[Charter Amendment - Public Works Department and Commission, Sanitation and Streets Commission]

Describing and setting forth a proposal to the voters at an election to be held on November 8, 2022, to amend the Charter of the City and County of San Francisco to transfer the responsibilities of the Department of Sanitation and Streets to the Department of Public Works; to establish a new seven-member Public Works Commission to replace the five-member Public Works Commission that is currently responsible for overseeing the Department of Public Works; to eliminate the Department of Sanitation and Streets and the five-member Sanitation and Streets Commission; and to establish a new seven-member Sanitation and Streets Commission to hold hearings and set policies for the Department of Public Works regarding maintenance of the public right of way and sanitation standards and protocols.

Section 1. The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 8, 2022, a proposal to amend the Charter of the City and County by deleting Section 4.138, and revising Sections 4.139, 4.140, 4.141, 16.129, and F1.102, to read as follows:

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

~~***SEC. 4.138. DEPARTMENT OF SANITATION AND STREETS.***~~

~~*(a) **Establishment**. There shall be a Department of Sanitation and Streets, which shall come into existence three months after the Transition Date for the Sanitation and Streets Commission in Section 4.139(d). The Department shall be headed by the Director of Sanitation and Streets, who shall be qualified by either technical training or management experience in*~~

~~*environmental services or the maintenance, sanitation, or cleaning of public spaces; and shall have a demonstrated knowledge of best practices regarding cleaning and maintenance of high-traffic or publicly accessible areas. The Department shall assume all responsibilities previously under the jurisdiction of the Department of Public Works that pertain to the duties specified in subsection (b).*~~

~~*(b) **Duties.** Except as otherwise provided in the Charter or pursuant to Section 4.132, in addition to any other duties assigned by ordinance, the Department shall have the following duties:*~~

~~*(1) efficient and systematic street sweeping, sidewalk cleaning, and litter abatement;*~~

~~*(2) maintenance and cleaning of public restrooms in the public right of way;*~~

~~*(3) provision and maintenance of city trash receptacles;*~~

~~*(4) removal of illegal dumping and graffiti in the public right of way;*~~

~~*(5) maintenance of public medians, and of street trees in the public right of way pursuant to section 16.129;*~~

~~*(6) maintenance of City streets and sidewalks;*~~

~~*(7) construction, repair, remodeling, and management services for City-owned buildings and facilities; and*~~

~~*(8) control of pests on City streets and sidewalks.*~~

~~*The Board of Supervisors may limit, modify, or eliminate the duties set forth in subsections (1) through (8), and may transfer any of those duties to the Department of Public Works or other City departments, by ordinance approved by two-thirds of the Board. Nothing in this Section 4.138 shall relieve property owners of the legal responsibilities set by local or State law, including as those laws may be amended in the future.*~~

~~*(c) **Refuse Collection and Disposal Ordinance.** The Director of Sanitation and Streets shall perform the responsibilities assigned to the Director of Public Works by the Refuse Collection and Disposal Ordinance of November 8, 1932, as it may be amended from time to time.*~~

~~*(d) **Administrative Support.** By no later than the Transition Date in Section 4.139(d), the Board of Supervisors shall by ordinance require the City Administrator, the Department of Public Works, and/or any other City department to provide administrative support for the Department, which shall include but need not be limited to human resources, performance management, finance, budgeting, technology, emergency planning, training, and employee safety services. At any time more than two years and three months after the Transition Date, the Board of Supervisors may adopt ordinances requiring the Department of Sanitation and Streets to assume responsibility for some or all of that administrative support.*~~

~~*(e) **Transition.** No later than the Transition Date in Section 4.139(d), the City Administrator shall submit to the Board of Supervisors a proposed ordinance amending the Municipal Code, including but not limited to the Public Works Code, to conform to Sections 3.104, 4.139, 4.140, 4.141, 16.129, F1.102, and this Section 4.138, as adopted or amended by the voters at the November 3, 2020 election.*~~

SEC. 4.139. SANITATION AND STREETS COMMISSION.

(a) **Purpose.** There is hereby established a Sanitation and Streets Commission. ~~*The Commission shall set policy directives and provide oversight for the Department of Sanitation and Streets.*~~

(b) **Membership and Terms of Office.**

(1) The Commission shall consist of seven members, appointed as follows: Seats 1, 2, and 3 shall be appointed by the Board of Supervisors. Seats 4, 5, and 6 shall be appointed by the

Mayor subject to confirmation by the Board of Supervisors. Seat 7 shall be appointed by the Controller subject to confirmation by the Board of Supervisors.

Each nomination of the Mayor and the Controller shall be subject to approval by the Board of Supervisors, and shall be the subject of a public hearing and vote within 60 days of the date the Clerk of the Board receives notice of the nomination from the Mayor or Controller. If the Board fails to act on the nomination within those 60 days, the nominee shall be deemed approved. The appointment shall become effective on the date the Board adopts a motion approving the nomination or on the 61st day after the Clerk of the Board receives notice of the nomination, whichever is earlier.

(2) Members of the Commission shall serve four-year terms, beginning at noon on March 15, 2023, except that the initial term of the appointees in Seats 1, 4, and 7 shall expire at noon on March 15, 2025. The initial term of the appointees in Seats 2, 3, 5, and 6 shall expire at noon on March 15, 2027.

(3) Commissioners may be removed from office at will by their respective appointing authority.

~~*(1) The Commission shall consist of five members, appointed as follows:*~~

~~*Seats 1 and 2 shall be appointed by the Mayor subject to confirmation by the Board of Supervisors. Each nomination shall be the subject of a public hearing and vote within 60 days. If the Board of Supervisors fails to act on a nomination within 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed confirmed. Seat 1 shall be held by a person who is a small business owner. Seat 2 shall be held by a person with experience in project management.*~~

~~*Seat 3 shall be appointed by the Controller subject to confirmation by the Board of Supervisors. The nomination shall be the subject of a public hearing and vote within 60 days. If the Board of Supervisors fails to act on a nomination within 60 days of the date the nomination is*~~

~~*transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed confirmed. Seat 3 shall be held by a person who has a background in finance and audits.*~~

~~*Seats 4 and 5 shall be appointed by the Board of Supervisors. Seat 4 shall be held by a person who has a background in either urban forestry, urban design, or environmental services. Seat 5 shall be held by a person with significant experience in cleaning and maintaining public spaces.*~~

~~*(2) Members of the Commission shall serve four-year terms; provided, however, the term of the initial appointees in Seats 1 and 4 shall be two years.*~~

~~*(3) Members may be removed at will by their respective appointing officer*~~.

(c) **Duties.** ~~*With regard to the Department of Sanitation and Streets, beginning three months after the Transition Date in subsection (d), the Commission shall exercise all the powers and duties of boards and commissions set forth in Sections 4.102, 4.103, and 4.104, and may take other actions as prescribed by ordinance.*~~ *The Commission shall hold public hearings and set policies for the Department of Public Works (the "Department") regarding sanitation standards and protocols, and maintenance of the public right of way.* In addition, the Commission shall:

(1) review and evaluate data regarding *the* ~~*street and sidewalk*~~ condition~~s~~ *of the public right of way*, including but not limited to data collected by the Department~~,~~ and annual reports generated by the Controller; *and*

(2) establish minimum standards of cleanliness for the public right of way, and set baselines for services to be administered by the Department.~~;~~

Notwithstanding Sections 4.102, 4.103, and 4.104 of this Charter, the Commission shall exercise only the powers set forth in this subsection (c), and the Public Works Commission shall exercise the oversight authority described in those sections over the Department of Public Works, as set forth in Section 4.141.

~~*(3) approve all contracts proposed to be entered into by the Department, provided that the Commission may delegate this responsibility to the Director of the Department, or the Director's designee;*~~

~~*(4) perform an annual cost analysis evaluating whether there are inefficiencies or waste in the Department's administration and operations; and*~~

~~*(5) perform an annual review on the designation and filling of Department positions, as exempt, temporary, provisional, part-time, seasonal or permanent status, the number of positions that are vacant, and at the Commission's discretion, other data regarding the Department's workforce. This function shall not in any way limit the roles of the Civil Service Commission or the Department of Human Resources under the Charter.*~~

~~*(d) **Transition provisions.***~~

~~*(1) The Commission shall come into existence on the Transition Date, which shall be established by the Board of Supervisors by written motion adopted by a majority vote of its members, provided that the Transition Date shall be no earlier than July 1, 2022. The Board of Supervisors shall vote on a written motion to establish the Transition Date no later than January 1, 2022. If the Board of Supervisors fails to adopt such a motion by January 1, 2022, the Clerk of the Board of Supervisors shall place such a motion on the agenda of a Board of Supervisors meeting at least once every three months thereafter until such time as the Board of Supervisors adopts a motion establishing the Transition Date. The Mayor, Board of Supervisors, and Controller shall make initial appointments to the Commission by no later than three months before the Transition Date. The terms of all five members shall commence at noon on the Transition Date.*~~

~~*(2) The Commission shall have its inaugural meeting by no later than 30 days after three members of the Commission have assumed office.*~~

~~*(3) The Director of Public Works or person serving in an acting capacity as Director of Public Works, at the time the Commission comes into existence, shall perform the duties of the Director of the Department of Sanitation and Streets in an acting capacity until the Commission appoints a new Director in accordance with the Charter provisions governing appointment of a department head serving under a commission.*~~

(d) ***Transition.***

(1) The five-member Sanitation and Streets Commission established under Proposition B, approved by the voters at the November 3, 2020 election, shall dissolve and cease to exist on January 1, 2023.

(2) The Mayor and Controller shall make initial appointments to the seven-member Sanitation and Streets Commission under this Section 4.141 by no later than January 15, 2023, and the Board of Supervisors shall make initial appointments by no later than February 15, 2023. The Commission shall come into existence at noon on March 15, 2023, or when four members of the Commission have assumed office, whichever is later.

SEC. 4.140. DEPARTMENT OF PUBLIC WORKS.

~~*Except as otherwise specified in the Charter, including in Section 4.138(b)(7), the Department of Public Works shall design, build, and improve the City's infrastructure and public right of way, and assume any other duties assigned by ordinance or pursuant to Section 4.132. The Department shall be headed by the Director of Public Works, who shall be qualified by either technical training or management experience in engineering or architecture.*~~

(a) ***Responsibilities of Department.*** *There shall be a Department of Public Works (the "Department"). On January 1, 2023, the Department shall assume the responsibilities of the Department of Sanitation and Streets as they existed on December 31, 2022, and shall retain the existing responsibilities of the Department of Public Works. The Department shall be headed*

by a Director of Public Works appointed by the Mayor as provided in Sections 3.100(19) and 4.102(5).

Except as otherwise provided in the Charter or pursuant to Section 4.132, in addition to any other duties assigned by ordinance, the Department shall have the following duties: the design, building, repair, and improvement of the City's infrastructure, including City-owned buildings and facilities and public right of way; maintenance of the public right of way, including street sweeping, and litter abatement; the provision and maintenance of City trash receptacles and removal of illegal dumping and graffiti in the public right of way; and planting and maintenance of street trees pursuant to Section 16.129.

(b) Nothing in this Section 4.140 shall relieve property owners of the legal responsibilities set by City or State law, including as those laws may be amended in the future.

(c) ***Transition.***

(1) The Director of Public Works or person serving in an acting capacity as Director of Public Works on December 31, 2022, shall continue to serve as the Director of Public Works beginning on January 1, 2023. If the position of Director of Public Works is vacant for any reason, the position shall be filled in accordance with the Charter provisions governing appointment of a department head.

(2) By no later than June 30, 2023, the Director of Public Works shall submit to the Board of Supervisors a proposed ordinance amending the Municipal Code to conform to Sections 4.139, 4.140, and 4.141 and the repeal of Section 4.138.

SEC. 4.141. PUBLIC WORKS COMMISSION.

(a) **Purpose.** There is hereby established a Public Works Commission. ~~*The Commission shall set policy directives and provide oversight for the Department of Public Works.*~~

(b) **Membership and Terms of Office.**

(1) The Commission shall consist of ~~*five*~~ *seven* members, appointed as follows: Seats 1*, 2,* and ~~*3*~~*5* shall be appointed by the Board of Supervisors. ~~*Seat 1 shall be held by a registered professional engineer licensed in the State of California, with a background in civil, mechanical, or environmental engineering, and Seat 5 shall be an at-large position.*~~ Seats ~~*2 and*~~ 4*, 5, and 6* shall be appointed by the Mayor subject to confirmation by the Board of Supervisors. ~~*Each nomination shall be the subject of a public hearing and vote within 60 days. If the Board of Supervisors fails to act on a nomination within 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed confirmed. Seat 2 shall be held by a registered architect licensed in the State of California, and Seat 4 shall be an at-large position.*~~ Seat ~~*3*~~ *7* shall be ~~*held by a person with a background in finance with at least 5 years in auditing experience,*~~ appointed by the Controller subject to confirmation by the Board of Supervisors. ~~*The nomination shall be the subject of a public hearing and vote within 60 days. If the Board of Supervisors fails to act on a nomination within 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed confirmed.*~~

Each nomination of the Mayor and the Controller shall be subject to approval by the Board of Supervisors, and shall be the subject of a public hearing and vote within 60 days of the date the Clerk of the Board receives notice of the nomination from the Mayor or Controller. If the Board fails to act on the nomination within those 60 days, the nominee shall be deemed approved. The appointment shall become effective on the date the Board adopts a motion approving the nomination or on the 61st day after the Clerk of the Board receives notice of the nomination, whichever is earlier.

Qualifications for commissioners that are desirable, but not required, include a background or experience in cleaning and maintaining public spaces, urban forestry, urban

design, construction, skilled crafts and trades, finance and audits, architecture, landscape architecture, engineering, or performance measurement and management.

(2) Members of the Commission shall serve four-year terms*, beginning at noon on March 15, 2023*~~*; provided, however,*~~ *except that* the *initial* term of the ~~*initial*~~ appointees in Seats 1, ~~*3, and 5*~~ *4, and 7* shall *expire at noon on March 15, 2025*~~*be two years*~~. *The initial term of the appointees in Seats 2, 3, 5, and 6 shall expire at noon on March 15, 2027.*

(3) Commissioners may be removed from office at will by their respective appointing authority.

(c) **Powers and Duties.**

~~*(1)*~~ With regard to the Department of Public Works, ~~*beginning on September 1, 2022,*~~ the Commission shall exercise all the powers and duties of boards and commissions set forth in Sections 4.102, 4.103, and 4.104, *except for the authority to set policy relating to sanitation standards and protocols, and maintenance of the public right of way as set forth in Section 4.139,* and may take other actions as prescribed by ordinance.

~~*(2) The Commission shall oversee the Department's performance, including evaluation of data collected by the Department, the Controller, and other City agencies.*~~

~~*(3) The Commission shall approve all contracts proposed to be entered into by the Department, provided that the Commission may delegate this responsibility to the Director of Public Works, or the Director's designee.*~~

~~*(4) The Commission shall require the Director of Public Works, or the Director's designee, to provide the Commission with proof of adequate performance of any contract entered into by the Department for public works involving the City's infrastructure or public right of way, based on written documentation including documentation that the building official has issued a building or site permit and a final certificate of occupancy.*~~

~~*(5) The Commission shall perform an annual review on the designation and filling of Department positions, as exempt, temporary, provisional, part-time, seasonal or permanent status, the number of positions that are vacant, and at the Commission's discretion, other data regarding the Department's workforce. This function shall not in any way limit the roles of the Civil Service Commission or the Department of Human Resources under the Charter.*~~

(d) **Transition ~~*provisions*~~.**

(1) The five-member Public Works Commission established under Proposition B, approved by the voters at the November 3, 2020 election, shall dissolve and cease to exist on January 1, 2023.

(2) The Mayor and Controller shall make initial appointments to the seven-member Public Works Commission under this Section 4.141 by no later than January 15, 2023, and the Board of Supervisors shall make initial appointments by no later than February 15, 2023. The Commission shall come into existence at noon on March 15, 2023, or when four members of the Commission have assumed office, whichever is later. During the period between January 1, 2023 and when the Commission comes into existence, the Department of Public Works shall operate as a department in the executive branch without a commission.

~~*(1) The Mayor, Board of Supervisors, and Controller shall make initial appointments to the Commission by no later than the Appointment Deadline, which shall be either noon on June 1, 2022, or an earlier date established by the Board of Supervisors by written motion adopted no later than January 1, 2022 by a majority vote of its members. The Commission shall come into existence either at noon on the 31st day after the Appointment Deadline, or at noon on the date that three members of the Commission have assumed office, whichever is later. The terms of all five members shall commence at noon on the 31st day after the Appointment Deadline, regardless of when the Commission comes into existence.*~~

~~*(2) The Commission shall have its inaugural meeting by no later than three months after the terms of the initial members begin.*~~

~~*(3) The Director of Public Works at the time the Commission comes into existence shall remain in that position unless removed from it in accordance with the Charter provisions governing removal of a department head serving under a commission. If a person is serving in an acting capacity as Director at the time the Commission comes into existence, the preceding sentence applies, except that the position shall also be considered vacant for purposes of the next sentence. If the position of Director is vacant for any reason, including removal of the incumbent Director, the position shall be filled in accordance with the Charter provisions governing appointment of a department head serving under a commission. In that event, a person removed from the position under the first sentence of this subsection may be considered for appointment to the position.*~~

SEC. 16.129. STREET TREE MAINTENANCE.

(a) **Definitions.** For purposes of this Section 16.129:

* * * *

"Maintenance" (and its root "Maintain") shall mean those actions necessary to promote the life, growth, health, or beauty of a Tree. Maintenance includes both routine maintenance and major maintenance. Routine maintenance includes adequate watering to ensure the Tree's growth and sustainability; weed control; removal of Tree-well trash; staking; fertilizing; routine adjustment and timely removal of stakes, ties, Tree guards, and Tree grates; bracing; and Sidewalk repairs related to the Tree's growth or root system. Major maintenance includes structural pruning as necessary to maintain public safety and to sustain the health, safety, and natural growth habit of the Tree; pest and disease-management procedures as needed and in a manner consistent with public health and ecological diversity; and replacement of dead

or damaged Trees. Pruning practices shall be in compliance with International Society of Arboriculture Best Management Practices and ANSI Pruning Standards, whichever is more protective of Tree preservation, or any equivalent standard or standards selected by the Director of the Department of *Public Works*~~*Sanitation and Streets*~~.

* * * *

"Street Tree" shall mean any Tree growing within the public right-of-way, including unimproved public streets and Sidewalks, and any Tree growing on land under the jurisdiction of the Department of Public Works~~ *or the Department of Sanitation and Streets*~~. "Street Tree" does not include any other forms of landscaping.

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(f) **Creating the Street Tree Maintenance Fund; Annual City Contributions.** There shall be a Street Tree Maintenance Fund (the "Fund"). * * * *

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(h) **Administration and Use of the Fund.** The Department of *Public Works*~~*Sanitation and Streets*~~ shall administer the Fund. Monies in the Fund shall only be used for the following purposes: * * * *

(i) **Annual Reports.** Commencing with a report filed no later than January 1, 2019, covering the fiscal year ending June 30, 2018, the Department of *Public Works*~~*Sanitation and Streets*~~ shall file annually with the Board of Supervisors, by January 1 of each year, a report containing the amount of monies collected in and expended from the Fund during the prior fiscal year, and such other information as the Director of the Department of *Public Works*~~*Sanitation and Streets*~~, in the Director's sole discretion, shall deem relevant to the operation of this Section 16.129.

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SEC. F1.102. STREET, SIDEWALK, AND PARK CLEANING AND MAINTENANCE.

(a) The Services Audit Unit shall conduct annually a performance audit of the City's street, sidewalk, and public park maintenance and cleaning operations. The annual audit shall:

(1) Include quantifiable, measurable, objective standards for street, sidewalk, and park maintenance, to be developed in cooperation and consultation with ~~*the Department of Sanitation and Streets,*~~ the Department of Public Works~~,~~ and the Recreation and Park Department;

(2) Based upon such measures, report on the condition of each geographic portion of the City;

(3) To the extent that standards are not met, assess the causes of such failure and make recommendations of actions that will enhance the achievement of those standards in the future;

(4) Ensure that all bond funds related to streets, parks and open space are spent in strict accordance with the stated purposes and permissible uses of such bonds, as approved by the voters.

Outside of the audit process, the City departments charged with cleaning and maintaining streets, sidewalks, and parks shall remain responsible for addressing individual complaints regarding specific sites, although the Controller may receive and investigate such complaints under Section F1.107.

(b) The Services Audit Unit shall conduct annually a cost and waste analysis evaluating whether there are inefficiencies or waste in the administration and operations of ~~*the Department of Sanitation and Streets, and*~~ the Department of Public Works~~*or inefficiencies or waste in the division of labor between the two departments*~~. The annual audit shall make

quantifiable, measurable recommendations for the elimination of inefficient operations and functions, and shall include:

(1) Consolidation of duplicative and overlapping activities and functions;

(2) Integration and standardization of information maintenance systems that promote interdepartmental sharing of information and resources;

(3) Departmental accounting for expenditure of resources in terms of effectiveness of the service or product delivered;

(4) Departmental deployment and utilization of personnel, the City's personnel procurement system, and reforms to enhance the quality of work performance of public employees; and

(5) Methods of operation to reduce consumption and waste of resources.

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APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/
JON GIVNER
Deputy City Attorney

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