

**CITY OF SAN MATEO
RESOLUTION NO. __ (2022)**

**ORDERING AND CALLING A GENERAL MUNICIPAL ELECTION TO BE HELD IN THE CITY OF SAN MATEO
ON TUESDAY, NOVEMBER 8, 2022, SUBMITTING TO THE VOTERS A MEASURE TO INCREASE THE
RATE TO ONE AND ONE-HALF PERCENT (1.5%) FOR THE EXISTING TAX ON SALE OR TRANSFER OF
PROPERTIES VALUED AT TEN MILLION DOLLARS OR MORE**

WHEREAS, San Mateo is a city with excellent quality of life services that maintain our unique community character; and

WHEREAS, the City recently commissioned two independent surveys in the City of San Mateo that show residents are highly satisfied with San Mateo's quality of life and want quality of life services to continue to be addressed in a significant manner; and

WHEREAS, the economic recession, declining revenues, and historical State takeaways – including \$44 million dollars from San Mateo's portion of the state's Educational Revenue Augmentation Fund over the last 30 years - have affected San Mateo's ability to consistently maintain essential city services; and

WHEREAS, the City of San Mateo has over \$300 million in unfunded needs, affecting the City's ability to maintain and improve city streets, sidewalks and potholes, among other infrastructure needs; and

WHEREAS, continuing locally controlled funding will give San Mateo local control over local funds for local needs, without fear of such funds being taken by the State, and

WHEREAS, the San Mateo City Council has taken proactive steps to reduce expenditures, and maintain the level of services the community has come to expect; and

WHEREAS, the San Mateo City Council has determined to place on the ballot a measure to increase the tax rate from one-half of one percent (0.5%) to one and one-half percent (1.5%) for the sale or other transfer of properties valued at ten million dollars or more.

WHEREAS, an increase to the City's Real Property Documentary Transfer tax for properties valued at \$10 million or more is only expected to impact approximately 0.5% of properties sold or transferred in the City; and

WHEREAS, increasing locally-controlled funding would permit our City to continue to address the community's priorities, including maintaining parks, open spaces, and recreation facilities; repairing potholes and failed streets that have fallen into disrepair; maintaining emergency medical and fire protection services; providing police and crime prevention programs; addressing traffic issues and homelessness; making changes to reduce environmental impacts and reduce stormwater pollution; and improving sidewalks, bike lanes and roads to reduce traffic congestion and improve safety; and

NOW, THEREFORE, THE COUNCIL OF THE CITY OF SAN MATEO, CALIFORNIA, RESOLVES AS FOLLOWS:

1. The City Council approves the proposed ordinance set forth in Exhibit A, “An Ordinance of the City of San Mateo Amending Sections 3.48.010 and 3.48.030 of Chapter 3.48, ‘Real Property Document Transfer Tax,’ to Increase the Tax Rate to One and One-Half Percent (1.5%) for the Sale or Other Transfer of Properties Valued at Ten Million Dollars or More,” attached hereto and incorporated in this Resolution by this reference, for submission to the voters of the City, and orders that the Ballots for the election shall be in the form provided by law, and that the ballot question shall appear on the ballot in the following form and shall be submitted to the voters of the City:

To fund essential local general services in the City of San Mateo, such as street repairs, parks, recreation, fire protection, emergency response, and crime prevention; and improving intersections, sidewalks, and bike lanes for safety and reduced traffic congestion; shall the measure, increasing the City of San Mateo’s existing transfer tax on property sales of \$10 million or more, from 0.5% to 1.5%, generating approximately \$4.8 million annually, until ended by voters, with independent audits and all money locally controlled, be adopted?	YES
	NO

2. In accordance with Elections Code 10403, the City Council hereby calls for an election regarding the above measure and directs that such election be consolidated with all city, county, and statewide elections occurring on November 8, 2022. The election shall be held and conducted in the manner prescribed by Elections Code section 10418. In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

3. The City Clerk is directed to forward the proposed measure to the City Attorney for preparation of an impartial analysis in accordance with Section 9280 of the Elections Code.

4. Arguments for and against the proposition may be submitted to the qualified voters of the City in accordance with sections 9282 through 9287 of the California Elections Code. The deadline date for submitting ballot arguments for or against the proposition shall be set by the City Clerk. Proposed arguments shall not exceed 300 words and shall be submitted to the Office of the City Clerk. The deadline for submitting rebuttal arguments shall be set by the City Clerk. Proposed rebuttal arguments shall not exceed 250 words and shall be submitted to the office of the City Clerk. The provisions of Section 9285(a) of the California Elections Code shall apply to the submittal of rebuttal arguments.

5. The City Council authorizes members of that body collectively or individually, or any San Mateo voter or association of San Mateo residents, to file written arguments in favor or against the proposition, and to change the argument until and including the date fixed by the City Clerk after which no arguments for or against the proposition may be submitted to the City Clerk. Any argument filed for or against said proposition not exceeding 300 words shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if filed on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal

officers who is the author of the argument.

6. In accordance with Section 12111 of the Elections Code, the City Clerk is hereby authorized and directed to cause notice of the election on the measure to be published. The City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County elections official, and is hereby authorized and directed to take all steps necessary to place the measure on the ballot and to cause the ordinance or measure to be printed.

7. The City and other City officers are directed to do all things necessary to meet the requirements of law for the November 8, 2022, municipal election.

8. A supplemental budget appropriation of \$80,000 from unassigned fund balance in the General Fund to the City Manager's 2021-22 operating budget is approved.

EXHIBIT A

CITY OF SAN MATEO ORDINANCE NO. 2022-__

AN ORDINANCE OF THE CITY OF SAN MATEO AMENDING SECTIONS 3.48.010 AND 3.48.030 OF CHAPTER 3.48, "REAL PROPERTY DOCUMENT TRANSFER TAX," TO INCREASE THE TAX RATE TO ONE AND ONE-HALF PERCENT (1.5%) FOR THE SALE OR OTHER TRANSFER OF PROPERTIES VALUED AT TEN MILLION DOLLARS OR MORE

THE PEOPLE OF THE CITY OF SAN MATEO ORDAIN AS FOLLOWS:

Section 1. Section 3.48.010, "Amount," and Section 3.48.030, "Exemptions" of the San Mateo Municipal Code are amended to read in their entirety as follows:

3.48.010 AMOUNT.

There is imposed on each deed, instrument or writing by which any lands, tenements, or other real property within the City are sold, granted, assigned, conveyed or otherwise transferred to, or vested in, the purchaser or purchasers, or any other person or persons when the consideration or value of the property interest or real property conveyed exceeds one hundred dollars, a tax at the rates set forth below:

- (a) For sales or transfers when the consideration or value of the interest or property is less than ten million dollars, a tax rate of one-half of one percent of said consideration or value; and
- (b) For sales or transfers when the consideration or value of the interest or property is equal to or greater than ten million dollars, a tax rate of one and one-half percent of said consideration or value.

As used herein, "consideration or value" means the total consideration, valued in money of the United States, paid or delivered or contracted to be paid or delivered in return for the transfer of real property, including the amount of any indebtedness, existing immediately prior to the transfer which is secured by a lien, deed of trust or other encumbrance on the property conveyed and which continues to be secured by such lien, deed of trust or encumbrance after said transfer, and also including the amount of any indebtedness which is secured by a lien, deed of trust or encumbrance given or placed upon the property in connection with the transfer to secure the payment of the purchase price or any part thereof which remains unpaid at the time of the transfer.

"Consideration or value" also includes the amount of any special assessment levied or imposed upon the property by a public body, district or agency, where said special assessment is a lien or encumbrance on the property and the purchaser or transferee agrees to pay such special assessment or takes the property subject to the lien of such special assessment.

The value of any lien or encumbrance of a type other than those which are hereinabove specifically included, existing immediately prior to the transfer and remaining after said transfer, shall not be included in determining the value of the consideration.

If the consideration or value cannot be definitely determined, or is left open to be fixed by future contingencies, "consideration or value" shall be deemed to mean the fair market value of the property at the time of transfer after deducting the amount of any lien or encumbrance, if any, of a type which would be excluded in determining the consideration or value pursuant to above provisions of this section.

The terms "real property" and "realty" shall be deemed to mean real property as defined by and under the laws of the state.

3.48.030 EXEMPTIONS.

The tax imposed pursuant to Section 3.48.010 shall not apply to:

(a) Any document given to secure a debt, or a transfer to a beneficiary or mortgagee when it is taken in lieu of foreclosure;

(b) Any document to which the United States or any agency or instrumentality thereof; any state or territory, or political subdivision thereof; or the District of Columbia is a party; provided, that the tax may be collected by assessment from any other party liable therefor;

(c) Any document of transfer executed to make effective any plan of reorganization or adjustment which is:

(1) Confirmed under the Federal Bankruptcy Code, as amended,

(2) Approved in any equity receivership proceeding in a court involving either:

(A) A railroad corporation as defined in Section 101 of Title 11 of the United States Code, as amended.

(B) A corporation as defined in Section 101 of Title 11 of the United States Code, as amended; or

(3) To effectuate a mere change in identity, form or place of organization;

(d) Subdivision (c), above, shall only apply to a transfer that occurs within five years of the date of confirmation, approval, or change.

(e) Any document of transfer executed pursuant to and to effectuate any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of Title 26 of the United States Code, as amended; provided, that the order of the Securities and Exchange Commission in obedience to which such transfer is made:

(1) Recites that such transfer is necessary or appropriate to effectuate the provisions of Section 79K of Title 15 of the United States Code, as amended, relating to the Public Utility Holding Company Act of 1935; and

(2) Specifies the property which is ordered to be transferred;

(f) Any document making a transfer of an interest in a partnership or otherwise when the partnership (or another partnership) is considered a continuing partnership within the meaning of Section 708 of Title 26 of the United States Code, as amended, and such continuing partnership continues to hold the realty concerned.

(g) Any document making a transfer of community property, or interest among joint tenants or tenants in common provided that:

(1) The participating owners have held their respective interest for at least 5 years, or all participating owners acquired their respective interests in the same transaction, however recent; and

(2) No grantor receives any consideration beyond a release from any indebtedness secured by the property interest being transferred.

(h) Any document of interspousal transfer including: (a) transfer to a trustee for the beneficial use of a spouse or the surviving spouse of a deceased transferor, or by the trustee of such a trust to the spouse of the trustor; (b) transfers which take place upon the death of a spouse; (c) transfer to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of marriage or legal separation; (d) the creation, transfer, or termination, solely between spouses, of any co-owner's interest.

(i) Any document of transfer between parents and children of a single family residence or of property zoned single family residential. The term "children" shall include natural and adopted children, as well as stepchildren if they are legally stepchildren at the time of transfer, and any son-in-law or daughter-in-law if they are legally in such relationship at the time of transfer.

Section 2. SEVERABILITY. In the event any section, clause or provision of this Ordinance shall be determined invalid or unconstitutional, such section, clause or provision shall be deemed severable and all other sections or portions hereof shall remain in full force and effect. It is the intent of the City Council that it would have adopted all other portions of this Ordinance irrespective of any such portion declared to be invalid or unconstitutional.

Section 3. ENVIRONMENTAL DETERMINATION. In accordance with California Environmental Quality Act (CEQA) Guidelines section 15378(b)(4), submission of the tax extension to the voters is categorically exempt from CEQA because it involves the creation of a government funding mechanism which does not involve any commitment to any specific project.

Section 4. PUBLICATION. This Ordinance shall be published in summary in a newspaper of general circulation, posted in the City Clerk's Office, and posted on the City's website, all in accord with Section 2.15 of the City Charter.

Section 5. LEGISLATIVE HISTORY AND EFFECTIVE DATE. This Ordinance was introduced on _____, and adopted on _____. This Ordinance relates to the levying and collecting of the City real property document transfer tax and shall take effect 10 days after certification of election results by the City Council certifying that the Ordinance was approved by a majority of the voters voting at the general municipal election to be held November 8, 2022.