

[Instituting two-year budgetary cycle, providing for the adoption of a five-year financial plan, providing for the adoption of binding financial policies, and imposing a deadline of May 15 for submission of MOUs for miscellaneous and safety employees to the Board of Supervisors.]

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 amending Sections 3.105, 9.100, 9.101, 9.102, 9.103, 9.104, 9.113, 9.113.5, 9.114, 11.100, A8.409-4, A8.590-5, A8.590-8, and Article XVII, and adding Sections 9.119 and 9.120 to institute a "rolling" two-year budgetary cycle (the City would adopt a new two-year budget each year), allow the Board of Supervisors to convert the rolling two-year budgetary cycle for some or all departments into a "fixed" two-year cycle (each two-year budget would stay in effect for two years), impose a deadline of May 10 or May 15 for submission to the Board of Supervisors of new terms and conditions of employment for miscellaneous or safety employees if those terms and conditions are to be effective during the upcoming fiscal year, allow the Board of Supervisors to determine, by ordinance, how City departments, including the Board of Supervisors, will comply with the Charter's publication requirements, and allow the Controller to certify the availability of funds based on the expectation that funds will become available during the course of the budgetary cycle.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 3, 2009, a proposal to amend the Charter of the City and County by amending Sections 3.105, 9.100, 9.101, 9.102, 9.103, 9.104, 9.113, 9.113.5, 9.114, 11.100, A8.409-4, A8.590-5, A8.590-8, and Article XVII, and adding Sections 9.119 and 9.120 and to read as follows:

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike-through italics Times New Roman~~.

Section 1. The San Francisco Charter is hereby amended by amending Section 3.105 to read as follows:

SEC. 3.105. CONTROLLER; CITY SERVICES AUDITOR.

(a) The Mayor shall appoint or reappoint a Controller for a ten-year term, subject to confirmation by the Board of Supervisors. The Controller may only be removed by the Mayor for cause, with the concurrence of the Board of Supervisors by a two-thirds vote.

(b) The Controller shall be responsible for the timely accounting, disbursement or other disposition of monies of the City and County in accordance with sound financial practices applicable to municipalities and counties. The Controller shall have the power and duties of a County auditor, except as otherwise provided in this Charter. The Controller shall have authority to audit the accounts and operations of all boards, commissions, officers and departments to evaluate their effectiveness and efficiency. The Controller shall have access to, and authority to, examine all documents, records, books and other property of any board, commission, officer or department.

(c) The Controller shall also serve as City Services Auditor for the City and County. As City Services Auditor, the Controller shall be responsible for monitoring the level and effectiveness of services rendered by the City to its residents, as set forth in Appendix F to this Charter.

(d) Should the Controller determine at any time during the fiscal year that the revenues of the General Fund, or any special, sequestered or other fund are insufficient or appear to be insufficient to support the remaining anticipated expenditure from that fund for the fiscal year for any department, function or program, the Controller shall reduce or reserve all or a portion of the expenditure appropriation until such time as the Controller determines that the anticipated revenues for the remainder of that fiscal year are sufficient to support the level of expenditure anticipated for the remainder of the fiscal year. Whenever the Controller makes a reduction or reservation, the Controller shall so inform the Mayor and Board of Supervisors within 24 hours.

(e) The Controller shall exercise general supervision over the accounts of all officers, commissions, boards and employees of the City and County charged in any manner with the receipt, collection or disbursement of City and County funds or other funds, in their capacity as City and County officials or employees. The Controller shall establish accounting records, procedures and internal controls with respect to all financial transactions of the City and County. Such records, procedures and controls shall permit the financial statements of the City and County to be prepared in conformity with generally accepted accounting principles applicable to municipalities and counties.

(f) The Controller shall within 150 days of the end of each fiscal year prepare an annual report of the financial condition of the City and County. Such annual report shall be prepared in accordance with generally accepted accounting principles. The annual report shall contain such information and disclosures as shall be necessary to present to the public a full and understandable report of all City and County financial activity.

(g) The Controller shall prepare an impartial financial analysis of each City and County ballot measure which shall include the amount of any increase or decrease in the cost of government of the City and County and its effect upon the cost of government. Such analysis shall be issued in sufficient time to permit inclusion in the voters' pamphlet.

(h) The Controller shall issue from time to time such periodic or special financial reports as may be requested by the Mayor or Board of Supervisors.

(i) All disbursements of funds in the custody of the Treasurer must be authorized by the Controller. No officer or employee shall bind the City and County to expend money unless there is a written contract or other instrument and unless the Controller shall certify that sufficient unencumbered balances are available in the proper fund to meet the payments under such contract or other obligation as these become due, or that he or she expects sufficient unencumbered balances to be available in the proper fund during the course of the budgetary cycle to meet the payments as they become due.

Section 2. The San Francisco Charter is hereby amended by amending Sections 9.100, 9.101, 9.102, 9.103, 9.104, 9.113, 9.113.5, and 9.114, to read as follows:

SEC. 9.100. BUDGET PROCESS ORDINANCES.

(a) The fiscal year for the City and County shall commence on the first day of July of each year and shall end on the last day of June of the next succeeding year. The City's budgetary cycle shall be a rolling two-year cycle. Each year the City shall adopt a new biennial budget that projects revenues and expenditures for the next two fiscal years. The budgetary cycle shall commence on the first day of July of each year and shall end on the last day of June twenty-four months later.

(b) On or before June 30 of each year, beginning on July 1, 2010 with respect to those non-general fund departments proposed by the Mayor and designated by the Board by ordinance for early implementation, and beginning on July 1, 2012 as to all other City departments, the Board of Supervisors shall, except for equipment and capital improvements, enact an interim biennial appropriation ordinance and not earlier than the 15th day of July, nor later than the first of August of each year, the Board of Supervisors shall adopt the proposed biennial budget as submitted or amended and shall adopt the ~~annual~~ biennial appropriation ordinance accordingly, which shall supersede the interim appropriation ordinance.

(c) The Mayor shall submit and the Board of Supervisors shall act on ordinances with respect to the following:

1. A schedule and procedures for the orderly preparation and submission of the biennial ~~annual~~ proposed budget and for the review and adoption of the necessary interim and final appropriations ordinances;

2. A description of the form of the ~~annual~~ proposed biennial budget and appropriation ordinance consistent with the financial records required by Section 3.105 of this Charter and containing information relating the type and extent of services to be delivered or revenues to be generated to proposed expenditures in a manner which, to the extent feasible,

allows comparison of revenue trends as well as expected performance and expenditures between various fiscal years;

3. A procedure to include public participation in the budgetary process which shall include public hearings conducted by the commissions, Mayor and the Board of Supervisors; and

4. The form, content and dates of submission of the City's Capital Improvements and Facilities Maintenance Budgets. The ordinance relating to Capital Improvement and Facilities Maintenance shall minimally:

~~(A)(a)~~ Require that such budgets be prepared for more than a single year;

~~(B)(b)~~ Clearly establish distinctions between major, long term construction, replacement and acquisition projects (Capital Improvements) and short term repair, minor replacement and maintenance projects (Facilities Maintenance);

~~(C)(c)~~ Be consistent as to the date of submission with the time requirements established for the submission of the budget and appropriation ordinance; and

~~(D)(d)~~ Provide information regarding the estimated completion schedule for Capital Improvements, the funding source for each and the estimated annual operating costs thereof.

SEC. 9.101. PROPOSED BIENNIAL ANNUAL AND MULTI-YEAR BUDGETS.

~~(a)~~ The Mayor shall submit to the Board of Supervisors each year ~~a an annual~~ proposed biennial budget, ordinances and resolutions fixing wages and benefits for all classifications and related appropriation ordinances.

~~(b)~~ The ~~annual~~ proposed biennial budget shall include:

1. Estimated revenues and surpluses from whatever sources, to the extent feasible, for the forthcoming two fiscal years ~~year~~ and the allocation of such revenues and surpluses to various departments, functions and programs to support expenditures. Proposed

expenditures may include such necessary and prudent reserves as recommended by the Controller; and

2. A summary of the ~~annual~~ proposed biennial budget with a narrative description of priorities, services to be provided and economic assumptions used in preparing the revenue estimates. ~~The summary shall also contain a discussion of trends and projections of revenues and expenditures of the City and County for the subsequent four years.~~

(c) The ~~annual~~ proposed biennial budget and appropriation ordinances shall be balanced for each fiscal year so that the proposed annual expenditures of each fund do not exceed the estimated annual revenues and surpluses of that fund. If the proposed budget contains new revenue or fees, the Mayor shall submit to the Board of Supervisors the relevant implementing ordinances at the same time the biennial ~~annual~~ budget is submitted.

(d) Until the appropriation ordinances are adopted by the Board of Supervisors, the Mayor may submit to the Board of Supervisors revisions to the ~~annual~~ proposed biennial budget, appropriation ordinances, and ordinances and resolutions fixing wages and benefits.

The Mayor may instruct the Controller to prepare the draft appropriation ordinances.

(e) The Mayor shall file a copy of the ~~annual~~ proposed biennial budget at the Main Library and shall give notice of the budget summary, including making copies available to the public. Upon final approval of the budget by both the Board and the Mayor, notice shall be given of the final budget summary.

(f) The Board of Supervisors by ordinance may require multi-year budget plans and other budget planning strategies to be performed by the several departments and offices of the City and County.

(g) No later than February 1 of any even-numbered fiscal year, the Mayor and the Board of Supervisors by resolution may determine that the upcoming budgetary cycle or cycles for some or all City departments and offices shall be a fixed budgetary cycle or cycles in which the biennial budget will remain in effect for two fiscal years. With respect to the designated City

departments and offices, the Board will not adopt a new budget for the second fiscal year of such fixed budgetary cycle or cycles, except as provided in subsection (h), below. But the City shall adjust the biennial budget for the second year of any fixed budget cycle if certain conditions exist, using the following process:

1. If, during the first year of any fixed budgetary cycle, the Controller projects that the City will experience significant increases or decreases in revenues or expenditures during the second year of such budgetary cycle, the Controller shall submit a report to the Mayor and the Board of Supervisors identifying those increases or decreases.

2. The Mayor shall prepare and submit to the Board of Supervisors a proposed amendment to the biennial budget responding to the Controller's report. The Board may approve or amend the Mayor's proposed budget amendment subject to the limitations that apply to the approval of the budget in Section 9.103. The Mayor's proposed budget amendment shall be deemed approved by operation of law unless the Board finally adopts an amendment to the biennial budget on second reading no later than July 15.

3. The Board's resolution declaring that an upcoming budgetary cycle or cycles shall be fixed, shall include a definition of the term " significant increases or decreases in revenues or expenditures," a deadline for the Controller's submission of a report identifying such increases or decreases, and a deadline for the Mayor to submit to the Board a proposed amendment to the biennial budget in response to the Controller's report.

(h) Nothing in this section shall limit the ability of the Mayor or a member of the Board of Supervisors to introduce at his or her discretion an amendment to a biennial budget at any time during the budgetary cycle.

SEC. 9.102. CONTROLLER'S OPINION ON REVENUE ESTIMATES CERTIFICATION OF REVENUE ESTIMATES.

MAYOR NEWSOM
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The Mayor shall submit to the Controller for review the estimated revenues contained in the *annual* proposed *biennial* budget and any subsequent revisions. The Controller shall then provide the Board of Supervisors with an opinion regarding the accuracy of economic assumptions underlying the revenue estimates and the reasonableness of such estimates and revisions.

SEC. 9.103. ADOPTION OF APPROPRIATION ORDINANCES.

The Board of Supervisors may amend the *annual* proposed *biennial* budget and appropriation ordinances as follows:

1. After review of the Controller's analysis of the Mayor's revenue estimates, the Board of Supervisors may reduce estimated revenues;
2. The Board of Supervisors may increase or decrease any proposed expenditure in the General Fund or any special, sequestered or other fund so long as the aggregate changes do not cause the expenditures from each fund to exceed the amount proposed for expenditures by the Mayor from any such fund; and
3. The Board of Supervisors may increase or decrease any proposed expenditure for Capital Improvements.

SEC. 9.104. VETO OF APPROPRIATIONS.

The Mayor may reduce or reject any expenditure authorized by the Board of Supervisors, except appropriations for bond interest, redemption or other fixed charges, within ten days after the adoption of a final *biennial* ~~*annual*~~ or supplemental appropriations ordinance. Within ten days of receipt of the Mayor's veto message, the Board of Supervisors may reinstate, in whole or in part, any expenditure reduced or rejected by the Mayor by a vote of two-thirds of its members. In overriding any Mayoral veto, the Board of Supervisors shall not cause the aggregate

expenditures for the General Fund or any special, sequestered or other fund in the appropriation ordinances to exceed the Mayor's revenue estimate as allocated to such funds.

SEC. 9.113. GENERAL FISCAL PROVISIONS.

(a) Unused and unencumbered appropriations or unencumbered balances existing at the close of any fiscal year in revenue or expense appropriations of the City and County for any such fiscal year, but exclusive of revenue or money required by law to be held in school, bond, bond interest, bond redemption, pension, trust, utility or other specific funds, or to be devoted exclusively to specified purposes other than *biennial annual* appropriations, and together with revenues collected or accruing from any source during such fiscal year, in excess of the estimated revenue from such source as shown by the *biennial annual* budget and the appropriation ordinance for such fiscal year, shall be transferred by the Controller, at the closing of such fiscal year, to the General Fund.

(b) In the event that funds are not available to meet authorized expenditures, the Treasurer, upon the recommendation of the Controller, is authorized to transfer monies among funds held by the Treasurer in the pooled funds of the City and County which are legally available for such a purpose, except a pension fund. The Treasurer and the Controller shall set the terms and conditions of the transfer, taking into account the requirements and nature of the fund from which the transfer was made. All monies transferred pursuant to this Section shall accrue interest at not less than the then current rate of interest earned by the Treasurer on the pooled funds of the City and County. In no event shall the Controller or the Treasurer cause any transfer of monies pursuant to this Section if said transfer would be inconsistent with the terms and conditions of any outstanding bonded indebtedness of the City and County, including any of its boards or commissions.

(c) In the event the Mayor or a member of the Board of Supervisors recommends a supplemental appropriation ordinance after the adoption of the budget for any *fiscal year*

budgetary cycle and prior to the close of the budgetary cycle fiscal year containing any item which had been rejected by the Mayor in his/her review of departmental budget estimates for the budgetary cycle fiscal year or which had been rejected by the Board of Supervisors in its consideration of the Mayor's proposed budget for the budgetary cycle fiscal year, it shall require a vote of two-thirds of all members of the Board of Supervisors to approve such supplemental appropriation ordinance.

(d) No ordinance or resolution for the expenditure of money, except the biennial annual appropriation ordinance, shall be passed by the Board of Supervisors unless the Controller first certifies to the Board that there is a sufficient unencumbered balance in a fund that may legally be used for such proposed expenditure, and that, in the judgment of the Controller, revenues as anticipated in the appropriation ordinance for such budgetary cycle fiscal year and properly applicable to meet such proposed expenditures will be available in the treasury in sufficient amount to meet the same as it becomes due.

(e) The Board of Supervisors shall have the power to borrow money by the issuance of tax anticipation notes, temporary notes, commercial paper, or any other short-term debt instruments in the manner provided by state law or City ordinance.

(f) Biennial Annual appropriations shall expire at the end of the budgetary cycle fiscal year, and the City shall have no authority to expend funds from such appropriations unless and until the Board of Supervisors adopts a new budget, interim budget, or supplemental appropriation for such expenditures.

(g) No City monies shall be drawn from the treasury of the City and County, nor shall any obligation for the expenditure of any money be incurred, except in pursuance of appropriations or transfers made as provided in the Charter and the Administrative Code.

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:

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

2. ~~(ii)~~ 25 percent of the excess revenues to capital and other one-time expenditures; and,

3. ~~(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.

1. ~~(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.

2. ~~(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.

Two-Year Budget

(l) The Controller shall promulgate procedures modifying the Rainy Day Reserve system, as necessary, to be consistent with the City's adoption of biennial rather than annual budgets.

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.~~

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~~(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.~~

SEC. 9.114. MISSION-DRIVEN BUDGET.

Each departmental budget shall describe each proposed activity of that department and the cost of that activity. In addition, each department shall provide the Mayor and the Board of Supervisors with the following details regarding its budget:

1. The overall mission and goals of the department;
2. The specific programs and activities conducted by the department to accomplish its mission and goals;
3. The customer(s) or client(s) served by the department;
4. The service outcome desired by the customer(s) or client(s) of the department's programs and activities;
5. Strategic plans that guide each program or activity;
6. Productivity goals that measure progress toward strategic plans;
7. The total cost of carrying out each program or activity; and
8. The extent to which the department achieved, exceeded or failed to meet its missions, goals, productivity objectives, service objectives, strategic plans and spending constraints identified in subsections (1) through (6) during the prior year or prior budgetary cycle.

Departmental budget estimates shall be prepared in such form as the Controller, after consulting with the Mayor, directs in writing.

Section 3. The San Francisco Charter is hereby amended by adding Sections 9.119 and 9.120 to read as follows:

SEC. 9.119. FIVE-YEAR FINANCIAL PLAN.

(a) No later than July 1, 2010, the City shall adopt a five-year financial plan for those non-general fund departments and offices proposed by the Mayor and designated by the Board by ordinance for early implementation. The City shall update that plan and combine it with a five-year financial plan for all other City departments and offices no later than July 1, 2011. By March 1st of each odd numbered year thereafter, the Mayor shall propose a five-year financial plan, and by May 1st of each such year the Board of Supervisors shall review, amend and adopt the five-year financial plan by resolution.

(b) The Mayor and the Board of Supervisors shall use the financial plan as a tool to plan for upcoming City budgets. The financial plan shall include a forecast of expenditures and revenues during the five-year period, and actions proposed to balance revenues and expenditures during each year of the plan. The plan shall include a summary of each department's strategic goals, resources allocated in the plan to meet these goals, and changes in service levels expected given investment levels proposed in the plan.

SEC. 9.120. FINANCIAL POLICIES.

(a) The Controller shall propose, and the City shall adopt, long-range financial policies that are consistent with generally recognized principles of public finance. The policies shall address, at a minimum, the following issues:

- 1. Creation and maintenance of adequate reserves;*
- 2. Use of volatile revenues;*

3. Issuance of debt; and

4. Institution of extraordinary financial and budgetary measures to facilitate the City's recovery from earthquake, fire, flood, or other physical calamity.

The City may not adopt a budget that the Controller determines is inconsistent with one or more of these policies.

(b) The Controller shall recommend an initial set of financial policies to the Mayor no later than March 1, 2010, and may recommend additional financial policies or amendments to existing policies no later than October 1 of any subsequent year. Within 60 days of such recommendation, the Mayor and the Board of Supervisors shall consider the recommended policies. The City shall adopt individual financial policies only upon the approval of both the Mayor and the Board of Supervisors by a two-thirds' vote. The adopted policies shall be framed as ordinances that shall be codified in the Administrative Code and identified as financial policies adopted under this Section.

(c) Upon a two-thirds' vote, the Board of Supervisors by resolution may suspend, in whole or in part, any ordinance containing these policies for the succeeding fiscal year.

Section 4. The San Francisco Charter is hereby amended by amending Sections 11.100, A8.409-4, and A8.590-5, to read as follows:

SEC. 11.100. GENERAL.

Subject to this Charter and consistent with state law, the Mayor through the Human Resources Director or his/her designee and in consultation with the Board of Supervisors shall be responsible for meeting and conferring with employees or their recognized employee organizations regarding salaries, working conditions, benefits and other terms and conditions of employment to be embodied in memoranda of understanding. The Human Resources Director shall assume day-to-day administration of all labor relations responsibilities previously vested in the Mayor or Board of Supervisors.

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The Human Resources Director shall submit proposed memoranda of understanding including, where applicable, schedules of compensation, benefits and working conditions to the Mayor, who upon approval shall forward the proposed memoranda of understanding to the Board of Supervisors for determination by a majority vote. The Board of Supervisors shall have the power to accept or reject such memoranda of understanding. It shall be the duty of the Board of Supervisors, upon approval of any such memoranda of understanding to enact appropriate ordinances authorizing payment of any compensation or benefits or other terms and conditions of employment so approved.

Nothing in this section shall supersede any dates specified in Sections A8.409-4 and A8.590-5, or elsewhere in this Charter for fixing compensation, except that ~~the Board of Supervisors by motion may extend up to 30 days the date for final adoption of ordinances approving salary and benefits pursuant to such sections.~~ Should the Board of Supervisors reject any memorandum of understanding and/or schedule of compensation and benefits, the Board of Supervisors shall by motion simultaneously extend by ~~60 days the date for final adoption~~ 45 days from the date of rejection the date for final submission to the Board of Supervisors of ordinances approving or adopting salary, benefits and/or working conditions pursuant to such sections.

SEC. A8.409-4 IMPASSE RESOLUTION PROCEDURES

(a) Subject to Section A8.409-4(g), disputes pertaining to wages, hours, benefits or other terms and conditions of employment which remain unresolved after good faith bargaining between the City and County of San Francisco, on behalf of its departments, boards and commissions, and a recognized employee organization representing classifications of employees covered under this part shall be submitted to a three-member mediation/arbitration board ("the board") upon the declaration of an impasse either by the authorized representative of the City and County of San Francisco or by the authorized representative of the recognized employee

organization involved in the dispute; provided, however, that the arbitration procedures set forth in this part shall not be available to any employee organization that engages in a strike unless the parties mutually agree to engage in arbitration under this section. Should any employee organization engage in a strike either during or after the completion of negotiations and impasse procedures, the arbitration procedure shall cease immediately and no further impasse resolution procedures shall be required.

(b) Not later than January 20 of any year in which bargaining on an MOU takes place, representatives designated by the City and County of San Francisco and representatives of the recognized employee organization involved in bargaining pursuant to this part shall each select and appoint one person to the board. The third member of the board shall be selected by agreement between the City and County of San Francisco and the recognized employee organization, and shall serve as the neutral chairperson of the board.

In the event that the City and County of San Francisco and the recognized employee organization involved in bargaining cannot agree upon the selection of the chairperson within ten (10) days after the selection of the City and County and employee organization members of the board, either party may then request the American Arbitration Association or California State Mediation Service to provide a list of the seven (7) persons who are qualified and experienced as labor interest arbitrators. If the City and County and the employee organization cannot agree within three (3) days after receipt of such list on one of the seven (7) persons to act as the chairperson, they shall randomly determine which party strikes first, and shall alternately strike names from the list of nominees until one name remains and that person shall then become the chairperson of the board.

(c) Any proceeding convened pursuant to this section shall be conducted in conformance with, subject to, and governed by Title 9 of Part 3 of the California Code of Civil Procedure. The board may hold public hearings, receive evidence from the parties and, at the request of either party, cause a transcript of the proceedings to be prepared. The board, in the

exercise of its discretion, may meet privately with the parties to mediate or mediate/arbitrate the dispute. The board may also adopt other procedures designed to encourage an agreement between the parties, expedite the arbitration hearing process, or reduce the cost of the arbitration process.

(d) In the event no agreement is reached prior to the conclusion of the arbitration hearings, the board shall direct each of the parties to submit, within such time limit as the board may establish, a last offer of settlement on each of the remaining issues in dispute. The board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds by a preponderance of the evidence presented during the arbitration most nearly conforms to those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment, including, but not limited to: changes in the average consumer price index for goods and services; the wages, hours, benefits and terms and conditions of employment of employees performing similar services; the wages, hours, benefits and terms and conditions of employment of other employees in the City and County of San Francisco; health and safety of employees; the financial resources of the City and County of San Francisco, including a joint report to be issued annually on the City's financial condition for the next three fiscal years from the Controller, the Mayor's budget analyst and the budget analyst for the Board of Supervisors; other demands on the City and County's resources including limitations on the amount and use of revenues and expenditures; revenue projections; the power to levy taxes and raise revenue by enhancements or other means; budgetary reserves; and the City's ability to meet the costs of the decision of the arbitration board. In addition, the board shall issue written findings on each and every one of the above factors as they may be applicable to each and every issue determined in the award. Compliance with the above provisions shall be mandatory.

(e) ~~To be effective the beginning of the next succeeding fiscal year, an agreement shall be reached or the board shall reach a final decision no later than sixty days before the date the~~

~~Mayor is required to submit a budget to the Board of Supervisors, except by mutual agreement of the parties.~~ After reaching a decision, the board shall serve by certified mail or by hand delivery a true copy of its decision to the parties. The decision and findings of the arbitration board shall not be publicly disclosed until ten (10) days after it is delivered to the parties. During that ten (10) day period the parties shall meet privately, attempt to resolve their differences, and by mutual agreement amend or modify the decision and findings of the arbitration board. At the conclusion of the ten (10) day period, which may be extended by mutual agreement between the parties, the decision and findings of the arbitration board, as it may be modified or amended by the parties, shall be publically disclosed for a period of fourteen (14) days after which time the decision shall be final and binding. Except as otherwise provided by this part, the arbitration decision shall supersede any and all other relevant formulae, procedures and provisions of this Charter relating to wages, hours, benefits and terms and conditions of employment, and it shall be final and binding on the parties to the dispute. However, the decision of the board may be judicially challenged by either party.

Thereafter, the City and County of San Francisco, its designated officers, employees and representatives and the recognized employee organization involved in the dispute shall take whatever action necessary to carry out and effectuate the final decision.

(f) The expenses of any proceedings convened pursuant to this part, including the fee for the services of the chairperson of the board, the costs of preparation of the transcript of the proceedings and other costs related to the conduct of the proceedings, as determined by the board, shall be borne equally by the parties. All other expenses which the parties may incur are to be borne by the party incurring such expenses.

(g) The impasse resolution procedures set forth in Section A8.409-4, or in any other provision of the Charter, ordinance or state law shall not apply to any rule, policy, procedure, order or practice which relates or pertains to the purpose, goals or requirements of a consent decree, or which is necessary to ensure compliance with federal, state or local laws, ordinances

or regulations. In the event the City acts on a matter it has determined relates to or pertains to a consent decree, or in the event the City acts to ensure compliance with federal, state, or local laws, ordinances or regulations, and the affected employee organization disputes said determination, that determination or action shall not be subject to arbitration, but may be challenged in a court of competent jurisdiction.

(h) The impasse resolution procedures set forth in section A8.409-4, or in any other section of the Charter, shall not apply to any proposal pertaining to the right to strike.

(i) Charter sections A8.590-1 through A8.590-7 shall remain in full force and effect; provided, however, that the wages and other economic benefits and compensation of all classifications of employees covered by these sections shall be frozen for fiscal year 1995-96 at the rates in effect on June 30, 1995, except that wages and other economic benefits and compensation of all classifications of Airport Police shall be frozen for the fiscal year following expiration of the Memorandum of Understanding covering those classifications in effect on the effective date of this amendment.

(j) Subject to the election provisions of section A8.409-1, Charter sections A8.403 and A8.404 shall remain in full force and effect; provided, however, that the wages and other economic benefits and compensation of all classifications of employees covered by section A8.404 shall be frozen for fiscal year 1995-96 at the rates in effect on June 30, 1995.

(k) An agreement reached between the designated representatives for the City and the representatives of a recognized employee organization that is submitted to the Board of Supervisors on or before May 15, or a decision of the arbitration/mediation board that is submitted to the Board of Supervisors on or before May 10, or May 15 if the parties waive the 10-day period between the board's decision and public disclosure of the decision, shall be effective on July 1 of the same calendar year upon adoption by the Board of Supervisors. An agreement submitted to the Board of Supervisors after May 15, or a decision of the arbitration/mediation board that is submitted to the Board of Supervisors after May 10, or May

15 if the parties waive the 10-day period between the board's decision and public disclosure of the decision, shall become effective no earlier than July 1 of the next calendar year upon approval of the Board of Supervisors. But an agreement reached during the term of an existing memorandum of understanding that results in a net reduction, or results in no net increase, in the cost to the City, during the current fiscal year, of existing economic provisions in the existing memorandum of understanding may become effective at any time upon approval by the Board of Supervisors. Economic provisions include, but are not limited to, wages, premium pay rates, overtime, any employer pickup of the employees' retirement contribution, paid time off, and other compensation.

SEC. A8.590-5 IMPASSE RESOLUTION PROCEDURES

(a) Subject to section A8.590-5(g), disputes or controversies pertaining to wages, hours, benefits or terms and conditions of employment which remain unresolved after good faith negotiations between the City and County of San Francisco, its departments, boards and commissions and a recognized employee organization representing firefighters, police officers or deputy sheriffs shall be submitted to a three-member board of arbitrators upon the declaration of an impasse either by the authorized representative of the City and County of San Francisco or by the recognized employee organization involved in the dispute.

(b) No later than January 20 of any year in which bargaining on an MOU takes place, Representatives designated by the City and County of San Francisco and representatives of the recognized employee organization involved in the dispute shall each select and appoint one arbitrator to the board of arbitrators, ~~within three (3) days after either party has notified the other, in writing, that it desires to proceed to arbitration.~~ The third member of the arbitration board shall be selected by agreement between the City and County of San Francisco and the employee organization, and shall serve as the neutral arbitrator and Chairperson of the Board. In the event that the City and County of San Francisco and the recognized employee organization

involved in the dispute cannot agree upon the selection of the neutral arbitrator within ten (10) days from the date that either party has notified the other that it has declared an impasse, either party may then request the State Mediation and Conciliation Service of the State of California Department of Industrial Relations to provide a list of seven (7) persons who are qualified and experienced as labor arbitrators. If the City and County and the employee organization cannot agree within three (3) days after receipt of such list on one of seven (7) persons to act as the neutral arbitrator, they shall alternately strike names from the list of nominees until one name remains and that person shall then become the neutral arbitrator and chairperson of the arbitration board.

(c) Any arbitration proceeding convened pursuant to this article shall be conducted in conformance with, subject to, and governed by Title 9 of Part 3 of the California Code of Civil Procedure. The arbitration board shall hold public hearings, receive evidence from the parties and cause a transcript of the proceedings to be prepared. The arbitration board, in the exercise of its discretion, may meet privately with the parties, mediate or arbitrate the issues in dispute. The arbitration board may also adopt such other procedures that are designed to encourage an agreement between the parties, expedite the arbitration hearing process, or reduce the costs of the arbitration process.

(d) In the event no agreement is reached prior to the conclusion of the arbitration hearings, the arbitration board shall direct each of the parties to submit, within such time limit as the arbitration board may establish, a last offer of settlement on each of the remaining issues in dispute. The arbitration board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds most nearly conforms to those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment, including, but not limited to: changes in the average consumer price index for goods and services; the wages, hours, benefits and terms and conditions of employment of employees performing similar services; the wages, hours, benefits and terms and

conditions of other employees in the City and County of San Francisco; and the formulas provided for in this Charter for the establishment and maintenance of wages, hours, benefits and terms and conditions of employment. The impartial arbitration board shall also consider the financial condition of the City and County of San Francisco and its ability to meet the costs of the decision of the arbitration board.

(e) After reaching a decision, the arbitration board shall mail or otherwise deliver a true copy of its decision to the parties. The decision of the arbitration board shall not be publicly disclosed and shall not be binding until ten (10) days after it is delivered to the parties. During that ten (10) day period the parties shall meet privately, attempt to resolve their differences, and by mutual agreement amend or modify the decision of the arbitration board. At the conclusion of the ten (10) day period, which may be extended by mutual agreement between the parties, the decision of the arbitration board, as it may be modified or amended by the parties, shall be publicly disclosed. Except as limited by Section A8.590-7, the arbitration decision, as it may be modified or amended by the parties, shall supersede any and all other relevant formulas, procedures and provisions of this Charter relating to wages, hours, benefits and terms and conditions of employment; and it shall be final and binding on the parties to the dispute, including the City and County of San Francisco, its commissions, departments, officers and employees. No other actions or procedural steps to confirm or approve the decision of the arbitration board shall be permitted or required; provided, however, that the City and County of San Francisco, its designated officers, employees and representatives and the recognized employee organization involved in the dispute shall take whatever action that is necessary to carry out and effectuate the decision of the arbitration board.

(f) The expenses of any arbitration proceedings convened pursuant to these Charter sections, including the fee for the services of the chairperson of the arbitration board, the costs of preparation of the transcript of the proceedings and other costs related to the conduct of the

proceedings, as determined by the arbitration board, shall be borne equally by the parties. All other expenses which the parties may incur are to be borne by the party incurring such expenses.

(g) The impasse resolution procedures set forth in Section A8.590-5 shall not apply to:

1. any dispute or controversy concerning the San Francisco Police Department's crowd control policies;
2. any procedures or practices relating to the processing and disposition of complaints handled by the Office of Citizens' Complaints; or matters relating to disciplinary procedures that apply to disciplinary actions involving members of the San Francisco police department and fire department covered by these sections; or matters covered by Charter section A8.343; and
3. any rule, policy, procedure, order or practice which relates or pertains to the purpose, goals or requirements of a consent decree, or which is necessary to ensure compliance with federal, state or local anti-discrimination laws, ordinances or regulations.

In the event the City acts on a matter it has determined relates to or pertains to a consent decree, or in the event the City acts to ensure compliance with federal, state, or local anti-discrimination laws, ordinances or regulations, and the affected employee organization disputes said determination, that determination or action shall not be subject to arbitration.

(h) An agreement reached between the designated representatives for the City and the representatives of a recognized employee organization that is submitted to the Board of Supervisors on or before May 15, or a decision of the arbitration board that is submitted to the Board of Supervisors on or before May 10, or May 15 if the parties waive the 10-day period between the board's decision and public disclosure of the decision, shall be effective on July 1 of the same calendar year upon adoption by the Board of Supervisors. An agreement submitted to the Board of Supervisors after May 15, or a decision of the arbitration board that is submitted to the Board of Supervisors after May 10, or May 15 if the parties waive the 10-day period between the board's decision and public disclosure of the decision, shall become effective no earlier than

July 1 of the next calendar year upon approval of the Board of Supervisors. But an agreement reached during the term of an existing memorandum of understanding that results in a net reduction, or results in no net increase, in the cost to the City, during the current fiscal year, of existing economic provisions in the existing memorandum of understanding may become effective at any time upon approval by the Board of Supervisors. Economic provisions include, but are not limited to, wages, premium pay rates, overtime, any employer pickup of the employees' retirement contribution, paid time off, and other compensation.

Section 5. The San Francisco Charter is hereby amended by amending Section A8.590-8 to read as follows:

SEC. A8.590-8 RETIREE HEALTH CARE TRUST FUND.

Notwithstanding any other provision of Charter Sections ~~A8.590-1 A8.409~~ through ~~A8.590-7A8.409~~-8, the provisions and operation of the Retiree Health Care Trust Fund, including employee contributions to the fund, shall be determined pursuant to Charter Sections 12.204, A8.432. and A8.433, and shall not be subject to the dispute resolution procedure's contained in Charter Section A8.590-5.

Section 6. The San Francisco Charter is hereby amended by amending Article XVII to read as follows:

ARTICLE XVII: DEFINITIONS

For all purposes of this Charter, the following terms shall have the meanings specified below:

"Business day" shall mean any day other than a Saturday, Sunday or holiday on which governmental agencies are authorized by law to close.

"Confirm" or "confirmation" shall mean the approval by a majority of the members of the Board of Supervisors.

"Discrimination" shall mean violations of civil rights on account of race, color, religion, creed, sex, national origin, ethnicity, age, disability or medical condition, political affiliation, sexual orientation, ancestry, marital or domestic partners status, gender identity, parental status, other non-merit factors, or any category provided for by ordinance.

"Domestic partners" shall mean persons who register their partnerships pursuant to the voter-approved Domestic Partnership Ordinance.

"Elector" shall mean a person registered to vote in the City and County.

"For cause" shall mean the issuance of a written public statement by the Mayor describing those actions taken by an individual as a member of a board or commission which are the reasons for removal, provided such reasons constitute official misconduct in office.

"General municipal election" shall mean the election to be held in the City and County on the Tuesday immediately following the first Monday in November in odd-numbered years.

"Initiative" shall mean (1) a proposal by the voters with respect to any ordinance, act or other measure which is within the powers conferred upon the Board of Supervisors to enact, any legislative act which is within the power conferred upon any other official, board, commission or other unit of government to adopt, or any declaration of policy; or (2) any measure submitted to the voters by the Mayor or by the Board of Supervisors, or four or more members of the Board.

"Notice" shall mean publication ~~in an official newspaper~~ (as defined by ordinance), and a contemporaneous filing with the Clerk of the Board of Supervisors or other appropriate office.

"One-third," "a majority" or "two-thirds" of the Board of Supervisors or any other board or commission of the City and County shall mean one-third, a majority or two-thirds of all members of such board or commission.

"Published" shall have the meaning ascribed to the term by the Board of Supervisors by ordinance. The Board of Supervisors shall seek a recommendation from the Clerk of the Board of Supervisors before adopting such an ordinance~~mean published in an official newspaper of the City and County.~~

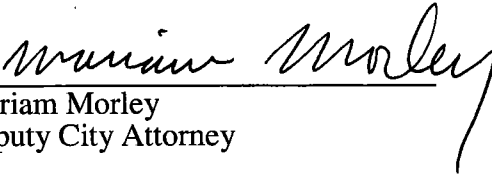
"Referendum" shall mean the power of the voters to nullify ordinances involving legislative matters except that the referendum power shall not extend to any portion of the annual budget or appropriations, annual salary ordinances, ordinances authorizing the City Attorney to compromise litigation, ordinances levying taxes, ordinances relative to purely administrative matters, ordinances necessary to enable the Mayor to carry out the Mayor's emergency powers, or ordinances adopted pursuant to Section 9.106 of this Charter.

"Special municipal election" shall mean, in addition to special elections otherwise required by law, the election called by (1) the Director of Elections with respect to an initiative, referendum or recall, and (2) the Board of Supervisors with respect to bond issues, election of an official not required to be elected at the general municipal election, or an initiative or referendum.

"Statewide election" shall mean an election held throughout the state.

"Voter" shall mean an elector who is registered in accordance with the provisions of state law.

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

By: 
Mariam Morley
Deputy City Attorney



City and County of San Francisco

City Hall
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San Francisco, CA 94102-4689

Tails

Charter Amendment

File Number: 090622

Date Passed: July 21, 2009

Charter Amendment (First Draft) to amend Sections 2.103, 2.108, 2.117, 3.105, 9.100, 9.101, 9.102, 9.103, 9.104, 9.113, 9.113.5, 9.114, 11.100, A8.409-4, A8.590-5, A8.590-8, 16.112, and Article XVII, and adding Sections 9.119, 9.120, and 9.121 to institute a "rolling" two-year budgetary cycle (the City would adopt a new two-year budget each year), allow the Board of Supervisors to convert the rolling two-year budgetary cycle for some or all departments into a "fixed" two-year cycle (each two-year budget would stay in effect for two years), impose a deadline of June 30th for the Board of Supervisors to approve or adopt new terms and conditions of employment for miscellaneous or safety employees if those terms and conditions are to be effective during the upcoming fiscal year, require that City departments, including the Board of Supervisors, post various notices on the departments' websites and eliminate the requirement that the departments publish such notices in the City's official newspaper, and allow the Controller to certify the availability of funds based on the expectation that funds will become available during the course of the budgetary cycle.

July 14, 2009 Board of Supervisors — CONTINUED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi

July 21, 2009 Board of Supervisors — ORDERED SUBMITTED

Ayes: 7 - Avalos, Campos, Chiu, Dufty, Mar, Maxwell, Mirkarimi
Noes: 4 - Alioto-Pier, Chu, Daly, Elsbernd

File No. 090622

I hereby certify that the foregoing Charter Amendment was **ORDERED SUBMITTED** on July 21, 2009 by the Board of Supervisors of the City and County of San Francisco.



Angela Calvillo
Clerk of the Board