respect to the amount of the parcel tax established by this ordinance may appeal the tax administrator's determination to the City manager by filing a notice of appeal with the City clerk within ten days of service of the tax administrator's determination of tax due.
- B. The City manager shall fix a time and place for hearing such appeal, and the City clerk shall give written notice to the Owner at his or her last known place of address.
- C. Following the hearing, the City manager shall make findings and issue a written decision, which shall be served upon the Owner at his or her last known place of address. The City manager's decision shall be final and conclusive and any amount found to be due shall be due and payable ten days from the service of the decision.

#### **Section 4.40.080. Use of Revenue**

- A. The Early Care for All Fund is hereby created as a special revenue fund. Revenue from the Tax, including penalties and interest earned on such revenue, shall be deposited into the Fund and used only for the following purposes:
  - 1. creation and funding of the Early Care for All Program as described in Section 4.40.090;
  - 2. establishment or improvement of infrastructure for eligible Centers and Providers, including lease, purchase, development, maintenance, or improvement of facilities, as well as shared administrative, human resource services, and employee benefits;
  - 3. administrative costs of the City that are necessary to implement the Tax, as described in Section 4.40.100, but excluding costs of the Oversight Committee; no more than 10 percent of each year's Tax revenue may be used to pay for such administrative costs; and
  - 4. stipends for the members of the Oversight Committee pursuant to Section 4.40.110(E).
- B. Monies from the Fund shall not be spent in lieu of expenditures from existing local funding sources supporting early care and education in South San Francisco. As a condition of



utilization of funds collected pursuant to this ordinance, the City shall continue to provide funding for early care and education from City sources other than the Fund, in amounts no less than as provided in the fiscal year concluding on June 30, 2022.

#### **Section 4.40.090. Early Care for All Program**

##### **A. Structure of the Early Care for All Program.**

1. The Program shall subsidize Seats at participating Early Learning and Care Centers and Family Childcare Providers. To participate in the Program, Centers and Providers must:
  - a. be located within the boundaries of the South San Francisco Unified School District; and
  - b. compensate the teachers and staff members who are providing early care and education to Eligible Children in amounts no less than indicated on the compensation matrix established by the Administering Organization with input from the Oversight Committee, pursuant to Sections 4.40.100(E) and 4.40.110(B)(5).
2. As a condition of utilization of funds collected pursuant to this ordinance, the Parks and Recreation Department shall participate as a Center, and the City and the Parks and Recreation Department shall comply with the requirements of the Program and this ordinance. Each year, monies from the Fund shall first be used to maintain or increase the number of early childcare and education Seats offered by the Parks and Recreation Department during the prior enrollment year. No more than 50 percent of each year's Tax revenue shall be used to maintain or increase the number of such Seats. The Program shall also aim to maintain or increase the number of Seats offered by the South San Francisco Unified School District (as a Center) and by Providers during their respective prior enrollment years.
3. Eligible Children may enroll in subsidized Seats at participating Early Learning and Care Centers and Family Childcare Providers at no cost.
  - a. If the Tax revenue in a given year is sufficient to provide Seats for all Eligible Children who wish to enroll, any remaining revenue may be used to offer Seats to children who (1) have a parent, legal guardian, foster parent, or an authorized caregiver under California Family Code Sections 6550 and 6552 residing or employed within the boundaries of the South San Francisco Unified School District and (2) are between 0 and 2.5 years of age by September 1 of the year in which they wish to enroll.

- b. If the Tax revenue in a given year is insufficient to provide Seats for all Eligible Children who wish to enroll, priority shall be given to Eligible Children from lower income households, as defined by California Health and Safety Code Section 50079.5, and children who are not eligible to receive free or subsidized early care and education from other programs (such as state or federally-funded programs). Priority shall also be given to Eligible Children who have a parent, legal guardian, foster parent, or authorized caregiver residing within (as opposed to employed within) the boundaries of the South San Francisco Unified School District. The Administering Organization, with input from the Oversight Committee, shall establish a process for implementing this prioritization.
- B. Program funds shall provide for each Seat up to ten hours of care and learning per day.
  - C. Centers and Providers shall make options for half-day or full-day schedules, and for year-round or school-year schedules, available for all Seats.
  - D. The City shall not interfere with or retaliate against Providers and/or their staff or Center-based teachers who engage in unionization efforts.

**Section 4.40.100. Administration**

- A. City Council shall collect and disburse the Tax by taking the following actions:
  - 1. adopt administrative rules to implement the Tax, including a process by which to disburse funds to participating Centers and Providers;
  - 2. hold in trust all funds it receives from the City derived from this Tax, to be used exclusively for the purposes specified in Section 4.40.080;
  - 3. disburse Program funds to Centers and Providers consistent with Sections 4.40.080 and 4.40.090, after considering all recommendations provided by the Administering Organization and the Oversight Committee; and
  - 4. take any additional actions needed to collect, administer, and expend receipts of the Tax, in a manner consistent with this ordinance.
- B. City Council shall designate an Administering Organization to administer the Program. The Administering Organization may be a department of the City, or a non-profit entity retained on a contract basis and having at least 5 years of experience in providing or supporting care or education services to children of up to 5 years of age.
- C. The City shall require the Administering Organization to do the following by June 30, 2024:

1. Develop a comprehensive needs assessment and implementation plan for the Program that includes commitments to:
    - a. aim to cover all Eligible Children on an expeditious timeline;
    - b. solicit and meaningfully incorporate public input on operation of the Program;
    - c. support Centers and Providers in hiring and retaining more teachers and staff;
    - d. identify sites in the City that could be used to construct or expand facilities for the Parks and Recreation Department's early care and education services;
    - e. monitor annual Program enrollment numbers; and
    - f. survey annual finances of Providers, to prepare the compensation matrix created pursuant to subsection (E) of this Section.
  2. Identify opportunities to establish or improve physical and human resources and infrastructure for Centers and Providers.
  3. Establish the compensation matrix pursuant to subsection (E) of this Section.
- D. The City shall require the Administering Organization to begin doing the following by July 1, 2024:
1. receive and review applications from Centers and Providers that wish to participate in the Program;
  2. monitor Program participants' use of funds;
  3. prepare and submit quarterly reports to the Oversight Committee and annual reports to City Council describing disbursement of Program funds, numbers of children served, and overall effectiveness of the Program; and
  4. take any additional actions needed to implement the Program.
- E. The City shall require the Administering Organization to develop a compensation matrix that establishes the minimum wages that participating Centers and Providers must provide to teachers and staff who provide early care and education to Eligible Children. The compensation matrix shall require the following:
1. minimum wage for entry-level positions that is at least 230 percent of South San Francisco's minimum wage;

2. minimum wage increases for Center-based teachers, Providers, and Providers' staff to achieve parity in compensation with preschool and elementary school teachers in South San Francisco who have commensurate education and experience; and
  3. minimum wage increases of Providers and their staff that are proportional to the minimum wage increases of Center-employed teachers.
- F. To the extent that duties and responsibilities of the City pertaining to expenditure of funds collected through the Tax and implementation of the Program as set forth in any provision of this ordinance are within the exclusive purview of the executive branch of City government, such duties and responsibilities are imposed by this ordinance as a condition of expenditure by the City of funds collected through the Tax.

#### **Section 4.40.110. Oversight Committee**

- A. Within ninety days after the effective date of this ordinance, City Council shall appoint an Oversight Committee to facilitate public accountability on the structure, development, and implementation of the Program. The Oversight Committee shall meet at least quarterly.
- B. City Council shall adopt a resolution defining the scope of its responsibilities including the following:
1. monitor and advise the City Council regarding the implementation of this ordinance and the Program;
  2. review all reasonably available financial information relevant to the Tax, including quarterly reports from the Administering Organization;
  3. conduct regular public hearings on the Program and report public input from the hearings to City Council and the Administering Organization;
  4. conduct regular independent and public evaluations of the Program that assess its impact on the quality, affordability, and availability of early childcare and education in the City; and
  5. advise the Administering Organization in its development of the compensation matrix described in Section 4.40.100(E).
- C. City Council shall adopt a resolution establishing the composition of the Oversight Committee, which shall consist of seven or nine voting members who are residents of South San Francisco and representative of the City's diverse communities and geographies. City Council shall seek to appoint members to the Oversight Committee as follows:

1. one member of the Board of the South San Francisco Unified School District;
  2. at least two members who are parents, legal guardians, or foster parents of one or more children under five years old; and
  3. at least four members who are teachers or other professionals providing early childcare and education within the City.
- D. City Council shall appoint Oversight Committee members to staggered terms, except that an appointment to fill a partial-term vacancy shall be for the remaining portion of the term only. Appointments shall be for a term of two years, except for the initial appointments, which may be for longer terms to establish staggered terms. Each voting member of the Oversight Committee shall be limited to serving two consecutive terms.

However, if City Council is unable to identify a new eligible voting member to serve on the Oversight Committee by the time an existing voting member's term expires, then that voting member may continue to serve on the Oversight Committee during the following term for a period not to exceed one year, to allow for the appointment of a voting member to serve the remainder of said following term.

- E. Each voting member of the Oversight Committee shall receive a stipend in an amount intended to cover the costs of childcare during meeting attendance, transportation, and other expenses associated with serving on the Oversight Committee. Non-voting members shall not receive a stipend or any other payment for serving on the Oversight Committee.
- F. A member of the Oversight Committee may be removed for cause, after public hearing, by the majority vote of City Council.

#### **Section 4.40.120. Severability**

Should any provision of this ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or void, that determination shall have no effect on any other provision of this ordinance or the application of this ordinance to any other person or circumstance. Thus, these provisions are severable.

#### **Section 4.40.130. California Environmental Quality Act**

This ordinance is not a "project" pursuant to the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq., including without limitation CEQA Guidelines 15378(b)(4) and 15061(b)(3), as there is no possibility that the adoption of the ordinance itself may have a significant effect on the environment. To the extent that revenues from the Tax may fund the production or preservation of capital improvements in the future, those "projects" will be subject to environmental review pursuant to CEQA at the "earliest feasible time" prior to "approval" consistent with CEQA Guidelines Sections 15004 and 15352.

**Section 4.40.140. Approval; Effective Date**

This ordinance shall become effective on July 1, 2023 after affirmative passage by a simple majority vote (50% + 1) of South San Francisco voters. This ordinance shall be considered adopted on the date that the City Council declares the results of that election.

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↓ Full Text Ends