

1 [Reauthorizing the Sales and Use Tax for Transportation.]

2

3 **Resolution approving a New Transportation Expenditure Plan and calling and providing**
4 **for a special election to be held on November 4, 2003, to be consolidated with the**
5 **General Municipal Election already scheduled for November 4, 2003, for the purpose of**
6 **submitting to the voters an ordinance amending Sections 1401, 1402, 1403, 1404, 1405,**
7 **1406, 1408, 1413, 1414, and 1415 of, and adding Section 1419 to, Article 14 of the**
8 **Business and Tax Regulations Code of the City and County of San Francisco so as to**
9 **(1) authorize implementation of a New Transportation Expenditure Plan, directing the**
10 **transactions and use tax (“sales and use tax”) revenues to specific transportation**
11 **improvements over the next 30 years and making provisions for the adoption of future**
12 **expenditure plan updates; (2) continue collection of the sales and use tax at the**
13 **existing level of one-half of one percent during implementation of the New**
14 **Transportation Expenditure Plan and its updates; (3) continue in effect the San**
15 **Francisco County Transportation Authority as the independent agency to administer**
16 **the tax and oversee implementation of the projects; (4) authorize the San Francisco**
17 **County Transportation Authority to issue limited tax bonds as needed, in a total**
18 **outstanding aggregate amount not to exceed \$1,880,000,000 and which is payable from**
19 **the revenue generated hereunder; (5) approve the California Constitution Article XIII B**
20 **Appropriations Limit of \$485,175,000; (6) forbid the enjoining of collection of the tax;**
21 **and (7) make recipient departments responsible for certifying that the tax revenues will**
22 **not be substituted for property tax funds for existing programs.**

23

24 **RESOLVED, That the Board of Supervisors hereby approves the New Transportation**
25 **Expenditure Plan unanimously recommended by the Expenditure Plan Advisory Committee**

1 established by the San Francisco County Transportation Authority, which New Plan would
2 direct the use of revenues obtained from an extension of the transactions and use tax (“sales
3 and use tax”); and, be it

4 FURTHER RESOLVED, That the Board of Supervisors hereby calls and provides for a
5 special election to be held in the City and County of San Francisco on Tuesday, November 4,
6 2003, and is hereby consolidated with the General Municipal Election of the City and County
7 of San Francisco to be held Tuesday, November 4, 2003, for the purpose of submitting the
8 following proposition:

9
10 Shall the City implement a 30-year New Transportation Expenditure Plan directing
11 transportation sales tax funds to improved maintenance of local streets, transportation
12 for the elderly and disabled, the Central Subway, a citywide network of fast and
13 reliable buses, the Caltrain Extension to a new Transbay Terminal, improvements to
14 pedestrian and bicycle safety and other projects and continue the existing half-cent
15 sales tax during implementation of the New Transportation Expenditure Plan and
16 future Plan updates?

17
18 (a) The special election hereby called and ordered shall be held and conducted, and
19 the votes thereat received and canvassed, and the returns thereof made and the results
20 thereof ascertained, determined and declared as herein provided and in all particulars not
21 herein recited said election shall be held according to the laws of the State of California and
22 the Charter of the City and County of San Francisco providing for and governing elections in
23 the City and County of San Francisco, and the polls for such election shall be and remain
24 open during the time required by said laws.
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1 (b) The said special election hereby called shall be and hereby is consolidated with the
2 General Municipal Election of the City and County of San Francisco to be held on Tuesday,
3 November 4, 2003, and the voting precincts, polling places and officers of election for said
4 Election shall be the same and are hereby adopted, established, designated and named,
5 respectively, as the voting precincts, polling places and officers of election for such special
6 election hereby called, and as specifically set forth, in the official publication, by the Director of
7 Elections of precincts, polling places and election officers for the said General Municipal
8 Election.
9

10 (c) The ballots to be used at said special election shall be the ballots to be used at said
11 General Municipal Election and reference is hereby made to the notice of election setting forth
12 the voting precincts, polling places and officers of election by the Director of Elections for the
13 General Election to be published as required by State and local law.
14

15 (d) On the ballots to be used at such special election, in addition to any other matter
16 required by law to be printed thereon, shall appear thereon the following, to be separately
17 stated, and appear upon the ballot as a separate proposition:

18 Shall the City implement a 30-year New Transportation Expenditure Plan directing
19 transportation sales tax funds to improved maintenance of local streets, transportation
20 for the elderly and disabled, the Central Subway, a citywide network of fast and
21 reliable buses, the Caltrain Extension to a new Transbay Terminal, improvements to
22 pedestrian and bicycle safety and other projects and continue the existing half-cent
23 sales tax during implementation of the New Transportation Expenditure Plan and
24 future Plan updates?
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1 (e) This resolution shall be published according to the laws of the State of California
2 and the Charter of the City and County of San Francisco providing for and governing the
3 publication of measures submitted to the voters. The New Transportation Expenditure Plan
4 referenced below shall be published once in the official newspaper of the City and County
5 within 30 days of the effective date of this resolution.

6 (f) The Director of Elections and the Director's employees, representatives and agents
7 are hereby authorized and directed to do everything necessary or desirable to the calling and
8 holding of said special election, and to otherwise carry out the provisions of this resolution.
9

10 (g) At the special election, an ordinance amending Article 14 of the San Francisco
11 Business and Tax Regulations Code of the City and County of San Francisco, by amending
12 Sections 1401, 1402, 1403, 1404, 1405, 1406, 1408, 1413, 1414, and 1415 thereof, and
13 adding Section 1419, is hereby submitted to the electorate as follows:

14 Note: Additions are *single-underline italics Times New Roman*;
15 deletions are ~~*strikethrough italics Times New Roman*~~.

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

17 Section 1. The San Francisco Business and Tax Regulations Code is hereby amended
18 by amending Sections 1401, 1402, 1403, 1404, 1405, 1406, 1408, 1413, 1414, and 1415, to
19 read as follows:

20
21 SEC. 1401. TITLE.

22 This ordinance shall be known as the "San Francisco County Transportation Authority
23 Reauthorization Ordinance" which ~~establishes and implements a~~ continues in effect the existing local
24 transactions and use tax (commonly referred to as the "sales and use tax") approved by the voters
25

1 as Proposition B at the November 7, 1989 election and authorizes implementation of a New
2 Transportation Expenditure Plan for the use of the additional revenues.

3 SEC. 1402. DEFINITIONS.
4

5 For the purposes of this ordinance the following words shall have the meanings
6 ascribed to them by this section.

7 (a) "Authority." The existing San Francisco County Transportation Authority.

8 (b) "District." The City and County of San Francisco.

9
10 (c) "Effective date." The date of adoption of this ordinance which shall take effect at the
11 close of the polls on the day of the election scheduled for November 4, 2003 at which the
12 proposition is adopted by a two-thirds vote of the electors voting on the measure.

13 (d) "Operative date." The date that this ordinance becomes operative, which shall be the
14 first day of the first calendar quarter commencing more than 120 days after adoption of
15 this ordinance at the election scheduled for November 4, 2003, pursuant to Public
16 Utilities Code Section 131105(a).

17
18 ~~(e) "Effective date." The date of adoption of this ordinance which shall take effect at~~
19 ~~the close of the polls on the day of election at which the proposition is adopted by majority vote~~
20 ~~of the electors voting on the measure, pursuant to Public Utilities Code Section 131102(e).~~

21 ~~(d) "Operative date." The first day of the first calendar quarter commencing more than~~
22 ~~120 days after adoption of the ordinance, pursuant to Public Utilities Code Section 131105(a).~~

1 ~~(e) “Plan.” The Transportation Expenditure Plan approved by the Board of~~
2 ~~Supervisors of the City and County of San Francisco which is considered part of this ordinance~~
3 ~~and hereby incorporated by reference as if fully set forth herein.~~

4 SEC. 1403. PURPOSE.

5 Pursuant to Division 12.5 of the Public Utilities Code, the San Francisco County
6 Transportation Authority, upon the unanimous recommendation of the Expenditure Plan Advisory
7 Committee established by the Authority, ~~the San Francisco Transportation Committee~~ has
8 recommended that the Board of Supervisors submit to the voters of the City and County of
9 San Francisco for their approval an ordinance which would, if so approved, ~~create the San~~
10 ~~Francisco County Transportation Authority, authorize the Authority to impose a one-half of one~~
11 ~~percent transactions and use tax for a period of twenty years to finance the transportation~~
12 ~~improvements set forth in the Transportation Expenditure Plan approved by the Board of Supervisors~~
13 ~~and to~~ continue in effect the existing local transactions and use tax of one-half of one percent approved
14 by the voters as Proposition B at the November 7, 1989 election; authorize implementation of a New
15 Transportation Expenditure Plan setting forth the projects to be funded over the next 30 years with
16 revenues from the continuation of the tax; continue in effect the San Francisco County Transportation
17 Authority; and authorize the San Francisco County Transportation Authority to issue limited tax
18 bonds in a total outstanding aggregate amount not to exceed ~~\$742,000,000~~ \$1,880,000,000.

19 Hence, this ordinance should be interpreted so as to achieve the purposes set forth herein:

20 (a) To ~~establish a~~ continue in effect the San Francisco County Transportation
21 Authority.
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1 (b) To ~~impose a transactions and use tax~~ continue in effect the existing one-half of one
2 percent transactions and use tax in accordance with the provisions of Part 1.6 (commencing with
3 Section 7251) of Division 2 of the California Revenue and Taxation Code and Sections
4 131100 et seq. of the California Public Utilities Code, which directs the County Board of
5 Supervisors to adopt the tax ordinance for voter approval, exercising the taxing power granted
6 to the San Francisco County Transportation Authority in Public Utilities Code Section 131102
7 on behalf of said Authority.

8
9 (c) To implement a New Transportation Expenditure Plan which supersedes the existing
10 Transportation Expenditure Plan adopted in 1989, sets forth the transportation projects, programs and
11 other improvements to be funded over the next 30 years with the revenues resulting from the
12 continuation of the tax, specifies eligibility and other conditions and criteria under which such
13 revenues shall be made available, and makes provisions for the adoption of future expenditure plan
14 updates.

15
16 ~~(e)~~ (d) To incorporate provisions identical to those of the Sales and Use Tax Law of
17 the State of California insofar as those provisions are not inconsistent with the requirements
18 and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

19 ~~(d)~~ (e) To impose a transactions and use tax and provide a measure therefor that can
20 be administered and collected by the State Board of Equalization in a manner that adapts
21 itself as fully as practicable to, and requires the least possible deviation from, the existing
22 statutory and administrative procedures followed by the State Board of Equalization in
23 administering and collecting the California State Sales and Use Tax.
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1 ~~(e)~~ (f) To authorize administration of a transactions and use tax in a manner that will,
2 to the highest degree possible consistent with the provisions of Part 1.6 of Division 2 of the
3 Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes
4 and at the same time minimize the burden of recordkeeping upon persons subject to taxation
5 under the provisions of this ordinance.

6 ~~(f)~~ (g) To improve or cause the improvement, construction, maintenance, operation,
7 development of and/or planning for , construct, maintain, and operate certain transportation projects,
8 ~~and~~ facilities and/or programs contained in the New Transportation Expenditure Plan
9 recommended by the Expenditure Plan Advisory Committee and adopted by the Board of
10 Supervisors of the City and County of San Francisco, which plan is incorporated here by this
11 reference as though fully set forth herein, and as that Plan may be amended from time to time
12 pursuant to applicable law.

13 ~~(g)~~ (h) ~~To set a maximum term of twenty years during which time this tax shall be imposed~~
14 ~~pursuant to the authority granted by Section 131102(e) of the Public Utilities Code. To continue this~~
15 ~~tax pursuant to the authority granted by Section 131102 of the Public Utilities Code, permanently and~~
16 ~~subject to approval of future updates of the New Expenditure Plan pursuant to Section 131056 of the~~
17 ~~Public Utilities Code.~~

18 ~~(h)~~ (i) To authorize the issuance from time to time of limited tax bonds not to exceed
19 a total outstanding aggregate amount of ~~\$742,000,000~~ \$1,880,000,000 to finance the projects
20 specified in the Plan.

21 ~~(i)~~ (j) To establish an expenditure limit for the Authority pursuant to California
22 Constitution Article XIII B.
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2 SEC. 1404. CONTINUATION CREATION OF AUTHORITY.

3 Upon voter approval of this ordinance, the Authority shall continue in effect as currently
4 constituted be created and shall be composed of the eleven members of the San Francisco Board of
5 Supervisors as specified in the Transportation Expenditure Plan. The Authority shall have all of the
6 powers set forth in Division 12.5 (commencing with Section 131100) of the Public Utilities
7 Code, all of the powers set forth in the New Transportation Expenditure Plan, and all powers
8 incidental or necessary to imposing and collecting the tax and administering the tax proceeds
9 and the Plan, and causing and overseeing the delivery of the transportation improvements therein
10 contained. The Authority may allocate and reallocate the tax proceeds to meet project cash
11 flow needs consistent with ~~all~~ the provisions of the Plan. In the event a project is infeasible,
12 the Authority shall reallocate the tax proceeds for that project to other projects in accordance
13 with the provisions of the Plan.
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15 SEC. 1405. CONTRACT WITH STATE.
16

17 Prior to the operative date, the Authority shall contract with the State Board of
18 Equalization to perform all functions incident to the administration and operation of ~~this~~ the
19 transactions and use tax authorized by this ordinance; provided that, if the Authority shall not
20 have contracted with the State Board of Equalization prior to the operative date, it shall
21 nevertheless so contract and in such a case the operative date shall be the first day of the first
22 calendar quarter following the execution of such a contract.
23

24 SEC. 1406. TRANSACTIONS TAX AND RATE OF ONE-HALF OF ONE PERCENT.
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1 For the privilege of selling tangible personal property at retail, ~~a~~ the existing tax is
2 hereby continued to be imposed upon all retailers in this District at the rate of one-half of one
3 percent of the gross receipts of any retailer from the sale of all tangible personal property sold
4 at retail in this District on and after the operative date. ~~This tax shall be imposed for a maximum~~
5 ~~period of twenty years.~~

6 SEC. 1408. USE TAX AND RATE OF ONE-HALF OF ONE PERCENT.

7 The existing ~~An~~ excise tax is hereby continued to be imposed on the storage, use or
8 other consumption in this District of tangible personal property purchases from any retailer on
9 and after the operative date for storage, use or other consumption in this District at the rate of
10 one-half of one percent of the sales price of the property. The sales price shall include
11 delivery when such charges are subject to state sales or use tax regardless of the place to
12 which delivery is made. ~~This tax shall be imposed for a maximum period of twenty years.~~

13 SEC. 1413. AUTHORIZATION AND LIMITATION ON ISSUANCE OF BONDS.

14 The Authority is hereby authorized to issue from time to time limited tax bonds pursuant
15 to the provisions of California Public Utilities Code Sections 131109 et seq. in a total
16 outstanding aggregate amount not to exceed ~~\$742,000,000~~ \$1,880,00,000.

17 SEC. 1414. USE OF PROCEEDS.

18 The proceeds of the taxes imposed by this ordinance shall be used solely for the
19 projects and purposes set forth in the ~~County~~ New Transportation Expenditure Plan and its
20 updates and for the administration thereof. In accordance with the legislative intent expressed
21 in California Public Utilities Code Section ~~13110~~ 131100 such proceeds shall not replace
22 funds previously provided by property tax revenues for public transportation purposes. ~~Each~~

1 ~~year the tax is in effect and prior to the allocation of funds by the Authority, the Controller of the City~~
2 ~~and County of San Francisco~~ As a condition for allocation of funds by the Authority, the recipient
3 department or agency shall certify to the Authority that the funds will not be substituted for
4 property tax funds which are currently utilized to fund existing local transportation programs.

5 SEC. 1415. APPROPRIATIONS LIMIT.

6 For purposes of Article XIII B of the State Constitution, the appropriations limit for the
7 Authority for fiscal year ~~2003-04 1989-90~~ and each year thereafter shall be ~~\$160,000,000~~
8 \$485,175,000 unless that amount should be amended pursuant to applicable law.

10 Section 2. The San Francisco Business and Tax Regulations Code is hereby amended
11 by adding Section 1419, to read as follows:

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13 SEC. 1419. ENJOINING COLLECTION FORBIDDEN.

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