

File No. 110749

Committee Item No. 10

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Sub-Committee

Date: July 20, 2011

Board of Supervisors Meeting

Date \_\_\_\_\_

#### Cmte Board

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest                           |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Budget & Legislative Analyst Report          |
| <input type="checkbox"/>            | <input type="checkbox"/> | Ethics Form 126                              |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form (for hearings)             |
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| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
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| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
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#### OTHER

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Completed by: Victor Young

Date: July 15, 2011

Completed by: Victor Young

Date: \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [Business and Tax Regulations Code - 0.50% Sales Tax Increase to Fund Public Safety  
2 Programs and Services to Children and Seniors]

3  
4 **Ordinance amending the San Francisco Business and Tax Regulations Code by adding**  
5 **Article 16-A to provide funds for public safety programs and services to children and**  
6 **senior citizens in the City and County of San Francisco by imposing a transactions**  
7 **(sales) and use tax at the rate of one-half of one percent (0.50%) for a period of ten**  
8 **years, to be administered by the State Board of Equalization in accordance with Parts**  
9 **1.6 and 1.7 of Division 2 of the California Revenue and Taxation Code; adopting an**  
10 **expenditure plan; and directing submission of the tax for voter approval at the**  
11 **November 8, 2011, Municipal Election.**

12  
13 NOTE: Additions are single-underline italics Times New Roman;  
14 deletions are ~~strike-through italics Times New Roman~~.  
15 Board amendment additions are double-underlined;  
16 Board amendment deletions are ~~strikethrough-normal~~.

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

18 Section 1. The San Francisco Business and Tax Regulations Code is hereby amended  
19 by adding Article 16A, Sections 1650 et seq., ("Safe Communities Transactions and Use Tax  
20 Ordinance ") to read as follows:

21 **SEC. 1650. TITLE.**

22 *This ordinance shall be known as the Safe Communities Transactions and Use Tax Ordinance.*  
23 *The City and County of San Francisco, hereinafter shall be called "City and County." This ordinance*  
24 *shall be applicable in the City and County.*  
25

1 **SEC. 1651. OPERATIVE DATE.**

2 *"Operative Date" means the first day of the first calendar quarter commencing more than 110*  
3 *days after the adoption of this ordinance, as provided in Cal Rev & Tax Code § 7265.*

4 **SEC. 1652. CONDITIONS TO OPERABILITY OF THE TAX INCREASE IMPOSED BY THIS**  
5 **ORDINANCE.**

6 (a) *The Safe Communities Transactions and Use Tax imposed by this ordinance shall*  
7 *become operative only if on or before November 30, 2011: (i) the state legislature or the state voters*  
8 *do not extend or reimpose the temporary 1% increase in the state sales and use tax rate from April 1,*  
9 *2009 until July 1, 2011 under Assembly Bill 3 (3rd Ex. Sess.) (Stats. 2009-10, Ch. 18) (the "temporary*  
10 *state tax"), or impose the same or a substantially similar state tax at the same rate or a higher rate and*  
11 *for the same purpose (a "substantially similar state tax"), for a term of at least 1 year, through July 1,*  
12 *2012, and (ii) as a result of such failure to extend or reimpose the temporary state tax or impose a*  
13 *substantially similar state tax, the state sales and use tax rate, inclusive of the Bradley-Burns Uniform*  
14 *Sales and Use Tax rate, is then no more than 7.25%. If either such condition is not satisfied on or*  
15 *before November 30, 2011, then the Safe Communities Transactions and Use Tax shall not become*  
16 *operative and this ordinance shall expire by operation of law.*

17 (b) *If the Safe Communities Transactions and Use Tax becomes operative under*  
18 *subparagraph (a), but on or before January 1, 2013 (i) the state legislature or the state voters approve*  
19 *the extension or reimposition of the temporary state tax or impose a substantially similar state tax for a*  
20 *period of at least 1 calendar year, and (ii) as a result the state sales and use tax rate, inclusive of the*  
21 *Bradley-Burns Uniform Sales and Use Tax rate, is at least 8.25% or a combination of the state tax rate,*  
22 *the Bradley-Burns Uniform Sales and Use Tax rate and the rate of a Substantially Similar Tax equals*  
23 *at least 8.25%, then the Safe Communities Transactions and Use Tax will expire by operation of law as*  
24 *follows: (1) Promptly following satisfaction of the conditions described in clauses (i) and (ii) above,*  
25 *the Board of Supervisors shall adopt and transmit to the State Board of Equalization an ordinance*

1 requesting that it cease collecting the Safe Communities Transactions and Use Tax on the day before  
2 the state tax becomes operative or, (2) if that is not feasible, at the earliest date administratively  
3 possible. The Safe Communities Transactions and Use Tax shall expire by operation of law and cease  
4 to be collected on the date the State Board of Equalization is able to cease collecting it in accordance  
5 with this paragraph. On such date as the Safe Communities Transactions and Use Tax ceases to be  
6 collected, this ordinance shall expire by operation of law.

7 **SEC. 1653. PURPOSE.**

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

10 (a) To provide support and funding for public safety programs and services for children and  
11 senior citizens in the City and County.

12 (b) To impose a retail transactions and use tax in accordance with the provisions of Part  
13 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section  
14 7285.5 of Part 1.7 of Division 2 which authorizes the City and County to adopt this tax ordinance  
15 which shall be operative if 2/3 of the electors voting on the measure vote to approve the imposition of  
16 the tax at an election called for that purpose.

17 (c) To adopt a retail transactions and use tax ordinance that incorporates provisions  
18 identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions  
19 are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the  
20 Revenue and Taxation Code.

21 (d) To adopt a retail transactions and use tax ordinance that imposes a tax and provides a  
22 measure therefor that can be administered and collected by the State Board of Equalization in a  
23 manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the  
24 existing statutory and administrative procedures followed by the State Board of Equalization in  
25 administering and collecting the California State Sales and Use Taxes.

1           (e) To adopt a retail transactions and use tax ordinance that can be administered in a  
2 manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of  
3 Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use  
4 taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation  
5 under the provisions of this ordinance.

6 **SEC. 1654. CONTRACT WITH STATE.**

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

13 **SEC. 1655. TRANSACTIONS TAX RATE.**

14           For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all  
15 retailers in the incorporated and unincorporated territory of the City and County at the rate of 0.50%  
16 of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the  
17 City and County on and after the operative date of this ordinance.

18 **SEC. 1656. PLACE OF SALE.**

19           For the purposes of this ordinance, all retail sales are consummated at the place of business of  
20 the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an  
21 out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross  
22 receipts from such sales shall include delivery charges, when such charges are subject to the state sales  
23 and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent  
24 place of business in the State or has more than one place of business, the place or places at which the  
25

1 retail sales are consummated shall be determined under rules and regulations to be prescribed and  
2 adopted by the State Board of Equalization.

3 **SEC. 1657. USE TAX RATE.**

4 An excise tax is hereby imposed on the storage, use or other consumption in the City and  
5 County of tangible personal property purchased from any retailer on and after the operative date of  
6 this ordinance for storage, use or other consumption in the City and County at the rate of 0.50% of the  
7 sales price of the property. The sales price shall include delivery charges when such charges are  
8 subject to state sales or use tax regardless of the place to which delivery is made.

9 **SEC. 1658. ADOPTION OF PROVISIONS OF STATE LAW.**

10 Except as otherwise provided in this ordinance and except insofar as they are inconsistent with  
11 the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part  
12 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted  
13 and made a part of this ordinance as though fully set forth herein.

14 **SEC. 1659. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE**  
15 **TAXES.**

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

17 (a) Wherever the State of California is named or referred to as the taxing agency, the name  
18 of the City and County shall be substituted therefor. However, the substitution shall not be made when:

19 (1) The word "State" is used as a part of the title of the State Controller, State  
20 Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the  
21 Constitution of the State of California;

22 (2) The result of that substitution would require action to be taken by or against the City  
23 and County or any agency, officer, or employee thereof rather than by or against the State  
24 Board of Equalization, in performing the functions incident to the administration or operation  
25 of this Ordinance.

1                   (3) In those sections, including, but not necessarily limited to sections referring to the  
2                   exterior boundaries of the State of California, where the result of the substitution would be to:

3                   (A) Provide an exemption from this tax with respect to certain sales, storage,  
4                   use or other consumption of tangible personal property which would not otherwise be  
5                   exempt from this tax while such sales, storage, use or other consumption remain subject  
6                   to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and  
7                   Taxation Code, or;

8                   (B) Impose this tax with respect to certain sales, storage, use or other  
9                   consumption of tangible personal property which would not be subject to tax by the state  
10                  under the said provision of that code.

11                  (4) In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737,  
12                  6797 or 6828 of the Revenue and Taxation Code.

13                  (b) The words "the City and County of San Francisco" shall be substituted for the words  
14                  "this State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the  
15                  definition of that phrase in Section 6203.

16                  **SEC. 1660. PERMIT NOT REQUIRED.**

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

19                  **SEC. 1661. EXEMPTIONS AND EXCLUSIONS.**

20                  (a) There shall be excluded from the measure of the transactions tax and the use tax the  
21                  amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or  
22                  county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any  
23                  state-administered transactions or use tax.

24                  (b) There are exempted from the computation of the amount of transactions tax the gross  
25                  receipts from:

1           (1) Sales of tangible personal property, other than fuel or petroleum products, to  
2           operators of aircraft to be used or consumed principally outside the City and County in which  
3           the sale is made and directly and exclusively in the use of such aircraft as common carriers of  
4           persons or property under the authority of the laws of this State, the United States, or any  
5           foreign government.

6           (2) Sales of property to be used outside the City and County which is shipped to a  
7           point outside the City and County, pursuant to the contract of sale, by delivery to such point by  
8           the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee  
9           at such point. For the purposes of this paragraph, delivery to a point outside the City and  
10          County shall be satisfied:

11               (A) With respect to vehicles (other than commercial vehicles) subject to  
12               registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the  
13               Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities  
14               Code, and undocumented vessels registered under Division 3.5 (commencing with  
15               Section 9840) of the Vehicle Code by registration to an address outside the City and  
16               County and by a declaration under penalty of perjury, signed by the buyer, stating that  
17               such address is, in fact, his or her principal place of residence; and

18               (B) With respect to commercial vehicles, by registration to a place of  
19               business outside the City and County and declaration under penalty of perjury, signed  
20               by the buyer, that the vehicle will be operated from that address.

21           (3) The sale of tangible personal property if the seller is obligated to furnish the  
22           property for a fixed price pursuant to a contract entered into prior to the operative date of this  
23           ordinance.



1           (4) A lease of tangible personal property which is a continuing sale of such  
2 property, for any period of time for which the lessor is obligated to lease the property for an  
3 amount fixed by the lease prior to the operative date of this ordinance.

4           (5) For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of  
5 tangible personal property shall be deemed not to be obligated pursuant to a contract or lease  
6 for any period of time for which any party to the contract or lease has the unconditional right to  
7 terminate the contract or lease upon notice, whether or not such right is exercised.

8           (c) There are exempted from the use tax imposed by this ordinance, the storage, use or  
9 other consumption in the City and County of tangible personal property:

10           (1) The gross receipts from the sale of which have been subject to a transactions tax  
11 under any state-administered transactions and use tax ordinance.

12           (2) Other than fuel or petroleum products purchased by operators of aircraft and  
13 used or consumed by such operators directly and exclusively in the use of such aircraft as  
14 common carriers of persons or property for hire or compensation under a certificate of public  
15 convenience and necessity issued pursuant to the laws of this State, the United States, or any  
16 foreign government. This exemption is in addition to the exemptions provided in Sections 6366  
17 and 6366.1 of the Revenue and Taxation Code of the State of California.

18           (3) If the purchaser is obligated to purchase the property for a fixed price pursuant  
19 to a contract entered into prior to the operative date of this ordinance.

20           (4) If the possession of, or the exercise of any right or power over the tangible  
21 personal property arises under a lease which is a continuing purchase of such property for any  
22 period of time for which the lessee is obligated to lease the property for an amount fixed by a  
23 lease prior to the operative date of this ordinance.

24           (5) For the purposes of subparagraphs (3) and (4) of this section, storage, use, or  
25 other consumption, or possession of, or exercise of any right or power over, tangible personal

1 property shall be deemed not to be obligated pursuant to a contract or lease for any period of  
2 time for which any party to the contract or lease has the unconditional right to terminate the  
3 contract or lease upon notice, whether or not such right is exercised.

4 (6) Except as provided in subparagraph (7) of this section, a retailer engaged in  
5 business in the City and County shall not be required to collect use tax from the purchaser of  
6 tangible personal property, unless the retailer ships or delivers the property into the City and  
7 County or participates within the City and County in making the sale of the property, including,  
8 but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of  
9 business of the retailer in the City and County or through any representative, agent, canvasser,  
10 solicitor, subsidiary, or person in the City and County under the authority of the retailer.

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

18 (d) Any person subject to use tax under this ordinance may credit against that tax any  
19 transactions tax or reimbursement for transactions tax paid to a County imposing, or retailer liable for  
20 a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to  
21 the sale to the person of the property the storage, use or other consumption of which is subject to the  
22 use tax.

23 **SEC. 1662. AMENDMENTS.**

24 All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the  
25 Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part

1 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and  
2 Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this  
3 ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax  
4 imposed by this ordinance.

5 **SEC. 1663. ENJOINING COLLECTION FORBIDDEN.**

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

10 **SEC. 1664. ADOPTION OF EXPENDITURE PLAN.**

11 The Safe Communities Transactions and Use Tax Expenditure Plan ("Expenditure Plan") on file  
12 with the Clerk of the Board of Supervisors in File No. 110749 , and incorporated into this ordinance  
13 by reference is hereby adopted. Proceeds of the tax imposed by this ordinance shall be placed in a  
14 special account and shall be spent only to implement the project components set forth in the  
15 Expenditure Plan. The Expenditure Plan may be amended from time to time to further the purposes of  
16 this ordinance, to add or delete a project or to take into consideration unforeseen circumstances.

17 **SEC. 1665. SEVERABILITY.**

18 If any provision of this ordinance or the application thereof to any person or circumstance is  
19 held invalid, the remainder of the ordinance and the application of such provision to other persons or  
20 circumstances shall not be affected thereby.

21 **SEC. 1666. EFFECTIVE DATE.**

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

1 **SEC. 1667. TERMINATION DATE.**

2 *The authority to levy the tax imposed by this ordinance shall expire on December 31, 2022.*

3 Section 2. The San Francisco Administrative Code is hereby amended by adding Section  
4 10.100.321 to read as follows:

5 **SEC. 10.100.321. SAFE COMMUNITIES TRANSACTIONS AND USE TAX FUND.**

6 *(a) Establishment of Fund. The Safe Communities Transactions And Use Tax Fund, a special*  
7 *revenue fund, is hereby established as a category-four fund to receive any and all collections of the*  
8 *Transactions and Use Tax imposed by Business and Tax Regulations Code, Article 16A, Section 1650*  
9 *et. seq.*

10 *(b) Use of Fund. Monies in the Safe Communities Transactions And Use Tax Fund shall be*  
11 *used solely to fund the public safety and social safety programs described in the Safe Communities*  
12 *Transactions And Use Tax Expenditure Plan.*

13 *(c) Oversight of Fund. The Controller shall maintain the Fund and shall record all receipts*  
14 *and expenditures.*

15 Section 3. Pursuant to Article XIII C of the Constitution of the State of California and Section  
16 7285 of the California Revenue and Taxation Code, this ordinance shall be submitted to the  
17 qualified electors of the City and County of San Francisco, at the November 8, 2011 municipal  
18 election. This ordinance shall become operative only if approved by the qualified electors at  
19 such election.

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

23 By: 

24 JEAN ALEXANDER  
25 Deputy City Attorney

Mayor Lee, Supervisors Chiu, Cohen, Mirkarimi, Wiener  
BOARD OF SUPERVISORS

## LEGISLATIVE DIGEST

[Business and Tax Regulations Code - 0.50% Sales Tax Increase to Fund Public Safety Programs and Services to Children and Seniors.]

**Ordinance amending the San Francisco Business and Tax Regulations Code to add Article 16-A to provide funds for public safety programs and services to children and senior citizens in the City and County of San Francisco by imposing a transactions (sales) and use tax at the rate of one-half of one percent (0.50%) for a period of ten (10) years, to be administered by the State Board of Equalization in accordance with Parts 1.6 and 1.7 of Division 2 of the California Revenue and Taxation Code; adopting an expenditure plan; and directing submission of the tax for voter approval at the November 8, 2011 municipal election.**

### Existing Law

Existing Article 12-D of the San Francisco Business and Tax Regulations Code, known as the "Uniform Local Sales and Use Tax Ordinance of the City and County of San Francisco" establishes and implements a sales tax for the privilege of selling tangible personal property at retail upon retailers in the City and County of San Francisco. Article 12-D incorporates provisions identical to those of the Sales and Use Tax Law of the State of California. Existing law, Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.5 of Part 1.7 of Division 2, authorizes the City and County to adopt a retail transactions and use tax ordinance. Currently the combined state and local sales and use tax rate in San Francisco is 9.50%.

### Amendments to Current Law

Section 1 of this ordinance adds Article 16A, The Safe Communities Transactions and Use Tax Ordinance to the Business and Tax Regulations Code to impose a transactions and use tax at the rate of 0.50%. The revenue from the transactions and use tax will provide support and funding for public safety programs and services for children and senior citizens in the City and County. The revenue may be expended only as outlined in the incorporated expenditure plan. Section 2 submits the measure to the voters for approval at the November 8, 2011 election.

### Background Information

San Francisco's combined sales and use tax rate is currently 9.50%. In 2008, in order to resolve a budget crisis, the state legislature temporarily increased the state sales and use tax rate by 1%, from 7.25% to 8.25% from April 1, 2009, until July 1, 2011 (Assembly Bill 3 (3rd Ex. Sess.) (Stats. 2009-10, Ch. 18). The 1% increase is scheduled to expire on July 1, 2011. This ordinance will increase the local sales and use tax rate by 0.50%, if the state rate increase is not extended and the state portion of the sales and use tax rate decreases to

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7.25%. If the state sales tax rate increase is extended and remains at 8.25%, or if the state legislature or the voters impose an identical or substantially similar tax, the 0.50% tax proposed by this ordinance will not become operative. If this 0.50% rate increase is enacted and the state legislature approves a sales tax increase or approves an identical or substantially similar tax prior to January 1, 2013, and as a result the state sales tax rate or the combined rate of the sales tax and a substantially similar tax is at least 8.25%, this ordinance will cease to be operative.

Pursuant to Article XIII C of the California Constitution and California Revenue and Taxation Code §7285.5 of the California Revenue and Taxation Code, the Transactions and Use Tax proposed by this ordinance is a special tax and must be approved by a two-thirds vote of the qualified voters of the City and County of San Francisco. As required by state law, an expenditure plan demonstrating how the additional revenue will be spent is incorporated as a part of the ordinance.

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### **The Safe Communities Fund Expenditure Plan**

The City and County of San Francisco ("City") is proposing a half-cent sales tax increase for a new Safe Communities Fund that will be used to fund public safety and social safety net programs, including services that have been reduced or are under additional financial strain as a result of state and federal budget cuts.

Based on historical data and forecasts of sales tax receipts, a half-cent sales tax is projected to generate \$60 million in the first full year of collection. During the first year, the revenues will not be appropriated in the City budget, but will be available for supplemental appropriation if needed. Beginning in fiscal year 2012-13, sales tax proceeds will be appropriated through the annual budget process. Unexpended revenues at year end will remain in a special fund created specifically for this purpose. Expenditures will be split evenly between traditional public safety programs and social safety net programs.

<b>Expenditure Category (Millions)</b>			
<b>Fiscal Year</b>	<b>Revenue</b>	<b>Public Safety</b>	<b>Social Safety Net</b>
2012	\$15.0	\$ 7.5	\$ 7.5
2013	\$60.0	\$30.0	\$30.0
2014	\$61.8	\$30.9	\$30.9
2015	\$63.7	\$31.8	\$31.8
2016	\$65.6	\$32.8	\$32.8
2017	\$67.5	\$33.8	\$33.8
2018	\$69.6	\$34.8	\$34.8
2019	\$71.6	\$35.8	\$35.8
2020	\$73.8	\$36.9	\$36.9
2021	\$76.0	\$38.0	\$38.0
2022	\$78.3	\$39.1	\$39.1

#### **Examples of Eligible Expenditures**

##### **Protecting Public Safety (50%)**

- Community Policing
  - Police officer salaries
  - Police academy class costs
- Fire and Emergency Services
  - Firefighter salaries
  - Vehicle and firefighting equipment replacement

##### **Preserving the Social Safety Net (50%)**

- In Home supportive services program for seniors
- Meals for seniors
- Assistance for independent living
- Adult day care services
- Child Care and associated Children's Services
- Health Care for Children, Families and Seniors

## **A. Protecting Public Safety (50%)**

Half the revenues from the Safe Communities Transactions and Use Tax will be used to support public safety expenditures by the City. Eligible public safety expenditures include personnel expenses for police officers and firefighters, and purchase of equipment to support public safety operations.

## **B. Preserving the Social Safety Net (50%)**

Half the revenues from the Safe Communities Transactions and Use Tax will be used to support social safety net programs for the most vulnerable individuals, including seniors and children. Examples of Eligible expenditures include:

- *Programs for Seniors.* Eligible uses of the Safe Communities Transactions and Use Tax include basic safety net services for protecting the health and welfare of seniors, and assisting them to remain living independently in the community instead of in more costly institutional care. Examples of these services include community meal programs, home-delivered and emergency meals, transportation services, adult protective services, home-based services for seniors including the local share of the in-home supportive services program, adult day health care services, and other support services to keep senior individuals in their homes instead of in institutions.
- *Child Care and Children's Services.* Child care programs are another eligible use of the Safe Communities Transactions and Use Tax. Examples of child care services include vouchers, subsidized child care to families on public assistance, children who are victims of or at risk of abuse and/or neglect, homeless children, and other subsidy programs for low-income families. The fund can also be used to support programs that manage city- and state-funded child care subsidies, to replace funding for child care services reduced and/or eliminated through state budget decisions and to support parents in finding the appropriate child care that meets their needs.
- *Health Care for Seniors, Children and Their Families.* The Safe Communities Transactions and Use Tax can be used for expenditures providing health care services to vulnerable populations, including children and seniors.

## **Administration of Safe Communities Fund**

The proposed transactions and use tax will be considered by voters at the November, 2011 election, and will require a two-thirds approval to take effect. If approved by voters, the earliest the tax could become operative will be in April of 2012, during the third quarter of fiscal year 2011-12. The 0.50% Transactions and Use Tax increase imposed by this ordinance shall become operative only if (i) the temporary 1% increase in the state sales and use tax rate from April 1, 2009 until July 1, 2011 under Assembly Bill 3 (3rd Ex. Sess.) (Stats. 2009-10, Ch. 18) (the "temporary state tax"), is not extended or reimposed for at least 1 year by the state legislature or the state voters on or before November 30, 2011 and (ii) as a result of such failure to extend or reimpose the temporary state tax, the state sales and use tax rate decreases from 8.25% to 7.25%. If either such condition is not satisfied on or before November 30, 2011, then the tax increase authorized under this ordinance shall not become operative. If both such conditions are satisfied but before January 1, 2013 the state legislature or the state voters approve the extension or reimposition of the temporary state tax for at least 1 year, then on the date the state sales tax rate is increased to 8.25% as a result of such approval, the 0.50% sales tax imposed by this ordinance will terminate and subsequently cease to be collected.

Revenue from the tax will be deposited into a special fund created by the City Controller for this purpose, called the Safe Communities Fund. Appropriation of revenues will be subject to the provisions of the City Charter. The Controller's Office will monitor the appropriation of funds from the Safe Communities Transactions and Use Tax to ensure they are used in a manner consistent with voter approval and the City's financial policies. The Board of Supervisors of the City and County of San Francisco will have the authority to adjust the percentage allocation of expenditures from the fund by a two-thirds vote, provided that any proposed allocations cannot be used for purposes other than those described in this expenditure plan.



**Item 10**  
**File 11-0749**

**Department(s):**  
Office of the Treasurer and Tax Collector

## **EXECUTIVE SUMMARY**

### **Legislative Objectives**

- The proposed ordinance would authorize the City and County of San Francisco to institute a one-half percent Safe Communities Transaction and Use Tax (Sales Tax) for a period of ten years if either the State Legislature or the State electorate do not reinstitute the temporary one percent increase in Sales Tax or impose a substantially similar tax before November 30, 2011.

### **Key Points**

- The State of California imposed a temporary one percent Sales Tax increase effective April 1, 2009 that expired on June 30, 2011, which increased San Francisco's Sales Tax rate from 8.5 percent to 9.5 percent.
- The decrease of one percent in the State Sales Tax rate as of July 1, 2011 will directly impact the State's General Fund and will likely result in decreased State funding to San Francisco in FY 2011-12.
- Per the text of the proposed ordinance and the supplementary Safe Communities Transaction and Use Tax Expenditure Plan, the Safe Communities Transaction and Use Tax is required to be expended for support of San Francisco's public safety and social safety net programs for children and senior citizens.

### **Fiscal Impacts**

- According to the Safe Communities Transaction and Use Tax Expenditure Plan, the proposed one-half percent Safe Communities Transaction and Use Tax is estimated to generate approximately \$60,000,000 in FY 2012-13 and approximately \$702,900,000 over the next ten years for the City and County of San Francisco.
- Each year, per the text of the proposed ordinance, 50 percent of the Safe Communities Transaction and Use Tax revenues, or approximately \$30,000,000 in FY 2012-13, would be required to be appropriated for public safety programs and 50 percent of the revenues, or approximately \$30,000,000 in FY 2012-13 would be required to be appropriated for social safety net programs for children and senior citizens. Specific programs within these categories and the amount for each program would be subject to annual appropriation approval by the Mayor and the Board of Supervisors.

### **Recommendation**

- Approval of the proposed ordinance is a policy decision for the Board of Supervisors.

## MANDATE STATEMENT/ BACKGROUND

### Mandate Statement

In accordance with the City's Business and Tax Regulations Code Sections 1202-1204 and California Revenue and Taxation Code Section 7285.5, the California State Board of Equalization currently collects a one percent local Transaction and Use Tax (Sales Taxes) that is then transferred to the City and County of San Francisco's General Fund as well as various "special district use taxes" that benefit regional transportation and schools (see Table 1 below). In accordance with California Revenue and Taxation Code Section 7285.5, local Sales Taxes can be increased by multiples of one-quarter of one percent, not to exceed two percent, if approved by ordinance by two-thirds of the Board of Supervisors and subsequently approved by a two-thirds vote of the San Francisco electorate. This ordinance includes an expenditure plan describing how the proposed Sales Tax revenues would be expended.

### Background

In 2009, the State Legislature imposed a temporary one percent increase in the State Sales Tax increasing it from 6.25 percent to 7.25 percent effective April 1, 2009 through June 30, 2011. The revenues from this one percent increase were dedicated to the State's General Fund. On July 1, 2011, because of the expiration of the temporary one percent increase in the State Sales Tax, the total Sales Tax in San Francisco decreased from 9.5 percent to 8.5 percent. Table 1 below shows the percentage allocation of revenues from both the previous 9.5 percent and current 8.5 percent Sales Tax for San Francisco:

**Table 1: Sales and Use Tax**

	6/30/2011	7/1/2011
<b>State Sales Tax</b>	<b>7.25%</b>	<b>6.25%</b>
State General Fund	6.00%	5.00%
Fiscal Recovery Act (+)	0.25%	0.25%
Local Revenue Fund	0.50%	0.50%
Public Safety Fund	0.50%	0.50%
<b>Local Sales Tax</b>	<b>1.00%</b>	<b>1.00%</b>
Local Sales Tax (General Fund)	1.00%	1.00%
Fiscal Recovery Act (-)	-0.25%	-0.25%
Local Transportation Tax (TDA)	0.25%	0.25%
<b>Special District Use Tax</b>	<b>1.25%</b>	<b>1.25%</b>
SF County Transportation Authority	0.50%	0.50%
Bay Area Rapid Transit (BART)	0.50%	0.50%
SF Public Financing Authority (Schools)	0.25%	0.25%
<b>Total Sales Tax Rate for San Francisco</b>	<b>9.50%</b>	<b>8.50%</b>

The State of California collected a total of approximately \$42,200,000,000 in Sales Taxes in FY 2009-10 at the 9.5 percent rate, of which approximately \$27,700,000,000 was allocated to the State's General Fund. Based on estimated projections by the State Board of Equalization, the projected annual decrease of State General Fund revenues with the expiration of the temporary one percent increase in Sales Tax is approximately \$4,600,000,000.

## DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend the City's Business and Tax Regulations Code to add Article 16-A which would institute a one-half percent Safe Communities Transaction and Use Tax for a period of ten years, if either the State Legislature or State electorate do not reinstitute the temporary one percent increase or impose a substantially similar tax before November 30, 2011. The proposed ordinance would also create a special revenue fund called the Safe Communities Transaction and Use Tax Fund to receive the additional Sales Tax revenues and allocate those funds to public safety programs and social safety net programs for children and senior citizens.

The proposed ordinance would also approve the Safe Communities Transaction and Use Tax Expenditure Plan prepared by the Mayor's Office on June 14, 2011 which directs the Sales Tax revenues from the Safe Communities Transaction and Use Tax to be divided equally between Public Safety and Social Safety Net programs. Under the proposed ordinance, the Board of Supervisors would have the authority to adjust the percentage allocation of expenditures from the Safe Communities Transaction and Use Tax Fund by a two-thirds vote, provided that any proposed allocations could not be expended for purposes other than those described in the Safe Communities Transaction and Use Tax Expenditure Plan.

As required by Article XIII C of the California Constitution and Section 7285 of the California Revenue and Taxation Code, if approved by the Board of Supervisors, the proposed ordinance would be submitted to the San Francisco voters for approval at the November 8, 2011 municipal election. If approved by at least two-thirds of San Francisco voters, the proposed one-half percent Sales Tax would be effective on April 1, 2012.

## FISCAL IMPACTS

According to Ms. Michelle Allersma of the Controller's Office, the local one percent Sales and Use Tax generates approximately \$120,000,000 in annual revenue for the City and County of San Francisco. Therefore, the proposed one-half percent Safe Communities Transaction and Use Tax is projected to generate approximately \$60,000,000 in FY 2012-13 for the City and County of San Francisco. Under the proposed ordinance, this one-half percent increase would be effective for ten years from April 1, 2012 through March 31, 2022. According to projections in the Safe Communities Transaction and Use Tax Expenditure Plan, as proposed by the Mayor's Office, as shown in Table 1 below, over this ten-year period, including projected increases in

overall Sales Tax revenues<sup>1</sup>, the additional one-half percent Sales Tax would generate an estimated increase in Sales Tax revenue of \$702,900,000 for San Francisco.

**Table 1: Expenditure Category (Millions)**

<b>Fiscal Year</b>	<b>Revenue</b>	<b>Public Safety</b>	<b>Social Safety Net</b>
2012*	\$15.0	\$ 7.5	\$ 7.5
2013	\$60.0	\$30.0	\$30.0
2014	\$61.8	\$30.9	\$30.9
2015	\$63.7	\$31.8	\$31.8
2016	\$65.6	\$32.8	\$32.8
2017	\$67.5	\$33.8	\$33.8
2018	\$69.6	\$34.8	\$34.8
2019	\$71.6	\$35.8	\$35.8
2020	\$73.8	\$36.9	\$36.9
2021	\$76.0	\$38.0	\$38.0
2022	\$78.3	\$39.1	\$39.1
<b>Total</b>	<b>\$702.9</b>	<b>\$351.4</b>	<b>\$351.4</b>

\* The first year would only include April 1, 2012 through June 30<sup>th</sup>, 2012

Although the proposed ordinance specifies that the additional revenues would be used for public safety and social safety net programs, the specific appropriation of the Safe Communities Transaction and Use Tax revenues would be determined annually by the Mayor's Office and Board of Supervisors, as part of the annual budget process with the exception of the partial year from April 1, 2012 to June 30, 2012. Those Sales Tax revenues would be available for supplemental appropriations.

## **POLICY IMPACTS**

The California 2011-12 Budget signed into law on June 30, 2011 included \$12,500,000,000 in expenditure reductions. For public safety, a combination of reductions to the Vehicle License Fee<sup>2</sup> and the State's realignment of corrections<sup>3</sup> will have a significant impact on San Francisco. Regarding social safety net programs for children and senior citizens, while the City is still in the process of developing estimates for how much funding will be reduced for children and senior citizens, Mr. Greg Wagner, the Mayor's Office Budget Director believes that the reductions could be substantial.

<sup>1</sup> Mr. Jonathan Lyens from the Mayor's Office advised that these ten-year projections assume an annual 3 percent inflation rate based on increasing prices which would result in additional Sales Tax revenue.

<sup>2</sup> As of July 1, 2011, the California Vehicle License Fee decreased from 1.15 percent of the value of a vehicle to 0.65 percent. This Fee is used to fund local Public Safety Programs, such that a reduction in the Vehicle License Fee will result in an undetermined reduction in State funding for local Public Safety Programs.

<sup>3</sup> Currently, the State of California is in the process of transferring responsibility of some prisoners from the State to individual counties. Ms. Rebekah Krell of the Mayor's Office stated that the true cost of this additional responsibility will likely exceed (by an as yet undetermined amount) the \$5,787,088 that the State has pledged to San Francisco to offset this added responsibility.

According to Mr. Wagner, the proposed one-half percent Safe Communities Transaction and Use Tax is intended to allow the Mayor and the Board of Supervisors to prioritize the City's spending over the next ten years, rather than relying on unknown allocations of State revenues.

The Mayor's Office created an expenditure plan on June 14, 2011, that states, "Expenditures will be split evenly between traditional public safety programs and social safety net programs." The resolution specifically cites children and senior citizens as the targeted group for the social safety net programs. Based on projections in the Safe Communities Transaction and Use Tax Expenditure Plan, as prepared by the Mayor's Office, the one-half percent Safe Communities Transaction and Use Tax would generate an estimated \$60,000,000 in FY 2012-13 for San Francisco, of which \$30,000,000 of revenues would be available for public safety programs and \$30,000,000 would be available for social safety net programs for children and senior citizens. Table 2 below identifies some examples of public safety and social safety net programs that would be eligible for funding with the proposed additional Sales Tax revenues, although, as noted above, the specific appropriations would be determined each year during the annual budget process of the Mayor and the Board of Supervisors.

<b>Table 2: Examples of Eligible Expenditures</b>	
<b>Protecting Public Safety (50%)</b>	
Community Policing	
Police Officer salaries	
Police Academy classes	
Fire and Emergency Services	
Firefighter salaries	
Vehicle and firefighting equipment replacement	
<b>Preserving the Social Safety Net (50%)</b>	
In Home supportive services program for seniors	
Meals for seniors	
Assistance for independent living	
Adult day care services	
Child Care and associated Children's Services	
Health Care for Children, Families and Seniors	

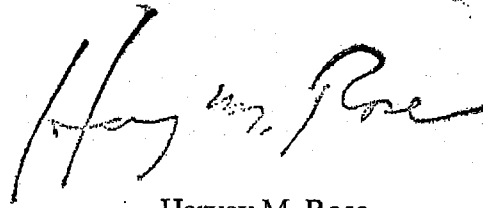
Source: Safe Communities Fund Expenditure Plan

Deputy City Attorney Jean Alexander confirmed that, in accordance with the proposed ordinance and the expenditure plan, the increased Sales Tax revenues must be used to fund public safety and social safety net programs. However, the even split between public safety programs and social safety net programs could be changed by a two-thirds approval of the Board of Supervisors.

If the proposed ordinance is not approved, the overall Sales Tax rate in San Francisco would remain at 8.5 percent. If the proposed ordinance is approved by San Francisco's voters on November 8, 2011, the overall Sales Tax rate in San Francisco would increase from 8.5 percent to 9.0 percent on April 1, 2012.

## RECOMMENDATION

Approval of the proposed ordinance is a policy decision for the Board of Supervisors.

A handwritten signature in dark ink, appearing to read "Harvey M. Rose". The signature is fluid and cursive, with the first name "Harvey" being more prominent than the last name "Rose".

Harvey M. Rose

cc: Supervisor Chu  
Supervisor Mirkarimi  
Supervisor Kim  
President Chiu  
Supervisor Avalos  
Supervisor Campos  
Supervisor Cohen  
Supervisor Elsbernd  
Supervisor Farrell  
Supervisor Mar  
Supervisor Wiener  
Clerk of the Board  
Cheryl Adams  
Controller  
Greg Wagner