

BOARD of SUPERVISORS



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MEMORANDUM

Date: October 30, 2023
To: Planning Department / Commission
From: Victor Young, Clerk of the Rules Committee *Victor Young*
Subject: Board of Supervisors Legislation Referral - File No. 230985 – Third Draft
Charter Amendment - Minimum Police Department Staffing and Five-Year Annual Funding Requirement

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure

- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan Planning Code, Section 101.1 Planning Code, Section 302

- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)

- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to Victor Young at Victor.Young@sfgov.org.

1 [Charter Amendment - Minimum Police Department Staffing and Five-Year Annual Funding
2 Requirement]

3 **Describing and setting forth a proposal to the voters at an election to be held on March 5,**
4 **2024, to amend the Charter of the City and County of San Francisco to define “Full-Duty**
5 **Sworn Officers” for purposes of establishing minimum staffing levels for sworn officers of**
6 **the Police Department; and, contingent upon the Controller’s certification that a future tax**
7 **measure passed by the voters will generate sufficient additional revenue to fund the cost of**
8 **employing Full-Duty Sworn Officers at specified minimum staffing levels and the minimum**
9 **amount necessary to implement a police staffing fund: 1) set the Minimum Staffing**
10 **Number for five fiscal years beginning with 1,700 full-duty sworn officers in year one, with**
11 **increases each year such that by the fifth fiscal year, the Minimum Staffing Number shall**
12 **be 2,074; 2) require for a period of five years that the Mayor and Board of Supervisors**
13 **appropriate funds to pay for at least the number of sworn officers as of February 1 of the**
14 **prior fiscal year; 3) establish a Police Full Staffing Fund (“Fund”) for a period of five fiscal**
15 **years to facilitate minimum police staffing; 4) require that \$16.8 million be appropriated**
16 **into the Fund in the first year, and varying amounts in years two through five, calculated**
17 **based on staffing shortages, but allowing for a temporary freeze of appropriations to the**
18 **Fund after the first year in a budgetary or economic emergency.**

19
20 Section 1. Findings.

21 (a) For nearly three decades, San Franciscans have been denied the benefits of a fully-
22 staffed police force. Although policymakers have made important progress in recent years to
23 develop a workload-based, data-driven methodology for establishing the number of full-duty
24 officers required to meet the City’s public safety needs, the Police Department has not been able
25 to hire at a pace that would allow for full staffing.

1 (b) Despite considerable efforts over the last several years to remedy the chronic
2 shortage in staffing of full-duty officers, the San Francisco Police Department faces a worsening
3 police understaffing crisis. As of September 2023, there were 1,578 full-duty sworn members in
4 the Police Department, which is an unprecedented low point in recent history. This is
5 approximately 600 fewer officers than required to staff the Department at a level that would meet
6 the City's public safety needs, according to the Department's assessment. Compounding this
7 problem is that police retirements are far outpacing the combined annual total of new recruits
8 and lateral transfers that the Department has been able to hire from other law enforcement
9 agencies. As of September 2023, nearly 350 of the City's current sworn officers were eligible
10 for retirement, having reached 50 years of age with 20 years or more of service.

11 (c) San Francisco is competing for officers amid a nationwide crisis in police
12 understaffing and in the most competitive environment for law enforcement personnel in recent
13 history. The City's failure to keep up with the pace of needed hiring is resulting in mounting
14 public safety challenges, which involve myriad harms suffered by our residents and visitors, in
15 our neighborhoods and all areas of the City, and which threaten our City's economic wellbeing.
16 Additionally, chronic understaffing in the Police Department creates needlessly expensive and
17 wasteful inefficiencies, including overtime. In the most recent fiscal year, overtime accounted
18 for nearly 20% of the Department's salary budget.

19 (d) Efforts thus far to recruit the number of full-duty sworn officers required to meet the
20 City's public safety needs have failed. San Francisco has been unsuccessful in competing with
21 other law enforcement agencies for a limited pool of qualified candidates. Our competitors offer
22 hiring bonuses and other incentives for new recruits and lateral transfers that San Francisco has
23 been unable to match or exceed. For example, the City of Alameda recently began offering
24 \$75,000 new hire recruiting bonuses, which has allowed it to reduce its police staffing shortage
25 by two-thirds within five months.

1 (e) This Charter amendment aims to guarantee San Franciscans have a fully-staffed
2 police force to ensure maximum public safety. The amendment would establish, upon the
3 Controller’s certification that a future tax measure passed by the voters will generate sufficient
4 additional revenue to fund the cost of employing Full-Duty Sworn Officers at specified
5 minimum staffing levels and the minimum amount necessary to implement a police staffing
6 fund, a minimum staffing number for full-time sworn police officers in San Francisco for a five-
7 year period, with the goal of reaching full staffing within that time frame. The amendment
8 makes it possible to meet this goal by mandating sufficient funding for the Police Department to
9 hire the needed number of new recruits and lateral transfers and establishing a Police Full
10 Staffing Fund to be used to enable the Police Department to adequately compete with other local
11 jurisdictions for new hires.

12
13 Section 2. The Board of Supervisors hereby submits to the qualified voters of the City
14 and County, at an election to be held on March 5, 2024, a proposal to amend the Charter of the
15 City and County by revising Section 4.127 and adding Section 16.132, to read as follows:

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

20 **SEC. 4.127. POLICE DEPARTMENT.**

21 The Police Department shall preserve the public peace, prevent and detect crime, and
22 protect the rights of persons and property by enforcing the laws of the United States, the State of
23 California, and the City and County.

24 The Chief of Police may appoint and remove at pleasure special police officers.

25 The Chief of Police shall have all powers which are now or that may be conferred upon

1 a sheriff by state law with respect to the suppression of any riot, public tumult, disturbance of the
2 public peace, or organized resistance against the laws or public authority.

3 DISTRICT POLICE STATIONS. The Police Department shall maintain and operate
4 district police stations. The Police Commission, subject to the approval by the Board of
5 Supervisors, may establish additional district stations, abandon or relocate any district station, or
6 consolidate any two or more district stations.

7 BUDGET. Monetary awards and settlements disbursed by the City and County as a
8 result of police action or inaction shall be taken exclusively from a specific appropriation listed
9 as a separate line item in the Police Department budget for that purpose.

10 POLICE STAFFING. For purposes of the Police Staffing provisions in this Section
11 4.127, the following definitions apply:

12 (a) The Full Funding Date means, as certified by the Controller in writing to the
13 Mayor and Clerk of the Board of Supervisors, the first day of August of the first fiscal year for
14 which the Controller estimates that a new or modified tax passed by the voters will generate
15 sufficient additional general fund or dedicated revenues available both (1) to fund the cost of
16 employing Full-Duty Sworn Officers at the Minimum Staffing Number, set pursuant to this
17 Section 4.127, and also (2) to make deposits into the Police Full Staffing Fund at the minimum
18 amount necessary to implement Section 16.132.

19 (b) The Minimum Staffing Number means the minimum number of required Full-Duty
20 Sworn Officers of the Police Department.

21 (c) Full-Duty Sworn Officers means full-time sworn members of the Department
22 except those assigned to the San Francisco International Airport, those on long-term leaves of
23 absence, and Police Academy recruits.

24 (d) Police Full Staffing Fund means the fund established pursuant to Section 16.132.
25

1 For five fiscal years beginning with the Full Funding Date, the Police Department shall
2 consist of no less than the number of officers equal to the Minimum Staffing Number. Beginning
3 on the Full Funding Date, and every year thereafter for a total of five fiscal years, the Minimum
4 Staffing Number shall be: (1) 1,700 in Year 1; (2) 1,800 in Year 2; (3) 1,900 in Year 3; (4) 2,000
5 in Year 4; and (5) 2,074 in Year 5. Thereafter, the Minimum Staffing Number shall be
6 established as set forth in the next paragraphs.

7 By no earlier than October 1 and no later than November 1 in every odd-numbered
8 calendar year until the Full Funding Date and, following the Full Funding date, in every fifth
9 calendar year thereafter, the Chief of Police shall transmit to the Police Commission a report
10 describing the ~~D~~department's current number of ~~full-duty sworn officers~~ Full-Duty Sworn
11 Officers and recommending staffing levels of ~~full-duty sworn officers~~ Full-Duty Sworn Officers
12 in the subsequent ~~two~~ five fiscal years. The report shall include an assessment of the Police
13 Department's overall staffing, the workload handled by the ~~d~~Department's employees, the
14 ~~d~~Department's public service objectives, the ~~d~~Department's legal duties, and other information
15 the Chief of Police deems relevant to determining proper staffing levels of Full-Duty Sworn
16 Officers ~~full-duty sworn officers~~. The report shall evaluate and make recommendations regarding
17 staffing levels at all district stations and in all types of jobs and services performed by ~~full-duty~~
18 ~~sworn officers~~ Full-Duty Sworn Officers. To guide the Chief of Police's report, by ~~By~~ no later
19 than July 1 in every odd-numbered calendar year until the Full Funding Date and, following the
20 Full Funding date, in every fifth calendar year thereafter, the Police Commission shall adopt a
21 policy prescribing the methodologies that the Chief of Police may use in evaluating staffing
22 levels, which may include consideration of factors such as workload metrics, the Department's
23 targets for levels of service, ratios between supervisory and non-supervisory positions in the
24 Department, whether particular services require a fixed number of hours, and other factors the
25 Police Commission determines are best practices or otherwise relevant. The Chief of Police may,

1 but is not required by this Section 4.127 to, submit staffing reports regarding ~~full-duty sworn~~
2 ~~officers~~ Full-Duty Sworn Officers to the Police Commission more frequently than set forth
3 above. even-numbered years. The Police Commission shall consider the most recent report and
4 Minimum Staffing Number in its consideration and approval of the Police Department's
5 proposed budget every fiscal year.

6 Beginning in the fifth calendar year following the Full Funding Date, tThe Police
7 Commission shall hold a public hearing regarding the Chief of Police's staffing report by
8 December 31 in every year in which the Chief of Police submits a staffing report between
9 October 1 and November 1, as described above~~odd-numbered calendar year. At that public~~
10 hearing, the Police Commission shall consider the most recent report and adopt a Minimum
11 Staffing Number for the Police Department. The Police Commission shall not reduce the
12 Minimum Staffing Number by more than 5% year-over-year except by a two-thirds vote of the
13 Police Commission. The Police Commission shall consider the most recent report and Minimum
14 Staffing Number in its consideration and approval of the Police Department's proposed budget
15 every fiscal year, but the Commission shall not be required to accept or adopt any of the
16 recommendations in the report The Police Commission shall approve a budget for submission to
17 the Mayor that includes funding for the salaries required to meet at least the Minimum Staffing
18 Number as set forth in this Section 4.127.

19 For the five fiscal years beginning on the Full Funding Date, the biennial budget in
20 Section 9.101 shall appropriate funds sufficient to pay for at least the number of Full-Duty
21 Sworn Officers actually employed as of February 1 of the prior fiscal year. In any of those five
22 fiscal years, in the event that this funding level to support Full-Duty Sworn Officers is lower than
23 the amount necessary to fund the actual or projected Full-Duty Staffing Levels described in this
24 Section 4.127, the Police Department may introduce an ordinance to amend the biennial budget
25 if the Department subsequently projects that it can achieve higher Full-Duty Sworn Officer

1 staffing levels than those contained in the adopted biennial budget. No amendment to the
2 biennial budget may be adopted unless the Controller certifies availability of funds and the need
3 for the requested funds to meet expected staffing levels for that fiscal year.

4 Except that the Board of Supervisors may not reduce the Minimum Staffing Number as
5 set forth in this Section 4.127 for the five fiscal years beginning on the Full Funding Date, tThe
6 Board of Supervisors is empowered to adopt ordinances necessary to effectuate the purpose of
7 this section regarding staffing levels including but not limited to ordinances regulating the
8 scheduling of police training classes.

9 Further, the Police Commission shall initiate an annual review to civilianize as many
10 positions as possible and submit that report to the Board of Supervisors annually for review and
11 approval.

12 PATROL SPECIAL POLICE OFFICERS. The Commission may appoint patrol special
13 police officers and for cause may suspend or dismiss patrol special police officers after a hearing
14 on charges duly filed with the Commission and after a fair and impartial trial. Patrol special
15 police officers shall be regulated by the Police Commission, which may establish requirements
16 for and procedures to govern the position, including the power of the Chief of Police to suspend
17 a patrol special police officer pending a hearing on charges. Each patrol special police officer
18 shall be at the time of appointment not less than 21 years of age and must possess such physical
19 qualifications as may be required by the Commission.

20 Patrol special police officers may be designated by the Commission as the owners of a
21 certain beat or territory which may be established or rescinded by the Commission. Patrol special
22 police officers designated as the owners of a certain beat or territory or the legal heirs or
23 representatives of the owners may dispose of their interest in the beat or territory to a person of
24 good moral character, approved by the Police Commission and eligible for appointment as a
25 patrol special police officer.

1 Commission designation of beats or territories shall not affect the ability of private
2 security companies to provide on-site security services on the inside or at the entrance of any
3 property located in the City and County.

4
5 **SECTION 16.132. THE POLICE FULL STAFFING FUND.**

6 (a) Establishment of Fund. There is hereby established the Police Full Staffing Fund to
7 be administered by the Police Department. Monies therein shall be expended or used solely by
8 the Department, subject to the budgetary and fiscal provisions of the Charter, for the purposes
9 set forth in this Section 16.132.

10 **(b) Definitions.**

11 “Department” means the Police Department.

12 “Full-Duty Sworn Officers” has the meaning set forth in Section 4.127.

13 “Full Funding Date” has the meaning set forth in Section 4.127.

14 “Fund” means the Police Full Staffing Fund established by this Section 16.132.

15 “Minimum Staffing Number” means the minimum number of Full-Duty Sworn Officers as
16 established under Section 4.127.

17 “Recruitment Supplement” means an amount to be calculated by the Controller equal to
18 \$75,000 for each Full-Duty Sworn Officer the Department is, as of February 1 of each year,
19 short of the Minimum Staffing Number.

20 **(c) Purpose and Use of Fund. The purpose of the Fund is to provide additional**
21 resources to the Department to ensure adequate staffing of Full-Duty Sworn Officers and to meet
22 the Minimum Staffing Number in each year. These resources shall be in addition to those
23 amounts previously appropriated for the Department’s staffing in the biennial budget for the
24 fiscal year preceding the Full Funding Date. The Fund will be used exclusively to support full
25 staffing of Full-Duty Sworn Officers, including, but not limited to, recruitment and hiring efforts,

1 advertising, development and administration of hiring strategies, and funding hiring incentives
2 for new police officers. In recruitment efforts, the Fund will prioritize local hiring and
3 diversifying applicants in accordance with the principles of the May 2015 final report of
4 President Obama's Task Force on 21st Century Policing and the recommendations of the U.S.
5 Department of Justice's Collaborative Reform Initiative Program.

6 (d) **Appropriations to the Fund.** For the fiscal year beginning on the Full Funding
7 Date, the City shall appropriate to the Fund \$16,800,000. On July 1 of each of the subsequent
8 four fiscal years – for a total of five fiscal years – the Controller shall allocate to the Fund an
9 amount equal to the Recruitment Supplement, but not to exceed \$30 million. The City may, at its
10 discretion, continue to appropriate money to the Fund for more than five fiscal years. The
11 Controller shall set aside and maintain appropriations, together with any interest earned
12 thereon, in the Fund. Nothing herein is intended to limit the City's ability to accept private
13 donations to satisfy the required appropriations to the Fund.

14 (e) **Temporary Freezes.** Notwithstanding subsection (d) or Charter Section 4.127, the
15 City may freeze contributions to the Fund at the level of contributions for the prior fiscal year for
16 any fiscal year after the fiscal year beginning on the Full Funding Date when the City's
17 projected budget deficit for the upcoming fiscal year at the time of the March Joint Report or
18 March Update to the Five Year Financial Plan as prepared jointly by the Controller, the
19 Mayor's Budget Director, and the Board of Supervisors' Budget Analyst exceeds \$250 million,
20 adjusted annually beginning with Fiscal Year 2025-2026 by the percentage increase or decrease
21 in aggregate City discretionary revenues, as determined by the Controller, based on calculations
22 consistent from year to year.

23 (f) **Unspent Funds.** All unspent amounts in the Fund on June 30 of each fiscal year
24 shall be returned to the General Fund.

1 (g) **Expiration.** This Section 16.132 shall expire by operation of law ten years after the
2 Full Funding Date, following which the City Attorney may cause it to be removed from the
3 Charter unless the Section is extended by Charter amendment.

4
5 APPROVED AS TO FORM:
6 DAVID CHIU, City Attorney

7 By: /s/ Kate G. Kimberlin
8 KATE G. KIMBERLIN
9 Deputy City Attorney

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LEGISLATIVE DIGEST
(Revised 10/30/2023)

[Charter Amendment - Minimum Police Department Staffing and Five-Year Annual Funding Requirement]

Describing and setting forth a proposal to the voters at an election to be held on March 5, 2024, to amend the Charter of the City and County of San Francisco to define “Full-Duty Sworn Officers” for purposes of establishing minimum staffing levels for sworn officers of the Police Department; and, contingent upon the Controller’s certification that a future tax measure passed by the voters will generate sufficient additional revenue to fund the cost of employing Full-Duty Sworn Officers at specified minimum staffing levels and the minimum amount necessary to implement a police staffing fund: 1) set the Minimum Staffing Number for five fiscal years beginning with 1,700 full-duty sworn officers in year one, with increases each year such that by the fifth fiscal year, the Minimum Staffing Number shall be 2,074; 2) require for a period of five years that the Mayor and Board of Supervisors appropriate funds to pay for at least the number of sworn officers as of February 1 of the prior fiscal year; 3) establish a Police Full Staffing Fund (“Fund”) for a period of five fiscal years to facilitate minimum police staffing; 4) require that \$16.8 million be appropriated into the Fund in the first year, and varying amounts in years two through five, calculated based on staffing shortages, but allowing for a temporary freeze of appropriations to the Fund after the first year in a budgetary or economic emergency.

Existing Law

Section 4.127 of the Charter sets forth a process for establishing the San Francisco Police Department’s current number of full-duty sworn officers and recommended full-staffing level. The Charter does not define the term “full-duty sworn officers.” The Charter requires the Chief of Police to report the Department’s recommended staffing levels to the Police Commission every two years. The Police Commission is required to consider the most recent report in approving the Department’s proposed budget each fiscal year; however, the Commission is not required to accept or adopt the findings in the Department’s report.

There is currently no requirement that the City’s budget appropriate funds for any specific number of police officers. Additionally, the Charter currently only allows the Mayor or a member of the Board of Supervisors to submit an amendment to the budget. There are no provisions in the Charter requiring the City’s budget appropriate funds for recruitment of police officers.

Amendments to Current Law

This Charter amendment would update the current process for establishing the San Francisco Police Department’s full-staffing levels by defining the term “Full-Duty Sworn Officers” to mean

the full-time sworn members of the Department except those assigned to the San Francisco International Airport, those on long-term leaves of absence, and Police Academy recruits. The amendment would also establish a “Full Funding Date,” following the adoption of a future tax measure.

Following the Full Funding Date, the Charter amendment would: (1) establish a “Minimum Staffing Number” for each of five fiscal years, beginning the first fiscal year at 1,700 Full-Duty Sworn Officers, with increases each year such that by the fifth fiscal year, the Minimum Staffing Number will be 2,074; (2) decrease the frequency with which the Chief of Police must make reports to the Police Commission regarding the Minimum Staffing Number from every two years to every five years; (3) require the Police Commission adopt a Minimum Staffing Number which may not be reduced by more than 5% year-over-year absent a two-third’s vote of the Police Commission; (4) require the Police Commission approve a budget each fiscal year that funds at least the salaries required to meet that year’s Minimum Staffing Number; (5) for the five fiscal years following the Full Funding Date, require the City to appropriate sufficient funds to pay for at least the actual number of Full-Duty Sworn Officers in the Department as of February 1 of the prior fiscal year; and (6) should the Department determine it is able to hire additional officers, allow the Department to submit an amendment to the budget directly to the Board of Supervisors.

The Charter amendment would also add a new Section 16.132 consisting of the Police Full Staffing Fund. The Fund would, for five fiscal years following the Full Funding Date, be used to support full staffing of Full-Duty Sworn Officers through recruitment and hiring efforts that prioritize local hiring and diversity in recruitment of applicants. In the first year starting with the Full Funding Date, the City would be required to appropriate \$16,800,000 to the Fund. The amount appropriated to the Fund in the subsequent four fiscal years would depend on the number of unfilled Full-Duty Sworn Officer positions within the Department, but would not exceed \$30 million in any fiscal year. The City may also freeze contributions to the Fund at the prior year’s level in the event of a projected budget deficit. Unspent amounts in the Fund will be returned to the City’s general fund at the end of each fiscal year. The Charter amendment authorizes, but does not require, the City to continue to appropriate money to the Fund for more than five fiscal years; but, absent an extension approved by the voters, the Fund will sunset ten years after the Full Funding Date.

Background Information

In November, 2020, voters amended Section 4.127 of the Charter to establish a process for determining the recommended staffing levels for full-duty sworn officers in the Department. The November 2020 amendment also eliminated the mandate that the police force in the City and County consist of no less than 1,971 full-duty sworn officers. That requirement had been in the Charter since 1996, and was originally adopted by the voters in June, 1994.

This Charter amendment was introduced on September 19, 2023. As initially introduced, the amendment would have established a Minimum Staffing Number of 1,800 Full-Duty Sworn

Officers for Fiscal Year 2024-2025, with increases each year such that by Fiscal Year 2028-2029, the Minimum Staffing Number would be 2,182 Full-Duty Sworn Officers. The Charter amendment also would have, upon becoming effective: (1) required the City to begin appropriating funds to the Fund in Fiscal Year 2024-2025 and for the four fiscal years thereafter; (2) reduced the frequency with which the Chief of Police must make reports to the Commission from every two years to every five years; and (3) required the City to appropriate sufficient funds for the five fiscal years beginning in Fiscal Year 2024-2025 to pay for at least the actual number of Full-Duty Sworn Officers employed in the Department as of February 1 of the prior fiscal year.

On October 23, 2023, this Charter amendment was amended in Rules Committee to reduce the Minimum Staffing Number for the first five years of the Fund, with the Minimum Staffing Number for years one through four being reduced by 100 each, such that the Minimum Staffing Number in the first year would be 1,700, and the Minimum Staffing Number for year five being reduced from 2,182 to 2,074. The Rules Committee also added language to the Fund to clarify that the amounts allocated to the Fund are intended to be in addition to those amounts previously appropriated for staffing in the prior fiscal year. The Committee further amended the Fund to permit the City to continue appropriating money to the Fund after five fiscal years.

On October 30, 2023, the Charter amendment was further amended in the Rules Committee to make operative upon the effective date of the amendment the new definition of "Full-Duty Sworn Officers," but to otherwise make the amendment's operation contingent upon the Controller's certification that a future tax measure passed by the voters will generate sufficient additional revenue to fund the cost of employing Full-Duty Sworn Officers at the specified minimum staffing levels and the minimum amount necessary to implement the Fund.

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