File No. 120554

Committee Item No. 1
Board Item No. 13

COMMITTEE/BOARD OF SUPERVISORS

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Completed by: Linda Wong Date 7/13/12
Completed by: L.w. Date 7/17/12

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

[Affordable Housing Trust Fund and Housing Production Incentives]

CHARTER AMENDMENT

PROPOSITION ____

Describing and setting forth a proposal to the qualified voters of the City and County of San Francisco to amend the Charter of the City and County of San Francisco by adding Section 16.110 to: 1) create a San Francisco Housing Trust Fund by setting aside general fund revenues beginning in Fiscal Year 2013-2014 and ending in Fiscal Year 2042-2043 to create, acquire and rehabilitate affordable housing and promote affordable home ownership programs in the City; and 2) lower and stabilize the impacts of affordable housing regulatory impositions on private residential projects; and to authorize the development of up to 30,000 affordable rental units in the City under Article 34 of the California Constitution.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 6, 2012, a proposal to amend the Charter of the City and County by adding Section 16.110 to read as follows:

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~.

Section 1. **Findings.**

Introduction

1. This measure will create greater housing options over a 30 year term for all San Franciscans by addressing housing at three key price points in the market. First, this measure will set aside general fund revenues sufficient to produce thousands of rental housing units for San Francisco's low-income and working households. Second, this measure will expand and/or fund new homeownership and rental programs for San Francisco's moderate income households. Third, this measure will assist in stabilizing and conserving housing affordable to low- and moderate-income residents. And, fourth, this measure will stimulate production of additional

market rate housing by reducing residential production costs associated with the City's inclusionary housing program and stabilizing affordable housing fees in existing plan areas.

2. To offset the impact on the general fund, the measure is structured as a revenue capture mechanism that corresponds to recycled revenues previously used by the former San Francisco Redevelopment Agency to produce affordable housing, hotel tax revenue that has traditionally been allocated to affordable housing, as well as to a new revenue source approved by the voters on November 6, 2012.

The Housing Affordability Gap in San Francisco

3. San Francisco is among the most expensive places in the region, state and nation to live. Recent data produced by the Mayor's Office of Housing show significant housing affordability gaps for all households earning up to 120% of Area Median Income ("AMI") or moderate income levels.

4. The affordability gap is the difference between what a home costs, and what a household can afford to pay. Based on data collected from local listings on Craigslist.com from the first quarter of 2012, the rental affordability gap for households at 80% AMI for a 2 bedroom unit in San Francisco is $116 per month. This gap grows to $786 per month for households at 50% AMI and $1,234 for households at 30% AMI.

5. The affordability gap for homeownership is equally stark. The homeownership affordability gap for households at 120% AMI is $231,000 based on average 2011 home prices. Concretely speaking, this means that households at 120% AMI can afford fewer than 25% of the homes on the market in most parts of San Francisco. This gap grows to $390,000 for households at 80% AMI, with fewer than 5% of homes on the market affordable to this income category in most parts of San Francisco.

6. The housing affordability gap for households up to 120% AMI poses a significant problem for San Francisco. According to 2010 Census Data, these households constitute over

60% of San Francisco's total households. They represent a significant part of our workforce, which includes teachers, office workers, and construction workers.

7. This growing affordability gap for households at 120% AMI and below coincides with a decrease in low and moderate income households residing in San Francisco over the past decade. The 2009 Census data show that there 11% fewer households in San Francisco in the 51% to 80% AMI range compared to 2000, and 8% fewer households in the 81% to 120% AMI range.

Affordable Housing Funding Crisis

8. While the above statistics show an affordability gap that is true today, the longer-term projection of housing need in San Francisco is equally pronounced. The Association of Bay Area Governments ("ABAG") projects that over the next thirty years, San Francisco will grow by over 100,000 households and will need to create more than 90,000 additional housing units to absorb this growth. To ensure balanced growth, ABAG projects that 59% of these new units must target households at the 120% AMI level and below.

9. Unfortunately, affordable housing production has reached a crisis point. While up to this point, San Francisco has maintained a robust affordable housing production program, producing over 18,000 permanently affordable rental and ownership units over the past two decades, the traditional funding mechanisms for affordable housing are in jeopardy. For example, state funding from the last affordable housing bond, Proposition 1c passed in 2006 has been almost fully depleted. In addition, Federal funding for affordable housing in San Francisco has declined by over forty percent (40%) since 2007.

10. Most critically, the State Supreme Court issued a ruling December 28, 2011 in *California Redevelopment Association et al., v. Ana Matosantos et al.* that effectively eliminated redevelopment agencies, including San Francisco's. The former San Francisco Redevelopment Agency ("SF Redevelopment Agency") provided the vast majority of local affordable housing funding for the City. The SF Redevelopment Agency leveraged increases in property taxes from

Redevelopment Areas to issue long term bonds to fund affordable housing creation. Revenue from these bonds were then further leveraged on an approximately two-to-one (2:1) basis with other outside funding, including federal tax credit based investment. With the elimination of the SF Redevelopment Agency, San Francisco's ability to produce new housing for low and moderate income households is now in jeopardy.

San Francisco's Capacity to Accommodate Growth

11. Fortunately, San Francisco has, to a large extent, the zoning capacity to absorb growth and accommodate additional housing. Over the past decade, San Francisco has implemented major new area plans and projects throughout the city. As it stands, San Francisco has the capacity to absorb 73,700 new residential units, according to the 2009 Housing Element. Over 45,000 of those units are currently entitled with project approvals. Of those 45,000 entitled units, at least 9,000 are planned to be permanently affordable units. Ensuring that these units will be produced will reduce the existing pressure on the housing market.

The Charter Amendment

12. To address the growing pressure on the housing market and to ensure continued housing options for low and moderate income San Franciscans, the proposed measure will do the following: (1) set aside $20M in year one with increasing allocations to reach $50M a year to provide sustained funding over a thirty year period to fund a Housing Trust Fund for households earning up to 120% AMI, which is projected to fund production of thousands of new permanently affordable housing units and leverage significant outside investment for the City's affordable housing infrastructure; (2) double the existing homeownership down payment assistance revolving loan fund from $15M to $30M; (3) launch a new housing stabilization program to reduce the risk of loss of housing to current residents; (4) stimulate production of below market rate units within new residential projects; (5) create a complete neighborhoods program that will provide up to $5 million year to build public realm improvements necessary to support new residential growth; (6) reduce the inclusionary housing cost obligation by 20% for

most new projects in the City; and, (7) stabilize affordable housing fees within existing plan areas of the City.

Section 2. The San Francisco Charter is hereby amended by adding Section 16.110, to read as follows:

SEC. 16.110. HOUSING TRUST FUND.

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

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

(1) "Affordable Housing Fee" shall mean a fee calculated by the Mayor's Office of Housing as the difference between the affordable sales price of a housing unit of a certain bedroom size and the cost of developing a comparable housing unit. The Mayor's Office of Housing shall index the fee annually based on the annual percent change in the Construction Cost Index for San Francisco as published by Engineering News-Record or a similar index selected by the Mayor's Office of Housing.

(2) "Area Median Income" or "AMI" shall mean the unadjusted area median income levels as calculated by the Mayor's Office of Housing using data from the Department of Housing and Urban Development on an annual basis for the San Francisco area, adjusted solely for Household size, but not high housing cost area.

(3) "Basic On-Site Inclusionary Requirement" shall mean 12% of the units in the principal project affordable to a Household whose initial household income does not exceed 90% of Area Median Income for ownership units and 55% for rental units, or an on-site requirement with an equivalent Inclusionary Housing Cost Obligation.

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

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

(6) "Gross floor area" shall have the meaning in Planning Code Section 102.9, or any successor section, as amended from time to time.

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

(8) "Mayor's Office of Housing" shall mean the Mayor's Office of Housing or any successor City agency.

(9) "Other Affordable Housing Fees" shall mean any fee imposed on residential development by the City as a condition of a development approval related to affordable housing, which fee shall be adjusted annually by the City using an index selected by the City, or any exactions on residential development related to affordable housing imposed by the City, excluding fees imposed under Planning Code Section 415.

(10) "Planning Code Section 415" shall mean San Francisco Planning Code Section 415 as of July 1, 2012, together with the defined terms in Section 401 as of that same date, and any successor legislation adopted consistent with this Section 16.110. Notwithstanding the foregoing, the calculation of the applicable affordable housing fee for "buildings of over 120 feet in height" shall be as set forth in Planning Code Sections 315(a)(1)(B)&(C) and 315.6(b)(1) in Ordinance No. 101-07, Board of Supervisors File No. 061529.

(11) "Inclusionary Housing Cost Obligation" shall mean an obligation equal to the applicable percentage of below market rate housing units required under Planning Code Sections 415.5, 415.6 or 415.7 multiplied by the then-current Affordable Housing Fee required

per unit. For purposes of calculating the cost burden of any legislative change, the Mayor's Office of Housing shall use the average citywide unit mix for projects subject to Planning Code Section 415 within the past five years as applied to a hypothetical project of 100 units. For purposes of calculating the cost burden imposed by a condition of approval for a particular project, the Mayor's Office of Housing shall use the actual unit mix and unit count proposed in the development project subject to the condition of approval.

(c) ***Funding.***

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

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

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

(4) Should the City adopt a fixed two-year budget under Charter Section 9.101, the adjustment for the Housing Trust Fund appropriation for the two years of the two-year budget shall be based on the amount of General Fund Discretionary Revenues estimated for the two-year period included in the budget.

(5) During Fiscal Years 2025-2026 through 2042-2043, if the Controller submits a revised estimate of General Fund Discretionary Revenues for a given Fiscal Year or two-year budget period that is lower than the amount originally budgeted for that period, then the Board may, by ordinance, reduce the appropriation to the Housing Trust Fund for that budget period in

an amount that does not exceed the amount proportionate to the percentage shortfall in the discretionary revenue projection.

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

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

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

(d) ***Uses of the Housing Trust Fund.*** *The City may disburse monies from the Housing Trust Fund through loans, grants or other types of payments, on terms determined by the Mayor's Office of Housing in its sole discretion. Any repayment of a loan or grant from the*

Fund that the City receives, or any interest from a loan from the Fund that the City receives, will be returned to the Housing Trust Fund. The City, acting through the Mayor's Office of Housing, shall disburse the monies from the Housing Trust Fund for the following eligible expenditures:

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

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

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

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

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

(e) ***Complete Neighborhoods Infrastructure Grant Program.*** *After conferring with the Director of Planning, the Director of the Mayor's Office of Housing shall design and administer a Complete Neighborhoods Infrastructure Grant Program ("Infrastructure Grant Program"). The purpose of the Infrastructure Grant Program is to accelerate the build-out of the public realm infrastructure needed to support increased residential density in the City's neighborhoods.*

The City may use monies from the Infrastructure Grant Program only for public facilities identified in the Community Facilities District law (Cal. Govt. Code §§ 53311 et seq., as amended), and shall give priority to the use of such monies by residential development project sponsors, community-based organizations, and City departments for public realm improvements associated with proposed residential development projects.

(f) ***Bonding Authority.*** *Notwithstanding the limitations set forth in Sections 9.107, 9.108, and 9.109 of this Charter, upon recommendation of the Mayor, the Board of Supervisors may authorize the issuance, without limitation, of revenue bonds, lease financing, notes, or other evidences of indebtedness or other obligations ("Debt Obligations"), the proceeds of which are to be used for creating, acquiring, and rehabilitating rental and ownership housing affordable to Households earning up to 120% of the Area Median Income, including, without limitation, the acquisition of land for such purpose. Such Debt Obligations shall be secured by and/or repaid from any available funds pledged or appropriated by Board of Supervisors ordinance for such purpose, which amount may include funds in the Housing Trust Fund allocated under subsection (c). Debt Obligations authorized hereby shall be issued in accordance with the Mayor's Office of Housing policies, and upon the terms and conditions as the Board of Supervisors shall approve. Funds appropriated to pay debt service on the Debt Obligations in*

such fiscal year under the terms of this Section shall be set aside in an account for such use until such payment is made.

(g) ***On-Site Inclusionary Affordable Housing Requirements.***

(1) ***Application.*** *This subsection (g) shall not apply to: any residential projects subject to a development agreement approved by the City under California Government Code Section 65864 et seq.; any project exempt from the provisions of Section 415 et seq. under Section 415.3 as it existed on July 1, 2012; the requirements of a redevelopment plan for a redevelopment project area; or any project in which the City has a proprietary interest.*

(2) ***Reduction of Current On-Site Inclusionary Affordable Housing Requirement.*** *Beginning on January 1, 2013, the City shall reduce by 20% the on-site inclusionary housing obligation for all projects subject to the on-site Inclusionary affordable housing requirements of Planning Code Section 415 et seq., including any on-site requirements found in other sections of the Planning Code including, but not limited to, Planning Code Sections 415.6, 419, 424, 249.33, 827(b)(1) and any other Municipal Code sections that refer to Planning Code Section 415 et seq. or its predecessor, from the requirements of Section 415 and other related sections as they exist as of July 1, 2012. Notwithstanding the foregoing, in no event shall the on-site inclusionary housing obligation for any project be reduced below the Basic Inclusionary Housing Requirement.*

(3) ***Application to Previously Approved Projects.***

(A) This subsection (g)(3) does not apply to projects that received a reduction in on-site inclusionary housing requirements through subsection (g)(2) above.

(B) Sponsors of projects that already have received their first construction document as defined in Section 107A.13.1 of the San Francisco Building Code as of January 1, 2013 may not receive a reduction in any on-site below market rate requirement applicable to the subject property under this subsection (g).

(C) Sponsors of projects that have not received their first construction document as defined in Section 107A.13.1 of the San Francisco Building Code by January 1, 2013 may apply once to the Planning Commission for a modification of their existing conditions of approval to reduce any on-site below market rate inclusionary requirements by 20% consistent with subsection (g)(2), or change their election so that they will provide on-site rather than off-site below market rate units or Affordable Housing Fee payments.

Project sponsors seeking to amend their conditions of approval to benefit from the 20% reduction must demonstrate to the Planning Commission that the proposed reduction will enable the project to obtain financing and commence construction within a one-year time period following Planning Commission's approval of the proposed reduction. The Planning Commission shall include a condition of approval to require that the project sponsor obtain its first construction document within one year of the approval. If the project sponsor does not obtain its first construction document within one year, then the conditions of approval existing before the modification shall apply unless the Zoning Administrator, after a duly noticed hearing, determines that the project sponsor has made good faith efforts to obtain its first construction document but for reasons beyond the project sponsor's control including, but not limited to, the filing of a lawsuit or delay on the part of the City or another public entity, has been unable to obtain its first construction document. In such a case, the Zoning Administrator may extend the time once, and for up to 1 year, for obtaining the first construction document. Any further extensions of time may only be granted by the Planning Commission using the same inquiry as to whether the project sponsor has made good faith efforts to obtain its first construction document.

The Planning Commission may not make modifications under this subsection (g)(3)(C) after January 1, 2016.

(h) Stabilizing the Cost Obligation of Future Inclusionary or Affordable Housing Requirements.

*(1) **Application.** This subsection (h) shall apply as follows:*

(A) This subsection shall apply only to private residential projects or the private residential portion of a mixed-use project, and not commercial projects; and

(B) This subsection shall not apply to any of the following:

(i) A project located in an area subject to a development agreement under California Government Code Sections 65864 et seq., as amended, or any successor legislation;

(ii) A project located in a redevelopment project area, an infrastructure financing district, or any other area that the City designates under State law in which property tax increment is allocated to fund affordable housing;

(iii) A project that, through a Special Use District or other local legislation adopted after November 6, 2012, receives (1) a 20% or greater increase in developable residential gross floor area, as measured by a change in height limits, Floor Area Ratio limits, or use, over prior zoning, or (2) a 50% or greater increase in residential densities over prior zoning. Notwithstanding the foregoing, should a project sponsor seek to develop a project in accordance with zoning in place immediately before the establishment of the Special Use District, this subsection (h) shall apply;

(iv) An area subject to a change in zoning enacted after November 6, 2012 that affects 40 or more acres or greater and results in a significant increase in residential development potential, where the area is not also encompassed by a Special Use District adopted after November 6, 2012.

The City shall adopt a standard for determining what constitutes "a significant increase in residential development potential" for these purposes as follows: There shall be a Housing Review Committee comprised of the Directors of the Mayor's Office of Housing, the Planning Department, and the Office of Economic and Workforce Development, or their successor agencies. No later than March 1, 2013, the Housing Review Committee, after at

least one public hearing, shall recommend a standard to the Board of Supervisors in the form of a proposed ordinance. Thereafter, the Housing Review Committee, at regular intervals determined by the Committee, shall review the standard and recommend any necessary updates or modifications to the Board.

The Board of Supervisors may reject a proposed ordinance submitted by the Housing Review Committee by a majority vote. If the Board fails to reject the proposed ordinance within 60 days of receiving it from the Housing Review Committee, the proposed ordinance shall be deemed adopted.

In subsequently applying the standard established in the ordinance and determining whether to increase affordable housing fees or exactions in the area subject to the change in zoning, the Board of Supervisors shall consider any analysis approved by the Controller's Office regarding the financial feasibility of development subject to the proposed fee or exaction.

(v) A project that receives public financing or financial incentives for affordable housing from the California Debt Limit Allocation Committee tax-exempt bond financing or other similar public source; or

(vi) A project that receives a density bonus for the development of affordable housing through the State Density Bonus Law or other similar State legislation;

(vii) A project in which the City has a proprietary interest.

*(2) **Inclusionary Housing Cost Obligation.** As of January 1, 2013, the City may not adopt any new land use legislation or administrative regulation, including a Planning Code amendment, or impose any new condition of approval on the issuance of a discretionary permit, that would require an increase in the project sponsor's Inclusionary Housing Cost Obligation beyond that required as of January 1, 2013, including and incorporating the reductions effected by subsection (g).*

*(3) **Other Fees Related to Affordable Housing Fee.** As of January 1, 2013, the City may not adopt any new land use legislation or administrative regulation, including a Planning Code amendment, or impose any new condition of approval on the issuance of a discretionary permit, that would increase any Other Affordable Housing Fees beyond that required as of July 1, 2012.*

*(4) **Remedy.** Any challenge to the validity of any legislation or final administrative order or decision on the grounds that such legislation, order or decision increases the project sponsor's Inclusionary Housing Cost Obligation or imposes Other Affordable Housing Fees will be subject to the requirements of California Code of Civil Procedure Sections 1085 and 1094.5, respectively. Any such challenge may be brought only after a project sponsor has exhausted all available administrative remedies, and shall be subject to all applicable statutes of limitations, including without limitation those set forth in California Code of Civil Procedure Section 1094.5 and California Government Code Sections 65009 and 66499.37.*

*(i) **Legislation.** The City shall enact any legislation necessary to implement subsections (g) and (h) as soon as practicable after the effective date of this Section, but no later than January 1, 2014. Before the adoption of such legislation, the Mayor's Office of Housing, with consultation as necessary with the Planning Department, shall implement the provisions of subsections (g) and (h) administratively and shall issue any necessary guidance.*

*(j) **Disclaimer.** Nothing in this Section shall be construed to limit or restrict the ability of the City to adopt any fees or exactions related to public benefits other than affordable housing, including, but not limited to, transit infrastructure, streetscape, public realm improvement, or child care fees.*

*(k) **Term.** Except as provided in subsection (l) below, this Section shall become inoperative on July 1, 2043, and after such date shall have no further force or effect and shall be repealed.*

*(l) **Early Termination.** At any time before January 1, 2013, the Mayor, after consulting with his or her Budget Director and the Controller, and after taking into account the City's projected revenues and expenditures in the City's financial plans, may terminate implementation of this Section by issuing a written notice to the Board of Supervisors and the Controller. The termination shall be irrevocable and apply to the entire Section 16.110. Upon the Mayor's signing of the notice, this Section shall become inoperative and after such date shall have no force or effect and shall be repealed.*

Section 3. **Article 34 Authorization.** Consistent with Article 34 of the California Constitution, the voters authorize private sponsors with financial assistance from any public body to develop, construct or acquire up to 30,000 dwelling units of low rent housing projects within the City and County of San Francisco for the purpose of providing rental housing for persons and families of low and moderate income. This authorization shall not be affected by the early termination of Section 16.110 under subsection (l) of that Section.

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

By: _____
THOMAS J. OWEN
Deputy City Attorney

FILE NO. 120554

LEGISLATIVE DIGEST
(Fourth Draft, dated 7/11/2012)

[Affordable Housing Trust Fund and Housing Production Incentives]

A proposal to the qualified voters of the City and County of San Francisco to amend the Charter at an election to be held on November 6, 2012 by adding Section 16.110 to: 1) create a San Francisco Housing Trust Fund by setting aside general fund revenues beginning in Fiscal Year 2013-2014 and ending in Fiscal Year 2042-2043 to create, acquire and rehabilitate affordable housing and promote affordable home ownership programs in the City; and 2) lower and stabilize the impacts of affordable housing regulatory impositions on private residential projects; and to authorize the development of up to 30,000 affordable rental units in the City under Article 34 of the California Constitution.

The Housing Trust Fund

Current law does not require the City to set aside money for affordable housing programs.

The proposal would amend the Charter to establish a Housing Trust Fund ("the Fund") to create, acquire and rehabilitate affordable housing and promote affordable home ownership programs in the City.

Beginning in Fiscal Year 2013-14, the City would contribute $20 million to the Fund. For the next 11 years, the City would contribute an amount increasing by $2.8 million a year, until the annual contribution reached $50.8 million in Fiscal Year 2024-25. For the last 18 years, the City would contribute an amount based on the $50.8 million, but adjusted for changes in the City's General Fund revenues over time.

Under the proposal, the City would use money from the Fund to create, acquire, and rehabilitate rental and ownership housing affordable to households earning up to 120 percent of the Area Median Income, and to households including a First Responder, such as a City firefighter or police officer. The City would contribute at least $15 million from the Fund to a program that provides loans for use as down payments on the purchase of a housing unit. The City would contribute at least $15 million from the Fund to a program that provides funds to help people avoid losing a housing unit they already own or rent. The City could also use monies from the Fund to help pay for certain public facilities needed to accommodate increased residential density in the City's neighborhoods.

The City could issue revenue bonds and other types of debt secured by the Fund.

Lowering Current Affordable Housing Requirements

The City requires private residential developers to set aside some of their new housing units as affordable housing, or otherwise support the creation of new affordable housing. Developers generally may provide affordable units on- or off-site, or pay a fee. The City imposes these requirements through the Planning Code and other City project approvals.

With certain exceptions, the proposal would reduce by 20 percent the number of on-site units a developer would need to provide to meet the City's requirements. But the proposal would not reduce the requirement below the equivalent of 12 percent of the units, affordable at a specified income level.

Stabilizing Future Affordable Housing Cost Obligations

With certain exceptions and subject to certain adjustments, the proposal would prohibit the City from adopting any new land use law or administrative regulation, or imposing any new permit condition, that would increase a developer's relative cost of meeting the City's affordable housing requirements.

Term

The amendment would expire automatically after 30 years. In addition, the Mayor could cancel the amendment at any time before January 1, 2013 after considering the City's financial situation.

Article 34 Authorization

The State Constitution provides, in part, that no low rent housing project shall be developed, constructed, or acquired with public money until the voters in the jurisdiction where the project will be located have approved the project.

The proposal would authorize private sponsors with financial assistance from any public body to develop, construct or acquire up to 30,000 dwelling units of low rent housing projects within the City to provide rental housing for persons and families of low and moderate income.

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

Ben Rosenfield
Controller
Monique Zmuda
Deputy Controller

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2012 JUL 10 PM 4:50
BY AK

July 11, 2012

Ms. Angela Calvillo
Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place Room 244
San Francisco, CA 94102-4689

RE: File 120554 – Charter Amendment specifying funding for affordable housing

Dear Ms. Calvillo,

Should the proposed charter amendment be approved by the voters, in my opinion, it would affect the cost of government for a thirty year period beginning in fiscal year (FY) 2013-2014 in that it would set aside funds for affordable housing which are currently available for any public purpose. To the extent that funds are shifted to fund this requirement, other City spending would have to be reduced or new revenues identified.

The proposed charter amendment establishes a baseline funding requirement of $20 million from the General Fund in FY 2013-14. During the ten following years, the fund grows by $2.8 million each year until reaching $50.8 million in FY 2024-2025. In subsequent years, this base would then increase or decrease in proportion to overall General Fund discretionary revenues growth or decline. These costs are likely to be partially offset by savings resulting from the retirement of housing-related bonds issued by the City's former Redevelopment Agency. Absent this measure, these savings could be appropriated to any public purpose.

The proposed San Francisco Housing Trust Fund will be used to create or support affordable housing opportunities for those who meet qualifications specified in the measure. These uses include the purchase of land in the city for construction of affordable housing and down payment assistance to qualified households. A portion of proceeds in the fund may also be used for public realm infrastructure investments, including streetscape improvements. Further, the charter amendment specifies that projects that are subject to the City inclusionary housing ordinance will have affordable housing obligations reduced by 20 percent, and prohibits future increases above this requirement.

Sincerely,

Ben Rosenfield
Controller

Note: This analysis reflects our understanding of the proposal as of the date shown. At times further information is provided to us which may result in revisions being made to this analysis before the final Controller's statement appears in the Voter Information Pamphlet.

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July 10, 2012

Supervisor Jane Kim, Chair
Rules Committee
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 9410

Dear Rules Committee Members,

The San Francisco Planning and Urban Research Association (SPUR) would like to express our strong support for the Affordable Housing Trust Fund and Housing Production Incentive Program. We believe this measure will support the production of housing at all income levels by doing the following:

1. **Creating a housing trust fund for affordable housing for the next 30 years.** This trust fund will grow from an appropriation of $20 million in the first year to appropriations of $50 million annually by FY 2025-2026. The housing trust fund will be used to create, acquire and rehabilitate housing for low and moderate-income households.

2. **Creating incentives to support the production of market rate and below-market rate housing.** Under the City's existing inclusionary housing requirement, project sponsors may chose to provide below market rate housing on-site, off-site or pay an in-lieu fee. This measure will reduce the on-site inclusionary housing cost burden by 20%, thereby encouraging project sponsors to meet their below-market rate obligation by providing BMR units on-site and will stimulate the production of new market rate housing.

In addition, the measure also caps future inclusionary and affordable housing requirements in areas not receiving an upzoning. For new area plans and new special use districts receiving significant upzonings, the cap would not apply. The cap would also not apply to projects in redevelopment areas and those with development agreements. In this way the Charter Amendment stabilizes the fee burden for market rate projects, while enabling the City to recapture value created through future significant upzonings.

This Charter Amendment before you is the result of an in-depth dialogue between multiple parties with diverse perspectives on housing issues. We urge you to support the Charter Amendment when it comes before you tomorrow.

Should you have any questions, please do not hesitate to contact me at 415-644-4292.

Sincerely,

Sarah Karlinsky
Deputy Director