

RESOLUTION NO. 2022-_____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO SUBMITTING TO THE VOTERS AT THE NOVEMBER 8, 2022 GENERAL MUNICIPAL ELECTION A MEASURE THAT PROPOSES A CITY CHARTER BE ADOPTED TO CHANGE THE CITY OF SAN BRUNO FROM A GENERAL LAW CITY TO A CHARTER CITY AND TO AUTHORIZE A REAL PROPERTY TRANSFER TAX AND THAT PROPOSES ADOPTION OF AN ORDINANCE AUTHORIZING A COMMERCIAL REAL PROPERTY TRANSFER TAX, REQUESTING THAT SUCH ELECTION BE CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION HELD ON THAT DATE, MAKING A DETERMINATION OF EXEMPTION UNDER CEQA, AND TAKING CERTAIN OTHER ACTIONS

WHEREAS, the City Council of the City of San Bruno held duly noticed public hearings on June 7, 2022 and July 12, 2022, and held a study session on June 28, 2022 to receive comments from the public and to consider a proposed City charter to change the City of San Bruno from a general law city to a charter city; and

WHEREAS, at the conclusion of the hearing process, after considering all testimony, evidence, and comments from the public, the City Council directed the preparation of a ballot measure to submit to the voters of San Bruno the approval of the San Bruno City Charter and an ordinance that would authorize a commercial real property transfer tax; and

WHEREAS, by prior resolution, the City Council called a general municipal election (the “Election”) for November 8, 2022, to be consolidated with the statewide general election to be held on that same date; and

WHEREAS, the City Council desires to have the matter of the San Bruno City Charter and an ordinance that would authorize a commercial real property transfer tax be presented to the voters on the November 8, 2022 ballot; and

WHEREAS, the City Council finds that the placement of the proposed ballot measure is not subject to the California Environmental Quality Act (“CEQA”) pursuant to the State CEQA Guidelines Section 15060(c)(3), because the actions are not a project as defined by the CEQA Guidelines Section 15378 (b)(4). Adoption of the charter and ordinance proposed by the ballot measure relates to the imposition of a tax on the transfer of commercial real property in the City and does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF SAN BRUNO, CALIFORNIA, AS FOLLOWS:

1. The full text of the measure, attached to this Resolution as Exhibit A and Exhibit B, being the proposed Charter of the City of San Bruno (the “Charter”) and an ordinance authorizing a Commercial Real Property Transfer Tax (the “Tax”), respectively, shall be completely printed in the voter pamphlet. The measure shall not take effect unless and until it is approved by a vote of at least a simple majority of affirmative votes of the voters voting on the question at the election. If the measure is approved, both the Charter and the Tax shall be approved. The City Council, pursuant to its right and authority, does order the following measure to be submitted to the voters which shall appear and be printed on the ballot as follows:
2. The question shall appear on the ballot as follows:

To maintain critical San Bruno city services and programs, including public safety, streets, parks and recreation, shall a measure to adopt a San Bruno City Charter and an ordinance to establish an ongoing 1 percent commercial real estate property transfer tax, paid by buyers or sellers of commercial property, exempting all single family homes and multi-family buildings up to and including 4 units, providing an estimated \$1 million annually, all funds benefiting San Bruno, be adopted?	Yes
	No

This measure must be approved by a majority of the votes cast in order to be adopted.

3. The City Council hereby approves the proposed ordinance to be submitted to the voters, attached hereto as Exhibit B. The proposed Tax is a general tax and shall not take effect unless and until the proposed measure, including the Charter, is approved by a vote of at least a simple majority of affirmative votes of the voters voting on the question at the election. The ordinance specifies that the rate of the Real Property Transfer Tax shall be one dollar (\$1.00) per each one hundred dollars (\$100.00), or fraction thereof, of the consideration paid for commercial real property. The tax is owed at the time of sale of real property. The tax shall be collected by the City.
4. The City Council hereby directs the City Clerk to transmit a copy of the Measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the Measure, not to exceed 500 words in length, showing the effect of the Measure on the existing law and the operation of the measure, and transmit such impartial analysis to the City Clerk no later than August 18, 2022, by 5:00 p.m.
5. Pursuant to Elections Code Section 10403, the City Council requests that the San Mateo County Board of Supervisors consent to consolidation of the Election with the general election to be conducted by the San Mateo County Registrar of voters on November 8, 2022. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. The election will be held and conducted in accordance with the provisions of law regulating a special election consolidated with a statewide election. The City will bear all costs customarily charged by the County to a

city in connection with a ballot question submitted at a municipal election that is consolidated with an election conducted by the County.

6. The City Clerk shall certify to the passage and adoption of this Resolution and enter into the book of original Resolutions.
7. The City Council directs the City Clerk to file a certified copy of this Resolution with the Registrar of Voters of San Mateo County.
8. Notice of the time and place of holding of the election is given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election in the time, form, and manner as required by law.
9. Pursuant to Section 10400 et seq. of the Elections Code, the Board of Supervisors of San Mateo County is requested to consolidate the election on this ballot measure with other elections held on the same day in the County.
10. The Board of Supervisors is authorized to canvass the returns of the Election pursuant to Section 10411 of the Elections Code.
11. Pursuant to Section 10002 of the Elections Code, the Board of Supervisors is requested to permit the County Clerk to render all services specified by Section 10418 of the Elections Code relating to the election, for which services the City agrees to reimburse the County, in accordance with current County pro-rations and allocation procedures.
12. The City Clerk shall file a certified copy of this Resolution with the County Clerk.
13. The City Clerk is hereby authorized to do all things necessary and proper to implement the provisions of this Resolution, including certifying the passage and adoption of this Resolution and entering it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED THIS 3rd DAY OF AUGUST, 2022.

Rico E. Medina
Mayor

ATTEST:

Vicky Hasha
Deputy City Clerk

EXHIBIT A

Proposed Charter of the City of San Bruno

CHARTER OF THE CITY OF SAN BRUNO

STATEMENT OF PURPOSE

The City of San Bruno was incorporated as a general law city in 1914 by residents seeking the right to manage local affairs. Since then, the authority of general law cities over local affairs has diminished. Furthermore, the State has continually added mandates for cities that require local resources to address State concerns, increased its control over local matters, and redirected much needed local revenue for its own purposes. Changes in State law have limited the ability of San Bruno to decide how to use local dollars for local needs. The power of home rule, granted by the California Constitution, makes available to charter cities a variety of tools to use to implement local policy and address local concerns. With this Charter, San Bruno will reclaim more local autonomy and expand the economic and fiscal independence of our City government to promote the health, safety, and welfare of all its residents. Therefore, we do hereby exercise the express right granted by the Constitution of the State of California to enact and adopt this Charter for the City of San Bruno.

ARTICLE I. ESTABLISHMENT OF HOME RULE, POWER OVER MUNICIPAL AFFAIRS, GENERAL LAW POWERS

Section 100. Powers of the City. The City of San Bruno (the "City") shall have full power and authority to adopt, make, exercise, and enforce all legislation, laws, ordinances, resolutions, and regulations with respect to municipal affairs, subject only to the limitations and restrictions imposed on that power by this Charter, the Constitution of the State of California, and the laws of the United States.

Section 101. Municipal Affairs. Municipal affairs encompass all matters of local concern as determined by the City Council consistent with the meaning of "municipal affairs" under the constitutional, statutory, and judicially defined law of the State of California. Each of the matters set forth in this Charter are declared to be municipal affairs, consistent with the laws of the State of California. The municipal affairs set forth in this Charter are not intended to be an exclusive list of municipal affairs over which the City Council may govern. The exercise of home rule over each matter set forth in this Charter uniquely benefits the residents of the City and addresses local concerns within the City.

Section 102. Limitation on Powers.

- (a) The City shall exercise only the rights, powers and authority granted to a city under the general laws of the State of California, unless otherwise provided in this Charter.
- (b) Nothing in this Charter is intended to restrict the City in exercising any right, power or authority granted under the general laws of the State of California. However, the provisions of this Charter shall prevail in the event of any conflict with the general laws of the State of California, unless preempted by state law on matters of statewide concern.

ARTICLE II. CONTINUATION OF BOUNDARIES, FORM OF GOVERNMENT, AND EXISTING LAW

Section 200. Incorporation and Succession. The City shall continue to be a municipal corporation known as the City of San Bruno. The boundaries of the City shall continue as established prior to this Charter taking effect until changed in the manner authorized by law. The City shall remain vested with and shall continue to own, have, possess, control, and enjoy all property rights and rights of action of every nature and description owned, had, possessed, controlled, or enjoyed by it at the time this Charter takes effect. The City shall be subject to all debts, obligations, and liabilities of the City at the time this Charter takes effect.

Section 201. Form of Government. The government of the City shall continue to be the Council-Manager form of government as established by the San Bruno Municipal Code at the time that this Charter takes effect and by the laws of the State of California. The Council-Manager form of government of the City may be changed in the same ways and using the same procedures as a general law city.

Section 202. City Council, City Manager, and City Attorney.

- (a) The City Council shall establish the policy of the City. The City Manager shall carry out that policy.
- (b) The City Council shall appoint the City Manager.
- (c) The City Manager, as the chief administrative officer of the City, shall appoint all department heads other than the City Attorney.
- (d) The City Council shall appoint the City Attorney. The City Attorney may be an employee of the City or an independent contractor providing legal services pursuant to a contract.

Section 203. Continuation of Existing Local Laws. All ordinances, codes, resolutions, regulations, rules, and portions thereof, in force at the time this Charter takes effect, and not in conflict or inconsistent herewith, shall continue in force until repealed, amended, changed, or superseded in the manner provided by this Charter and any other applicable laws.

Section 204. General State Laws. Except as provided in this Charter, the City shall be governed by the general laws of the State of California.

ARTICLE III. MUNICIPAL REVENUE

Section 300. Revenue Raising Power. The City may exercise all powers of a charter city to generate revenue, including but not limited to taxes, fees, assessments, and other charges.

Section 301. Real Property Transfer Tax. Without limiting the general power of the City, as expressed in Section 300 above, to generate revenue, the City may impose a tax on the conveyance of real property, based upon the price paid for the real property (“real property transfer tax”). Any real property transfer tax imposed by the City shall be in addition to any similar tax authorized by the general laws of the State of California.

ARTICLE IV. PREVAILING WAGES FOR PUBLIC WORKS AND PUBLIC CONTRACTING

Section 400. State Prevailing Wage Law. The City shall comply with the laws of the State of California applicable to general law cities regarding the payment of prevailing wages for public works projects.

Section 401. Contracting for Public Works. The City shall comply with the laws of the State of California applicable to general law cities regarding contracting for public works. The City’s laws, ordinances, codes, resolutions, and policies implementing State laws regarding contracting for public works shall continue to apply when this Charter takes effect and may be amended thereafter in accordance with the laws applicable to general law cities.

ARTICLE V. ELECTIONS

Section 500. State Elections Law. The City shall comply with the laws of the State of California applicable to general law cities regarding elections. The City’s laws, ordinances, codes, resolutions, and policies implementing State laws regarding elections shall continue to apply when this Charter takes effect and may be amended thereafter in accordance with the laws applicable to general law cities.

Section 501. Initiative, Referendum, and Recall. Without limiting the general applicability of Section 500 of this Charter, the City shall comply with the laws of the State of California applicable to general law cities regarding initiative, referendum, and recall.

ARTICLE VI. INTERPRETATION, SEVERABILITY, AND AMENDMENT

Section 600. Severability. If any provision of this Charter should be held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law.

Section 601. Amendment of Charter. As provided by state law, this Charter, and any of its provisions, may be amended by a majority vote of the electors voting on the question. Amendment or repeal may be proposed by initiative or by the City Council.

EXHIBIT B

Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN BRUNO
AUTHORIZING A TAX ON THE TRANSFER OF COMMERCIAL REAL PROPERTY
LOCATED IN SAN BRUNO AND ADDING CHAPTER 3.40 TO THE SAN BRUNO
MUNICIPAL CODE

THE PEOPLE OF THE CITY OF SAN BRUNO DO ORDAIN AS FOLLOWS:

SECTION 1. Amendment of Municipal Code. Chapter 3.40 is hereby added to the San Bruno Municipal Code to read as follows:

Chapter 3.40 – REAL PROPERTY TRANSFER TAX

3.40.010 Title.

This chapter may be cited as the “Commercial Real Property Transfer Tax Ordinance of the City of San Bruno.”

3.40.020 Purpose and Authority.

A. The tax imposed by this chapter is solely for the purpose of raising revenues for the general governmental purposes of the City. All of the proceeds from the tax imposed by this chapter shall be placed in the City’s general fund. This chapter is not enacted for regulatory purposes.

B. This ordinance is adopted pursuant to the City’s authority under Article XI, section 5 of the Constitution of the State of California and Section 301 of the San Bruno City Charter.

3.40.030 Definitions.

"Changes in control and ownership of legal entities" means any direct or indirect acquisition or transfer of ownership interest or control in a legal entity that constitutes a change in ownership or transfer of the real property of the entity under California Revenue and Taxation Code section 64, as such statute reads and is interpreted by the California Department of Tax and Fee Administration.

“County Assessor” means the County Assessor of the County of San Mateo.

“County Recorder” means the Office of the Clerk-Recorder of the County of San Mateo.

"Person" and "persons" mean any natural person, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, limited liability company, municipal corporation, political subdivision of the State of California, domestic or foreign corporation, association, syndicate, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, and the United States or

any instrumentality thereof. "Person" and "persons" also mean any natural person, who as an individual or with a spouse, owns 51 percent or more of the capital stock of a corporation obligated to file a declaration and pay tax pursuant to this chapter; and in addition, is a person with the power to control the fiscal decision-making process by which the corporation allocates funds to creditors in preference to its tax obligations under the provisions of this chapter. A person who is also an officer or director of a corporation obligated to file declarations and pay tax pursuant to this chapter shall be presumed to be a person with the power to control the fiscal decision-making process. Whenever the term "person" is used in any clause prescribing and imposing a penalty, the term as applied to association shall mean the owners or part owners thereof, and as applied to corporation, the officers thereof.

"Real property" and "realty," as used in this chapter, mean real property as defined by and under the laws of the state of California and exclude property developed with a residential structure that contains less than five dwelling units.

"Tax" means the tax authorized and imposed by this chapter.

"Tax administrator" means the Finance Director or other City official designated by the City Manager to administer the tax.

"Transfer of real property" means a sale, grant, assignment, transfer, or other conveyance of any lands, tenements, or other real property by deed, instrument, or other writing from a transferor to a transferee, or to a third person at or by the direction of transferee. "Transfer of real property" includes a change in control and ownership of a legal entity that results in a transfer of real property.

"Transferee" means a person to whom a transfer of real property is made.

"Transferor" means a person who makes a transfer of real property.

"Value of consideration" 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 encumbrances after such 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 transfer. "Value of the consideration" also includes the amount of any special assessment levied or imposed upon the property by a public body, district or agency, where such 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 such transfer, shall not be included in determining the value of the

consideration. If the "value of the consideration" cannot be definitely determined, or is left open to be fixed by future contingencies, "value of the consideration" 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 "value of the consideration" pursuant to the above provisions of this section. In the event that the asserted "value of consideration" for a transfer of real property is less than the fair market value, the Tax Administrator may assume that the "value of consideration" is the fair market value of the property but shall consider evidence submitted by the persons responsible for the paying the tax that the lower amount represents the price agreed upon as part of a valid arms-length transaction. By way of example only and without limiting the generality of the foregoing, a transfer of real property that is a gift, with the transferor transferring the real property to the transferee with no compensation and free and clear of liens and encumbrances, is a form of transfer of real property for which the value of consideration is less than the fair market value.

3.40.040 Tax Imposed.

A tax is hereby imposed on each transfer of real property located in the City of San Bruno, when the value of the consideration exceeds one hundred dollars (\$100.00). The tax imposed pursuant to this chapter shall be in addition to the real property documentary stamp tax imposed by the City pursuant to Chapter 3.36.

3.40.050 Tax Rate.

The rate of the tax imposed pursuant this chapter shall be one dollar (\$1.00) for each one hundred dollars (\$100.00) of the value of consideration paid for a transfer of real property, or fractional part of each one hundred dollars (\$100.00) of the value of consideration.

3.40.060 Persons Liable for Tax.

Any person who makes a transfer of real property subject to the tax imposed by this chapter and any person to whom such a transfer is made shall be jointly and severally liable for payment of the tax. The transferor and transferee may apportion the tax among themselves.

3.40.070 Exceptions and Exemptions.

A. Government Entities. A transfer of real property shall be exempt from any tax imposed pursuant to this chapter if the transferor or transferee is the United States or any political subdivision thereof, the State of California, any city, county, city and county, district or any other political subdivision of the State of California.

B. Writings That Secure a Debt. Any tax imposed pursuant to this chapter shall not apply to any instrument in writing given to secure a debt.

C. Transfers of Real Property to Effectuate a Plan of Reorganization. Any tax imposed pursuant to this chapter shall not apply to the making, delivery, or filing of conveyances to make effective any plan of reorganization or adjustment:

1. Confirmed under the Federal Bankruptcy Act, as amended;
2. Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in Section 101 of Title 11 of the United States Code, as amended;
3. Approved in an equity receivership proceeding in a court involving a corporation, as defined in Section 101 of Title 11 of the United States Code, as amended; or
4. Whereby a mere change in identity, form, or place of organization is effected.

Subsections (1) to (4), above, shall only apply if the making, delivery, or filing of instruments of transfer or conveyance occurs within five (5) years from the date of such confirmation, approval, or change.

D. Orders of the Securities and Exchange Commission. Any tax imposed pursuant to this article shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954; but only if:

1. The order of the Securities and Exchange Commission in obedience to which such conveyance is made is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;
2. Such order specifies the property which is ordered to be conveyed; and
3. Such conveyance is made in obedience to such order.

E. Transfer of Certain Partnership Property.

1. In the case of any realty held by a partnership or other entity treated as a partnership for federal income tax purposes, no tax shall be imposed pursuant to this chapter by reason of any transfer of an interest in the partnership or other entity or otherwise, if both of the following occur:
 - a. The partnership or other entity treated as a partnership is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1986.
 - b. The continuing partnership or other entity treated as a partnership continues to hold the realty concerned.

2. If there is a termination of any partnership or other entity treated as a partnership for federal income tax purposes, within the meaning of Section 708 of the Internal Revenue Code of 1986, for purposes of this chapter, the partnership or other entity shall be treated as having executed an instrument whereby there was conveyed, for fair market value (including the value of any lien or encumbrance remaining thereon), all realty held by the partnership or other entity at the time of the termination.
3. Not more than one (1) tax shall be imposed pursuant to this chapter by reason of a termination described in subsection (2) of this section, and any transfer pursuant thereto, with respect to the realty held by a partnership or other entity treated as a partnership at the time of the termination.
4. No tax shall be imposed pursuant to this chapter by reason of any transfer between an individual or individuals and a legal entity or between legal entities that results solely in a change in the method of holding title to the realty and in which proportional ownership interests in the realty, whether represented by stock, membership interest, partnership interest, cotenancy interest, or otherwise, directly or indirectly, remain the same immediately after the transfer.

F. Deed in Lieu of Foreclosure. Any tax imposed pursuant to this chapter shall not apply with respect to any deed, instrument, or writing to a beneficiary or mortgagee, which is taken from the mortgagor or trustor as a result of or in lieu of foreclosure; provided, that such tax shall apply to the extent that the consideration exceeds the unpaid debt, including accrued interest and cost of foreclosure. Consideration, unpaid debt amount, and identification of grantee as beneficiary or mortgagee shall be noted on said deed, instrument, or writing or stated in an affidavit or declaration under penalty of perjury for tax purposes.

G. Transfers That Confirm or Correct a Recorded Deed. A transfer of real property without consideration that confirms or corrects a deed shall be exempt from the tax imposed pursuant to this chapter. The correcting or confirming transfer must be recorded no later than ninety (90) days after the recordation of the transfer requiring correction or confirmation.

3.40.080 Administration of Tax.

The Tax Administrator shall collect the tax imposed pursuant to this chapter and shall otherwise administer this chapter. The Tax Administrator may make such rules and regulations, not inconsistent with this chapter, as they may deem reasonably necessary or desirable to administer this article, as well as necessary forms and receipts.

3.40.090 Due Dates, Delinquencies, Penalties, Interest, Administrative Charges, and Lien Release Recordation Fees.

The tax imposed pursuant to this chapter is due and payable at the time the deed, instrument, or writing effecting a transfer subject to the tax is delivered, and is

delinquent if unpaid ninety (90) days later. If a transfer of real property is effected but not recorded with the County Recorder within ninety (90) days of the date on which the deed, instrument, or writing was delivered, all statutes of limitations regarding liability for the tax imposed pursuant to this chapter shall be tolled until the City has actual knowledge of the transfer, at which time the tax on the unrecorded transfer shall relate back to the date on which the deed, instrument, or writing was delivered. Penalties and interest shall be deemed to have begun accruing on the date the deed, instrument, or writing was delivered, and shall be the joint and several liability of the persons referred to in Section 3.40.060. In the event that the tax is not paid prior to becoming delinquent, a delinquency penalty of ten percent (10%) of the amount of the tax due shall accrue. In the event only a portion of the tax is unpaid prior to becoming delinquent, the penalty shall only accrue as to the unpaid portion. An additional penalty of fifteen percent (15%) of the amount of tax due shall accrue if the tax remains unpaid on the ninetieth day following the date of the original delinquency. Interest shall accrue at the rate of one percent (1%) per month or fraction thereof, on the amount of the tax, inclusive of penalties, from the date the tax becomes delinquent to the date of payment. Interest and penalties shall become part of the tax. An administrative charge and a release of lien filing fee equal to the amount charged by the County Recorder shall be added to the amount owed for each property approved for a tax lien by the City Council.

3.40.100 Declaration May Be Required.

A. The tax imposed by this chapter shall be paid to the Tax Administrator by the persons referred to in Section 3.40.060. The Tax Administrator shall have the authority, pursuant to this chapter and any promulgated rules and regulations, to require that the payment shall be accompanied by a declaration of the amount of tax due signed by the person paying the tax or by their duly authorized agent. If a declaration is required, it shall include a statement that the value of the consideration on which the tax due was computed includes all indebtedness secured by liens, deeds of trust, or other encumbrances remaining or placed on the property transferred at the time of transfer, and also includes all special assessments on the property which a purchaser or transferee agrees to pay or which remains a lien on the property at the time of transfer. The declaration shall identify the deed, instrument, or writing effecting the transfer for which the tax is being paid. The Tax Administrator may require delivery of a copy of such deed, instrument, or writing whenever they deem such to be reasonably necessary to adequately identify such writing or to administer the provisions of this chapter. The Tax Administrator may but is not required to rely on the declaration as to the amount of the tax due.

B. Whenever the Tax Administrator has reason to believe that the full amount of tax due is not shown on the declaration or has not been paid, they may, by notice served upon any person liable for the tax, require them to furnish a true copy of their records relevant to the value of the consideration or fair market value of the property transferred. Such notice may be served at any time within three (3) years after recordation of the deed, instrument, or writing which transfers such property.

3.40.110 Determination of Deficiency; Petition for Redetermination.

A. If on the basis of such information as the Tax Administrator receives pursuant to Section 3.40.100, or on the basis of such other relevant information that comes into their possession, they determine that the amount of tax due as set forth in the declaration, or as paid, is insufficient, he or she may re-compute the tax due on the basis of such information.

B. If the declaration referenced in Section 3.40.100 is not submitted, the Tax Administrator may make an estimate of the value of the consideration for the property transferred and determine the amount of tax to be paid on the basis of any information in their possession or that may come into his or her possession.

C. More than one deficiency determinations may be made of the amount due with respect to any single transfer of real property.

D. The Tax Administrator shall give written notice to a person liable for payment of the tax imposed pursuant this chapter of a deficiency determination made under this section. Such notice shall be given within three (3) years after the recordation of the deed, instrument, or writing effecting the transfer on which the tax deficiency determination was made.

E. Any notice required to be given by the Tax Administrator under this chapter may be served personally or by mail. If service is made by mail, it shall be made by depositing the notice in the United States mail, in a sealed envelope with postage paid, addressed to the person on whom it is to be served at the address as it appears in the records of the City or as ascertained by the Tax Administrator. The service is complete at the time of the deposit of the notice in the United States mail, without extension of time for any reason.

F. Any person against whom a deficiency determination is made under this chapter or any person directly interested may petition the Tax Administrator for a redetermination within sixty (60) days after service upon the person of notice thereof. If a petition for redetermination is not filed in writing with the Tax Administrator within the sixty (60) day period, the determination becomes final at the expiration of the period.

G. If a petition for redetermination is filed within the sixty (60) day period, the Tax Administrator shall reconsider the determination and, if the person has so requested in his or her petition, shall grant the person an oral hearing, and shall give them ten (10) days' notice of the time and place of the hearing. The Tax Administrator may designate a hearing officer for the purpose of conducting hearings. A hearing on a tax deficiency redetermination may be continued from time to time as may be necessary.

H. As part of a redetermination hearing, the Tax Administrator may decrease or increase the amount of the tax owed before a redetermination decision becomes final, but the amount may be increased only if the Tax Administrator asserts a claim for the increase at or before the hearing.

I. The order or decision of the Tax Administrator upon a petition for redetermination becomes final thirty (30) days after service of notice thereof upon the petitioner or at the time of hearing of redetermination. There is no administrative appeal to the City Council of the Tax Administrator's decision on a petition for redetermination. Writs challenging the Tax Administrator's decision must be filed with the appropriate court within ninety (90) days of the final date of such redetermination. (California Code of Civil Procedure Section 1094.6.)

3.40.120 Tax a Debt.

The amount of any tax, penalty, and interest imposed under the provisions of this chapter shall be deemed a debt owed to the City. Any person owing money to the City under the provisions of this chapter shall be liable in an action brought in the name of the City for the recovery of such amount, plus the City's costs of bringing the action, including attorneys' fees and litigation costs. The provisions of this section shall not be deemed a limitation upon the right of the City to bring any other action, whether criminal, legal, or equitable, based upon the failure to pay the tax, penalty, or interest imposed by this chapter or the failure to comply with any of the provisions hereof.

3.40.130 Refunds.

Whenever the amount of any tax, penalty, or interest has been overpaid, or paid more than once, or has been erroneously collected or received by the City under this chapter, it may be refunded as provided in this section. The person who paid the tax must file with the Tax Administrator a written claim stating under penalty of perjury the specific grounds on which the refund is claimed. A refund claim must be filed within one (1) year of the date of payment. The claim shall be submitted on forms furnished by the Tax Administrator. The Tax Administrator may make such refund if they are satisfied that the claimant is entitled to the refund under the provisions of this chapter. No refund shall be paid under the provisions of this section unless the claimant establishes his or her right thereto.

3.40.140 Tax a Lien or Assessment against Transferred Real Property.

A. The amount of tax, penalty, and interest imposed under the provisions of this chapter is assessed against the real property upon the transfer of which the tax is imposed. If the tax, penalties, or interest are not paid when due, they may be recorded as a lien against or a special assessment on the real property transferred. Any lien against the transferred real property shall continue until the amount thereof including all penalties and interest are paid, or until it is discharged of record. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City for the recovery of such amount.

B. The Tax Administrator shall file with the City Manager a written notice of liens and special assessments that the Tax Administrator believes should be recorded to collect the tax, penalties, or interest owned pursuant to this chapter. Upon the receipt of such notice, the City Manager shall present the same to the City Council, and the City Council shall forthwith, by resolution, fix a time and place for a public hearing on such notice.

C. The Tax Administrator shall cause a copy of such resolution and notice to be served upon the persons responsible for the tax, penalties, or interest owed. Notice shall be provided not less than ten (10) days prior to the time fixed for the hearing. Service shall be made by mailing a copy of the resolution and notice to the transferor and transferee of real property at their last known addresses. Service shall be deemed complete at the time of deposit in the United States mail.

D. Following the hearing, if the City Council determines that tax, penalties, or interest are owed pursuant to this chapter, it may authorize the imposition of a lien against the transferred real property and may order that any delinquent taxes, penalties, or interest that remain unpaid by the transferor or transferee shall constitute a special assessment against the transferred real property. If the City Council orders the imposition of a special assessment against the transferred real property, the special assessment shall be collected at such time as is established by the County Assessor for inclusion in the next property tax assessment.

E. The Tax Administrator shall turn over to the County Assessor for inclusion in the next property tax assessment the total sum of unpaid delinquent charges consisting of the delinquent taxes, penalties, and interest at the rate of twelve percent (12%) per annum from the date of recordation to the date of lien.

F. Thereafter, the authorized special assessment may be collected at the same time and in the same manner as ordinary property taxes are collected, and shall be subject to the same penalties and the same procedure of sale as provided for delinquent property taxes. The assessment lien previously imposed upon the property is paramount to all other liens except for those of State, county, and municipal taxes with which it shall be upon parity. The lien shall continue until the special assessment and all interest and charges due and payable thereon are paid. All taxes applicable to the levy, collection, and enforcement of municipal taxes shall be applicable to said special assessments.

3.40.150 Annual audit.

Each year, as part of audit of the city's financial statements, the city's independent auditors shall complete a report reviewing the collection, management, and expenditure of revenue from the tax levied by this chapter.

3.40.160 Amendments. The following amendments to this ordinance must be approved by the voters of the City: increasing the tax rate or revising the methodology for calculating the tax such that a tax increase would result; imposing the tax on persons

not previously subject to the tax; or extending the tax. The City Council may otherwise amend this Chapter without submitting the amendment to the voters for approval. The City Council may establish rules that are necessary and desirable for implementation of this ordinance.

Section 2. Adjustment of Appropriations Limit. Pursuant to Article XIIB of the Constitution of the State of California and applicable laws, the appropriations limit for the City is hereby increased by the aggregate sum authorized to be levied by this tax for fiscal year 2022-23 and each year thereafter.

Section 4. Compliance with the California Environmental Quality Act. Approval of this ordinance is exempt from review under the California Environmental Quality Act (Public Resources Code §§ 21000 *et seq.* (“CEQA”) and 14 Cal. Code Reg. §§ 15000 *et seq.* (“CEQA Guidelines”). The tax authorized by this ordinance is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have such effect, the City would undertake the required CEQA review for that particular project at the earliest feasible time prior to approval of the project, consistent with CEQA Guidelines Sections 15004 and 15352. Therefore, pursuant to CEQA Guidelines section 15060, CEQA analysis is not required.

Section 5. Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have passed the ordinance codified in this chapter, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of this chapter would be subsequently declared invalid or unconstitutional.

Section 6. Effective Date. This ordinance shall take effect 10 days after the City Council declares the results of the vote at the November 8, 2022, election. The tax authorized by the ordinance shall become operative upon the effective date of the Charter of the City of San Bruno.

The foregoing ordinance was approved by the following vote of the People of the City of San Bruno at the General Municipal Election on November 8, 2022:

YESES: _____

NOES: _____

The foregoing ordinance was adopted by the declaration of the vote at the November 8, 2022 General Municipal Election, which the City Council of the City of San Bruno declared on _____, 2022 by the following vote:

AYES:
NOES: None
ABSENT: None
ABSTAIN: None

APPROVED:

Rico Medina, Mayor

ATTEST:

Vicky Hasha, Deputy City Clerk