

[Creating a Public Works Commission, setting its powers and duties; authorizing the Mayor to appoint the Director of Public Works; requiring a performance audit of DPW every 3 years; and setting aside excess General Fund revenues for street repair.]

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 a new Section 4.121.5 and amending Sections 4.130, D3.750-4, and F1.104, to create a Public Works Commission and establish its powers and duties, authorize the Mayor to appoint the Director of Public Works, and require the Controller to conduct a performance audit of the Department of Public Works every three years, and by amending Section 9.113.5, to allocate one-tenth of any excess General Fund revenues in any given year, as defined in the Rainy Day Reserve amendment, to street repair and reconstruction.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 6, 2007, a proposal to amend the Charter of the City and County by adding a new Section 4.121.5, and amending Sections 4.130, D3.750-4, F1.104, and 9.113.5, to read as follows:

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

SEC. 4.121.5. PUBLIC WORKS COMMISSION.

General. The Public Works Commission shall consist of seven members nominated and appointed pursuant to this section. Four of the members shall be nominated by the Mayor, and three of the members shall be nominated by the Board of Supervisors. Vacancies shall be filled by the nominating authority.

Each nomination of the Mayor shall be subject to the same approval process provided in Section 4.105.

Members may only be removed by the nominating authority pursuant to Section 15.105.

In order to stagger the terms, three members shall initially serve two-year and four members shall initially serve four-year terms as determined by the Clerk of the Board of Supervisors pursuant to Section 4.105, subd. (2). All subsequent terms shall be four years.

Persons appointed to the Commission shall have demonstrated experience, background or expertise in at least one of the following fields: capital project construction, public administration, public finance, architecture, land surveying, urban planning, land use, street repair and maintenance, street environmental services or civil engineering.

Powers and Duties. The Public Works Commission shall be responsible for oversight of the operations and performance of the Department of Public Works, and shall have the general duties and powers of a commission in the executive branch as set forth elsewhere in this Article. The Commission and the Mayor shall each have the power to remove the department head at will. The powers and duties of the Commission also shall include, but not be limited to:

1. Entering into and awarding contracts for public work or improvements, except for projects that the Charter places under the specific or exclusive jurisdiction of another board or commission. The Commission may delegate the authority to enter into and award contracts of up to \$5 million to the Director of Public Works. The Board of Supervisors by ordinance may authorize the Commission to increase this amount.

2. Implementation and management of financial plans, rate analyses, accounting records, contracts, grants, budgets and other activities, subject to the budget and fiscal provisions of this Charter, in support of the performance of the Commission's powers and duties and all activities assigned to the Director of Public Works by ordinance or this Charter;

3. Operation, repair, and maintenance of City buildings that are not under the jurisdiction of a jurisdiction commission;

4. Construction, reconstruction and maintenance of City streets and right-of-ways, in consultation with the County Road Commissioner and the City Engineer and in cooperation, where appropriate, with other City departments having the right to use City streets;

5. Advising the Board of Supervisors on the budget for the Department of Public Works, including the Department's compliance with directives accompanying the current budget, as well as preparation of subsequent budgets; and

6. Exercising all other powers and duties otherwise delegated to the Commission by state or federal law, this Charter, or by ordinance.

SEC. 4.130. DEPARTMENT OF PUBLIC WORKS.

The Department of Public Works shall be administered by the Director of Public Works. Notwithstanding Section 3.104(6), the Director shall be appointed by the Mayor, and may be removed at the pleasure of either the Mayor or the Public Works Commission. The incumbent Director of Public Works at the time this charter amendment is adopted may continue to serve until such time as the incumbent is removed and/or the Mayor appoints a successor.

The Director shall carry out the following duties and functions, as well as any additional duties and functions assigned by ordinance or pursuant to Section 4.132:

1. The Director of Public Works shall perform all activities necessary for and incidental to the design and construction of public buildings, structures and facilities, and shall coordinate and administer all capital improvement and construction projects, except projects that the Charter places under the specific or exclusive jurisdiction of another board or commission.

2. The Director of Public Works or his or her designee shall prepare all examinations, plans, estimates and construction administration services required by the City and County in connection with any public improvements, exclusive of those that the Charter places under the specific or exclusive jurisdiction of another board or commission, and shall, when requested to do so, furnish information and data for the use of the Board of Supervisors.

The duties and functions of the Department of Public Works shall be assigned by the City Administrator, by ordinance or pursuant to Section 4.132.

SEC. D3.750-4. POWERS AND DUTIES.

The Building Inspection Commission shall organize, reorganize, and manage the Department of Building Inspection which shall have responsibility for the enforcement, administration, and interpretation of the city's Housing, Building, Mechanical, Electrical, and Plumbing Codes, except where this Charter specifically grants that power to another department. The Central Permit Bureau, formerly within the Bureau of Building Inspection, shall also be managed by the commission.

The commission shall inspect and regulate additions, alterations, and repairs in all buildings and structures covered by the San Francisco Housing, Building, Mechanical, Electrical, and Plumbing Codes. Nothing in this chapter shall diminish or alter the jurisdiction of the Planning Department over changes of use or occupancy under the Planning Code. The commission shall ensure the provision of minimum standards to safeguard life or limb, health, property, and the public welfare by regulating and controlling the safe use of such buildings and structures. The commission shall ensure the vigorous enforcement of city laws mandating the provision of heat and hot water to residential tenants. The commission shall also ensure the enforcement of local, state, and federal disability access laws. The commission shall be a policy-making and supervisory body with all the powers provided for in Section 3.500 of this Charter.

The commission shall constitute the Abatement Appeals Board, and shall assume all powers granted to this entity under this Charter and the San Francisco Building Code. The commission shall appoint and may remove at its pleasure members of the Board of Examiners, Access Appeals Board, and Code Advisory Committee, all of which shall have the powers and duties to the extent set forth in the San Francisco Building Code.

~~The commission shall have the power to hold hearings and hear appeals on all decisions made by the Department of Public Works regarding permits under one or more of the codes enumerated in this section and on sidewalk or encroachment permits.~~ The commission may reverse, affirm or modify determinations made by the ~~Department of Public Works~~, Water Department, or Department of Building Inspection on all permits required for a final certificate of completion. The commission's jurisdiction under this section, however, shall not extend to permits appealable to the Planning Commission or Board of Permit Appeals. Departmental decisions on permits subject to commission review shall be made within the time mandates of the state Permit Streamlining Act. Appeals of decisions must be filed with the commission within fifteen days of the challenged determination. The commission shall act on the appeal within a reasonable time. The commission's action shall be final.

SEC. F1.104. PERFORMANCE AUDITS.

The City Services Audit Unit shall conduct periodic, comprehensive financial and performance audits of city departments, services, and activities. Except as provided in Section F1.102, the Controller shall have discretion to select, on a rotating basis, departments, services, and activities for audit, giving priority to matters affecting direct services to the residents of the City and County of San Francisco. In selecting audit subjects, the Controller shall give preference to requests for performance audits made by the Audit Review Board, the Mayor, the Board of Supervisors, department heads, and commissions; provided, however, that absent extraordinary circumstances, no department, activity, or service shall be subject to repeated audits in two successive years, and provided that the City Services Audit Unit shall conduct a comprehensive financial and performance audit of the Department of Public Works no less often than every third year.

SEC. 9.113.5. RAINY DAY RESERVE.

(a) There shall be a Rainy Day Reserve (the Reserve), which may also be known as an economic stabilization reserve.

Allocations to the Reserve

(b) If the Controller projects that total General Fund revenues for the upcoming budget year will exceed total General Fund revenues for the current year by more than five percent, the budget shall allocate the anticipated General Fund revenues in excess of that five percent growth (the excess revenues) as follows:

(i) 50 percent of the excess revenues to the Reserve;

(ii) ~~15~~ 25 percent of the excess revenues to capital and other one-time expenditures and 10 percent to street repair and reconstruction; and,

(iii) 25 percent of the excess revenues to any lawful governmental purpose.

(c) Total monies in the Reserve may not exceed 10 percent of actual total general fund revenues, as stated in the City's most recent independent annual audit. The budget shall allocate excess revenues that would otherwise be allocated to the Reserve above the 10 percent cap instead to capital and other one-time expenditures.

(d) The Mayor and the Board of Supervisors may, at any time, appropriate monies from the capital and other one-time expenditures allocation for capital projects or for expenditures such as, but not limited to, acquisition of equipment or information systems.

(e) The Mayor and the Board of Supervisors may, at any time, appropriate monies from the general purpose allocation for any lawful governmental purpose.

Withdrawals from the Reserve

(f) If the Controller projects that total General Fund revenues for the upcoming budget year will be less than the current year's total General Fund revenues, or the highest of any other previous year's total General Fund revenues, the budget may appropriate up to 50 percent of the current balance in the Reserve, but no more than the shortfall in total General Fund revenues, for any lawful governmental purpose in the upcoming budget year.

(i) If the trigger for withdrawals from the Reserve was not met in the current year, the Controller shall calculate the shortfall for the upcoming budget year by subtracting the total projected General Fund revenues for the upcoming budget year from the total projected General Fund revenues for the current year.

(ii) If the trigger for withdrawals from the Reserve was met in the current year, the shortfall shall be calculated by subtracting the total projected General Fund revenues for the upcoming budget year from the highest of any previous year's total General Fund revenues, plus two percent for each intervening year.

Adjustments

(g) If the City made appropriations from the Reserve in the current year and in the immediately preceding budget year pursuant to subsection (f), the City is not required to allocate any anticipated excess revenues to the Reserve or to capital and other one-time expenditures for the upcoming budget year.

(h) If the Controller projects that the Consumer Price Index for the upcoming budget year shall exceed the index for the current year by more than five percent, the trigger for allocations to the Reserve as set forth in Subparagraph (b) above shall instead be the percentage of growth in the index plus two percent. If the Controller projects that the Consumer Price Index for the upcoming budget year shall be less than the index for the current year, the trigger for withdrawals from the Reserve as set forth in Subparagraph (f) above shall instead be the percentage of negative growth in the index. The Controller shall use for these purposes the San Francisco All Items Consumer Price Index for All Urban Consumers (CPI-U), or its successor, as reported by the U.S. Department of Labor's Bureau of Labor Statistics.

(i) If the Board of Supervisors or the voters take an action that changes the amount of total General Fund revenues in any material manner, such as reducing a tax or imposing a new fee, the revenue changes caused by that action will not be counted as part of the triggers for

allocations to or withdrawals from the Reserve during the year or years in which the action is first implemented.

(j) In conjunction with the year-end close of the budget, the Controller shall reconcile the revenue projections triggering any budgeted allocations to or withdrawals from the Reserve with actual revenue results, as stated in the City's independent annual audit for the years in question, and rebalance the Reserve, the capital and other one-time expenditures allocation, and the general purpose allocation accordingly.

Withdrawals for the Benefit of the Unified School District

(k) If the Controller projects that inflation-adjusted per-pupil revenues for the San Francisco Unified School District will be reduced in the upcoming budget year and the School District has noticed a significant number of layoffs, the Board of Supervisors and the Mayor may, in their discretion, appropriate funds from the Reserve to the School District to offset the costs of maintaining education during the upcoming budget year. Such appropriations may not exceed the dollar value of the total decline in inflation-adjusted per-pupil revenues for the year, or 25 percent of the Reserve balance, whichever is lower. If the triggers for withdrawals from the Reserve for the benefit of the School District were met in the current year, the decline in per-pupil revenues shall be calculated by subtracting the inflation-adjusted per-pupil revenues for the upcoming budget year from the highest of any previous year's inflation-adjusted per-pupil revenues, plus two percent for each intervening year.

Transition

(l) On the effective date of this Section, the Controller shall transfer all monies in the City's Cash Reserve to the Rainy Day Reserve.

(m) For purposes of initial implementation of this Section, the Mayor and the Board of Supervisors may make appropriations from the Reserve for the 2004-2005 budget year and subsequent years if the Controller certifies that the trigger for withdrawal in subsection (f) would have been met during the 2003-2004 budget year, if this Section had been in effect at that time;

provided, however, that the City shall not be required to make allocations of any anticipated excess revenues to the Reserve or to capital and other one-time expenditures for the 2004-2005 budget year.

APPROVED AS TO FORM:
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By: _____
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