

1 [Charter Amendment - Housing and Development Commission]

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3 **Describing and setting forth a proposal to the voters, at an election to be held on November**  
4 **8, 2016, to amend the Charter of the City and County of San Francisco, to create the**  
5 **Housing and Development Commission to oversee the Department of Economic and**  
6 **Workforce Development and the Department of Housing and Community Development; to**  
7 **require the Commission to review and make recommendations regarding proposed**  
8 **development agreements and conveyance of certain surplus City property before the Board**  
9 **of Supervisors considers such proposals; to require the Commission to hold hearings and**  
10 **make recommendations regarding proposals to adopt or change inclusionary housing**  
11 **requirements for housing developments; to require the Commission to adopt rules creating**  
12 **competitive selection processes for the Department of Housing and Community**  
13 **Development’s expenditure of affordable housing funds and for the development of**  
14 **affordable housing on City-owned property under the jurisdiction of the Department of**  
15 **Housing and Community Development; and to provide that ordinances regarding**  
16 **inclusionary housing requirements and rules regarding competitive selection for affordable**  
17 **housing adopted under the processes set forth in the Charter may supersede ordinances**  
18 **and rules adopted by the Board of Supervisors or the voters prior to March 1, 2017.**

19

20 Section 1. The Board of Supervisors hereby submits to the qualified voters of the City  
21 and County, at an election to be held on November 8, 2016, a proposal to amend the Charter of  
22 the City and County by adding Section 4.133 and revising Sections 15.105 and 16.110, to read as  
23 follows:

24 NOTE: **Unchanged Charter text and uncodified text** are in plain font.  
25 **Additions** are *single-underline italics Times New Roman font*.  
**Deletions** are ~~*strike-through italics Times New Roman font*~~.  
**Asterisks** (\* \* \* \*) indicate the omission of unchanged Charter subsections.

1  
2 **SEC. 4.133. HOUSING AND DEVELOPMENT COMMISSION**

3 (a) Membership and Terms of Office.

4 (1) The Housing and Development Commission shall consist of five members,  
5 appointed as follows:

6 (A) Seats 1 and 2 shall be appointed by the Mayor. Seat 1 shall be held  
7 by a person with significant experience in the field of affordable housing development or  
8 community development. Seat 2 shall have no required qualifications in addition to those set  
9 forth in Section 4.101.

10 (B) Seats 3 and 4 shall be appointed by the Board of Supervisors. Seat 3  
11 shall be held by a person with significant experience in the field of affordable housing  
12 development or community development. Seat 4 shall have no required qualifications in addition  
13 to those set forth in Section 4.101.

14 (C) Seat 5 shall be appointed by the Controller, and shall be a person  
15 with significant experience in the field of finance.

16 (2) Commissioners shall serve four-year terms, beginning at noon on March 1,  
17 2017; provided, however, the term of the initial appointees in Seats 2 and 4 shall expire at noon  
18 on March 1, 2019, and the term of the initial appointees in Seats 1, 3, and 5 shall expire at noon  
19 on March 1, 2021.

20 (3) No person may serve more than two successive terms as a Commissioner. No  
21 person having served two successive terms may serve as a Commissioner until at least four years  
22 after the expiration of the second successive term. For purposes of this subsection (a)(3), service  
23 for a part of a term that is more than half the period of the term shall count as a full term, and  
24 service that is half or less than half the period of a term shall not count as a full term; further,  
25 this subsection makes no distinction between two-year terms and four-year terms.

1                   (4) Commissioners may be removed from office only for official misconduct  
2 under Article XV.

3                   (b) Powers and Duties.

4                   (1) With regard to the two departments described in subsection (c), and subject  
5 to the transition provision in subsection (d)(3), the Commission shall exercise all the powers and  
6 duties of boards and commissions set forth in Sections 4.102, 4.103, and 4.104, except that the  
7 Commission shall have the exclusive power to appoint, evaluate, and remove the department  
8 heads of the two departments.

9                   (2) In addition to any other process or approvals required by law, including but  
10 not limited to review by the Planning Commission, the Commission shall review and recommend  
11 to the Board of Supervisors whether to approve a development agreement that the Department of  
12 Economic and Workforce Development participated in negotiating under California Government  
13 Code Section 65864 et seq. or any successor State legislation, before the Board of Supervisors  
14 considers whether to approve the development agreement. The Commission may recommend  
15 that the Board of Supervisors approve or reject the development agreement, and may also  
16 recommend specific changes to the development agreement for consideration by the Board of  
17 Supervisors. If the Board of Supervisors approves changes to a development agreement after the  
18 Commission's hearing, the Board of Supervisors is not required to refer the development  
19 agreement back to the Commission for further review or recommendations.

20                   (3) In addition to any other process or approvals required by law, and except as  
21 set forth in subsection (f) below, the Commission shall review and recommend to the Board of  
22 Supervisors whether to approve any fee simple absolute conveyance of surplus real property  
23 owned by the City, before the Board of Supervisors considers whether to approve the  
24 conveyance. For the purpose of this Section 4.133, "surplus real property" shall mean any real  
25 property that is not required to fulfill the mission of the City department, commission, or agency

1 with jurisdiction or control of such property, and that is not required to fulfill the mission of  
2 another City department, commission or agency or other governmental entity, as determined by  
3 the Board of Supervisors by resolution, and shall not include any real property that is sold or  
4 exchanged for purposes other than housing development. The Commission may recommend that  
5 the Board of Supervisors approve or reject a proposed fee simple absolute conveyance, and may  
6 also recommend specific changes for consideration by the Board of Supervisors. If the Board of  
7 Supervisors approves changes to a proposed fee simple absolute conveyance after the  
8 Commission's hearing, the Board of Supervisors shall not be required to refer the matter back to  
9 the Commission for further review or recommendations.

10 (4) The Commission shall adopt rules to create competitive selection processes  
11 for (A) the development of affordable housing on City-owned real property under the jurisdiction  
12 of the Department of Housing and Community Development, and (B) the Department of Housing  
13 and Community Development's expenditure of the City's affordable housing funds. Such rules  
14 may include exceptions and limitations as deemed appropriate by the Commission to maximize  
15 and expedite the creation of affordable housing and leverage the City's affordable housing  
16 funds, maintain existing affordable housing, increase funding to previously selected projects,  
17 provide funding availability on a rolling basis, and provide emergency funding. The rules may  
18 also recognize affordable housing projects with federal or state funding sources, and exempt  
19 such projects from the competitive bid process. Any such rules adopted by the Commission shall  
20 supersede any ordinance, rule, process or regulation enacted by the City or adopted by the  
21 voters before March 1, 2017, relating to a competitive bid process for the City's development of  
22 affordable housing. The Commission shall transmit to the Board of Supervisors any rules  
23 adopted by the Commission under this subsection (b)(4) within 24 hours of their adoption. The  
24 rules adopted by the Commission shall become effective 60 days after the date of adoption unless  
25

1 two-thirds of all members of the Board of Supervisors vote by motion to veto the rules before the  
2 expiration of this 60-day period.

3 (5) In addition to any other process or approvals required by law, including but not  
4 limited to review by the Planning Commission, the Commission shall review any proposed  
5 ordinance that would set or change the minimum or maximum inclusionary or affordable  
6 housing obligations for housing development projects. The Board of Supervisors and its  
7 committees shall not hold any hearings on such a proposed ordinance until the Commission has  
8 held a hearing to review the proposal, unless the Commission fails to hold a hearing within 90  
9 days after the Clerk of the Board of Supervisors forwards the proposed ordinance to the  
10 Commission for its consideration. The Commission may recommend that the Board of  
11 Supervisors approve, reject, or specifically modify the proposed ordinance. If the Board of  
12 Supervisors approves changes to such a proposed ordinance after the Commission's hearing, the  
13 Board of Supervisors is not required to refer the proposed ordinance back to the Commission for  
14 further review or recommendations. Any ordinance adopted by the Board of Supervisors  
15 following the process set forth in this subsection (b)(5) shall supersede conflicting provisions in  
16 any ordinance enacted by the City or adopted by the voters before March 1, 2017, setting or  
17 changing the minimum or maximum inclusionary or affordable housing obligations for housing  
18 development projects.

19 (c) Departments. The Commission shall oversee the following two departments, which  
20 shall come into existence as stated in subsection (d)(3):

21 (1) Department of Economic and Workforce Development. Except as otherwise  
22 provided for in this Charter, the Department of Economic and Workforce Development shall  
23 oversee City programs related to private workforce development and job training; business  
24 attraction and retention, including international businesses; real estate development projects  
25 involving the City and other public or private property owners; commercial corridors

1 revitalization; community business districts; infrastructure financing districts; and any other  
2 related responsibilities prescribed by ordinance. The Department of Economic and Workforce  
3 Development may assist other departments, including the Planning Department, in negotiating  
4 development agreements with private property owners.

5 (2) Department of Housing and Community Development. Except as otherwise  
6 provided for in this Charter, the Department of Housing and Community Development shall  
7 provide financing for the development, rehabilitation, and purchase of affordable housing in the  
8 City; administer programs to finance the development of affordable housing; administer  
9 programs to finance housing rehabilitation for low-income and moderate-income homeowners;  
10 administer the City's below-market-rate inclusionary housing program; administer grants  
11 programs to support community development and economic infrastructure; and undertake any  
12 other responsibilities prescribed in Section 16.110 or by ordinance.

13 (d) Transition provisions.

14 (1) The Mayor, the Board of Supervisors, and the Controller shall make initial  
15 appointments to the Commission by no later than noon, March 1, 2017, when the Commission  
16 shall come into existence.

17 (2) The Commission shall have its inaugural meeting by no later than April 1,  
18 2017.

19 (3) Beginning May 15, 2017, the Department of Economic and Workforce  
20 Development and the Department of Housing and Community Development shall come into  
21 existence, and shall succeed to the powers and duties of the previously existing Office of  
22 Economic and Workforce Development and Office of Housing and Community Development  
23 under the Mayor, respectively, and those offices shall cease to exist.

24 (e) Existing Contracts. Nothing in this Section 4.133 shall be interpreted to impair the  
25 obligations of any existing contract entered into by the City before May 15, 2017, or require the

1 City to abandon a competitive bid or contractor selection process that started before May 15,  
2 2017.

3 (f) Non-applicability. The requirements of this Section 4.133 shall not apply to any other  
4 governmental entity, such as the Successor Agency to the Redevelopment Agency of the City and  
5 County of San Francisco, or to any department, commission or agency of the City that has  
6 exclusive jurisdiction over its real property, and shall not be interpreted to interfere with a  
7 department's ability to carry out its core functions under this Charter. Without limiting the  
8 foregoing, nothing in this Section is intended to amend or limit the rights and powers granted to  
9 City commissions under Sections 4.112, 4.113, 4.114, 4.115, B3.581, Article V, or Article VIIIA  
10 of this Charter.

11  
12 **SEC. 15.105. SUSPENSION AND REMOVAL.**

13 (a) ELECTIVE AND CERTAIN APPOINTED OFFICERS. Any elective officer, and  
14 any member of the Airport Commission, Asian Art Commission, Civil Service Commission,  
15 Commission on the Status of Women, Golden Gate Concourse Authority Board of Directors,  
16 Health Commission, Human Services Commission, Juvenile Probation Commission, Municipal  
17 Transportation Agency Board of Directors, Port Commission, Public Utilities Commission,  
18 Recreation and Park Commission, Fine Arts Museums Board of Trustees, ~~Taxi Commission~~, War  
19 Memorial and Performing Art Center Board of Trustees, Board of Education or Community  
20 College Board is subject to suspension and removal for official misconduct as provided in this  
21 section. Such officer may be suspended by the Mayor and the Mayor shall appoint a qualified  
22 person to discharge the duties of the office during the period of suspension. Upon such  
23 suspension, the Mayor shall immediately notify the Ethics Commission and Board of  
24 Supervisors thereof in writing and the cause thereof, and shall present written charges against  
25 such suspended officer to the Ethics Commission and Board of Supervisors at or prior to their

1 next regular meetings following such suspension, and shall immediately furnish a copy of the  
2 same to such officer, who shall have the right to appear with counsel before the Ethics  
3 Commission in his or her defense. The Ethics Commission shall hold a hearing not less than five  
4 days after the filing of written charges. After the hearing, the Ethics Commission shall transmit  
5 the full record of the hearing to the Board of Supervisors with a recommendation as to whether  
6 the charges should be sustained. If, after reviewing the complete record, the charges are  
7 sustained by not less than a three-fourths vote of all members of the Board of Supervisors, the  
8 suspended officer shall be removed from office; if not so sustained, or if not acted on by the  
9 Board of Supervisors within 30 days after the receipt of the record from the Ethics Commission,  
10 the suspended officer shall thereby be reinstated.

11 (b) BUILDING INSPECTION COMMISSION, PLANNING COMMISSION, BOARD  
12 OF APPEALS, ELECTIONS COMMISSION, ETHICS COMMISSION, HOUSING AND  
13 DEVELOPMENT COMMISSION, AND ENTERTAINMENT COMMISSION. Members of the  
14 Building Inspection Commission, the Planning Commission, the Board of Appeals, the Elections  
15 Commission, the Ethics Commission, the Housing and Development Commission, and the  
16 Entertainment Commission may be suspended and removed pursuant to the provisions of  
17 subsection (a) of this section except that the Mayor may initiate removal only of the Mayor's  
18 appointees and the appointing authority shall act in place of the Mayor for all other appointees.

19 \* \* \* \*

20  
21 **SEC. 16.110. HOUSING TRUST FUND.**

22 (a) **Creation of Fund.** There is hereby established a Housing Trust Fund to support  
23 creating, acquiring and rehabilitating affordable housing and promoting affordable home  
24 ownership programs in the City, as provided in this Section.

25 (b) **Definitions.** For purposes of this Section:



1 "First Responder" shall mean a City employee who responds first in cases of  
2 natural disaster or emergencies, including, but not limited to, all active uniformed, sworn  
3 members of the San Francisco Police and Fire Departments.

4 "General Fund Discretionary Revenues" shall mean revenues that the City  
5 receives and deposits in its treasury, that are unrestricted, and that the City may appropriate for  
6 any lawful City purpose.

7 "Household" shall mean any person or persons who reside or intend to reside in  
8 the same housing unit.

9 ~~—————"Mayor's Office of Housing" shall mean the Mayor's Office of Housing and~~  
10 ~~Community Development or any successor City agency.~~

11 (c) **Funding.**

12 (1) In the Fiscal Year 2013-2014 budget, the City shall appropriate to the  
13 Housing Trust Fund \$20 million.

14 (2) For the next 11 fiscal years, in each of the annual budgets for Fiscal Year  
15 2014-2015 through Fiscal Year 2024-2025, the City shall appropriate to the Housing Trust Fund  
16 an amount increasing by \$2.8 million per year, until the annual appropriation required by this  
17 Section reaches \$50.8 million in the Fiscal Year 2024-2025 budget.

18 (3) In the annual budgets for Fiscal Year 2025-2026 through Fiscal Year 2042-  
19 43, the City shall appropriate to the Housing Trust Fund an amount equal to the prior year's  
20 appropriation, adjusted by the percentage increase or decrease in General Fund Discretionary  
21 Revenues budgeted for the year compared to the prior year's original budgeted amount of  
22 General Fund Discretionary Revenues.

23 (4) Should the City adopt a fixed two-year budget under Charter Section 9.101,  
24 the adjustment for the Housing Trust Fund appropriation for the two years of the two-year  
25

1 budget shall be based on the amount of General Fund Discretionary Revenues estimated for the  
2 two-year period included in the budget.

3 (5) During Fiscal Years 2025-2026 through 2042-2043, if the Controller submits  
4 a revised estimate of General Fund Discretionary Revenues for a given Fiscal Year or two-year  
5 budget period that is lower than the amount originally budgeted for that period, then the Board  
6 may, by ordinance, reduce the appropriation to the Housing Trust Fund for that budget period in  
7 an amount that does not exceed the amount proportionate to the percentage shortfall in the  
8 discretionary revenue projection.

9 (6) The Controller's method of calculating the amount of and changes in General  
10 Fund Discretionary Revenues shall be consistent from fiscal year to fiscal year and with the  
11 Controller's method for calculating those figures under Charter Sections 8A.105, 16.108, and  
12 16.109. The Controller shall treat General Fund appropriations to the Housing Trust Fund as  
13 reductions in General Fund Discretionary Revenues when calculating other funding allocations  
14 that are tied to General Fund Discretionary Revenues, including funding allocations under  
15 Charter Sections 8A.105, 16.108, and 16.109. The Controller shall correct errors in the estimate  
16 of discretionary revenues for a fiscal year through an adjustment to the next fiscal year's  
17 estimate.

18 (7) In any year during the term of this Section, the City may, in its discretion,  
19 reduce its annual contribution to the Housing Trust Fund for that year by an amount equal to or  
20 less than 56.7% of the annual debt service required to service any SB2113 Affordable Housing  
21 Bonds issued after January 1, 2013. "SB2113 Affordable Housing Bonds" are bonds issued by  
22 the City to support the acquisition and creation of replacement affordable housing citywide using  
23 property tax increment from former Redevelopment project areas under California Health and  
24 Safety Code Section 33333.7

1 (8) The Controller shall set aside and maintain the amounts appropriated to the  
2 Housing Trust Fund under this Section, together with any interest earned thereon, and any  
3 amount unexpended or uncommitted at the end of the fiscal year shall be carried forward to the  
4 next fiscal year and, subject to the budgetary and fiscal limitations of this Charter, shall be  
5 appropriated for the purposes specified in this Section.

6 (d) **Uses of the Housing Trust Fund.** The City may disburse monies from the Housing  
7 Trust Fund through loans, grants or other types of payments, on terms determined by the ~~Mayor's~~  
8 ~~Office of Housing~~ Department of Housing and Community Development in its sole discretion.  
9 Any repayment of a loan or grant from the Fund that the City receives, or any interest from a  
10 loan from the Fund that the City receives, will be returned to the Housing Trust Fund. The City,  
11 acting through the ~~Mayor's Office of Housing~~ Department of Housing and Community  
12 Development, shall disburse the monies from the Housing Trust Fund for the following eligible  
13 expenditures:

14 (1) The creation, acquisition, and rehabilitation of rental and ownership housing  
15 affordable to Households earning up to 120% of the Area Median Income, including, without  
16 limitation, the acquisition of land for such purpose.

17 (2) No later than July 1, 2018, the City shall appropriate \$15 million from the  
18 Housing Trust Fund to a program that provides loans to Households earning up to 120% of the  
19 Area Median Income and to Households including a First Responder (subject to Area Median  
20 Income limits designated by the ~~Mayor's Office of Housing~~ Department of Housing and  
21 Community Development) for use as a down payment on the purchase of a housing unit ("the  
22 Down Payment Assistance Loan Program"). As soon as is practical, the ~~Mayor's Office of~~  
23 ~~Housing~~ Department of Housing and Community Development shall develop and implement a  
24 manual for the Down Payment Assistance Loan Program.  
25

1 (3) No later than July 1, 2018, the City shall appropriate up to \$15 million from  
2 the Housing Trust Fund to a program that provides funds to Households earning up to 120% of  
3 Area Median Income for use as assistance to reduce the risk to current occupants of a loss of  
4 housing and/or to help current occupants make their homes safer, more accessible, more energy  
5 efficient, and more sustainable (the "Housing Stabilization Program"). As soon as is practical,  
6 the ~~Mayor's Office of Housing~~ Department of Housing and Community Development shall  
7 implement and develop a manual for the Housing Stabilization Program.

8 (4) The City may use monies in the Housing Trust Fund to operate and  
9 administer the Infrastructure Grant Program as described in subsection (e). The City may not  
10 allocate to the Infrastructure Grant Program in any fiscal year an amount exceeding the greater of  
11 \$2 million or 10% of the amount appropriated to the Housing Trust Fund for that fiscal year  
12 under subsection (c).

13 (5) In any fiscal year, the City may allocate a sufficient amount from the  
14 Housing Trust Fund to pay for all legally permissible administrative costs of the Fund, including,  
15 without limitation, legal costs, associated with any use of the Housing Trust Fund.

16 (e) **Complete Neighborhoods Infrastructure Grant Program.** After conferring with  
17 the Director of Planning, the Director of the ~~Mayor's Office of Housing~~ Department of Housing  
18 and Community Development shall design and administer a Complete Neighborhoods  
19 Infrastructure Grant Program ("Infrastructure Grant Program"). The purpose of the Infrastructure  
20 Grant Program is to accelerate the build-out of the public realm infrastructure needed to support  
21 increased residential density in the City's neighborhoods. The City may use monies from the  
22 Infrastructure Grant Program only for public facilities identified in the Community Facilities  
23 District law (Cal. Govt. Code §§ 53311 et seq., as amended), and shall give priority to the use of  
24 such monies by residential development project sponsors, community-based organizations, and  
25

1 City departments for public realm improvements associated with proposed residential  
2 development projects.

3 (f) **Bonding Authority.** Notwithstanding the limitations set forth in Sections  
4 9.107, 9.108, and 9.109 of this Charter, upon recommendation of the Mayor, the Board of  
5 Supervisors may authorize the issuance, without limitation, of revenue bonds, lease financing,  
6 notes, or other evidences of indebtedness or other obligations ("Debt Obligations"), the proceeds  
7 of which are to be used for creating, acquiring, and rehabilitating rental and ownership housing  
8 affordable to Households earning up to 120% of the Area Median Income, including, without  
9 limitation, the acquisition of land for such purpose. Such Debt Obligations shall be secured by  
10 and/or repaid from any available funds pledged or appropriated by Board of Supervisors  
11 ordinance for such purpose, which amount may include funds in the Housing Trust Fund  
12 allocated under subsection (c). Debt Obligations authorized hereby shall be issued in accordance  
13 with the ~~Mayor's Office of Housing~~ Department of Housing and Community Development  
14 policies, and upon the terms and conditions as the Board of Supervisors shall approve. Funds  
15 appropriated to pay debt service on the Debt Obligations in such fiscal year under the terms of  
16 this Section shall be set aside in an account for such use until such payment is made.

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18 APPROVED AS TO FORM:  
19 DENNIS J. HERRERA, City Attorney

20 By: \_\_\_\_\_  
21 JON GIVNER  
22 Deputy City Attorney

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