

1 [Administrative Code - Financial Policy Regarding Selected Nonrecurring Revenues]

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3 **Ordinance amending the San Francisco Administrative Code by amending**
4 **Section 10.60 and adding Section 10.61 to adopt a binding financial policy under**
5 **Charter Section 9.120, providing that Selected Nonrecurring Revenues may only be**
6 **spent on Nonrecurring Expenditures.**

7 NOTE: Additions are *single-underline italics Times New Roman*;
8 deletions are ~~*strike-through italics Times New Roman*~~.
9 Board amendment additions are double-underlined;
Board amendment deletions are ~~strike-through normal~~.

10 Be it ordained by the People of the City and County of San Francisco:

11 Section 1. **Binding Financial Policy.** This ordinance is a financial policy adopted
12 under Charter Section 9.120. As such, it must be adopted as an ordinance approved by the
13 Mayor and passed by a two-thirds' vote of the Board of Supervisors. The City may not adopt
14 a budget that the Controller determines is inconsistent with any of the provisions of this
15 ordinance. Upon a two-thirds' vote, the Board of Supervisors by resolution may suspend, in
16 whole or in part, this ordinance for the succeeding fiscal year.

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18 Section 2. The San Francisco Administrative Code is hereby amended by amending
19 Section 10.60 and adding Section 10.61, to read as follows:

20 **SEC. 10.60. RESERVE POLICIES.**

21 (a) **Rainy Day Reserve.** To enable the public to find all City reserve policies in one
22 place, this ordinance includes a summary of the Charter-mandated Rainy Day Reserve. This
23 summary is intended only for convenience and does not modify or supersede the Charter
24 provisions.

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1 The City maintains a "Rainy Day" or economic stabilization reserve under Charter
2 Section 9.113.5. In any year when the Controller projects that total General Fund revenues
3 for the upcoming budget year are going to be more than 5 percent higher than the General
4 Fund revenues for the current year, the City automatically deposits one-half of the "excess
5 revenues," meaning the revenues above and beyond the current year plus 5 percent growth,
6 in the Rainy Day Reserve. The total amount of money in the Rainy Day Reserve may not
7 exceed 10 percent of the City's actual total General Fund revenues.

8 The City may spend money from the Rainy Day Reserve for any lawful governmental
9 purpose, but only in years when the Controller projects that total General Fund revenues for
10 the upcoming year will be less than the current year's total General Fund revenues, i.e., years
11 when the City expects to take in less money than it had taken in for the current year. In those
12 years, the City may spend up to half the money in the Rainy Day Reserve, but no more than is
13 necessary to bring the City's total available General Fund revenues up to the level of the
14 current year. The City may also spend up to 25 percent of the balance of the Rainy Day
15 Reserve to help the School District in years when certain conditions are met.

16 (b) **General Reserve.** In addition to the Rainy Day Reserve, the City budget shall
17 include a General Reserve. The General Reserve is intended to address revenue
18 weaknesses, expenditure overages, or other programmatic goals not anticipated during the
19 annual budget process. The Mayor and the Board of Supervisors may, at any time following
20 adoption of the annual budget, appropriate monies from the General Reserve for any lawful
21 governmental purpose through passage of a supplemental appropriation ordinance by a
22 simple majority vote.

23 For purposes of this Section, "regular General Fund revenues" shall mean total
24 General Fund sources less budgeted fund balances, budgeted uses of reserves, and net
25 transfers, as determined by the Controller. The City shall fund the General Reserve at no less

1 than two percent of budgeted regular General Fund revenues no later than fiscal year 2016-
2 2017 according to the following schedule:

3 1. The General Reserve shall be no less than \$25 million in the budget for fiscal
4 year 2010-11;

5 2. The General Reserve shall be no less than \$25 million in the budget for fiscal
6 year 2011-12;

7 3. The General Reserve shall be no less than 1.0 percent of budgeted regular
8 General Fund revenues in fiscal year 2012-13;

9 4. The General Reserve shall be no less than 1.25 percent of budgeted regular
10 General Fund revenues in the budget for fiscal year 2013-14;

11 5. The General Reserve shall be no less than 1.5 percent of budgeted regular
12 General Fund revenues in the budget for fiscal year 2014-15;

13 6. The General Reserve shall be no less than 1.75 percent of budgeted regular
14 General Fund revenues in the budget for fiscal year 2015-16; and,

15 7. The General Reserve shall be no less than 2.0 percent of budgeted regular
16 General Fund revenues in the budget for fiscal year 2016-17 and in the budget for each fiscal
17 year thereafter.

18 Year-end balances in the General Reserve shall be carried forward to subsequent
19 years. When necessary, the City shall appropriate sufficient funds to the General Reserve in
20 the Annual Appropriation Ordinance to restore the fund balance to the level this ordinance
21 requires.

22 (c) **Budget Stabilization Reserve.** The City shall establish a Budget Stabilization
23 Reserve to augment the Rainy Day Reserve that the City maintains under Charter Section
24 9.113.5, and to further mitigate the negative effects of significant economic downturns. The
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1 Controller shall deposit funds to the Budget Stabilization Reserve as required under this
2 Section.

3 The City may withdraw funds from the Budget Stabilization Reserve when the
4 Controller projects that budgeted regular General Fund revenues for the upcoming budget
5 year will be less than the current year's regular General Fund revenues, or less than the
6 highest of any of the prior four fiscal years' regular General Fund revenues plus two percent,
7 for each intervening year. If the Controller determines that either condition is met, the City
8 may withdraw funds from the Budget Stabilization Reserve according to the following
9 guidelines:

10 1. The City may not withdraw funds from the Budget Stabilization Reserve in
11 any given year until it has withdrawn the maximum amount that the Controller determines is
12 allowable from the Rainy Day Reserve.

13 2. The City may not withdraw funds from the Budget Stabilization Reserve in
14 any given year in an amount exceeding the remaining shortfall in General Fund regular
15 revenues, as defined above, after any withdrawals from the Rainy Day Reserve for the benefit
16 of the City.

17 3. If the Controller determines that a withdrawal trigger for the Budget
18 Stabilization Reserve was not met in the current fiscal year, but projects that it will be met for
19 the upcoming fiscal year, the City may withdraw from the Budget Stabilization Reserve up to
20 30 percent of the combined value of the Budget Stabilization Reserve and Rainy Day Reserve
21 less monies withdrawn from the Rainy Day Reserve for any lawful governmental purpose in
22 the upcoming budget year.

23 4. If the Controller determines that a withdrawal trigger for the Budget
24 Stabilization Reserve was met in the current fiscal year and projects that it will also be met for
25 the upcoming fiscal year, the City may withdraw from the Budget Stabilization Reserve up to

1 50 percent of the combined value of the Budget Stabilization Reserve and Rainy Day Reserve
2 less monies withdrawn from the Rainy Day Reserve for any lawful governmental purpose in
3 the upcoming budget year.

4 5. If the Controller determines that the withdrawal trigger for the Budget
5 Stabilization Reserve was met in the current and prior fiscal year as well as the upcoming
6 fiscal year, the Board may withdraw up to the full balance of the Budget Stabilization Reserve
7 for any lawful governmental purpose in the upcoming budget year.

8 In order to fund the Budget Stabilization Reserve, the Controller shall deposit
9 75 percent of the following revenue sources to the Budget Stabilization Reserve:

10 1. Real Property Transfer Tax proceeds in excess of the average annual actual
11 receipts level for the prior five fiscal years, adjusted for any transfer tax rate increases
12 adopted by the voters during the prior five year period; *and,*

13 ~~2. Revenues from the sale of land or other fixed assets to the extent the transfer to the~~
14 ~~Budget Stabilization Reserve does not violate the Charter, state or federal law, and the Controller~~
15 ~~determines it does not conflict with any previously adopted City policies affecting such sales; and,~~

16 2 ~~3~~. Ending unassigned General Fund balances in a given fiscal year as
17 reported in the City's most recent independent annual audit beyond those appropriated as a
18 source in the subsequent year's budget.

19 At the conclusion of the fiscal year, the Controller shall revise, if necessary, the balance
20 in the Budget Stabilization Reserve to reflect year-end actual revenue receipts, as stated in
21 the City's most recent independent annual audit.

22 There shall be no minimum fund balance for the Budget Stabilization Reserve.
23 Notwithstanding the above, the Controller shall not make deposit to the Budget Stabilization
24 Reserve, including deposits from the revenue sources identified above, if the combined fund
25 balances of the Budget Stabilization Reserve and the Rainy Day Reserve equal or exceed

1 10 percent of actual regular General Fund revenues, as stated in the City's most recent
2 independent annual audit.

3 The Controller shall not make deposits to the Budget Stabilization Reserve in years in
4 which the Controller determines that the City is eligible to make withdrawals from the Budget
5 Stabilization Reserve.

6 In the event that monies are deposited into the Rainy Day Reserve for any given year,
7 any amount which would otherwise be deposited into the Budget Stabilization Reserve shall
8 be reduced by the amount of the deposit to the Rainy Day Reserve.

9 The City, by a resolution of the Board of Supervisors adopted by a two-thirds' vote,
10 may temporarily suspend the provisions of this subsection (c) for the current or upcoming
11 budget year. The Board of Supervisors may suspend these provisions following a natural
12 disaster that has caused the Mayor or the Governor to declare an emergency, or for any other
13 purpose.

14 (d) **Annual Reporting on Reserves.** The Controller shall submit to the Mayor and the
15 Board of Supervisors an annual report on the status of the General Reserve, the Rainy Day
16 Reserve, and the Budget Stabilization Reserve.

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18 **SEC. 10.61. USE OF SELECTED NONRECURRING REVENUES.**

19 *(a) Nonrecurring Revenues. For purposes of this Section, "Selected Nonrecurring Revenues"*
20 *shall mean:*

21 *(1) A General Fund prior year-end unassigned fund balance in excess of the average of*
22 *the preceding five years;*

23 *(2) The General Fund share of revenues from prepayments provided under long-term*
24 *leases, concessions, or contracts after accounting for any Charter-mandated revenue transfers, set-*
25 *asides, or deposits to reserves;*

1 (3) Otherwise unrestricted revenues from legal judgments and settlements; and,

2 (4) Otherwise unrestricted revenues from the sale of land or other fixed assets.

3 (b) **Nonrecurring Expenditures.** The City may only spend Selected Nonrecurring Revenues on
4 Nonrecurring Expenditures. For purposes of this Section, "Nonrecurring Expenditures" shall mean
5 expenditures or other uses that do not create liability for or expectation of substantial ongoing costs,
6 including, but not limited to:

7 (1) Discretionary funding of reserves;

8 (2) Acquisition of capital equipment;

9 (3) Capital projects included in the City's capital plans;

10 (4) Development of affordable housing; or,

11 (5) Discretionary prepayment of pension, debt, or other long term obligations.

12 Provided, however, that the City may appropriate Selected Nonrecurring Revenues to fund recurring
13 expenditures, such as operating expenses for a program or routine maintenance for a facility, through
14 an ordinance approved by the Mayor and passed by a two-thirds' vote of the Board of Supervisors.

15 Upon the request of the Mayor or a member of the Board of Supervisors, the Controller shall
16 certify whether the proposed use of a Selected Nonrecurring Revenue would be a Nonrecurring
17 Expenditure, and his or her determination shall be final.

18 (c) **Implementation.** The Mayor shall identify all Selected Nonrecurring Revenues and their
19 proposed uses in his or her June 1 budget submission. As part of the Controller's Opinion on Revenue
20 Estimates required under Charter Section 9.102, the Controller shall identify all Selected Nonrecurring
21 Revenues included in the Mayor's budget submission and certify whether the proposed uses of those
22 revenues constitute Nonrecurring Expenditures.

23 (d) **Temporary Suspension.** The City, by a resolution of the Board of Supervisors adopted by a
24 two-thirds' vote, may temporarily suspend the provisions of subsection (b) for the current or upcoming
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1 budget year. The Board of Supervisors may suspend these provisions following a natural disaster that
2 has caused the Mayor or the Governor to declare an emergency, or for any other purpose.

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4 **Section 3. Effective Date; Operative Date.**

5 (a) This ordinance shall become effective 30 days from the date of passage.

6 (b) Subsection (c) of Section 10.61 will become operative on June 1, 2011;
7 subsections (a), (b), and (d) shall become operative on July 1, 2011.

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10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: _____
13 THOMAS J. OWEN
14 Deputy City Attorney