

BOARD of SUPERVISORS



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MEMORANDUM

TO: Carol Isen, Director, Department of Human Resources

FROM: Victor Young, Assistant Clerk, Rules Committee *Victor Young*
Board of Supervisors

DATE: July 9, 2024

SUBJECT: LEGISLATION INTRODUCED – MEET AND CONFER DETERMINATION

The Board of Supervisors' Rules Committee has received the following Charter Amendment. This matter is being **re-referred** to you as it may require the Department of Human Resources to fulfill "**Meet and Confer**" requirements. Please review, assess the impact and provide proper noticing as required and report back to on the status of the "Meet and Confer" requirement.

File No. 240550 (ver2)

Charter Amendment (Second Draft) to amend the Charter of the City and County of San Francisco to establish the Affordable Housing Opportunity Fund for Seniors, Families, and People with Disabilities to fund project-based rental subsidies for extremely low-income households consisting of seniors, families, and persons with disabilities, and to require the City to appropriate at least \$8.25 million to the Fund annually starting in Fiscal Year 2026-2027; at an election to be held on November 5, 2024.

If you have any questions or concerns, please call me at (415) 554-7723 or email: victor.young@sfgov.org. To submit documentation, please email or forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM THE DEPARTMENT OF HUMAN RESOURCES - Date: _____

_____ **Meet and Confer requirement has been fulfilled.**

Meet and Confer requirement not applicable.

_____ **Additional information attached.**

Mawuli Tugbenyoh

Department of Human Resources

c: Mawuli Tugbenyoh, Department of Human Resources
Aliya Chisti, Department of Human Resources

LEGISLATIVE DIGEST

(Revised 7/8/2024)

[Charter Amendment - Affordable Housing Opportunity Fund for Seniors, Families, and Persons with Disabilities]

Describing and setting forth a proposal to the voters at an election to be held on November 5, 2024, to amend the Charter of the City and County of San Francisco to establish the Affordable Housing Opportunity Fund for Seniors, Families, and People with Disabilities to fund project-based rental subsidies for extremely low-income households consisting of seniors, families, and persons with disabilities, and to require the City to appropriate at least \$8.25 million to the Fund annually starting in Fiscal Year 2026-2027.

Existing Law

The City currently provides funding to provide affordable housing, including project-based rental subsidies for low-income households, through a variety of programs. The Mayor's Office of Housing and Community Development ("MOHCD") administers a Local Operating Subsidy Program to subsidize affordable housing developments with rental units for formerly homeless households and a Senior Operating Subsidy program for affordable housing developments with rental units for extremely low-income seniors. Unless funded through a federal or state program, the Board of Supervisors and the Mayor have discretion to appropriate funds for these programs, but the City Charter does not require the City to appropriate a specific amount of money each year for project-based rental subsidies.

Amendments to Current Law

The proposed Charter amendment would establish an Affordable Housing Opportunity Fund for Seniors, Families, and Persons with Disabilities ("Fund") administered by MOHCD. The measure would require the City to appropriate to the Fund at least \$8.25 million in Fiscal Year 2026-2027, but if the City's projected budget deficit for that year exceeds \$250 million then the measure would require the City to appropriate at least \$4 million to the Fund that year. Thereafter and through Fiscal Year 2045-2046, the measure would require the City to appropriate to the Fund at least the amount appropriated the prior year, adjusted up by up to 3% based on the City's revenues. However, in Fiscal Year 2026-2027 or thereafter, the City may reduce the amount it appropriates to the Fund in the event of a projected budget deficit exceeding \$250 million. In such cases, the City must still appropriate at least \$8.25 million to the Fund.

Money in the Fund must be disbursed by MOHCD through grants or other types of payments to provide project-based rental subsidies for new and existing permanent affordable housing in the City, but no more than 20% of the Fund may be used for existing permanent affordable housing. The projects MOHCD may fund are those intended to benefit extremely low income

("ELI") households consisting of seniors and disabled adults earning up to 25% of median income and families earning up to 35% of median income. The legislation establishes categories of eligible projects to benefit these households, including acutely low-income disabled persons and seniors earning up to 15% of median income. Except that the funds may be used to expand available housing in existing Senior Operating Subsidies Program Fund programs, the Fund may not be used to fund other rental subsidy programs that already exist in the City. The Fund may not be used to provide subsidies directly to individuals or to solely subsidize a financial deficit of permanently affordable housing. The Fund will expire on December 31, 2046 unless it is extended by the voters.

Background Information

This legislative digest reflects amendments approved by the Rules Committee on July 8, 2024. Among other clarifying changes, the amendments modified the first draft of the proposed Charter amendment by changing the name of the Fund, expanding the definition of Extremely Low-Income Families, adding certain reporting requirements for the Controller and MOHCD, limiting the amount that may be expended from the Fund for subsidizing existing affordable housing, expanding the types of units eligible for subsidies, and reducing the amount of money the City must appropriate to the Fund each year after Fiscal Year 2026-2027.

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1 [Charter Amendment - Affordable Housing Opportunity Fund for Seniors, Families, and Persons
with Disabilities]

2
3 **Describing and setting forth a proposal to the voters at an election to be held on November**
4 **5, 2024, to amend the Charter of the City and County of San Francisco to establish the**
5 **Affordable Housing Opportunity Fund for Seniors, Families, and People with Disabilities**
6 **to fund project-based rental subsidies for extremely low-income households consisting of**
7 **seniors, families, and persons with disabilities, and to require the City to appropriate at**
8 **least \$8.25 million to the Fund annually starting in Fiscal Year 2026-2027.**

9
10 Section 1. Findings.

11 (a) California law requires the City to adopt a Housing Element that commits to
12 approving an annual number of 1,748 units of housing, or 13,981 units total, over eight years,
13 affordable to Extremely Low-Income (“ELI”) households with income up to 30% of the region’s
14 Area Median Income (“AMI”). The rents affordable to households making 30% of AMI do not
15 cover the costs of affordable housing projects, and as a result, project sponsors serving ELI
16 households in affordable housing projects face a financial operating deficit. In addition, there are
17 an insufficient number of higher-paying renters within affordable housing projects to cover the
18 financial operating deficit that results from affordable rents for ELI households. Thus, project
19 sponsors of affordable housing projects cannot subsidize a sufficient number of units for ELI
20 renters to meet the City’s Housing Element goals and feasibly operate their affordable housing
21 projects.

22 (b) Due to the high cost of developing and operating housing in San Francisco, most
23 affordable housing rents are set at income limits that are out of reach for ELI households. The
24 largest funding source for affordable housing development – the Low-Income Housing Tax
25 Credit (“LIHTC”) – is designed to make units affordable to households with incomes at 50%-

1 60% of AMI, with rents up to twice that which would be affordable to ELI households.
2 Additionally, the City’s Below Market Rate (“BMR”) units under the Inclusionary Housing
3 Program (Planning Code Section 415 *et seq.*) are also out of reach for ELI (as well as very low-
4 income) households, as the Inclusionary Housing Program only requires developers to set rents
5 for low-income (55% of AMI), moderate-income (80% of AMI), and middle-income households
6 (110% of AMI). Given these barriers to the production of affordable housing for ELI
7 households, it is not surprising that the majority of affordable housing produced in San Francisco
8 since 2005 has only targeted very low-income (30%-50% of AMI) and low-income (50%-80%
9 of AMI) households.

10 (c) Seniors on fixed incomes and adults with disabilities are particularly rent-burdened.
11 According to the Department of Disability and Aging Services (“DAAS”), there are
12 approximately 52,600 households in San Francisco with a senior aged 62 years or older, and
13 20,000 households with a disabled adult aged 18-61 years. Of those households with a senior
14 member, 33,900 income-qualify as ELI, and of those households with a disabled adult, 8,900
15 income-qualify as ELI.

16 (d) There are approximately 66,000 ELI households in San Francisco, and 80% of them
17 are rent-burdened or paying more than 30% of their income on rent.

18 (e) While funding for the development and construction of affordable senior housing has
19 historically been generated through affordable housing bond issuances, LIHTC, and MOHCD
20 loans, the 15-year underwriting standards of private lenders and the Mayor’s Office of Housing
21 and Community Development (“MOHCD”) require rents affordable to low income households
22 that are well out of reach for ELI households. Many affordable senior housing projects lack the
23 rent subsidies that would be necessary to maintain rents required under such underwriting
24 guidelines while charging affordable rents to ELI seniors, meaning that the seniors most in need
25

1 of safe, stable, and affordable senior housing end up in our city’s Single Room Occupancy
2 (“SRO”) hotels or shelter system – or worse, on the streets.

3 (f) Approximately 12% (or 8,000) of ELI households are families with children. A full-
4 time minimum wage worker in San Francisco makes approximately \$37,600 per year. A single
5 parent working full-time at a minimum wage job does not earn enough to pay or qualify for two-
6 or three-bedroom units at the majority of the City's affordable housing developments as their
7 income falls just under 30% of AMI.

8 (g) The DAAS estimates that there are 41,900 ELI households with a senior or disabled
9 member and that over 56% of those households are rent-burdened. The median monthly income
10 of a single-senior household is \$1,511, and that of a household consisting of a single adult with a
11 disability is \$1,493 – or approximately 15% of AMI in both cases. The rent for a studio
12 apartment at a majority of the City’s affordable housing developments is only affordable to
13 households with incomes at or above 50% of AMI.

14 (h) More than 75% of all ELI residents in the City are people of color. Forty-eight
15 percent of African American, 31% of American Indian, 23% of Latino, and 22% of Asian
16 households are ELI. In response to the COVID-19 pandemic, the City funded the Emergency
17 Rental Assistance Program (“ERAP”). Of ERAP’s 23,462 applicants, more than half had
18 incomes below 19% of AMI and over 85% had incomes below 30% of AMI. Twenty-seven
19 percent of applicants identified as Black or African American and almost 21% identified as
20 Latino.

21 (i) The San Francisco Reparations Plan 2023, prepared by the San Francisco Human
22 Rights Commission, identified the establishment and enforcement of a City policy to prioritize
23 the creation of low-income and acutely low-income housing based on 30% of AMI as a key
24 policy recommendation (Policy Recommendation 1.5).

1 (j) The lack of stable and continuous operating subsidies leads to rents that disqualify the
2 City’s neediest and most vulnerable populations, including rents for affordable housing acquired
3 or preserved through bond funds. Affordable housing non-profits are struggling to acquire and
4 preserve “small-sites,” funded through MOHCD, given the high cost of deferred maintenance
5 and lack of operating subsidies to make the rents affordable to ELI households.

6 (k) Despite hundreds of millions raised from revenue measures, and unanimous Board of
7 Supervisors support, the City’s budget has failed to fund crucial affordable housing strategies
8 each year for ELI households, including seniors, families with children, and persons with
9 disabilities. To ensure ELI households can afford to reside in the City’s affordable housing, the
10 City must provide annual funding specifically to the City’s affordable housing serving ELI
11 households.

12 (l) There have been dramatic cuts to United States Department of Housing and Urban
13 Development (“HUD”) rental subsidy programs (including Section 8 low-income rent subsidies,
14 HUD Section 202 housing program for seniors, and HUD Section 811 housing program for
15 people with disabilities). The State of California does not fund any operating or rental subsidy
16 programs.

17 (m) The Bay Area Housing Finance Agency (“BAHFA”) is expected to place a \$20
18 billion regional affordable housing bond on the November 2024 ballot. While BAHFA’s
19 Business Plan prioritizes the production of units for ELI households, the operating or rental
20 subsidies needed to create ELI-affordable units are not an eligible use of bond revenue. The
21 BAHFA Business Plan acknowledges that, “this housing type requires reliable, ongoing
22 operating subsidies to successfully stabilize households’ tenancies” and that BAHFA expects to
23 work closely with local jurisdictions to create the financing programs necessary to make ELI
24 housing successful.

1 (n) This Charter Amendment addresses a chronic budgetary problem by setting aside a
2 portion of the City’s existing revenue each year to fund project-based rent subsidies for existing
3 and newly constructed or acquired permanent affordable housing for ELI households.

4 (o) The intent of this measure is to establish a minimum annual commitment of no less
5 than \$8.25 million, starting in Fiscal Year 2026-2027, to ensure access for ELI households to the
6 City’s affordable housing. If there is a significant budget deficit, the funding for the first fiscal
7 year may be reduced to \$4 million and then will be \$8.25 million in Fiscal Year 2027-2028 and
8 thereafter.

9 (p) The City may fulfill its commitment to fund the expenditures this measure requires
10 by appropriating funds from any number of sources, including but not limited to taxes collected
11 under the Empty Homes Tax Ordinance (Business and Tax Regulations Code, Article 29A) and
12 the Homelessness Gross Receipts Tax Ordinance (Business and Tax Regulations Code Article
13 28), or other similar special taxes, to the extent that the permissible expenditures in those special
14 tax measures coincide with the expenditures this measure requires. Furthermore, any money in
15 the Affordable Housing Opportunity Fund for Seniors, Families, and People with Disabilities at
16 the end of each fiscal year will be held in reserve for future use. Nothing in this measure
17 requires that revenues from any special tax measure be appropriated for the uses in this measure.

18 (q) It is the further intent of this measure that the City maximize the number of ELI
19 affordable housing units created by the Fund by entering into long term rent subsidy agreements
20 with the City making annual contributions. The duration of such agreements should reflect the
21 requirements of competitive regional, state and federal funding sources.

22 (r) It is the further intent of this measure to support the future growth and expansion of
23 the Fund, subject to the future approval of voters, by developing sound, transparent, and effective
24 policies with regular public reporting of program performance.

1
2 Section 2. The Board of Supervisors hereby submits to the qualified voters of the City
3 and County, at an election to be held on November 5, 2024, a proposal to amend the Charter of
4 the City and County by adding Section 16.132, to read as follows:

5
6 NOTE: **Unchanged Charter text and uncodified text** are in plain font.
7 **Additions** are single-underline italics Times New Roman font.
8 **Deletions** are ~~strike-through italics Times New Roman font~~.
9 **Asterisks** (* * * *) indicate the omission of unchanged Charter
10 subsections.

11 **SEC. 16.132. AFFORDABLE HOUSING OPPORTUNITY FUND FOR SENIORS,**
12 **FAMILIES, AND PEOPLE WITH DISABILITIES.**

13 (a) Establishment of Fund. There is hereby established the Affordable Housing
14 Opportunity Fund for Seniors, Families, and People with Disabilities (“Fund”) to be
15 administered by the Mayor’s Office of Housing and Community Development (“MOHCD”), or
16 any successor agency. Monies therein shall be expended or used solely by MOHCD, subject to
17 the budgetary and fiscal provisions of the Charter. Monies in the Fund shall accumulate interest
18 which shall be credited to the Fund, provided that the balance in the Fund exceeds \$50,000. Any
19 unexpended and unencumbered balance remaining in the Fund at the close of any fiscal year
20 shall be accumulated to the Fund.

21 (b) Purpose of Fund. The purpose of the Fund is to increase and fund project-based rent
22 subsidies for permanently affordable housing to make rents affordable for Extremely Low-
23 Income Households.

24 (c) Definitions.
25 “Acutely Low-Income Disabled Persons” shall mean households consisting of persons
eligible for accessible units for disabled households and earning up to 15% of Median Income.

1 “Acutely Low-Income Seniors” shall mean households consisting of seniors and
2 earning up to 15% of Median Income.

3 “Extremely Low-Income Disabled Persons” shall mean households consisting of
4 persons eligible for accessible units for disabled households and earning up to 25% of Median
5 Income, and including Acutely Low-Income Disabled Persons.

6 “Extremely Low-Income Families” shall mean single adults or families earning up to
7 35% of Median Income.

8 “Extremely Low-Income Households” shall mean, collectively, Extremely Low-Income
9 Disabled Persons, Extremely Low-Income Families, and Extremely Low-Income Seniors.

10 “Extremely Low-Income Seniors” shall mean households consisting of seniors and
11 earning up to 25% of Median Income, and including Acutely Low-Income Seniors.

12 “Fund” shall mean the Affordable Housing Opportunity Fund for Seniors, Families,
13 and People With Disabilities, established in this Section 16.132.

14 “Housing Preservation Program” shall mean a program administered by MOHCD to
15 preserve multifamily residential buildings or buildings with SRO Units as Permanent Affordable
16 Housing that are at risk of loss of affordability or at risk of loss of the opportunity to create
17 permanent housing affordability, due to vacancy decontrol or market speculation, and/or at risk
18 due to their physical condition and need for life safety improvements.

19 “LOSP” shall mean the City’s Local Operating Subsidy Program that provides
20 operating subsidies to residential buildings providing supportive housing for homeless
21 individuals and families.

22 “Median Income” means the median income published annually by MOHCD for the
23 City and County of San Francisco, adjusted solely for household size, and derived in part from
24 the income limits and area median income determined by the United States Department of
25

1 Housing and Urban Development for the San Francisco area, but not adjusted for a high
2 housing cost area.

3 “MOHCD” shall mean the Mayor’s Office of Housing and Community Development,
4 or any successor agency.

5 “Permanent Affordable Housing” shall mean a multifamily housing building or a
6 building with SRO Units that is: (1) regulated and monitored by the City under a recorded deed
7 restriction, recorded regulatory agreement, and/or ground lease ensuring permanent
8 affordability for the useful life of the property but for no less than 75 years; (2) 100% of the
9 residential units are restricted to income qualified households (except any manager units) with a
10 maximum average of not more than 80% of Median Income across all units in a project, but not
11 to exceed 120% of Median Income for any unit; and (3) with a rent for all units in a project
12 affordable to such households, at initial residence and at re-rental at no more than 30% of the
13 maximum household income. Permanent Affordable Housing may include principally permitted
14 non-residential uses on the ground floor, and non-residential uses that are accessory to and
15 supportive of the affordable housing.

16 “Senior Housing” shall mean a multifamily residential building that is specifically
17 designed for and occupied by senior households and complies with all applicable federal and
18 state fair housing laws.

19 “Senior Operating Subsidies (SOS) Program Fund” shall refer to the program
20 established to receive any monies appropriated or donated for the purpose of providing project-
21 based subsidies to new senior affordable housing developments funded by the City to maintain
22 rents that are affordable to extremely low-income senior residents with incomes at or below 30%
23 of Median Income, or any successor program.

24 “SRO Unit” shall mean a Single Room Occupancy Unit and shall mean a dwelling
25 unit or group housing room consisting of the following: (1) no more than one occupied room

1 with a maximum gross floor area of 350 square feet and meeting the Housing Code's minimum
2 floor area standards; (2) which may have a bathroom in addition to the occupied room; and (3)
3 as a dwelling unit, has a cooking facility and bathroom or, as a group housing room, it shares a
4 kitchen with one or more other single room occupancy unit(s) in the same building and may also
5 share a bathroom.

6 **(d) Annual Appropriations to the Fund.**

7 (1) In Fiscal Year 2026-2027, except as provided in subsection (d)(3), the City shall
8 appropriate \$8.25 million to the Fund.

9 (2) In each year after Fiscal Year 2026-2027, and through Fiscal Year 2045-2046,
10 the City shall appropriate to the Fund an amount not less than the prior year's appropriation,
11 adjusted by the percentage increase or decrease in aggregate discretionary revenues, as
12 determined by the Controller, based on calculations consistent from year to year, provided that
13 the City may not increase appropriations to the Fund under this subsection (d)(2) by more than
14 3% in any fiscal year. In determining aggregate City discretionary revenues, the Controller
15 shall only include revenues received by the City that are unrestricted and may be used at the
16 option of the Mayor and the Board of Supervisors for any lawful City purpose.

17 (3) Notwithstanding subsections (d)(1) and (d)(2), the City may reduce the amount
18 appropriated to the Fund in any fiscal year when the City's projected budget deficit for the
19 upcoming fiscal year at the time of the March Joint Report or March Update to the Five Year
20 Financial Plan as prepared jointly by the Controller, the Mayor's Budget Director, and the
21 Board of Supervisors' Budget Analyst exceeds \$250 million, adjusted annually beginning with
22 Fiscal Year 2026-2027 by the percentage increase or decrease in aggregate City discretionary
23 revenues, as determined by the Controller, based on calculations consistent from year to year;
24 provided, however, that the amount appropriated to the Fund in Fiscal Year 2026-2027 shall be
25 no less than \$4 million and, thereafter, must be no less than \$8.25 million in each fiscal year.

1 (4) The Controller shall set aside and maintain appropriations, together with any
2 interest earned thereon, in the Fund.

3 (5) Commencing with a report filed no later than March 1, 2025, the Controller shall file
4 annually with the Board of Supervisors, by March 1 of each year, a report containing the amount
5 of monies from each non-general fund source projected to be available that may be appropriated
6 to the Fund under this subsection (d).

7 (e) Uses of the Fund. The City, acting through MOHCD, shall disburse monies from the
8 Fund through grants or other types of payments, on terms determined by MOHCD in its sole
9 discretion. Any repayment of a grant or other payment from the Fund that the City receives will
10 be returned to the Fund. Monies in the Fund shall be used to provide project-based rent
11 subsidies only for new and existing Permanent Affordable Housing, provided that no more than
12 20% of annual funding from the Fund shall be used for the purpose of subsidizing existing
13 Permanent Affordable Housing. Monies in the Fund shall be used to allow:

14 (1) Extremely Low-Income Seniors to afford a unit with rent restricted at 30% of
15 60% of Median Income in new or existing Permanent Affordable Housing that is Senior Housing
16 and such households to pay a maximum rent not to exceed 30% of 15% of Median Income or
17 30% of 25% of Median Income, as applicable to the household's income, with priority for Senior
18 Housing that provides housing to persons at or over the age of 62; or

19 (2) Extremely Low-Income Families, prioritizing families with children, to afford a
20 unit with rent restricted at 30% of 60% of Median Income in new or existing Permanent
21 Affordable Housing, including a building with SRO Units, and such households to pay a
22 maximum rent not to exceed 30% of 35% of Median Income; or

23 (3) Extremely Low-Income Disabled Persons to afford new or existing accessible
24 units designated and designed for disabled households in Permanent Affordable Housing with
25 rent restricted at 30% of 60% of Median Income and such households to pay a maximum rent

1 not to exceed 30% of 15% of Median Income or 30% of 25% of Median Income, as applicable to
2 the household's income; or

3 (4) Extremely Low-Income Households to afford a unit with rent restricted at 30% of
4 60% of Median Income in an existing multifamily residential building, including an existing
5 building with SRO Units, that will be acquired and preserved as Permanently Affordable
6 Housing through funding under a Housing Preservation Program and such households to pay a
7 maximum rent not to exceed 30% of 15% of Median Income, 30% of 25% of Median Income, or
8 30% of 35% of Median Income, as applicable to the household's income.

9 Monies in the Fund shall not be used to provide rent subsidies directly to tenants to
10 lease residential units, to provide subsidies for the sole purpose of an operating deficit, or to
11 provide any other form of housing assistance that is not supporting Extremely Low-Income
12 Households to afford a Permanent Affordable Housing unit. Except for expanding the
13 availability of existing Senior Operating Subsidies (SOS) Program Fund programs, monies in
14 the Fund shall not be used to replace or supplant funding for other rent subsidy programs
15 existing as of the date this Section 16.132 was added to the Charter, including, but not limited to,
16 LOSP housing or its successor programs.

17 **(f) Implementation Policies and Annual Report.**

18 (1) No later than June 1, 2025, MOHCD shall publish a report describing and
19 analyzing implementation policy options that would maximize the number of ELI affordable
20 senior, family, and accessible units through the provision of project-based rent subsidies in both
21 new affordable housing and preservation projects.

22 (2) Beginning with the end of Fiscal Year 2026-2027, within 150 days of the end
23 of each fiscal year, MOHCD shall file with the Board of Supervisors a report describing the
24 status of any project authorized to be funded under this Section 16.132. MOHCD may combine
25 such report with any other annual reporting obligations to the Board of Supervisors.

