

[Administrative Code - Financial Policy Regarding Selected Nonrecurring Revenues]

1  
2 **Ordinance amending the San Francisco Administrative Code by amending**  
3 **Section 10.60 and adding Section 10.61, to adopt a binding financial policy under**  
4 **Charter Section 9.120 providing that selected nonrecurring revenues may only be spent**  
5 **on nonrecurring expenditures.**  
6

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;  
10 Board amendment deletions are ~~strike-through normal~~.

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

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

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.

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

1 transfers, as determined by the Controller. The City shall fund the General Reserve at no less  
2 than two percent of budgeted regular General Fund revenues no later than fiscal year 2016-  
3 2017 according to the following schedule:

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

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

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

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

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

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

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

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

23 (c) Budget Stabilization Reserve. The City shall establish a Budget Stabilization  
24 Reserve to augment the Rainy Day Reserve that the City maintains under Charter Section

1 9.113.5, and to further mitigate the negative effects of significant economic downturns. The  
2 Controller shall deposit funds to the Budget Stabilization Reserve as required under this  
3 Section.

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

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

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

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

1                   4. If the Controller determines that a withdrawal trigger for the Budget  
2 Stabilization Reserve was met in the current fiscal year and projects that it will also be met for  
3 the upcoming fiscal year, the City may withdraw from the Budget Stabilization Reserve up to  
4 50 percent of the combined value of the Budget Stabilization Reserve and Rainy Day Reserve  
5 less monies withdrawn from the Rainy Day Reserve for any lawful governmental purpose in  
6 the upcoming budget year.

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

11                   In order to fund the Budget Stabilization Reserve, the Controller shall deposit  
12 75 percent of the following revenue sources to the Budget Stabilization Reserve:

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

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

19                   2 ~~3~~. Ending unassigned General Fund balances in a given fiscal year as  
20 reported in the City's most recent independent annual audit beyond those appropriated as a  
21 source in the subsequent year's budget.

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

1           There shall be no minimum fund balance for the Budget Stabilization Reserve.  
2   Notwithstanding the above, the Controller shall not make deposit to the Budget Stabilization  
3   Reserve, including deposits from the revenue sources identified above, if the combined fund  
4   balances of the Budget Stabilization Reserve and the Rainy Day Reserve equal or exceed  
5   10 percent of actual regular General Fund revenues, as stated in the City's most recent  
6   independent annual audit.

7           The Controller shall not make deposits to the Budget Stabilization Reserve in years in  
8   which the Controller determines that the City is eligible to make withdrawals from the Budget  
9   Stabilization Reserve.

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

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

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

21

22   SEC. 10.61. USE OF SELECTED NONRECURRING REVENUES.

23           (a) Nonrecurring Revenues. For purposes of this Section, "Selected Nonrecurring Revenues"

24   shall mean:

25

Mayor Lee, President Chiu, Chu, Controller  
**BOARD OF SUPERVISORS**

1                   (1) A General Fund prior year-end unassigned fund balance, before deposits to the  
2 Rainy Day Reserve or Budget Stabilization Reserve, in excess of the average of the preceding five  
3 years;

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

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

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

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

13                   (1) Discretionary funding of reserves;

14                   (2) Acquisition of capital equipment;

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

16                   (4) Development of affordable housing;

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

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

21                   (6) Substitution for budgeted reserves when new revenues disallow previously  
22 budgeted withdrawals from the Rainy Day Reserve or Budget Stabilization Reserve.

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

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

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

13  
14           Section 3. Effective Date; Operative Date.

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

16           (b) This ordinance shall become operative on June 1, 2012, and shall govern  
17 appropriation ordinances for Fiscal Year 2012-13 and subsequent fiscal years.

18  
19  
20 APPROVED AS TO FORM:  
21 DENNIS J. HERRERA, City Attorney

22  
23 By: \_\_\_\_\_  
24           THOMAS J. OWEN  
25           Deputy City Attorney

Mayor Lee, President Chiu, Chu, Controller  
**BOARD OF SUPERVISORS**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25