

RESOLUTION NO. 90-2015

CITY COUNCIL, CITY OF SOUTH SAN FRANCISCO, STATE OF CALIFORNIA

A RESOLUTION ESTABLISHING NOVEMBER 3, 2015 AS THE DATE FOR A MUNICIPAL ELECTION ON A PROPOSED BALLOT MEASURE SEEKING VOTER AUTHORIZATION TO ENACT A LOCAL ONE-HALF CENT (0.5%) TRANSACTIONS AND USE (“SALES”) TAX TO MAINTAIN FISCAL STABILITY AND ESSENTIAL SERVICES, ESTABLISHING POLICIES AND PROCEDURES IN CONNECTION WITH SUCH AN ELECTION, AND REQUESTING THAT THE COUNTY REGISTRAR PERFORM CERTAIN ELECTION SERVICES IN CONNECTION WITH SUCH ELECTION INCLUDING CONDUCTING THE NOVEMBER 3, 2015 ELECTION FOR THE CITY OF SOUTH SAN FRANCISCO WHOLLY BY MAIL PURSUANT TO THE PILOT PROGRAM AUTHORIZED BY ASSEMBLY BILL 2028 IF ALL OTHER AFFECTED JURISDICTIONS ALSO REQUEST PARTICIPATION IN THE PILOT PROGRAM AT THAT ELECTION, AND AUTHORIZING THE CITY MANAGER TO REIMBURSE THE COUNTY FOR ELECTION SERVICES.

WHEREAS, the City of South San Francisco (“City”) has a proud tradition of fiscal responsibility, including balanced budgets during the recession that maintain services important to our community; and

WHEREAS, in these recovering economic times the City must maintain current levels of public safety and other essential services without worrying about future budget cuts; and

WHEREAS, residents want to maintain public safety services, including emergency response times for police, neighborhood police patrols, crime prevention and gang suppression programs; and

WHEREAS, residents also want to provide programs for seniors and disabled residents; and

WHEREAS, residents want to maintain streets and fix potholes to prevent our roads from falling into further disrepair and address at least \$18 million in street maintenance and pothole repair; and

WHEREAS, the proposed local revenue measure will be spent entirely on local services and projects that benefit our community with no money for Sacramento and all funds for South San Francisco; and

WHEREAS, while the City has been effectively addressing gang activities in South San Francisco, we must continue to ensure that we have adequate local funds to address crime and keep our city safe; and

WHEREAS, further budget cuts could jeopardize important public safety programs, such as gang and crime prevention services, neighborhood police patrols and emergency response times from police; and

WHEREAS, we need a reliable source of local revenue to maintain current levels of police protection and gang prevention services now and in the future, without worrying about public safety budget cuts; and

WHEREAS, we must exercise local control over funding in order to maintain firefighter and paramedic services, neighborhood police patrols, and ensure rapid 9-1-1 emergency response among other city services; and

WHEREAS, the ordinance includes comprehensive fiscal accountability provisions, such as annual Independent Financial Audits and Citizens' Oversight of all expenditures, which will enhance fiscal accountability and transparency; and

WHEREAS, the fiscal accountability safeguards will ensure funds are used efficiently, effectively and as promised to voters; and

WHEREAS, under the provisions of the laws relating to general law cities in the State of California, an election shall be held on November 3, 2015, for the submission to the voters of a question relating to a local one-half cent (0.50%) sales tax; and

WHEREAS, it is desirable that the election be consolidated with the statewide election to be held on the same date, and that within the City, the precincts, polling places, and election officers of the two elections be the same; and

WHEREAS, in 2014 the California Legislature and Governor approved Assembly Bill 2028 ("AB 2028"), which is a pilot program permitting certain elections in San Mateo County to be conducted wholly by mail if specific conditions are met; and

WHEREAS, pursuant to AB 2028, each jurisdiction may determine whether to participate in this pilot program and whether to authorize its election on a given date to be conducted by mail, provided, however, that election in question shall not be conducted by mail pursuant to the pilot program unless all overlapping jurisdictions with elections on that same date so request; and

WHEREAS, if the election is authorized by all affected jurisdictions to be conducted pursuant to the AB 2028 pilot program, various actions shall be taken to ensure that voter access and turnout is protected, including but not limited to the following:

- At least one ballot drop-off location shall be provided in each city;
- A ballot drop-off location shall be open during business hours to receive ballots beginning 28 days prior to the election through 8 p.m. on the night of the election;
- At least one polling place shall be provided per city between 7 a.m. and 8 p.m. on election day for voters to request a ballot who did not receive a ballot or who need a replacement ballot for any reason;
- At the request of any city, county, or district, the Chief Elections Officer may provide additional ballot drop-off locations and polling places;

- All elections materials, including a prepaid return envelope for the ballot, shall be provided to each voter;
- A list of ballot drop-off locations and polling places shall be delivered to each voter; and,
- Polling places shall be located at an accessible location and equipped with voting machines that are accessible to individuals with disabilities; and

WHEREAS, in general, the cost of conducting an election pursuant to the pilot program described above is expected to be significantly less overall than a typical election, and this cost reduction should translate to lower costs to each jurisdiction that participates in the pilot program election compared to the typical election costs borne by each jurisdiction; and

WHEREAS, the San Mateo County Chief Elections Officer has reported that in San Mateo County, 57% of registered voters are permanently registered to vote by mail, in the November 2013 Consolidated Municipal, School, and Special District Election over 76% of the ballots were cast by mail, and in the June 2014 Primary Election over 77% of the ballots were cast by mail; and

WHEREAS, the Chief Elections Officer has stated an intention to have the November 3, 2015 Consolidated Municipal, School, and Special District Election be the first mail election conducted pursuant to the AB 2028 pilot program in San Mateo County; and

WHEREAS, the South San Francisco City Council has considered the merits of the proposed pilot election program and desires to participate in the pilot program given the protections for voter access and participation in the election and anticipated cost savings to the City of South San Francisco provided that at least two (2) Polling Places operate within the City on Election Day; and

WHEREAS, it is desirable that the County Election Department of the County of San Mateo canvass the returns of the election and that the election be handled in all respects as if there were only one election; and

WHEREAS, based on all of the information presented at the July 22, 2015, meeting, both written and oral, including the staff reports, minutes, and other relevant materials, the City Council finds that under CEQA Guidelines 15060(c)(2) and 15378, subdivisions (2) and (4) of subdivision (b), this tax does not constitute a project under CEQA and therefore review under CEQA is not required.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of South San Francisco that:

Section 1. The foregoing recitals and true and correct and hereby incorporated by reference.

Section 2. The City Council is authorized to present a measure relating to a local transactions and use tax to the voters for their consideration pursuant to Article XIIC of the California Constitution, Government Code section 53724, and Elections Code sections 4001 and 9222, and Revenue and Taxation Code section 7385.9.

Section 3. 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, would add a one-half cent (0.5%) transaction and use ("sales") tax, as authorized by Revenue and Taxation Code section 7285.9. This measure shall be designated by letter by the San Mateo County Registrar of Voters. Pursuant to Election Code sections 4001 and 10400 *et seq.*, the election for this measure shall be consolidated with the established election to be conducted on November 3, 2015.

Section 4. The City Council of the City of South San Francisco authorizes the November 3, 2015 Election for the City of South San Francisco to be conducted wholly by mailed ballots pursuant to AB 2028 pilot program, if at least two (2) polling places are operated in South San Francisco on Election Day, it being understood that the Election shall occur wholly by mail on that date only if all overlapping jurisdictions with elections on that date make the same request. If all overlapping jurisdictions with elections on that date do not so request, the City of South San Francisco election shall occur as normal on that date pursuant to the other provisions of the Elections Code.

Section 5. The City Clerk of the City of South San Francisco is hereby directed to notify the Secretary of State no later than August 7, 2015, of the City's intent to conduct an all-mailed ballot election as outlined above.

Section 6. The City of South San Francisco shall separately send information regarding the specifics of its November 3, 2015 Election to the San Mateo County Chief Elections Officer.

Section 7. The ballot language for the proposed measure shall be as follows:

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To maintain South San Francisco services, including maintaining neighborhood police patrols/911 response, programs for seniors/disabled residents, crime/gang suppression programs, repairing potholes/streets, maintaining youth/teen educational/recreational programs, providing a police operations center that meets earthquake safety codes, and other city services; shall South San Francisco levy a ½ cent sales tax for 30 years, with authority to incur debt to accelerate projects, annual audits, citizens' oversight, no funds for Sacramento and all funds for South San Francisco?	YES	
	NO	

B.G



Section 8. The full text of the proposed measure to be submitted to the voters is attached as Attachment 1 (the "Measure") hereto. If the majority of qualified voters voting on the Measure vote in favor therefor, the Measure shall be deemed adopted and shall be effective upon its adoption. The Measure specifies that the rate of the transactions tax shall be one-half of one percent (0.5%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City; it specifies that the rate of the use tax shall be one-half of one percent (0.5%) of the sales price of tangible personal property stored, used or otherwise consumed in the City. If approved, the tax shall be in effect for 30 years. The State Board of Equalization shall collect the tax from retailers subject to the tax and remit the funds to the City.

Section 9. The City Clerk is hereby directed to cause notice of the measure to be published once in a newspaper of general publication in the City, in accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code.

Section 10. The City Clerk is directed to cause the posting, publication, and printing of notices and all other matters pursuant to the requirements of the Elections and Government Codes of the State of California.

Section 11.

- (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 3, 2015 and order the election to be conducted by the Chief Elections Officer. The City Clerk is directed to file a certified copy of this resolution with the Board of Supervisors and Chief Elections Officer on or before August 9, 2013.
- (b) The election on the Measure shall be held and conducted, the votes 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 shall be held in the City of South San Francisco on November 3, 2015, as required by law, and the 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.

- (d) At the next regular meeting of the City Council occurring after the returns of the election for the Measure have been canvassed and the certification of the results to the City Council, the City Council shall cause to be entered in its minutes a statement of the results of the election.

Section 12.

- (a) The last day for submission of primary arguments for or against the measure shall be by 5:00 p.m. on Friday, August 14, 2015.
- (b) The last day for submission of rebuttal arguments for or against the measure shall be by 5:00 p.m. on Monday, August 24, 2015.
- (c) Primary arguments shall not exceed three hundred words and shall be signed by not more than five persons.
- (d) Rebuttal arguments shall not exceed two hundred fifty words and shall be signed by not more than five persons; those persons may be different from the persons who signed the primary arguments.
- (e) The City Attorney shall prepare by Monday, August 24, 2015, an impartial analysis of the Measure showing the effect of the Measure.
- (f) Mark Addiego is hereby authorized to submit a written argument in favor of the Measure, not to exceed 300 words, on behalf of the City Council. The argument may 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, Mark Addiego is also authorized submit a rebuttal argument on behalf of the City Council, which may be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote, who may be different from the persons who signed the primary argument.
- (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, and copies of the argument against 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 13. 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. The City Clerk's Operating budget is hereby amended to include an additional \$10,000 for the projected additional election costs that would be charged to the City for this ballot measure. Funds will come from the General Fund Undesignated Reserve.

* * * * *

I hereby certify that the foregoing Resolution was regularly introduced and adopted by the City Council of the City of South San Francisco at a regular meeting held on the 22nd day of July, 2015 by the following vote:

AYES: Councilmembers Karyl Matsumoto, Pradeep Gupta, and Liza Normandy

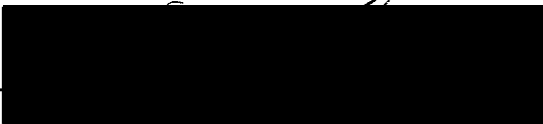
Vice Mayor Mark N. Addiego and Mayor Richard A. Garbarino

NOES: None

ABSTAIN: None

ABSENT: None

A



Acting City Clerk

Full
Text

ORDINANCE NO. 1503-2015

CITY COUNCIL, CITY OF SOUTH SAN FRANCISCO, STATE OF CALIFORNIA

AN ORDINANCE OF THE CITY OF SOUTH SAN FRANCISCO ADOPTING CHAPTER 4.36 OF THE MUNICIPAL CODE TO ENACT A ONE-HALF CENT RATE TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION.

WHEREAS, the City of South San Francisco ("City") has a proud tradition of fiscal responsibility, including balanced budgets during the recession that maintain services important to our community; and

WHEREAS, in these recovering economic times the City must maintain current levels of public safety and other essential services without worrying about future budget cuts; and

WHEREAS, residents want to maintain public safety services, including emergency response times for police, neighborhood police patrols, crime prevention and gang suppression programs; and

WHEREAS, residents also want to provide programs for seniors and disabled residents; and

WHEREAS, residents want to maintain streets and fix potholes to prevent our roads from falling into further disrepair and address at least \$18 million in street maintenance and pothole repair; and

WHEREAS, the proposed local revenue measure will be spent entirely on local services and projects that benefit our community with no money for Sacramento and all funds for South San Francisco; and

WHEREAS, while the City has been effectively addressing gang activities in South San Francisco, we must continue to ensure that we have adequate local funds to address crime and keep our city safe; and

WHEREAS, further budget cuts could jeopardize important public safety programs, such as gang and crime prevention services, neighborhood police patrols and emergency response times from police; and

WHEREAS, we need a reliable source of local revenue to maintain current levels of police protection and gang prevention services now and in the future, without worrying about public safety budget cuts; and

WHEREAS, we must exercise local control over funding in order to maintain firefighter and paramedic services, neighborhood police patrols, and ensure rapid 9-1-1 emergency response among other city services; and

WHEREAS, the ordinance includes comprehensive fiscal accountability provisions, such as annual Independent Financial Audits and Citizens' Oversight of all expenditures, which will enhance fiscal accountability and transparency; and

WHEREAS, the fiscal accountability safeguards will ensure funds are used efficiently, effectively and as promised to voters; and

WHEREAS, under the provisions of the laws relating to general law cities in the State of California, an election shall be held on November 3, 2015, for the submission to the voters of a question relating to a local one-half cent (0.50%) sales tax; and

WHEREAS, it is desirable that the election be consolidated with the statewide election to be held on the same date, and that within the City, the precincts, polling places, and election officers of the two elections be the same; and

WHEREAS, in 2014 the California Legislature and Governor approved Assembly Bill 2028 ("AB 2028"), which is a pilot program permitting certain elections in San Mateo County to be conducted wholly by mail if specific conditions are met; and

WHEREAS, pursuant to AB 2028, each jurisdiction may determine whether to participate in this pilot program and whether to authorize its election on a given date to be conducted by mail, provided, however, that election in question shall not be conducted by mail pursuant to the pilot program unless all overlapping jurisdictions with elections on that same date so request; and

WHEREAS, if the election is authorized by all affected jurisdictions to be conducted pursuant to the AB 2028 pilot program, various actions shall be taken to ensure that voter access and turnout is protected, including but not limited to the following:

- At least one ballot drop-off location shall be provided in each city;
- A ballot drop-off location shall be open during business hours to receive ballots beginning 28 days prior to the election through 8 p.m. on the night of the election;
- At least one polling place shall be provided per city between 7 a.m. and 8 p.m. on election day for voters to request a ballot who did not receive a ballot or who need a replacement ballot for any reason;
- At the request of any city, county, or district, the Chief Elections Officer may provide additional ballot drop-off locations and polling places;
- All elections materials, including a prepaid return envelope for the ballot, shall be provided to each voter;
- A list of ballot drop-off locations and polling places shall be delivered to each voter; and,
- Polling places shall be located at an accessible location and equipped with voting machines that are accessible to individuals with disabilities; and

WHEREAS, in general, the cost of conducting an election pursuant to the pilot program described above is expected to be significantly less overall than a typical election, and this cost reduction should translate to lower costs to each jurisdiction that participates in the pilot program election compared to the typical election costs borne by each jurisdiction; and

WHEREAS, the San Mateo County Chief Elections Officer has reported that in San Mateo County, 57% of registered voters are permanently registered to vote by mail, in the

November 2013 Consolidated Municipal, School, and Special District Election over 76% of the ballots were cast by mail, and in the June 2014 Primary Election over 77% of the ballots were cast by mail; and

WHEREAS, the Chief Elections Officer has stated an intention to have the November 3, 2015 Consolidated Municipal, School, and Special District Election be the first mail election conducted pursuant to the AB 2028 pilot program in San Mateo County; and

WHEREAS, the South San Francisco City Council has considered the merits of the proposed pilot election program and desires to participate in the pilot program given the protections for voter access and participation in the election and anticipated cost savings to the City of South San Francisco provided that at least two (2) Polling Places operate within the City on Election Day; and

WHEREAS, it is desirable that the County Election Department of the County of San Mateo canvass the returns of the election and that the election be handled in all respects as if there were only one election; and

WHEREAS, based on all of the information presented at the July 29, 2015 meeting, both written and oral, including the staff reports, minutes, and other relevant materials, the City Council finds that under CEQA Guidelines 15060(c)(2) and 15378, subdivisions (2) and (4) of subdivision (b), 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. Amendment of Municipal Code. Chapter 4.36 of the South San Francisco Municipal Code is hereby added to read as follows:

4.36.010 - Title.

This ordinance shall be known as the "South San Francisco Fiscal Stability and Essential Services Ordinance." The City of South San Francisco hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

4.36.020 - Operative Date.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

4.36.030 - Purpose.

This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Sections 7285.9, 7293, and 7294 of Part 1.7 of Division 2 which authorize the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.
- B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.
- C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.
- D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

4.36.040 - Contract With State.

Prior to the operative date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

4.36.050 - Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one-half percent (0.5%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

4.36.060 - Place of Sale.

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is

made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

4.36.070 - Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one-half percent (0.5%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

4.36.080 - Adoption of Provisions of State Law.

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

4.36.090 - Limitations on Adoption of State Law and Collection of Use Taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:
1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;
 2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.
 3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
 - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

- b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.
- 4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
- B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

4.36.100 - Permit Not Required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

4.36.110 - Exemptions and Exclusions.

- A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- B. There are exempted from the computation of the amount of transactions tax the gross receipts from:
 - 1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
 - 2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:
 - a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
 - b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.
 4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.
 5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
- C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:
1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
 2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
 3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.
 4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.
 5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
 6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place

of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

- D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

4.36.120 - Amendments.

All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

4.36.130 - Enjoining Collection Forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

4.36.140 - Citizens' Oversight and Annual Audit.

- A. There shall be a five-person committee appointed by the City Council to review and report on the receipt of revenue and expenditure of funds from the tax authorized by this Section ("revenues and expenditures"). Members of the Committee shall be residents of the City or representatives of businesses located in the City.
- B. Beginning with the fiscal year that ends June 30, 2016, the City's independent auditors shall, as part of their annual audit of the City's financial statements, review the collection and expenditure of revenue from the tax authorized by this Chapter. The auditors' review shall be a public document. The committee shall annually review the auditors' findings and report in writing to the City Council regarding the accuracy of the auditors' findings regarding the revenues and expenditures. The committee's statement shall be transmitted through the City Manager's Office to the City Council for consideration at a public meeting.
- C. By July 1, 2016, the City Council shall adopt a resolution establishing the composition of the committee and defining the scope of its responsibilities consistent with this section. Provisions defining the scope of committee responsibilities and reporting requirements shall address bond oversight, in the event that a decision is made at a later time to sell bonds that are in part backed by the revenues referenced in this section. The City Council shall appoint the initial members of the committee no later than December 31, 2016.

4.36.150 - Amendments by City Council.

The following amendments to this Chapter must be approved by the voters of the City: increasing the tax rate or revising the methodology for calculating the tax such that a tax increase would result; imposing the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically by operation of Section 12); or extending the tax. The City Council may otherwise amend this Chapter without submitting the amendment to the voters for approval.

4.36.160 - Termination Date.

The authority to levy the tax imposed by this ordinance shall expire on the thirtieth anniversary of the operative date (with the last operative day anticipated to be March 31, 2046).

SECTION 3. Adjustment of Appropriations Limit. Pursuant to Article XIII B of the Constitution of the State of California and applicable laws, the appropriations limit for the City is hereby increased by the aggregate sum authorized to be levied by this tax for fiscal year 2015-16 and each year thereafter.

SECTION 4. 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 5. 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 6. Effective Date.

This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

SECTION 7. 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 3, 2015 election.

* * * * *

Introduced and adopted at a regular meeting of the City Council of the City of South San Francisco, held the 22nd day of July, 2015.

Subject to voter approval, adopted as an Ordinance of the City of South San Francisco at an Adjourned regular meeting of the City Council held the 29th day of July, 2015 by the following vote:

AYES: Councilmembers Karyl Matsumoto, Pradeep Gupta, and Liza Normandy

Vice Mayor Mark N. Addiego and Mayor Richard A. Garbarino

NOES: None

ABSTAIN: None

ABSENT: None

A [Redacted] Clerk

As Mayor of the City of South San Francisco, I do hereby approve the foregoing Ordinance this 29th day of July, 2015.

AUG 04 2015

By: [Redacted] City Clerk

[Redacted] Richard A. Garbarino, Mayor

Full Text