

1 [Charter Amendment - Housing and Development Commission]

2

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, the Department of Housing and Community Development, and**

7 **the Department of Real Estate; to require the Commission to review and make**

8 **recommendations regarding proposed development agreements and conveyance of certain**

9 **surplus City property before the Board of Supervisors considers such proposals; and to**

10 **require the Commission to adopt rules creating competitive selection processes for the**

11 **Department of Housing and Community Development’s expenditure of affordable housing**

12 **funds and for the development of affordable housing on City-owned property under the**

13 **jurisdiction of the Department of Housing and Community Development.**

14

15 Section 1. The Board of Supervisors hereby submits to the qualified voters of the City

16 and County, at an election to be held on November 8, 2016, a proposal to amend the Charter of

17 the City and County by adding Section 4.133 and revising Sections 4.129, 15.105, and 16.110, to

18 read as follows:

19 NOTE: **Unchanged Charter text and uncodified text** are in plain font.

20 **Additions** are *single-underline italics Times New Roman font*.

21 **Deletions** are ~~*strike-through italics Times New Roman font*~~.

22 **Asterisks** (\* \* \* \*) indicate the omission of unchanged Charter subsections.

23 **SEC. 4.133. HOUSING AND DEVELOPMENT COMMISSION**

24 *(a) Membership and Terms of Office.*

25 *(1) The Housing and Development Commission shall consist of five members,*

*appointed as follows:*

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

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

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

11 (2) Commissioners shall serve four-year terms, beginning at noon on March 1,  
12 2017; provided, however, the term of the initial appointees in Seats 2 and 4 shall expire at noon  
13 on March 1, 2019, and the term of the initial appointees in Seats 1, 3, and 5 shall expire at noon  
14 on March 1, 2021.

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

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

23 (b) Powers and Duties.

24 (1) With regard to the three departments described in subsection (c), and subject  
25 to the transition provision in subsection (d)(3), the Commission shall exercise all the powers and

1 duties of boards and commissions set forth in Sections 4.102, 4.103, and 4.104, except that the  
2 Commission shall have the exclusive power to appoint, evaluate, and remove the department  
3 heads of the three departments.

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

15 (3) In addition to any other process or approvals required by law, and except as  
16 set forth in subsection (f) below, the Commission shall review and recommend to the Board of  
17 Supervisors whether to approve any fee simple absolute conveyance of surplus real property  
18 owned by the City, before the Board of Supervisors considers whether to approve the  
19 conveyance. For the purpose of this Section 4.133, "surplus real property" shall mean any real  
20 property that is not required to fulfill the mission of the City department, commission, or agency  
21 with jurisdiction or control of such property, and that is not required to fulfill the mission of  
22 another City department, commission or agency or other governmental entity, as determined by  
23 the Board of Supervisors by resolution, and shall not include any real property that is sold or  
24 exchanged for purposes other than housing development. The Commission may recommend that  
25 the Board of Supervisors approve or reject a proposed fee simple absolute conveyance, and may

1 also recommend specific changes for consideration by the Board of Supervisors. If the Board of  
2 Supervisors approves changes to a proposed fee simple absolute conveyance after the  
3 Commission's hearing, the Board of Supervisors shall not be required to refer the matter back to  
4 the Commission for further review or recommendations.

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

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

24 (1) Department of Economic and Workforce Development. Except as otherwise  
25 provided for in this Charter, the Department of Economic and Workforce Development shall

1 oversee City programs related to private workforce development and job training; business  
2 attraction and retention, including international businesses; real estate development projects  
3 involving the City and other public or private property owners; commercial corridors  
4 revitalization; community business districts; infrastructure financing districts; and any other  
5 related responsibilities prescribed by ordinance. The Department of Economic and Workforce  
6 Development may assist other departments, including the Planning Department, in negotiating  
7 development agreements with private property owners.

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

16 (3) Department of Real Estate. Except as otherwise provided for in this Charter,  
17 and subject to Board of Supervisors approval under Section 9.118 and any such other limits on  
18 the delegation as the Board of Supervisors may adopt by ordinance, the Department of Real  
19 Estate shall manage all real estate of the City including its public buildings; acquire real  
20 property required for City purposes; sell or transfer surplus real property owned by the City;  
21 lease property by and for City departments; appraise real property and enter into appraisal  
22 services contracts with qualified appraisers; and undertake any other related responsibilities  
23 prescribed by ordinance.

24 (d) Transition provisions.  
25

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

4                   (2) The Commission shall have its inaugural meeting by no later than April 1,  
5 2017.

6                   (3) Beginning May 15, 2017, the Department of Economic and Workforce  
7 Development, the Department of Housing and Community Development, and the Department of  
8 Real Estate shall come into existence, and shall succeed to the powers and duties of the  
9 previously existing Office of Economic and Workforce Development and Office of Housing and  
10 Community Development under the Mayor, and the existing Real Estate Division under the City  
11 Administrator, respectively, and those offices and division shall cease to exist.

12                   (e) Existing Contracts. Nothing in this Section 4.133 shall be interpreted to impair the  
13 obligations of any existing contract entered into by the City before May 15, 2017, or require the  
14 City to abandon a competitive bid or contractor selection process that started before May 15,  
15 2017.

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

24  
25                   **SEC. 4.129. DEPARTMENT OF ADMINISTRATIVE SERVICES.**

1           The director of the Department of Administrative Services shall purchase all supplies,  
2 equipment, and contractual services required by the several departments and offices of the City  
3 and County, except as otherwise provided in the Administrative Code. Except in cases of  
4 emergency, the director shall not enter into any contract or issue any purchase order unless the  
5 Controller shall certify thereon that sufficient unencumbered balances are available in the proper  
6 fund to meet the payments under such purchase order or contract as these become due. The  
7 director shall have charge of the central warehouses, central storerooms, central garage and shop.

8           The director shall by rules and regulations approved by the Controller, designate and  
9 authorize appropriate personnel within the Department of Administrative Services to exercise the  
10 director's signature powers for purchase orders and contract.

11           The director shall have authority to exchange used materials, supplies, and equipment to  
12 the advantage of the City and County, advertise for bids, and ~~to~~ sell and otherwise dispose of  
13 personal property belonging to the City and County. The director shall have authority to require  
14 the transfer of surplus personal property in any department to stores or to other departments.

15           ~~The director shall manage all public buildings, facilities and real estate of the City and~~  
16 ~~County, unless otherwise provided for in this Charter.~~

17           Additional duties and functions of the Department of Administrative Services shall be  
18 assigned the City Administrator, by ordinance or pursuant to Section 4.132.

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20           **SEC. 15.105. SUSPENSION AND REMOVAL.**

21           (a) ELECTIVE AND CERTAIN APPOINTED OFFICERS. Any elective officer, and  
22 any member of the Airport Commission, Asian Art Commission, Civil Service Commission,  
23 Commission on the Status of Women, Golden Gate Concourse Authority Board of Directors,  
24 Health Commission, Human Services Commission, Juvenile Probation Commission, Municipal  
25 Transportation Agency Board of Directors, Port Commission, Public Utilities Commission,

1 Recreation and Park Commission, Fine Arts Museums Board of Trustees, ~~Taxi Commission~~, War  
2 Memorial and Performing Art Center Board of Trustees, Board of Education or Community  
3 College Board is subject to suspension and removal for official misconduct as provided in this  
4 section. Such officer may be suspended by the Mayor and the Mayor shall appoint a qualified  
5 person to discharge the duties of the office during the period of suspension. Upon such  
6 suspension, the Mayor shall immediately notify the Ethics Commission and Board of  
7 Supervisors thereof in writing and the cause thereof, and shall present written charges against  
8 such suspended officer to the Ethics Commission and Board of Supervisors at or prior to their  
9 next regular meetings following such suspension, and shall immediately furnish a copy of the  
10 same to such officer, who shall have the right to appear with counsel before the Ethics  
11 Commission in his or her defense. The Ethics Commission shall hold a hearing not less than five  
12 days after the filing of written charges. After the hearing, the Ethics Commission shall transmit  
13 the full record of the hearing to the Board of Supervisors with a recommendation as to whether  
14 the charges should be sustained. If, after reviewing the complete record, the charges are  
15 sustained by not less than a three-fourths vote of all members of the Board of Supervisors, the  
16 suspended officer shall be removed from office; if not so sustained, or if not acted on by the  
17 Board of Supervisors within 30 days after the receipt of the record from the Ethics Commission,  
18 the suspended officer shall thereby be reinstated.

19 (b) BUILDING INSPECTION COMMISSION, PLANNING COMMISSION, BOARD  
20 OF APPEALS, ELECTIONS COMMISSION, ETHICS COMMISSION, HOUSING AND  
21 DEVELOPMENT COMMISSION, AND ENTERTAINMENT COMMISSION. Members of the  
22 Building Inspection Commission, the Planning Commission, the Board of Appeals, the Elections  
23 Commission, the Ethics Commission, the Housing and Development Commission, and the  
24 Entertainment Commission may be suspended and removed pursuant to the provisions of  
25



1 subsection (a) of this section except that the Mayor may initiate removal only of the Mayor's  
2 appointees and the appointing authority shall act in place of the Mayor for all other appointees.

3 \* \* \* \*

4  
5 **SEC. 16.110. HOUSING TRUST FUND.**

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

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

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

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

23 (3) "Basic On-Site Inclusionary Requirement" shall mean 12% of the units in the  
24 principal project affordable to a Household whose initial household income does not exceed 90%

1 of Area Median Income for ownership units and 55% for rental units, or an on-site requirement  
2 with an equivalent Inclusionary Housing Cost Obligation.

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

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

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

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

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

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

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

1                   (~~9.10~~) "Inclusionary Housing Cost Obligation" shall mean an obligation equal to  
2 the applicable percentage of below market rate housing units required under Planning Code  
3 Sections 415.5, 415.6 or 415.7 multiplied by the then-current Affordable Housing Fee required  
4 per unit. For purposes of calculating the cost burden of any legislative change, the ~~Mayor's~~  
5 ~~Office of Housing~~ Department of Housing and Community Development shall use the average  
6 citywide unit mix for projects subject to Planning Code Section 415 within the past five years as  
7 applied to a hypothetical project of 100 units. For purposes of calculating the cost burden  
8 imposed by a condition of approval for a particular project, the ~~Mayor's Office of Housing~~  
9 Department of Housing and Community Development shall use the actual unit mix and unit count  
10 proposed in the development project subject to the condition of approval.

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.

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

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

23 (2) **Reduction of Current On-Site Inclusionary Affordable Housing**  
24 **Requirement.** Beginning on January 1, 2013, the City shall reduce by 20% the on-site  
25 inclusionary housing obligation for all projects subject to the on-site Inclusionary affordable

1 housing requirements of Planning Code Section 415et seq., including any onsite requirements  
2 found in other sections of the Planning Code including, but not limited to, Planning Code  
3 Sections 415.6, 419, 424, 249.33, 827(b)(1) and any other Municipal Code sections that refer to  
4 Planning Code Section 415et seq. or its predecessor, from the requirements of Section 415 and  
5 other related sections as they exist as of July 1, 2012. Notwithstanding the foregoing, in no event  
6 shall the on-site inclusionary housing obligation for any project be reduced below the Basic  
7 Inclusionary Housing Requirement.

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

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

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

15 (C) Sponsors of projects that have not received their first construction  
16 document as defined in Section 107A.13.1 of the San Francisco Building Code by January 1,  
17 2013 may apply once to the Planning Commission for a modification of their existing conditions  
18 of approval to reduce any on-site below market rate inclusionary requirements by 20% consistent  
19 with subsection (g)(2), or change their election so that they will provide on-site rather than off-  
20 site below market rate units or Affordable Housing Fee payments. Project sponsors seeking to  
21 amend their conditions of approval to benefit from the 20% reduction must demonstrate to the  
22 Planning Commission that the proposed reduction will enable the project to obtain financing and  
23 commence construction within a one-year time period following Planning Commission's  
24 approval of the proposed reduction. The Planning Commission shall include a condition of  
25 approval to require that the project sponsor obtain its first construction document within one year



1 of the approval. If the project sponsor does not obtain its first construction document within one  
2 year, then the conditions of approval existing before the modification shall apply unless the  
3 Zoning Administrator, after a duly noticed hearing, determines that the project sponsor has made  
4 good faith efforts to obtain its first construction document but for reasons beyond the project  
5 sponsor's control including, but not limited to, the filing of a lawsuit or delay on the part of the  
6 City or another public entity, has been unable to obtain its first construction document. In such a  
7 case, the Zoning Administrator may extend the time once, and for up to 1 year, for obtaining the  
8 first construction document. Any further extensions of time may only be granted by the Planning  
9 Commission using the same inquiry as to whether the project sponsor has made good faith  
10 efforts to obtain its first construction document. The Planning Commission may not make  
11 modifications under this subsection (g)(3)(C) after January 1, 2016.

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

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

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

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

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

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

24 (iii) A project that, through a Special Use District or other local  
25 legislation adopted after November 6, 2012, receives (1) a 20% or greater increase in

1 developable residential gross floor area, as measured by a change in height limits, Floor Area  
2 Ratio limits, or use, over prior zoning, or (2) a 50% or greater increase in residential densities  
3 over prior zoning. Notwithstanding the foregoing, should a project sponsor seek to develop a  
4 project in accordance with zoning in place immediately before the establishment of the Special  
5 Use District, this subsection (h) shall apply;

6 (iv) An area subject to a change in zoning enacted after  
7 November 6, 2012 that affects 40 or more acres or greater and results in a significant increase in  
8 residential development potential, where the area is not also encompassed by a Special Use  
9 District adopted after November 6, 2012. The City shall adopt a standard for determining what  
10 constitutes "a significant increase in residential development potential" for these purposes as  
11 follows: There shall be a Housing Review Committee comprised of the Directors of the ~~Mayor's~~  
12 ~~Office of Housing~~ Department of Housing and Community Development, the Planning  
13 Department, and the ~~Office~~ Department of Economic and Workforce Development, ~~or their~~  
14 ~~successor agencies~~. No later than March 1, 2013, the Housing Review Committee, after at least  
15 one public hearing, shall recommend a standard to the Board of Supervisors in the form of a  
16 proposed ordinance. Thereafter, the Housing Review Committee, at regular intervals determined  
17 by the Committee, shall review the standard and recommend any necessary updates or  
18 modifications to the Board. The Board of Supervisors may reject a proposed ordinance submitted  
19 by the Housing Review Committee by a majority vote. If the Board fails to reject the proposed  
20 ordinance within 60 days of receiving it from the Housing Review Committee, the proposed  
21 ordinance shall be deemed adopted. In subsequently applying the standard established in the  
22 ordinance and determining whether to increase affordable housing fees or exactions in the area  
23 subject to the change in zoning, the Board of Supervisors shall consider any analysis approved  
24 by the Controller's Office regarding the financial feasibility of development subject to the  
25 proposed fee or exaction.

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

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

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

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

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

18 (4) **Remedy.** Any challenge to the validity of any legislation or final  
19 administrative order or decision on the grounds that such legislation, order or decision increases  
20 the project sponsor's Inclusionary Housing Cost Obligation or imposes Other Affordable  
21 Housing Fees will be subject to the requirements of California Code of Civil Procedure Sections  
22 1085 and 1094.5, respectively. Any such challenge may be brought only after a project sponsor  
23 has exhausted all available administrative remedies, and shall be subject to all applicable statutes  
24 of limitations, including without limitation those set forth in California Code of Civil Procedure  
25 Section 1094.5 and California Government Code Sections 65009 and 66499.37.

1 (i) **Legislation.** The City shall enact any legislation necessary to implement subsections  
2 (g) and (h) as soon as practicable after the effective date of this Section, but no later than January  
3 1, 2014. Before the adoption of such legislation, the ~~Mayor's Office of Housing~~ Department of  
4 Housing and Community Development, with consultation as necessary with the Planning  
5 Department, shall implement the provisions of subsections (g) and (h) administratively and shall  
6 issue any necessary guidance.

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

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

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

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

23 By: \_\_\_\_\_  
24 JON GIVNER  
25 Deputy City Attorney

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