

[Public Advocate]

CHARTER AMENDMENT

PROPOSITION \_\_\_\_\_

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending Sections 6.100, 13.101, 13.101.5 and 13.102 and by adding Section 6.108 to create the Public Advocate.

The Board of Supervisors hereby submits to the qualified voters of said City and County at an election to be held on November 5, 2002, a proposal to amend the Charter of said City and County by amending Sections 6.100, 13.101, 13.101.5 and 13.102 and by adding Section 6.108.

Note: Additions are *single-underline italics Times New Roman*;  
Deletions are ~~*strikethrough italics Times New Roman*~~.

Sec. 6.100. DESIGNATION OF OTHER ELECTIVE OFFICERS.

In addition to the officers required to be elected under other Articles of this Charter, the following shall constitute the elective officers of the City and County: the Assessor-Recorder, City Attorney, District Attorney, Public Advocate, Public Defender, Sheriff and Treasurer. Each such officer shall be elected to a four-year term and shall serve full time.

The City Attorney shall be licensed to practice law in all courts of the state of California and shall have been so licensed for at least ten years next preceding his or her

election. The District Attorney and Public Defender shall each be licensed to practice law in all courts of the state of California and shall have been so licensed for at least five years next preceding his or her election. Such officers shall not engage in private practice of law during the period they serve as elective officers of the City and County.

Subject to the powers and duties set forth in this Charter, the officers named in this section shall have such additional powers and duties prescribed by state laws for their respective office. The terms of office in effect for these officers on the date this Charter is adopted shall continue.

SEC. 6.108. PUBLIC ADVOCATE

(a) Findings. The City and County of San Francisco is responsible for providing a wide array of services to those who reside in, work in, or visit the City. Those who depend on City services are entitled to an effective procedure for resolving complaints when services are not delivered or could be improved. Although many departments within City government have procedures for receiving and resolving complaints about City services, citizens often have trouble obtaining access to these procedures or remain confused about them. An elected official responsible directly to the voters whose sole responsibility is to assist citizens to resolve complaints can explain the formal processes that already exist in the law to address the complaint, work with departments and individuals to resolve complaints where no such formal processes exist, provide an ongoing overview and assessment of the provision of services in the City, and aid policy makers in determining the administrative, legislative and budgetary changes that are needed to better serve the public.

(b) The Public Advocate shall be responsible for periodic review of the implementation and administration of City services and programs. The Public Advocate may review customer service plans prepared by City departments as required by this Charter, and make recommendations for improvements to these plans. In addition, the Public Advocate shall:

- (1) Review complaints of a recurring and multi-neighborhood or Citywide nature relating to City services or programs, and make proposals to improve the City's response to the complaints.
- (2) Receive individual complaints concerning City services and other administrative actions of City agencies and investigate and otherwise attempt to resolve such individual complaints. In addition, the Public Advocate may, on the request of a resident, taxpayer, neighborhood organization, elected official, or his or her own initiative, inquire into any alleged failure of a City officer or agency to provide services or programs which the officer or agency is responsible for providing. If as a result of such inquiry, the Public Advocate concludes that there is any substantial failure to provide such services or programs, he or she shall submit a preliminary report documenting the conclusions of the inquiry to the officer or officers and the head of each agency involved. Within a reasonable time after submitting such preliminary report, the Public Advocate shall issue a final report to the Board of Supervisors, Mayor, and agency documenting the conclusions of the inquiry. Pursuant to the procedures set forth in subsection (d), the Public Advocate shall provide

the agency with the preliminary report before making any draft,  
preliminary or final report public.

(3) Introduce legislation to improve City programs and services and make  
government more efficient.

(4) Establish programs and initiatives to assist traditionally underserved  
communities gain access to government.

(5) Have timely access to all records and documents which the Public  
Advocate deems necessary to complete the investigations, inquiries and  
reviews required by this Section. The provisions of this subsection shall  
not apply to those records and documents of City agencies which are  
privileged or otherwise protected from disclosure or which are prepared  
or maintained by the City Attorney, District Attorney or the Ethics  
Commission for use in any investigation authorized by State law or the  
Charter.

(c)(1) Notwithstanding any other provision of this Section 6.108, the Public  
Advocate shall not review or investigate complaints regarding matters which (i) may be  
resolved through a formal process established by law or implementing regulation, (ii)  
may be resolved through a grievance mechanism established by collective bargaining  
agreement or contract, or (iii) involve conduct which may constitute a violation of law or  
give rise to a claim against or on behalf of the City. Notwithstanding these exceptions,  
the Public Advocate may review and investigate complaints that a City department is not  
complying with the requirements in the Charter and any implementing ordinance with  
respect to customer services plans; provided, however, that if any such investigation

discloses circumstances that may give rise to a claim against or on behalf of the City, the Public Advocate shall consult with the City Attorney and shall only proceed if and to the extent authorized by the City Attorney. The provisions of Section 3.100, subsection 3 of this Charter, concerning the Mayor's responsibility for receiving and responding to complaints about the administration of the affairs of the City, does not constitute a "formal process established by law" under subsection (c)(1)(i).

(2) If the Public Advocate receives a complaint regarding matters over which the Public Advocate does not have jurisdiction, he or she shall advise the complainant of the appropriate procedure for the resolution of the complaint and shall promptly refer the complaint to the department with jurisdiction to resolve it.

(3) If during the conduct of any investigation, inquiry, or review authorized by this section, the Public Advocate discovers that the matter involves conduct which may constitute a violation of law, he or she shall take no further action but shall promptly refer the matter to the agency responsible for enforcement of the law. All complaints received and any investigative file prepared or maintained by the Public Advocate regarding matters covered by this subsection (c)(3) shall be confidential to the extent permitted by State law.

(d) Before making public any portion of any draft, preliminary or final report relating to the operations or activities of a City officer or agency, the Public Advocate shall send a copy of the draft or preliminary report to any such officer, and to the head of any agency, discussed in such report and provide the officer and agency, in writing, with a reasonable deadline for their review and response. The Public Advocate shall include

in any report, or portion thereof, which is made public a copy of all such officer and agency responses.

(e) The Public Advocate may hold public hearings in the course of fulfilling the requirements of this section, provided that a complete transcript of any such hearings shall be made available for public inspection free of charge within sixty days after the hearing. The Public Advocate shall also provide a copy of any requested pages of such transcript at a reasonable fee to cover copying and, if relevant, mailing costs.

(f) Not later than the thirty-first day of October of each year, the Public Advocate shall present to the Board of Supervisors a report on the activities of the office during the preceding fiscal year. The report shall include: (i) a statistical summary of the complaints received during such fiscal year, categorized by agency, type of complaint, agency response, mode of resolution, and such other factors as the Public Advocate deems appropriate; (ii) an analysis of recurring complaints and the Public Advocate's recommendations for administrative, legislative or budgetary actions to resolve the underlying problems causing the complaints; (iii) a summary of customer service plans reviewed and the recommendations for improvement; (iv) a summary of the findings and recommendations of the agency program reviews conducted during the fiscal year and a summary of the agency responses to such findings and recommendations; (v) a summary of the programs and services which, in the opinion of the Public Advocate, are not being implemented by the City agencies and officers responsible for implementation, including a description of the nature and extent of the failure and a summary of the responses of the agencies or officers to the Public Advocate's conclusions; and (vi) a summary of improvements in implementation of

services and programs since the Public Advocate's last annual report. The Public Advocate shall include an assessment of the fiscal implications of any recommendations presented in this report.

(g) The Public Advocate shall be elected for a four year term. The first election for Public Advocate shall take place at the General Municipal Election in November, 2003.

SEC. 13.101. TERMS OF ELECTIVE OFFICE.

Except in the case of an appointment or election to fill a vacancy, the term of office of each elected officer shall commence at 12:00 noon on the eighth day of January following the date of the election.

Subject to the applicable provisions of Section 13.102, the elected officers of the City and County shall be elected as follows:

At the general municipal election in 1995 and every fourth year thereafter, a Mayor, a Sheriff, Public Advocate and a District Attorney shall be elected.

At the statewide general election in 1996 and every fourth year thereafter, four members of the Board of Education and four members of the Governing Board of the Community College District shall be elected.

At the general municipal election in 1997 and every fourth year thereafter, a City Attorney and a Treasurer shall be elected.

At the statewide primary election in 1998 and every fourth year thereafter, an Assessor-Recorder and Public Defender shall be elected.

At the statewide general election in 1998 and every fourth year thereafter, three members of the Board of Education and three members of the Governing Board of the Community College District shall be elected.

The election and terms of office of members of the Board of Supervisors shall be governed by Section 13.110.

SEC. 13.101.5. VACANCIES.

(a) If the office of Public Advocate, Assessor-Recorder, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, or Member of the Board of Supervisors, Board of Education or Governing Board of the Community College District becomes vacant because of death, resignation, recall, permanent disability, or the inability of the respective officer to otherwise carry out the responsibilities of the office, the Mayor shall appoint an individual qualified to fill the vacancy under this Charter and state laws.

(b) If the Office of Mayor becomes vacant because of death, resignation, recall, permanent disability or the inability to carry out the responsibilities of the office, the President of the Board of Supervisors shall become Acting Mayor and shall serve until a successor is appointed by the Board of Supervisors.

(c) Any person filling a vacancy pursuant to subsection (a) or (b) of this Section shall serve until a successor is selected at the next election occurring not less than 120 days after the vacancy, at which time an election shall be held to fill the unexpired term, provided that (1) if an election for the vacated office is scheduled to occur less than one year after the vacancy, the appointee shall serve until a successor is selected at that



election or (2) if an election for any seat on the same board as the vacated seat is scheduled to occur less than one year but at least 120 days after the vacancy, the appointee shall serve until a successor is selected at that election to fill the unexpired term.

(d) If no candidate receives a majority of the votes cast at an election to fill a vacated office, the two candidates receiving the most votes shall qualify to have their names placed on the ballot for a municipal runoff election at the next regular or otherwise scheduled election occurring not less than five weeks later. If an instant runoff election process is enacted for the offices enumerated in this Section, that process shall apply to any election required by this Section.

#### SEC. 13.102. INSTANT RUNOFF ELECTIONS.

(a) For the purposes of this section: (1) a candidate shall be deemed "continuing" if the candidate has not been eliminated; (2) a ballot shall be deemed "continuing" if it is not exhausted; and (3) a ballot shall be deemed "exhausted," and not counted in further stages of the tabulation, if all of the choices have been eliminated or there are no more choices indicated on the ballot. If a ranked-choice ballot gives equal rank to two or more candidates, the ballot shall be declared exhausted when such multiple rankings are reached. If a voter casts a ranked-choice ballot but skips a rank, the voter's vote shall be transferred to that voter's next ranked choice.

(b) The Mayor, Sheriff, District Attorney, City Attorney, Treasurer, Assessor-Recorder, Public Defender, *Public Advocate* and members of the Board of Supervisors shall be elected using a ranked-choice, or "instant runoff," ballot. The ballot shall allow

voters to rank a number of choices in order of preference equal to the total number of candidates for each office; provided, however, if the voting system, vote tabulation system or similar or related equipment used by the City and County cannot feasibly accommodate choices equal to the total number of candidates running for each office, then the Director of Elections may limit the number of choices a voter may rank to no fewer than three. The ballot shall in no way interfere with a voter's ability to cast a vote for a write-in candidate.

(c) If a candidate receives a majority of the first choices, that candidate shall be declared elected. If no candidate receives a majority, the candidate who received the fewest first choices shall be eliminated and each vote cast for that candidate shall be transferred to the next ranked candidate on that voter's ballot. If, after this transfer of votes, any candidate has a majority of the votes from the continuing ballots, that candidate shall be declared elected.

(d) If no candidate receives a majority of votes from the continuing ballots after a candidate has been eliminated and his or her votes have been transferred to the next-ranked candidate, the continuing candidate with the fewest votes from the continuing ballots shall be eliminated. All votes cast for that candidate shall be transferred to the next-ranked continuing candidate on each voter's ballot. This process of eliminating candidates and transferring their votes to the next-ranked continuing candidates shall be repeated until a candidate receives a majority of the votes from the continuing ballots.

(e) If the total number of votes of the two or more candidates credited with the lowest number of votes is less than the number of votes credited to the candidate with

the next highest number of votes, those candidates with the lowest number of votes shall be eliminated simultaneously and their votes transferred to the next-ranked continuing candidate on each ballot in a single counting operation.

(f) A tie between two or more candidates shall be resolved in accordance with State law.

(g) The Department of Elections shall conduct a voter education campaign to familiarize voters with the ranked-choice or, "instant runoff," method of voting.

(h) Any voting system, vote tabulation system, or similar or related equipment acquired by the City and County shall have the capability to accommodate this system of ranked-choice, or "instant runoff," balloting.

(i) Ranked choice, or "instant runoff," balloting shall be used for the general municipal election in November 2002 and all subsequent elections. If the Director of Elections certifies to the Board of Supervisors and the Mayor no later than July 1, 2002 that the Department will not be ready to implement ranked-choice balloting in November 2002, then the City shall begin using ranked-choice, or "instant runoff," balloting at the November 2003 general municipal election.

If ranked-choice, or "instant runoff," balloting is not used in November of 2002, and no candidate for any elective office of the City and County, except the Board of Education and the Governing Board of the Community College District, receives a majority of the votes cast at an election for such office, the two candidates receiving the most votes shall qualify to have their names placed on the ballot for a runoff election held on the second Tuesday in December of 2002.

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

By: \_\_\_\_\_  
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