



**San Francisco
County Transportation
Authority**

BD041123

RESOLUTION NO. 23-42

RESOLUTION ADOPTING THE TRAFFIC CONGESTION MITIGATION TAX (TNC TAX)
PROGRAM GUIDELINES AND PROGRAMMING \$21,279,740 IN TNC TAX FUNDS TO FOUR
PROJECTS

WHEREAS, San Francisco voters approved the Proposition D Traffic Congestion Mitigation Tax or TNC Tax in November 2019; and

WHEREAS, The TNC Tax is a surcharge on commercial ride-hail trips that originate in San Francisco, for the portion of the trip within the city, and it also applies to private transit companies and rides given by autonomous vehicles commercially; and

WHEREAS, After a 2% set aside for administration by the City and County of San Francisco, 50% of the revenues are directed to the San Francisco Municipal Transportation Agency (SFMTA) for transit operations and improvements, and 50% are directed to the Transportation Authority for bicycle and pedestrian safety improvements; and.

WHEREAS, In October 2020, the Transportation Authority adopted the first TNC Tax Program Guidelines and programmed \$7,505,686 to the SFMTA's Vision Zero Quick-Build Program and the Board has fully allocated these funds; and

WHEREAS, In order to inform the first update to the Program Guidelines, staff consulted with the SFMTA on funding needs to meet the goals of Vision Zero; and

WHEREAS, Staff developed the proposed Program Guidelines (Attachment 1), which establish two programmatic categories to guide the programming and allocation of funds (i.e., Quick-Builds and Application-Based Residential Traffic Calming); provide revenue projections; and set policies to guide program administration, including programming and allocation of funds; and

WHEREAS, Given the current uncertainty about economic recovery and impacts on travel demand, staff recommends taking a conservative approach and only programming funds anticipated to be collected through Fiscal Year 2023/24 at this time and allocating funds only after they have been collected; and

WHEREAS, After consulting with the San Francisco Controller's Office, and netting out a combined 3% for Transportation Authority administration (2%) and data analysis (1%), Transportation Authority staff estimate that \$21,279,740 in TNC Tax revenues, comprised of actual and projected revenues, will be available by June 2024 to program to projects; and



**San Francisco
County Transportation
Authority**

BD041123

RESOLUTION NO. 23-42

WHEREAS, Staff is recommending programming \$21,279,740 in TNC Tax revenues to SFMTA's FY23 Vision Zero Quick-Build Program (Part 2) (\$2,451,857), FY24 Vision Zero Quick-Build Program (\$9,493,883), FY22 Application-Based Residential Traffic Calming (\$5,400,000) and FY24 & FY25 Application-Based Residential Traffic Calming Program (New Rolling Program) (\$4,270,000) in order to provide high priority safety improvements in the near-term; and

WHEREAS, At its March 29, 2023 meeting, the Community Advisory Committee (CAC) was briefed on the draft TNC Tax Program Guidelines and recommended programming and unanimously adopted a motion of support for the staff recommendation; now, therefore, be it

RESOLVED, That the Transportation Authority hereby adopts the attached TNC Tax Program Guidelines; and be it further

RESOLVED, That the Transportation Authority hereby programs a total of \$21,279,740 to four SFMTA projects:

- FY23 Vision Zero Quick-Build Program (Part 2) (\$2,451,857),
- FY24 Vision Zero Quick-Build Program (\$9,493,883),
- FY22 Application-Based Residential Traffic Calming (\$5,400,000) and
- FY24 & FY25 Application-Based Residential Traffic Calming Program (New Rolling Program) (\$4,270,000).

Attachment:

1. TNC Tax Program Guidelines



**San Francisco
County Transportation
Authority**

BD041123

RESOLUTION NO. 23-42

The foregoing Resolution was approved and adopted by the San Francisco County Transportation Authority at a regularly scheduled meeting thereof, this 25th day of April 2023, by the following votes:

Ayes: Commissioners Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani, and Walton (11)

DocuSigned by:
Rafael Mandelman 5/11/2023
3235B3A057A3450...

Rafael Mandelman Date
Chair

DocuSigned by:
Chang 5/12/2023
FFD2528AB8BE49B...

ATTEST:

Tilly Chang Date
Executive Director



Traffic Congestion Mitigation Tax (TNC Tax)

DRAFT Program Guidelines



San Francisco
County Transportation
Authority

March 2023

Table of Contents

1. INTRODUCTION	2
2. FUNDS AVAILABLE	4
3. PROGRAMMATIC CATEGORIES FOR FISCAL YEARS 2022/23 - 2023/24	6
4. PRIORITIES FOR FUNDS AVAILABLE	7
5. POLICIES	9
6. APPENDIX I: TNC TAX ORDINANCE	14

Introduction

The Proposition D Traffic Congestion Mitigation Tax was passed by San Francisco voters in November 2019. The measure, also referred to as the Transportation Network Company (TNC) Tax, is a surcharge on commercial ride-hail trips that originate in San Francisco, for the portion of the trip within the city. The intent of the TNC Tax program is to deliver improvements to transit reliability and safety on San Francisco's roadways, mitigating the effects of increased congestion due to TNC vehicles. Beginning January 1, 2020, a 1.5% tax is charged on shared rides or rides taken in a zero-emission vehicle, and 3.25% is charged on rides with a single occupant in a non-zero-emission vehicle. The measure also takes into account rides provided by autonomous vehicles in the future which would be taxed in this same manner and rides provided by private transit companies if a company were to enter the market. The tax is in effect until November 2045.

After a 2% set aside for administration by the City and County of San Francisco (CCSF), 50% of the revenues are directed to the San Francisco Municipal Transportation Agency (SFMTA) for transit operations and improvements, and 50% comes to the Transportation Authority for bicycle and pedestrian safety improvements. The ordinance (Appendix 1) outlines the eligible uses for the Transportation Authority's share of revenues which are specified as pedestrian and bicycle safety improvements, traffic calming, traffic signals, and maintenance. Eligible phases include planning, design, and construction and sponsors can be any public agency that implements eligible projects.

REVENUE PROJECTIONS AND THE IMPACTS OF THE COVID-19 PANDEMIC

Revenue projections published by the CCSF Office of the Controller and Office of Economic Analysis released in July 2019 indicated approximately \$30 million in annual revenue. Given the nature of this new revenue source, and that it is the first of its kind in California, there was already uncertainty around how revenues would perform. In addition to that uncertainty, on March 16, 2020, only two months after revenue collection began, a shelter-in-place order was issued for San Francisco due to the COVID-19 pandemic. The pandemic and new trends in remote work have drastically reduced travel to and within San Francisco, including demand for trips provided by TNCs. This reduction in travel has severely impacted TNC Tax revenues collected over the past three years. The revenues collected between January 2020 and December 2022 total approximately \$33 million, which is about 40% of the annual revenue projected in June 2019. While revenues are on a growth trend, there still is a lot uncertainty and relatively few data points; thus, we continue to recommend a conservative approach for administering this fund program.

The policies herein provide guidance to Transportation Authority staff and project sponsors on administration of the TNC Tax program. The first Program Guidelines were adopted by the Transportation Authority Board in October 2020 when we created four programmatic categories for eligible projects, including Quick-Builds, Safe Streets, Signals, and Maintenance. In light of uncertainty about revenue levels, we programmed \$7.5 million in TNC Tax funds to the SFMTA's Vision Zero Quick-Build Program from the Quick-Builds category. As of February 2023, the Transportation Authority has allocated \$7.5 million in TNC Tax funds, which, along with the half-cent sales tax for transportation, has been the primary source of funding for the Quick-Build Program since its inception in 2019.

Funds Available

The Transportation Authority's share of TNC Tax revenues collected from January 2020 to December 2022 is \$16,176,296. Consistent with the CCSF, we use 2% of the Transportation Authority's share of revenues for program administration and oversight. Building off data collection and analysis efforts that led to development of the TNC Tax as well as feedback received from listening sessions conducted for the first TNC Tax guidelines, we have set aside 1% of revenues for systematic data collection and analysis of TNC trips in San Francisco. After netting out these costs, this leaves \$15,691,007 available for projects.

Based on projections from the Controller's Office, we expect to receive an additional \$13,094,419 in revenues for projects between January 2023 and June 2024. See Table 1 for actual and projected revenues between January 2020 and June 2024.

Table 1 Actual and Projected TNC Tax Revenues January 2020 - June 2024

REVENUE COLLECTION PERIOD	STATUS	AMOUNT *
January 2020 – June 2020	Actual	\$2,505,687
Fiscal Year 2020/21	Actual	\$2,953,153
Fiscal Year 2021/22	Actual	\$5,936,458
Fiscal Year 2022/23	Actual and Projected	\$7,469,000**
Fiscal Year 2023/24	Projected	\$9,921,128***
Total		\$28,785,426

*Transportation Authority share is 50% of collections, less 2% to CCSF for administration, less 3% for Transportation Authority administration and data analysis.

**Fiscal Year 2022/23 amount reflects \$4,295,709, of actual revenue collected July - December 2022 and \$3,173,291 in revenue projected January - June 2023. Amount is based on the Fiscal Year 2022/23 Six-Month Budget Status Report released by the Controller's Office on February 15, 2023.

Fiscal Year 2022/23 revenue estimate from the Controller's Six-Month Budget Status Report is 3.75% less than the amount that was included in the CCSF Budget and Appropriation Ordinance for the Fiscal Year ending June 30, 2023.

***Fiscal Year 2023/24 amount reflects the projected revenues according to the CCSF Budget and Appropriation Ordinance for Fiscal Year ending June 30, 2023 and Fiscal Year ending June 30, 2024 approved July 27, 2022.

Of the TNC Tax revenues collected since 2020, the Transportation Authority has programmed \$7,505,686 to the SFMTA's Vision Zero Quick-Build Program, as shown in Table 2.

Table 2 TNC Tax Programming to Date

PROJECT	STATUS	AMOUNT
FY21 Vision Zero Quick-Build Program	Allocated	\$2,505,686
FY22 Vision Zero Quick-Build Program	Allocated	\$3,000,000
FY23 Vision Zero Quick-Build Program (Part 1)	Allocated	\$2,000,000
TOTAL		\$7,505,686

With this first update to the guidelines, we are recommending programming \$21,279,740 in TNC Tax revenues expected to be collected through Fiscal Year 2023/24 as shown in Table 3 below.

Table 3 TNC Tax Funds Available for Programming

REVENUE COLLECTION PERIOD	STATUS	AMOUNT*
Total Revenue January 2020 – June 2024	Actual and Projected	\$28,785,426
Total Programming to Date (fully allocated)		\$7,505,686
Total Available for Programming		\$21,279,740**

*Transportation Authority share is 50% of collections, less 2% to CCSF for administration, less 3% for Transportation Authority administration and data analysis.

**Of the total funds available for programming, the Transportation Authority has received \$8,185,321 as of December 2022.

Consistent with the prior guidelines and given lingering uncertainty about economic recovery and impacts on travel demand, we continue to take a conservative approach to both programming and allocations. Specifically, we recommend only programming funds anticipated to be collected through Fiscal Year 2023/24 and allocating funds only after they have been collected.

We will not set aside a capital reserve in order to maximize funds available for projects because we are only allocating funds after they have been collected. In the future when we are able to project revenues with more confidence, we may begin to allocate funds based on projections (rather than what has been collected) and would then establish a capital reserve of 10%, in line with Transportation Authority fiscal policy.

Programmatic Categories for Fiscal Years 2022/23 - 2023/24

As previously noted, the TNC Tax Ordinance designates 50% of the funds to the Transportation Authority for planning, design, and/or capital improvements that promote users' safety in the public right-of-way, including pedestrian and bicycle safety improvements, traffic calming, traffic signals, and maintenance of existing safety infrastructure. Considering the projected funds available and having consulted with SFMTA about funding needs to help meet the goals of Vision Zero, we are recommending two programmatic categories to receive funds in Fiscal Years 2022/23 and 2023/24, Quick-Builds and Residential Traffic Calming. Both categories are key to reducing vehicle speeds and improving roadway safety. Descriptions of each programmatic category are below.

QUICK-BUILDS

Quick-build projects include reversible, adjustable traffic safety improvements, such as roadway and curb paint, traffic delineators, signs, traffic signal timing updates, transit boarding islands, and parking and loading changes. These projects are focused on safety improvements to the Vision Zero High Injury Network, the 12% of streets accounting for 68% of the City's severe and fatal traffic injuries. Quick-builds allow near-term implementation of safety improvements while longer-term infrastructure improvements are designed. While the materials and methods used to install improvements makes reversal possible, it is not necessarily the intent that treatments will be reversed. The SFMTA is the project sponsor for this category.

RESIDENTIAL TRAFFIC CALMING

The Residential Traffic Calming Program is an evaluation of community-initiated requests for locations that can benefit from slower traffic speeds that can be achieved through implementation of LOW-COST safety improvements such as speed humps, speed cushions, speed tables, raised crosswalks, median islands, traffic circles, changes to lane widths, and lane shifting. The application-based program objectively evaluates requests and only recommends traffic calming where speeding is confirmed through data collection (in addition to other defined criteria). The SFMTA is the project sponsor for this category.

Priorities for Funds Available

Based upon the above programming approach, we propose programming funds as shown in Table 4 below.

Table 4 Proposed Programming for Fiscal Year 22/23 and 23/24

PROJECT	AMOUNT	ANTICIPATED ALLOCATION REQUEST
FY23 Vision Zero Quick-Build Program (Part 2)	\$2,451,857	April 2023
FY24 Vision Zero Quick-Build Program	\$9,493,883	Fall 2023 and Spring 2024
FY22 Application-Based Residential Traffic Calming Program	\$5,400,000	Fall 2023
FY24 & FY25 Application-Based Residential Traffic Calming Program (New Rolling Program)	\$4,270,000	May 2023 and Spring 2024
TOTAL	\$21,279,740	

Details on the projects recommended for programming are described below.

VISION ZERO QUICK-BUILD PROGRAM

FY23 Vision Zero Quick-Build Program (Part 2). SFMTA has requested allocation of \$2,451,857 for the FY23 Vision Zero Quick-Build Program (Part 2) at the same meeting that the TNC Tax guidelines are proposed to be approved. This request would fully fund the Vision Zero Quick-Build Program scope of work approved by the Board in February 2023, but with only partial funding for the construction phase.

FY24 Vision Zero Quick-Build Program. There are two planning efforts underway that will inform the program of projects and help the City meet its goal for applying the quick-build toolkit to the entire High Injury Network. The SFMTA is making progress toward this goal and has implemented quick-build measures on over 80 miles of the High Injury Network. By Summer 2023, the SFMTA expects to have recommendations from a Fehr & Peers assessment that will identify appropriate quick-build projects and spot improvements, and estimated costs, to implement measures along the remaining 50 miles of the High Injury Network. We also expect the SFMTA's Active Communities Plan to inform recommendations for quick-build projects supporting bicycle and pedestrian safety. The SFMTA anticipates that the Active Communities Plan will be completed by May 2024.

Special Condition for FY24 Vision Zero Quick-Build Program. Allocating TNC Tax funds to the FY24 Quick-Build Program is contingent upon the SFMTA presenting a

list of quick-build projects that would help fulfill the City's goal to apply quick-build treatments to the entire High Injury Network.

APPLICATION-BASED RESIDENTIAL TRAFFIC CALMING

FY22 Application-Based Residential Traffic Calming. The Transportation Authority has funded the SFMTA's Application-Based Residential Traffic Calming Program since it started in 2013. It has been structured as an annual program with applications accepted between July 1 and June 30. The SFMTA groups the applications received over the prior year and advances them through the evaluation and implementation process. During the planning phase, the SFMTA does an analysis and evaluation to determine the list of locations that meet the criteria for acceptance into the program. Requests that meet the criteria proceed to the design phase when SFMTA staff determine the appropriate traffic calming tool(s) for each location and coordinate with partner agencies, followed by a construction phase for that group of locations.

The final year of the existing application-based program covers the applications received July 1, 2020, through June 30, 2021. Residents submitted an unprecedented number of applications in this cycle primarily due to the COVID-19 emergency which required the SFMTA to waive the signature-gathering/petition requirement. The planning and design phases are funded by Prop K. TNC Tax funds would fully fund the construction phase of this project.

FY24 & FY25 Residential Traffic Calming Program. Starting with the FY24 & FY25 Application-Based Residential Traffic Calming Program, the SFMTA will change the way this program is structured, from an annual program to SFMTA processing applications on a quarterly basis. Having a multi-phase, multi-year allocation would enable the SFMTA to plan, design, and construct traffic calming devices on a continuous rolling basis, with the goal of accelerating project delivery by as much as two years.

Policies

Policies provide guidance to both Transportation Authority staff and project sponsors on the various aspects of managing the TNC Tax program. The policies highlighted here address the allocation and administration of funds and clarify the Transportation Authority's expectations of sponsors to deliver their projects. We have made non-substantive changes to the policies from the first Program Guidelines. We anticipate revising these policies in the future as revenue trends emerge and we can more confidently forecast anticipated revenues.

1.1 | ALLOCATION

- Prior to allocation of any TNC Tax funds, projects must be programmed by the Transportation Authority Board.
 - Allocations of TNC Tax funds will be based on an application package prepared and submitted by the project sponsor in the SFCTA Portal (<https://portal.sfcta.org/>) for Transportation Authority review and approval. The package will be in accordance with application guidelines and formats as outlined in the Transportation Authority's allocation request procedures, with the final application submittal to include sufficient detail and supporting documentation to facilitate a determination that the applicable conditions of these policies have been satisfied.
 - Fiscal Year Cash Flow Distribution Schedules will be adopted as part of the allocation approval. The Transportation Authority will not guarantee reimbursement levels higher than those adopted in the original allocation or as amended.
 - Funds will be allocated to phases of a project based on demonstrated readiness to begin the work and ability to complete the product. Any impediments to completing the project phase will be taken into consideration, including, but not limited to, lack of a full funding plan for the requested phase(s), failure to provide evidence of necessary inter- and/or intra-agency coordination, evidence of a lack of community support or consensus, or any pending or threatened litigation.
 - The project sponsor will provide certification at the time of an allocation request that all complementary fund sources are committed to the project. Funding is considered committed if it is included specifically in a programming document adopted by the governing board or entity with the authority to program (or commit) the funds and recognized by the Transportation Authority as available for the phase at the time the funds are needed.
 - In establishing priorities, the Transportation Authority will take into consideration the need for TNC Tax funds to be available for matching federal, state, or regional fund sources for the project or program requesting the allocation.
-

- Projects with complementary funds from other sources will be given priority for allocation if there are timely use of funds requirements outside of the Transportation Authority's jurisdiction applied to the other fund sources.
- To support cost-effective project delivery, transparency, and prudent management of this pay-as-you-go-program, TNC Tax funds will be allocated to one project phase at a time. The Transportation Authority will grant an exception to this policy and recommend multi-phase allocations for the SFMTA's Vision Zero Quick-Build Program and the Application-Based Residential Traffic Calming Program given overlapping planning, design and construction phases as work is conducted on multiple corridors.
- Allocations of TNC Tax funds for specific project phases will be contingent on the prerequisite milestones shown in Table 5. The Transportation Authority will grant an exception to this policy for the SFMTA's Vision Zero Quick-Build Program and the Application-Based Residential Traffic Calming Program. Allocation requests will be made prior to advertising for services or initiating procurements for projects funded with TNC Tax funds.

Table 5 Prerequisite Milestones for Allocation.

PHASE	PREREQUISITE MILESTONE(S) FOR ALLOCATION
Planning	<ul style="list-style-type: none"> ● Funds programmed by the Board
Design Studies (PS&E)	<ul style="list-style-type: none"> ● Funds programmed by the Board ● Approved environmental document ● Capital construction phase included in programming document, such as Capital Improvement Program
Construction	<ul style="list-style-type: none"> ● Funds programmed by the Board ● Approved environmental document ● Right of way certification (if appropriate) ● 95% PS&E or substantial completion of design ● All applicable permits

- Project phases for which TNC Tax funds will be allocated will be expected to result in a complete work product or deliverable. Table 6 demonstrates the products expected to accompany allocations. Requests for allocations that are expected to result in a work product/deliverable other than that shown in Table 6 for a specific phase shall include a description of the expected work product/deliverable, and are subject to approval by the Transportation Authority.

Table 6 Expected Work Product/Deliverable.

PHASE	EXPECTED WORK PRODUCT/DELIVERABLE
• Planning	• Final report or memorandum including set of recommendations identified through the planning process
• Design Studies (PS&E)	• Evidence of completion of design (e.g. copy of design certifications page and/or work authorization)
• Construction	• Constructed improvement

- It is imperative to the success of the TNC Tax program that project sponsors of TNC Tax-funded projects work with Transportation Authority representatives in a cooperative process. It is the project sponsor's responsibility to keep the Transportation Authority apprised of significant issues affecting project delivery and costs. Ongoing communication resolves issues, facilitates compliance with Transportation Authority policies and contributes greatly toward ensuring that adequate funds will be available when they are needed.
- At the time of allocation, priority will be given to projects that:
 - » **Benefit disadvantaged populations.** Projects that directly benefit disadvantaged populations, whether the project is directly located in an Equity Priority Community or can demonstrate benefits to disadvantaged populations.
 - » **Improve safety for vulnerable populations.** Projects that improve safety for vulnerable populations, including but not limited to projects near schools, senior centers, community centers that improve safety for pedestrians, people on bicycles, children and seniors.
 - » **Located on the High Injury Network.** Projects that improve safety on the Vision Zero High Injury Network.
 - » **Demonstrate community engagement and support.** Projects with clear and diverse community support and/or developed out of a community-based planning process (e.g., community-based transportation plan, the Neighborhood Transportation Improvement Program, corridor improvement study, campus master plan, station area plans, etc.).
 - » **Time sensitive.** Projects that are trying to take advantage of time sensitive construction coordination opportunities and whether the project would leverage other funding sources with timely use of funds requirements.
 - » **Leverage other funding.** Projects that can demonstrate leveraging of TNC Tax funds, or that can justify why they are ineligible, have very limited eligibility, or compete poorly to receive Prop K or other discretionary funds.

-
- » **High priority for project sponsor.** For project sponsors that submit multiple TNC Tax programming requests, the Transportation Authority will consider the project sponsor's relative priority for its requests.
 - » **Consider project delivery track record.** The Transportation Authority will consider the project sponsors' past project delivery track record of prior Transportation Authority-programmed funds when prioritizing potential TNC Tax-funded projects. For sponsors that have not previously received Transportation Authority funds, the Transportation Authority will consider the sponsors' project delivery track record for capital projects funded by other means.
 - » **Demonstrate geographic equity.** TNC Tax programming will reflect fair geographic distribution that takes into account the various needs of San Francisco's neighborhoods. This factor will be applied program-wide and to individual projects, as appropriate.

1.2 | TIMELY USE OF FUNDS REQUIREMENTS

- Timely-use-of-funds requirements will be applied to all TNC Tax allocations to help avoid situations where funds sit unused for prolonged periods of time. Any programmed project that does not request allocation of funds in the year of programming may, at the discretion of the Transportation Authority Board, have its funding reprogrammed to other projects.
- The intent of the TNC Tax program is to expedite delivery of safety improvements. Therefore, implementation of the project phase must commence within 6 months of the date of allocation. Implementation includes issuance of a purchase order to secure project components, award of a contract, or encumbrance of staff labor charges by project sponsor. Any project that does not begin implementation within 6 months of the date of allocation may have its sponsor request a new timely-use-of-funds deadline with a new project schedule, subject to the approval of the Transportation Authority.
- TNC Tax final reimbursement requests and project closeout requests shall be submitted within 12 months of project completion.

1.3 | ADMINISTRATION

- This is a reimbursement-based program.
 - TNC Tax funds will be spent down at a rate proportional to the TNC Tax share of the total funds programmed to that project phase or program. The Transportation Authority will consider exceptions on a case-by-case basis (e.g. another fund source is not immediately available or cannot be used to cover certain expenses). Project
-

sponsors should notify the Transportation Authority of the desire for an exception to this policy when requesting allocation of funds.

- Retroactive expenses are ineligible. No expenses will be reimbursed that are incurred prior to Board approval of the allocation for a particular project. The Transportation Authority will not reimburse expenses incurred prior to fully executing a Standard Grant Agreement. Exceptions to this policy may be made, including:
 - » Where the Transportation Authority has previously approved the scope of a project and that scope has incurred increased costs.
 - » Capital costs of a multi-year project to which the Transportation Authority has made a formal commitment in a resolution for out-year costs, although the funds have not been allocated.

While these costs shall be eligible for reimbursement in the situations cited above, the timing and amount of reimbursement will be subject to a Transportation Authority allocation.

- Indirect expenses are ineligible. Reimbursable expenses will include only those expenses directly attributable to the delivery of the products for that phase of the project receiving a TNC Tax allocation.

Appendix I: TNC Tax Ordinance



City and County of San Francisco

Certified Copy

Motion

SAN FRANCISCO
FILED
2019 JUL 26 AM 10:21
DEPARTMENT OF ELECTIONS
City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

190584

[Initiative Ordinance - Business and Tax Regulations, Administrative Codes - Tax on Net Rider Fares of Commercial Ride-Share Companies, Autonomous Vehicles, and Private Transit Services Vehicles]

Sponsors: Mayor; Peskin, Yee, Ronen, Mandelman, Brown, Fewer, Haney, Walton, Stefani, Safai and Mar

Motion ordering submitted to the voters at an election to be held on November 5, 2019, an Ordinance amending the Business and Tax Regulations Code and Administrative Code to impose an excise tax on the net rider fares for rides facilitated by commercial ride-share companies and rides provided by autonomous vehicles and private transit services vehicles, to fund transportation operations and infrastructure for traffic congestion mitigation in the City; and to increase the City's appropriations limit by the amount collected under the tax for four years from November 5, 2019.

7/23/2019 Board of Supervisors - APPROVED

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton and Yee

STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO

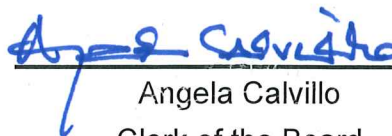
CLERK'S CERTIFICATE

I do hereby certify that the foregoing Motion is a full, true, and correct copy of the original thereof on file in this office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City and County of San Francisco.

July 25, 2019

Date


Angela Calvillo
Clerk of the Board

[Initiative Ordinance - Business and Tax Regulations, Administrative Codes - Tax on Net Rider Fares of Commercial Ride-Share Companies, Autonomous Vehicles, and Private Transit Services Vehicles]

Motion ordering submitted to the voters at an election to be held on November 5, 2019, an Ordinance amending the Business and Tax Regulations Code and Administrative Code to impose an excise tax on the net rider fares for rides facilitated by commercial ride-share companies and rides provided by autonomous vehicles and private transit services vehicles, to fund transportation operations and infrastructure for traffic congestion mitigation in the City; and to increase the City's appropriations limit by the amount collected under the tax for four years from November 5, 2019.

MOVED, That the Board of Supervisors hereby submits the following ordinance to the voters of the City and County of San Francisco, at an election to be held on November 5, 2019.

Ordinance amending the Business and Tax Regulations Code and Administrative Code to impose an excise tax on the net rider fares for rides facilitated by commercial ride-share companies and rides provided by autonomous vehicles and private transit services vehicles, to fund transportation operations and infrastructure for traffic congestion mitigation in the City; and to increase the City's appropriations limit by the amount collected under the tax for four years from November 5, 2019.

NOTE: **Unchanged Code text and uncoded text** are in plain font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in *strikethrough italics Times New Roman font*.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

2
3 Section 1. Pursuant to Articles XIII A and XIII C of the Constitution of the State of
4 California, this ordinance shall be submitted to the qualified electors of the City and County of
5 San Francisco at the November 5, 2019, municipal election.
6

7 Section 2. The Business and Tax Regulations Code is hereby amended by adding
8 Article 32, consisting of Sections 3201 to 3213, to read as follows:
9

10 **ARTICLE 32: TRAFFIC CONGESTION MITIGATION TAX**

11
12 **SEC. 3201. SHORT TITLE.**

13 *This Article 32 shall be known as the "Traffic Congestion Mitigation Tax Ordinance," and the*
14 *tax it imposes shall be known as the "Traffic Congestion Mitigation Tax."*
15

16 **SEC. 3202. FINDINGS AND PURPOSE.**

17 *(a) Strategies for managing traffic congestion are key to ensuring that San Francisco's*
18 *transportation system remains efficient, affordable, and safe as the number of jobs and the population*
19 *in San Francisco grows. These strategies include improving transit, improving access to bicycling and*
20 *walking, supporting walkable and transit-oriented neighborhoods, and managing vehicle use, parking,*
21 *and traffic signals.*

22 *(b) Over the years, traffic congestion has increased in San Francisco, with San Francisco*
23 *ranking among the top five most congested cities in the world, according to the 2018 INRIX Global*
24 *Traffic Scorecard, which analyzes traffic congestion in more than 200 cities across 38 countries. As*
25

1 congestion increases, it is vital that San Francisco continue to make its transit system faster and more
2 reliable while ensuring that the City invests in streets to create a safer environment.

3 (c) Emerging technologies, including autonomous vehicles, are expected to further increase
4 traffic congestion in San Francisco, with the San Francisco County Transportation Authority's 2017
5 Report "TNCs Today" documenting that transportation network companies accounted for
6 approximately 50% of San Francisco's congestion increase from 2010-2016. As these technologies
7 expand, it is critical that they complement existing transit infrastructure and improve first-mile-last-
8 mile accessibility, while mitigating congestion.

9 (d) In 2014, San Francisco adopted Vision Zero, a plan committed to eliminating all traffic
10 deaths in San Francisco. The Vision Zero High Injury Network guides the City's investments in
11 infrastructure and ensures prioritization of critical Transit First, pedestrian safety, and bicycle safety
12 projects. In San Francisco, 13% of streets account for 75% of the City's severe traffic injuries and
13 fatalities. To further the goal of Vision Zero, San Francisco must increase capital investments in street
14 safety.

15 (e) In 2017, the San Francisco Transportation 2045 Task Force identified a projected \$22
16 billion funding gap for San Francisco's transportation system through 2045 and possible revenue
17 sources to close that gap, including a tax on rides facilitated by transportation network companies.

18 (f) In 2018, the Legislature enacted Assembly Bill 1184, which confirmed the City's authority to
19 impose a tax on net rider fares for rides originating in San Francisco, including rides facilitated by
20 transportation network companies and rides provided by autonomous vehicles.

21
22 **SEC. 3203. DEFINITIONS.**

23 Unless otherwise defined in this Article 32, the terms used in this Article shall have the
24 meanings given to them in Article 6 of the Business and Tax Regulations Code, as amended from time
25 to time.

1 For purposes of this Article 32, the following definitions apply.

2 "Autonomous Vehicle" means a vehicle, other than a Taxicab or Limousine, with or without a
3 driver, equipped with and into which has been integrated technology that has the capability to drive the
4 vehicle without the active physical control by a natural person, regardless of whether the vehicle is in
5 driverless operation. An Autonomous Vehicle includes any vehicle capable of being driven remotely by
6 a natural person.

7 "Commercial Ride-Share Company" means a person that provides prearranged transportation
8 services for compensation using an online-enabled application or platform or any offline method to
9 connect passengers with drivers using a Personal Vehicle, including but not limited to a transportation
10 network company as that term is defined in Section 5431(c) of the California Public Utilities Code as of
11 June 30, 2019.

12 "Limousine" means a limousine as that term is used in Section 5431 of the California Public
13 Utilities Code as of June 30, 2019.

14 "Mobility Provider" means any person conducting or controlling a business that provides rides
15 to fare-paying passengers using an Autonomous Vehicle or a Private Transit Services Vehicle, or both,
16 including but not limited to the owner or proprietor of such business.

17 "Net Rider Fare" means all charges for a ride, including but not limited to charges based on
18 time or distance, or both, and excluding any taxes, fees, and other charges where such taxes, fees, and
19 other charges are imposed by governmental entities on that ride. The Net Rider Fare for a ride
20 includes subscription fees and other indirect charges that are attributable to that ride. The entire
21 amount of subscription fees and other indirect charges that are charged in connection with passenger
22 rides shall be presumed, subject to rebuttal, to be attributable to passenger rides.

23 "Personal Vehicle" means a vehicle that (1) has a passenger capacity of eight persons or less,
24 including the driver, (2) is owned, leased, rented, or otherwise authorized for use by the driver,
25

1 (3) meets any applicable inspection and other safety requirements imposed by the California Public
2 Utilities Commission, and (4) is not a Taxicab or Limousine.

3 "Private Transit Services Vehicle" means a private transit vehicle as defined in Section 1202 of
4 the Transportation Code as of June 30, 2019.

5 "Shared Ride" means a ride in which, prior to the commencement of the ride, a passenger
6 requests to share the ride with one or more passengers and each passenger is charged a fare that is
7 calculated, in whole or in part, based on the passenger's request to share all or part of the ride with
8 one or more passengers, regardless of whether the passenger actually shares all or part of the ride. A
9 ride provided by a Private Transit Services Vehicle shall be deemed to be a Shared Ride if that vehicle
10 is designed to carry and regularly carries more than one passenger at a time.

11 "Taxicab" means a taxicab as that term is used in Section 5431 of the California Public
12 Utilities Code as of June 30, 2019.

13 "Zero-Emission Vehicle" means a vehicle of a year, make, and model that the California Air
14 Resources Board has certified as a zero-emission vehicle under Section 1962.2 of Title 13 of the
15 California Code of Regulations, as may be amended or replaced by a similar regulation, for 2018 and
16 subsequent model years; under Section 1962.1 of Title 13 of the California Code of Regulations for
17 2009 through 2017 model years; or under Section 1962 of Title 13 of the California Code of
18 Regulations or predecessor regulation, for 2008 and prior model years. For purposes of this
19 Article 32, a vehicle shall be considered a Zero-Emission Vehicle on and after the date the California
20 Air Resources Board has certified that vehicle's year, make, and model as a zero-emission vehicle
21 under the aforementioned regulations.

1 **SEC. 3204. IMPOSITION OF TAX.**

2 (a) Except as otherwise provided in this Article 32, for the privilege of engaging in business in
3 the City and to raise revenue for the purposes set forth in Section 3208, the City imposes a Traffic
4 Congestion Mitigation Tax, which shall be a special excise tax, as follows:

5 (1) Except as provided in Section 3204(a)(3), for each ride originating in the City
6 facilitated by a Commercial Ride-Share Company, the tax shall be imposed on the Commercial Ride-
7 Share Company and shall be calculated by applying the following percentages to the Net Rider Fare
8 attributable to the City.

9 (A) 1.5% for a Shared Ride;

10 (B) 3.25% for a ride other than a Shared Ride.

11 (2) Except as provided in Section 3204(a)(3), for each ride originating in the City
12 provided by an Autonomous Vehicle or a Private Transit Services Vehicle, and not facilitated by a
13 Commercial Ride-Share Company, the tax shall be imposed on the Mobility Provider of the
14 Autonomous Vehicle or the Private Transit Services Vehicle and shall be calculated by applying the
15 following percentages to the Net Rider Fare attributable to the City.

16 (A) 1.5% for a Shared Ride;

17 (B) 3.25% for a ride other than a Shared Ride.

18 (3) From January 1, 2020 through December 31, 2024, for each ride described in
19 Section 3204(a)(1) or Section 3204(a)(2) that is provided in a Zero-Emission Vehicle, the tax shall be
20 calculated by multiplying the Net Rider Fare attributable to the City for that ride by 1.5%.

21 (b) For purposes of this Article 32, a passenger's ride originates in the City if the vehicle picks
22 up that passenger in the City. The Net Rider Fare attributable to the City for each ride shall be the Net
23 Rider Fare for that ride multiplied by a fraction, the numerator of which is the distance traveled within
24 the City for that ride and the denominator of which is the total distance traveled for that ride. In lieu of
25 calculating the distance traveled within the City for each ride a portion of which occurs outside the

1 City, a person subject to tax under this Article 32 may presume that the Net Rider Fare for each such
2 ride is 50% attributable to the City; provided, however, that such presumption must be applied to all
3 rides for which a portion occurs outside the City during the reporting period. If it is impracticable or
4 unreasonable to attribute a Net Rider Fare to the City based on distance traveled, the Net Rider Fare
5 attributable to the City shall be determined on the basis of all relevant facts and circumstances of the
6 particular case, in accordance with any rulings or regulations issued or promulgated by the Tax
7 Collector.

8 (c) The tax imposed under this Section 3204 shall apply only to persons that are engaging in
9 business within the City within the meaning of Section 6.2-12 of Article 6 of the Business and Tax
10 Regulations Code.

11 (d) The Traffic Congestion Mitigation Tax shall be operative on January 1, 2020 and shall
12 expire on November 5, 2045.

13
14 **SEC. 3205. EXEMPTIONS AND EXCLUSIONS.**

15 (a) Rides that originate in the City and carry passengers across the California state line shall
16 be exempt from the Traffic Congestion Mitigation Tax for only so long as and to the extent that the City
17 is prohibited from taxing such rides under Section 14505 of Title 49 of the United States Code.

18 (b) Net Rider Fare as defined in Section 3203 shall not include charges for a ride or a portion
19 of a ride if, and only so long as and to the extent that, the City is prohibited from taxing such ride or
20 portion of a ride under the Constitution or laws of the United States or under the Constitution or laws
21 of the State of California.

22 (c) Any person upon whom the City is prohibited under the Constitution or laws of the United
23 States or under the Constitution or laws of the State of California from imposing the Traffic Congestion
24 Mitigation Tax shall be exempt from the Traffic Congestion Mitigation Tax.

1 **SEC. 3206. CONSTRUCTION AND SCOPE OF THE TRAFFIC CONGESTION MITIGATION**
2 **TAX ORDINANCE.**

3 *(a) This Article 32 is intended to authorize application of the Traffic Congestion Mitigation Tax*
4 *in the broadest manner consistent with its provisions and with the California Constitution, the United*
5 *States Constitution, and any other applicable provision of federal or state law.*

6 *(b) The Traffic Congestion Mitigation Tax imposed by this Article 32 is in addition to all other*
7 *City taxes, including without limitation the gross receipts tax imposed by Article 12-A-1 of the Business*
8 *and Tax Regulations Code, as amended from time to time. Accordingly, by way of example and not*
9 *limitation, persons subject to both the Traffic Congestion Mitigation Tax and the gross receipts tax*
10 *shall pay both taxes. Similarly, persons exempt from either the gross receipts tax or the Traffic*
11 *Congestion Mitigation Tax, but not both, shall pay the tax from which they are not exempt.*

12
13 **SEC. 3207. ADMINISTRATION OF THE TRAFFIC CONGESTION MITIGATION TAX**
14 **ORDINANCE.**

15 *Except as otherwise provided under this Article 32, the Traffic Congestion Mitigation Tax shall*
16 *be administered pursuant to Article 6 of the Business and Tax Regulations Code, as amended from time*
17 *to time, including all penalties and other charges imposed by that Article.*

18
19 **SEC. 3208. DEPOSIT OF PROCEEDS; EXPENDITURE OF PROCEEDS.**

20 *(a) All monies collected under the Traffic Congestion Mitigation Tax Ordinance shall be*
21 *deposited to the credit of the Traffic Congestion Mitigation Fund, established in Administrative Code*
22 *Section 10.100-345. The Fund shall be maintained separate and apart from all other City funds and*
23 *shall be subject to appropriation. Any balance remaining in the Fund at the close of any fiscal year*
24 *shall be deemed to have been provided for a special purpose within the meaning of Charter*
25

1 Section 9.113(a) and shall be carried forward and accumulated in the Fund for the purposes described
2 in Section 3208(b)(3), below.

3 (b) Subject to the budgetary and fiscal provisions of the Charter, monies in the Traffic
4 Congestion Mitigation Fund shall be appropriated on an annual or supplemental basis and used
5 exclusively for the following purposes:

6 (1) Up to 2% of the proceeds of the Traffic Congestion Mitigation Tax distributed in
7 any proportion to the Tax Collector and other City departments, for administration of the Traffic
8 Congestion Mitigation Tax and administration of the Traffic Congestion Mitigation Fund.

9 (2) Refunds of any overpayments of the Traffic Congestion Mitigation Tax, including
10 any related penalties, interests, and fees.

11 (3) All remaining amounts for the following purposes, in the following percentages,
12 which amounts shall include the costs of administering the programs described.

13 (A) 50% to the Municipal Transportation Agency, or any successor agency, for
14 Muni transit service and affordability, system reliability and capacity, and keeping transit
15 infrastructure in a state of good repair, to be used exclusively for the following purposes:

16 (i) Improving bus and rail service frequency and reliability.

17 (ii) Maintaining and expanding Muni fleet and facilities.

18 (iii) Improving access, including stations, escalators, and elevators.

19 (iv) Improving reliability through fixing and/or replacing rails, overhead
20 wires, associated fixed guideway infrastructure, and traffic signals.

21 (B) 50% to the San Francisco County Transportation Authority, or any
22 successor body, for planning, design studies, and/or capital improvements that promote users' safety in
23 the public right-of-way, to be used exclusively for the following purposes:

24 (i) Pedestrian and bicycle safety infrastructure, including civil and
25 signal improvements, mid-block crossings, and bike boxes.

1 (ii) Physical protection of bicycle facilities from motorized traffic,
2 including bicycle lanes within street rights-of-way.

3 (iii) Traffic calming.

4 (iv) Traffic signal and traffic signal timing improvements.

5 (v) Maintenance of existing safety infrastructure.

6 (c) All amounts allocated to the Municipal Transportation Agency under Section 3208(b)(3)(A)
7 shall be credited to the Municipal Transportation Fund as described in Section 8A.105 of Article VIIIA
8 of the Charter.

9 (d) Commencing with a report filed no later than February 15, 2022, covering the fiscal year
10 ending on June 30, 2021, the Controller shall file annually with the Board of Supervisors, by
11 February 15 of each year, a report containing the amount of monies collected in and expended from the
12 Traffic Congestion Mitigation Fund during the prior fiscal year, the status of any project authorized to
13 be funded by this Section 3208, and such other information as the Controller, in the Controller's sole
14 discretion, deems relevant to the operation of this Article 32.

15
16 **SEC. 3209. AUTHORIZATION AND LIMITATION ON ISSUANCE OF BONDS.**

17 The City is hereby authorized to issue from time to time limited tax bonds to finance the costs of
18 the capital projects described in Section 3208. The City shall be authorized to pledge revenues
19 generated by the Traffic Congestion Mitigation Tax to the repayment of limited tax bonds authorized
20 under this Section 3209. The amount of limited tax bonds authorized hereby shall not exceed
21 \$300,000,000 in aggregate principal amount. The Board of Supervisors shall by ordinance or
22 resolution, as applicable, establish the terms of any limited tax bonds authorized hereby, including but
23 not limited to, the amount of the issue, date, covenants, denominations, interest rate or rates, maturity
24 or maturities, redemption rights, tax status, manner of sale, and such other particulars as are necessary
25 or desirable.

1 **SEC. 3210. AMENDMENT OF ORDINANCE.**

2 *The Board of Supervisors may amend or repeal this Article 32 by ordinance by a two-thirds*
3 *vote and without a vote of the people except as limited by Articles XIII A and XIII C of the California*
4 *Constitution.*

5
6 **SEC. 3211. EFFECT OF STATE AND FEDERAL AUTHORIZATION.**

7 *To the extent that the City's authorization to impose or to collect any tax imposed under this*
8 *Article 32 is expanded or limited as a result of changes in state or federal statutes, regulations, or other*
9 *laws, or judicial interpretations of those laws, no amendment or modification of this Article shall be*
10 *required to conform the taxes to those changes, and the taxes are hereby imposed in conformity with*
11 *those changes, and the Tax Collector shall collect them to the full extent of the City's authorization up*
12 *to the full amount and rate of the taxes imposed under this Article.*

13
14 **SEC. 3212. SEVERABILITY.**

15 *(a) Except as provided in Section 3212(b), if any section, subsection, sentence, clause, phrase,*
16 *or word of this Article 32, or any application thereof to any person or circumstance, is held to be*
17 *invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not*
18 *affect the validity of the remaining portions or applications of this Article. The People of the City and*
19 *County of San Francisco hereby declare that, except as provided in Section 3212(b), they would have*
20 *adopted this Article 32 and each and every section, subsection, sentence, clause, phrase, and word not*
21 *declared invalid or unconstitutional without regard to whether any other portion of this Article or*
22 *application thereof would be subsequently declared invalid or unconstitutional.*

23 *(b) If the imposition of the Traffic Congestion Mitigation Tax in Section 3204 is held in its*
24 *entirety to be facially invalid or unconstitutional in a final court determination, the remainder of this*
25 *Article 32 shall be void and of no force and effect, and the City Attorney shall cause it to be removed*

1 from the Business and Tax Regulations Code, and likewise cause Section 10.100-345 to be removed
2 from the Administrative Code.

3
4 **SEC. 3213. SAVINGS CLAUSE.**

5 No section, clause, part, or provision of this Article 32 shall be construed as requiring the
6 payment of any tax that would be in violation of the Constitution or laws of the United States or of the
7 Constitution or laws of the State of California.

8
9 Section 3. Chapter 10 of the Administrative Code is hereby amended by adding
10 Section 10.100-345 to Article XIII, to read as follows:

11
12 **SEC. 10.100-345. TRAFFIC CONGESTION MITIGATION FUND.**

13 (a) Establishment of Fund. The Traffic Congestion Mitigation Fund ("Fund") is established as
14 a category four fund as defined in Section 10.100-1 of the Administrative Code, and shall receive all
15 taxes, penalties, interest, and fees collected from the Traffic Congestion Mitigation Tax imposed under
16 Article 32 of the Business and Tax Regulations Code.

17 (b) Use of Fund. Subject to the budgetary and fiscal provisions of the Charter, monies in the
18 Fund shall be used exclusively for the purposes described in Section 3208(b) of Article 32 of the
19 Business and Tax Regulations Code.

20 (c) Administration of Fund. As stated in Section 3208(d) of Article 32 of the Business and Tax
21 Regulations Code, commencing with a report filed no later than February 15, 2022, covering the fiscal
22 year ending June 30, 2021, the Controller shall file annually with the Board of Supervisors, by
23 February 15 of each year, a report containing the amount of monies collected in and expended from the
24 Fund during the prior fiscal year, the status of any project authorized to be funded by Section 3208.

1 and such other information as the Controller, in the Controller's sole discretion, deems relevant to the
2 operation of Article 32.

3
4 Section 4. Appropriations Limit Increase. Pursuant to California Constitution
5 Article XIII B and applicable laws, for four years from November 5, 2019, the appropriations
6 limit for the City shall be increased by the aggregate sum collected by the levy of the tax
7 imposed under this ordinance.

8
9 Section 5. Effective and Operative Dates. The effective date of this ordinance shall be
10 ten days after the date the official vote count is declared by the Board of Supervisors. This
11 ordinance shall become operative on January 1, 2020.

12
13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By: Kerne H. O. Matsubara
16 KERNE H. O. MATSUBARA
Deputy City Attorney

17 n:\legana\as2019\1900157\01374987.docx
18
19
20
21
22
23
24
25



City and County of San Francisco

Tails

Motion: M19-116

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 190584

Date Passed: July 23, 2019

Motion ordering submitted to the voters at an election to be held on November 5, 2019, an Ordinance amending the Business and Tax Regulations Code and Administrative Code to impose an excise tax on the net rider fares for rides facilitated by commercial ride-share companies and rides provided by autonomous vehicles and private transit services vehicles, to fund transportation operations and infrastructure for traffic congestion mitigation in the City; and to increase the City's appropriations limit by the amount collected under the tax for four years from November 5, 2019.

July 10, 2019 Budget and Finance Sub-Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

July 10, 2019 Budget and Finance Sub-Committee - CONTINUED AS AMENDED

July 17, 2019 Budget and Finance Sub-Committee - RECOMMENDED

July 23, 2019 Board of Supervisors - APPROVED

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton and Yee

File No. 190584

I hereby certify that the foregoing Motion was APPROVED on 7/23/2019 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board