

File No. 100629

Committee Item No. 3
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS
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Committee: Rules

Date July 1, 2010

Board of Supervisors Meeting

Date _____

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OTHER

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- Charter Amendment
- _____
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Completed by: Linda Wong

Date June 25, 2010

Completed by: _____

Date _____

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

[San Francisco Affordable Housing Fund]

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 16.127, to: create a San Francisco Affordable Housing Fund; establish a baseline appropriation and make an annual appropriation to the Affordable Housing Fund of the equivalent of 33 percent of any available General Fund budget surplus for the next fifteen (15) years to support affordable housing programs; require the Mayor's Office of Housing, in cooperation with the Department of Public Health and Department of Human Services, to prepare an affordable housing plan every three (3) years and an annual affordable housing budget; affirm City policy urging the Redevelopment Agency to use at least 50 percent of its tax increment funds for low and moderate income housing; and set an expiration date for the amendment of July 1, 2026.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 2, 2010, a proposal to amend the Charter of the City and County by adding Section 16.127, to read as follows:

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

SEC. 16.127. SAN FRANCISCO AFFORDABLE HOUSING FUND.

(a) Establishment of Fund. The City and County of San Francisco ("City") hereby establishes the San Francisco Affordable Housing Fund ("the Fund") to be administered by the Mayor's Office of Housing or its successor ("MOH"). The City shall expend monies in the Fund.

subject to the budgetary and fiscal provisions of the Charter, to increase City support for affordable housing as provided in this Section.

(b) Eligible Expenditures. All expenditures from the Fund must benefit Eligible Households as defined herein. The City may disburse monies from the Fund through loans, grants or other types of payments. Eligible expenditures specifically include, but are not limited to:

(1) Predevelopment, acquisition (including land acquisition), construction, maintenance, and rehabilitation of affordable housing units, including but not limited to properties with twenty (20) or fewer units, units for families with dependents, units for households that include persons who are senior, disabled, or HIV positive or living with AIDS, and units for persons who were recently homeless or are at risk of becoming homeless, including transitional age youth leaving systems of care such as the foster care and juvenile justice systems. Any new unit created or existing unit rehabilitated using money from the Fund must be and remain affordable for ninety-nine (99) years or the life of the building;

(2) Programs to promote home ownership, including ownership cooperatives such as limited equity partnerships and community land trusts that allow all existing tenants the opportunity to purchase a unit or rent from the cooperative under a lifetime lease at existing rent, adjusted by an amount not to exceed the annual allowable rent increase under the San Francisco Rent Stabilization Ordinance, and assistance to first-time homebuyers who are Eligible Households. Any new unit created or existing unit rehabilitated using money from the Fund must be and remain affordable for ninety-nine (99) years or the life of the building

(3) Housing program administrative costs and rent subsidies (such as operating subsidies for non-profits, City administrative costs, and/or assistance to prevent eviction), and housing-related services such as tenant counseling, eviction prevention services, and legal services for Eligible Households; and

(4) Repairs of existing properties under the jurisdiction of the San Francisco Housing Authority, where the repairs have been requested in a petition signed by at least 10 percent of the residents of the affected building, and the Department of Building Inspection or the Department of Public Health confirms that the conditions to be corrected present an immediate danger to the residents' health and/or safety.

(c) Definitions. For purposes of this Section:

(1) "100% SFMI household," "80% SFMI household," and "30% SFMI household" mean, respectively, a household that earns no more than 100 percent, 80 percent, and 30 percent of the San Francisco Median Income.

(2) "Affordable" means a residential dwelling, offered for rent at a monthly price, including utilities, that does not exceed 30 percent of household monthly gross income for an Eligible Household, or offered for sale at a price with a payment for all housing costs that is consistent with MOH's underwriting guidelines for an Eligible Household. MOH shall develop guidelines that require a minimum household size for dwellings, with a certain number of bedrooms or square feet.

(3) "Eligible Household" shall mean a household that earns no more than 80% SFMI.

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

(5) "San Francisco Median Income" or "SFMI" shall mean the median income for the City, as calculated by the Mayor's Office of Housing using data from the United States Department of Housing and Urban Development ("HUD") and adjusted for household size or, if data from HUD is unavailable, calculated by the Mayor's Office of Housing using other publicly available and credible data and adjusted for household size.

(d) Excluded Expenditures. The City may not expend any monies in the Fund:

(1) For units affordable only to households earning more than 80% SFMI; or

(2) For construction of new housing under the jurisdiction of the San Francisco Housing Authority.

(e) Spending Priorities and Limitations:

(1) At least 50 percent of all new units built using money from the Fund must be two (2) or more bedroom units;

(2) Forty percent of all new units built using money from the Fund must be affordable to households earning 30 percent of SFMI and below; and the remaining 60 percent of all new units built must be affordable to Eligible Households earning 80 percent of SFMI and below;

(3) At least 75 percent of the Annual Appropriation (as defined below) must be used for the uses specified in Section (b)(1) above, including predevelopment, acquisition (including land acquisition), construction, maintenance, and rehabilitation of housing units; and

(4) All newly-constructed units built using money from the Fund must be determined by the Planning Department, in consultation with the Mayor's Office on Disability or its successor, to be constructed consistent with the Principles of Universal Design, developed by the Center for Universal Design at North Carolina State University, or a similar professional standard determined by the Mayor's Office on Disability or its successor to be appropriate, must meet all then-current legal requirements for access by persons with disabilities, and, at a minimum, must meet the access standard "adaptable." Multi-story buildings without elevators and live/work lofts will not meet these requirements.

(f) Annual Appropriation to the Fund. Starting with fiscal year 2011-2012, and continuing for the next 15 fiscal years, the City shall make an Annual Appropriation to the Affordable Housing Fund. The Annual Appropriation shall be in an amount equal to 33 percent of any General Fund budget surplus available from the immediately preceding fiscal year.

The Controller shall appropriate and maintain such an amount, together with any interest earned thereon, in the Fund. The Annual Appropriation shall be in addition to, and not

in place of, any General Fund monies appropriated to affordable housing pursuant to subsection (g).

(g) Baseline – Maintenance of Effort. The City shall use the Annual Appropriation exclusively to increase the aggregate City appropriations and expenditures for the "eligible expenditures" described in subsection (b) above, subject to the limitations and requirements in subsections (d) and (e) above. To this end, in any of the fifteen (15) years during which the City must appropriate funds under this Section, the City may not reduce the funding for affordable housing support, as described in subsection (b) above, and expenditures for shelters, drop-in centers, emergency housing (such as domestic violence centers), transitional housing, and assistance to first-time homebuyers who are part of households earning no more than 100 percent of SFMI below the amount appropriated, including supplemental appropriations, for the fiscal year 2010-11 (the "Baseline"). The City shall not deposit these Baseline amounts in the Fund.

Expenditures of the Baseline amounts are not subject to the spending exclusions, priorities, and limitations in subsections (d) and (e), above; provided, however, that the City may not spend any of the Baseline amounts on construction of new public housing under the jurisdiction of the San Francisco Housing Authority, except to increase the affordability and/or number of affordable rental or homeownership units in addition to the 1-for-1 replacement public housing units on Housing Authority sites.

The Controller shall adjust the Baseline for each year after fiscal year 2010-11, based on calculations consistent from year to year, by the percentage increase or decrease in aggregate City discretionary revenues. In determining aggregate City and County discretionary revenues, the Controller shall include only revenues received by the City that are unrestricted and that the City may use at the option of the Mayor and the Board of Supervisors for any lawful City purpose. For purposes of this subsection, the Baseline amount and the discretionary revenues the Controller uses to adjust the Baseline shall not include: (1) funds granted to the City by

private agencies or appropriated by other public agencies and received by the City;
(2) expenditures mandated by state or federal law; (3) appropriations to or expenditures of the San Francisco Redevelopment Agency or the San Francisco Housing Authority; or
(4) expenditures from the Fund. The Controller shall correct errors in his/her estimate of discretionary revenues for a fiscal year by adjustment in the next year's estimate. Within one hundred eighty (180) days following the end of each fiscal year this Section is in effect, the Controller shall calculate and publish the actual amount of City appropriations for affordable housing.

At the end of each fiscal year, any monies from the Annual Appropriation that remain uncommitted in the Fund shall be carried forward to the next fiscal year and shall be appropriated then or thereafter for the purposes specified in this Section. The Controller shall adjust the Controller's estimate of the Baseline, including any Baseline changes required from increases or decreases to aggregate City discretionary revenues after budget adoption. The Controller shall determine the City's General Fund for purposes of subsection (f) as part of the Controller's 3rd quarter report. The Annual Appropriation shall be included by the Mayor in his/her submission of a balanced budget to the Board of Supervisors. The Board of Supervisors may amend the Annual Appropriation by a vote of 8 members of the Board.

(h) Budgeting and Planning; Administration.

(1) Affordable Housing Plan. No later than January 30, 2011 and at least every three (3) years afterwards, MOH, in cooperation with the Department of Public Health ("DPH"), and the Department of Human Services ("DHS"), shall prepare a needs assessment and general plan for affordable housing that identifies priority populations and program expenditures for affordable housing.

(2) Annual Budgeting. No later than January 30 of each year, MOH, in cooperation with DPH and DHS, shall prepare and present at a public hearing an affordable housing budget for the expenditure of the Annual Appropriation and Baseline Amount during the

upcoming fiscal year that is consistent with the affordable housing plan. The proposed budget shall project anticipated revenues from the Annual Appropriation and the Baseline Amount, propose eligible expenditures, and report previous fiscal year expenditures. No later than February 15 of each year, MOH shall submit the proposed budget to the Board of Supervisors for review and approval.

(3) Board of Supervisors Review and Approval. The proposed affordable housing plan, updates to the plan, annual affordable housing budget, and rules and procedures are subject to approval of the Board of Supervisors. No later than March 30 of each year, the Board shall hold a public hearing on the proposed annual budget and, no later than May 15 of each year, the Board shall approve an affordable housing budget. The Board may amend an affordable housing plan or budget by resolution at any time and may adopt procedural regulations not inconsistent with this Section.

(i) Rainy Day Reserve. The Controller shall not include Funds set aside under this Section in total General Fund revenues for the purpose of calculating the allocation to the Rainy Day Reserve under Charter Section 9.113.5(b).

(j) San Francisco Redevelopment Agency Plans. The City affirms the policy stated in Board of Supervisors Resolution No. 427-05 urging the Redevelopment Agency of the City and County of San Francisco (the "Agency") to establish a housing policy setting a clear intent to use over 50 percent of total tax increment funds allocated each year from all the redevelopment project areas for the provision of low and moderate income housing and to include a statement of such policy intent in all future redevelopment plans submitted to the Board of Supervisors for its approval.

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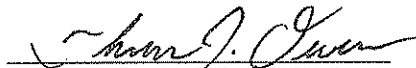
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(k) Expiration Date. This Section shall expire by operation of law on July 1, 2026 unless reauthorized by the voters, and the City Attorney shall cause it to be deleted from future editions of the Charter published after that date.

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

By: 
THOMAS J. OWEN
Deputy City Attorney

LEGISLATIVE DIGEST
(First Draft, dated 5/28/2010)

[San Francisco Affordable Housing Fund.]

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 2, 2010 by adding Section 16.127, to: create a San Francisco Affordable Housing Fund; establish a baseline appropriation and make an annual appropriation to the Affordable Housing Fund of the equivalent of 33 percent of any available General Fund budget surplus for the next fifteen (15) years to support affordable housing programs; require the Mayor's Office of Housing, in cooperation with the Department of Public Health and Department of Human Services, to prepare an affordable housing plan every three (3) years and an annual affordable housing budget; affirm City policy urging the Redevelopment Agency to use at least 50 percent of its tax increment funds for low and moderate income housing; and set an expiration date for the amendment of July 1, 2026.

Existing Law

The San Francisco Charter does not currently provide a specific or dedicated source of funding for affordable housing.

Amendments to Current Law

Creation of the Fund. The proposal is an amendment to the San Francisco Charter that would create an Affordable Housing Fund ("the Fund"). The Mayor's Office of Housing would use money from the Fund to increase City support for affordable housing in San Francisco.

Annual Appropriation. Every year, for the next 15 years, the City would appropriate to the Fund one-third of any General Fund budget surplus remaining at the end of the previous year. The Board of Supervisors could, by an ordinance adopted by at least 8 votes, appropriate less than a third of the surplus to the Fund.

Eligible Expenditures. The City would have to use the money in the Fund for programs and activities related to affordable housing and benefiting households earning no more than 80 percent of the median income for San Francisco. The City could use the money for, among other things:

- Predevelopment, acquisition (including land acquisition), construction, maintenance, and rehabilitation costs of affordable housing units. The City would have to use at least 75 percent of the money for these types of costs;
- Programs to promote home ownership, including limited equity partnerships and community land trusts;
- Housing program administrative costs and rent subsidies, and housing-related services such as tenant counseling and eviction prevention services for eligible households; and,
- Repairs of Housing Authority properties, where the repairs were requested in a petition signed by at least 10 percent of the residents of the affected building, and the conditions needing repair presented an immediate danger to the residents' health or safety.

Any new unit created or existing unit rehabilitated using money from the Fund would have to be affordable for ninety-nine (99) years, or for the life of the building, whichever was shorter. At least half of all new units built using money from the Fund would have to include two or more bedrooms. Forty percent of all new units would have to be affordable to households earning no more than 30 percent of the median income for San Francisco; and the other 60 percent would have to be affordable to households earning no more than 80 percent of the median income. All newly-constructed units built using money from the Fund would have to meet design standards and legal requirements for access by persons with disabilities.

Affordable Housing Baseline. In addition to the Fund and the Annual Appropriation, the amendment would require the City to continue, for the term of the amendment, to spend as much on support of affordable housing, and on shelters, drop-in centers, emergency housing (such as domestic violence centers), transitional housing, and assistance to certain first-time homebuyers, as it will spend on these programs in Fiscal Year 2010-11, subject to annual adjustments for changes in City revenues.

Administration. The amendment would require the Mayor's Office of Housing, working with the Department of Public Health and the Department of Human Services, to develop an Affordable Housing Plan for the City. The Plan would include a needs assessment and general plan for affordable housing that identified priority populations and program expenditures. The first Plan would be due by January 30, 2011, and the departments would update the plan at least every three (3) years afterwards.

The amendment would also require the same departments to prepare an annual spending plan for money from the Fund and the baseline amount. The spending plan would summarize anticipated revenues, report expenditures for affordable housing from the previous year, and propose expenditures for the upcoming year. The Board of Supervisors would review and, if appropriate, approve the Affordable Housing Plan and subsequent updates, and the annual affordable housing spending plans. The Board could amend an affordable housing plan or spending plan by resolution.

Redevelopment Agency Plans. The amendment would re-affirm existing City policy urging the San Francisco Redevelopment Agency to use at least half of its total tax increment revenues each year to provide low and moderate income housing.

Expiration. The amendment would automatically expire after 15 years, on July 1, 2026, unless the voters extended it.

