[Charter Amendment - Electing the Director of the Department of Police Accountability]

Describing and setting forth a proposal to the voters at an election to be held on November 5, 2024, to amend the Charter of the City and County of San Francisco to provide for the election of the Director of the Department of Police Accountability.

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 5, 2024, a proposal to amend the Charter of the City and County by revising Sections 4.136, 6.100, 13.101, 13.101.5, 13.102, 15.105, and A8.409-1, and adding Section 6.107, 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. 4.136. DEPARTMENT OF POLICE ACCOUNTABILITY.

(a) There shall be under the Police Commission a Department of Police Accountability ("DPA").

(b) ~~*The Mayor shall appoint a nominee of the Police Commission as the Director of DPA, subject to confirmation by the Board of Supervisors. The Director shall serve at the pleasure of the Police Commission. If the Board of Supervisors fails to act on the appointment within 30 days, the appointment shall be deemed approved. In the event the office is vacant, until the Mayor makes an appointment and that appointment is confirmed by the Board, the Police Commission shall appoint an interim Director who shall serve at the pleasure of the Police Commission. The appointment of the Director shall be exempt from the civil service requirements of this Charter.*~~ *There shall be an elected Director of DPA as set forth in Sections*

6.100 and 6.107. The Director shall never have been a uniformed member or employee of the Police Department. The Director shall be the appointing officer under the civil service provisions of this Charter for the appointment, removal, or discipline of employees of DPA.

(c) The Police Commission shall have the power and duty to organize, reorganize, and manage DPA. Subject to the civil service provisions of this Charter, DPA shall include investigators and hearing officers. The staff of DPA shall consist of no fewer than one line investigator for every 150 sworn members. Whenever the ratio of investigators to police officers specified by this *sub*section *(c)* is not met for more than 30 consecutive days, the Director shall have the power to hire, and the City Controller must pay, temporary investigators to meet such staffing requirements. No full-time or part-time employee of DPA shall have previously served as a uniformed member of the Police Department. Subject to rules of the Police Commission, the Director may appoint part-time hearing officers who shall be exempt from the civil service requirements of this Charter. Compensation of the hearing officers shall be at rates recommended by the Commission and established by the Board of Supervisors or by contract approved by the Board of Supervisors.

(d) DPA shall promptly, fairly, and impartially investigate all complaints regarding police use of force, misconduct, or allegations that a member of the Police Department has not properly performed a duty, except those complaints which on their face clearly indicate that the acts complained of were proper and those complaints lodged by other members of the Police Department. DPA shall use its best efforts to conclude investigations of such complaints and, if sustained, transmit the sustained complaint to the Police Department within nine months of receipt thereof by DPA. If DPA is unable to conclude its investigation within such nine-month period, the Director, within such nine-month period, shall inform the Chief of Police of the reasons therefor and transmit information and evidence from the investigation as shall facilitate the Chief's timely consideration of the matter.

(e) DPA shall recommend disciplinary action to the Chief of Police on those complaints that are sustained. The Director, after meeting and conferring with the Chief of Police or ~~*his or her*~~ *the Chief's* designee, may verify and file charges with the Police Commission against members of the Police Department arising out of sustained complaints; provided, that the Director may not verify and file such charges for a period of 60 days following the transmittal of the sustained complaint to the Police Department unless the Director issues a written determination that the limitations period within which the member or members may be disciplined under *California* Government Code Section 3304, as amended from time to time or any successor provisions thereto, may expire within such 60-day period and (1) the Chief of Police fails or refuses to file charges with the Police Commission arising out of the sustained complaint, (2) the Chief of Police or ~~*his or her*~~ *the Chief's* designee fails or refuses to meet and confer with the Director on the matter, or (3) other exigent circumstances necessitate that the Director verify and file charges to preserve the ability of the Police Commission to impose punishment pursuant to Section A8.343.

(f) The Director shall schedule hearings before hearing officers when such is requested by the complainant or a member of the Police Department and, in accordance with rules of the Commission, such a hearing will facilitate the fact-finding process. The Board of Supervisors may provide by ordinance that DPA shall in the same manner investigate and make recommendations to the Chief of Police regarding complaints of misconduct by patrol special police officers and their uniformed employees.

(g) Nothing herein shall prohibit the Chief of Police or a commanding officer from investigating the conduct of a member of the Police Department under ~~*his or her*~~ *the Chief's or the commanding officer's* command, or taking disciplinary or corrective action, otherwise permitted by this Charter, when such is warranted; and nothing herein shall limit or otherwise

restrict the disciplinary powers vested in the Chief of Police and the Police Commission by other provisions of this Charter.

(h) DPA shall prepare in accordance with rules of the Commission monthly summaries of the complaints received and shall prepare recommendations quarterly concerning policies or practices of the Police Department which could be changed or amended to avoid unnecessary tension with the public or a definable segment of the public while insuring effective police services.

(i) DPA shall prepare a report for the President of the Board of Supervisors each quarter. This report shall include, but not be limited to, the number and type of complaints filed, the outcome of the complaints, and a review of the disciplinary action taken. The President of the Board of Supervisors shall refer this report to the appropriate committee of the Board of Supervisors charged with public safety responsibilities. Said committee may issue recommendations as needed.

(j) In carrying out its objectives, including the preparation of recommendations concerning departmental policies or practices referenced above, the investigations referenced above, and the audits noted below, DPA shall receive prompt and full cooperation and assistance from all departments, officers, and employees of the City and County, which shall, unless prohibited by state or federal law, promptly produce all records and information requested by DPA, including but not limited to (1) records relevant to Police Department policies or practices, (2) personnel and disciplinary records of Police Department employees, (3) criminal investigative and prosecution files, and (4) all records to which the Police Commission has access, regardless of whether those records pertain to a particular complaint. The DPA shall maintain the confidentiality of any records and information it receives to the extent required by state or federal law governing such records or information. The Director may also request and the Chief of Police shall require the testimony or attendance of any member of the Police

Department to carry out the responsibilities of DPA. Nothing in this Section 4.136 is intended or shall be construed to interfere with the duties of the Sheriff or the District Attorney under state law, including their constitutional and statutory powers and duties under *California* Government Code Section 25303, as amended from time to time or any successor provisions thereto, or other applicable state law or judicial decision.

(k) Every two years, DPA shall conduct a performance audit or review of police officer use of force and how the Police Department has handled claims of officer misconduct. DPA shall also have the authority to conduct performance audits or reviews of whether Police Department personnel and management have complied with federal and state law, City ordinances and policies, and Police Department policies. The Director shall have the discretion to determine the frequency, topics, and scope of such performance audits or reviews. To the extent permitted by law, DPA shall also allow public access to information on the progress and disposition of claims of misconduct or use of force, and the results of the performance audits and reviews conducted by DPA.

(l) The DPA budget shall be separate from the budget of the Police Department. Notwithstanding Section 4.102(3), the Director shall submit DPA's proposed annual or two-year budget directly to the Mayor.

SEC. 6.100. DESIGNATION OF OTHER ELECTIVE OFFICERS.

(a) In addition to the officers required to be elected under other Articles of this Charter, *and as detailed below in Sections 6.101-6.107,* the following shall constitute the elective officers of the City and County: the Assessor-Recorder, City Attorney, District Attorney, Public Defender, Sheriff, ~~*and*~~ Treasurer*, and Director of the Department of Police Accountability*. Each such officer shall be elected for a four-year term and shall serve full time.

(b) The City Attorney shall be licensed to practice law in all courts of the State of California and shall have been so licensed for at least ten years ~~*next*~~*immediately* preceding *the date the City Attorney assumes office*~~*his or her election*~~. The District Attorney and Public Defender shall each be licensed to practice law in all courts of the State of California and shall have been so licensed for at least five years ~~*next*~~*immediately* preceding *the date each assumes office*~~*his or her election*~~. ~~*Such*~~ *The* officers *named in this subsection (b)* shall not engage in the private practice of law during the period they serve as elective officers of the City and County.

(c) Subject to the powers and duties set forth in this Charter, the officers named in this ~~*s*~~Section *6.100* shall have such additional powers and duties prescribed by state laws for their respective offices*, and as prescribed by ordinance*. ~~*The terms of office in effect for these officers on the date this Charter is adopted shall continue.*~~

SEC. 6.107. DIRECTOR OF THE DEPARTMENT OF POLICE ACCOUNTABILITY.

There shall be a Director of the Department of Police Accountability for the City and County of San Francisco. The functions, powers, and duties of the Director of the Department of Police Accountability, and of the Department, are set forth in Section 4.136.

SEC. 13.101. TERMS OF ELECTIVE OFFICE.

(a) Except in the case of an appointment or election to fill a vacancy, *or as otherwise specified in this Section 13.101*, the term of office of each elected officer shall commence at noon on the eighth day of January following the date of the election.

(b) Subject to the applicable provisions of Section 13.102, the elected officers of the City and County, and members of the Board of Education and of the Governing Body of the Community College District, shall be elected as follows:

(1) The following officials shall be elected at the general municipal election in 2024 and every fourth year thereafter: Mayor, Sheriff, District Attorney, City Attorney, Treasurer, four members of the Board of Education, and four members of the Governing Board of the Community College District.

(2) The following officials shall be elected at the general municipal election in 2022 and every fourth year thereafter: Assessor-Recorder, Public Defender, three members of the Board of Education, and three members of the Governing Board of the Community College District.

(3) A Director of the Department of Police Accountability shall be elected at the general municipal election on November 3, 2026, for a two-year term beginning at noon on January 8, 2027. At the general municipal election in 2028, and every fourth year thereafter, the Director of the Department of Police Accountability shall be elected. Notwithstanding any other provision of this Charter, including Section 6.100, the term of office for the person elected Director of the Department of Police Accountability on November 3, 2026 shall expire at noon on January 8, 2029.

(4) ~~*(3)*~~ The election and terms of office of members of the Board of Supervisors shall be governed by Section 13.110.

(c) Notwithstanding any other provision of this Charter, including Section 3.101, the term of office for Mayor, City Attorney, District Attorney, Sheriff, and Treasurer that began at noon on January 8, 2020 shall end at noon on January 8, 2025. This five-year term for the office of Mayor shall be deemed a single term for the purposes of term limits under Section 3.101.

SEC. 13.101.5. VACANCIES.

(a) If the office of Assessor-Recorder, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, *Director of the Department of Police Accountability*, or Member of

the Board of Supervisors, Board of Education, or Governing Board of the Community College District becomes vacant because of death, resignation, recall, permanent disability, or the inability of the respective officer to otherwise carry out the responsibilities of the office, the Mayor shall appoint an individual qualified to fill the vacancy under this Charter and state laws.

(b) If the Office of Mayor becomes vacant because of death, resignation, recall, permanent disability or the inability to carry out the responsibilities of the office, the President of the Board of Supervisors shall become Acting Mayor and shall serve until a successor is appointed by the Board of Supervisors *by motion*.

(c) Any person filling a vacancy pursuant to subsection (a) or (b) ~~*of this Section*~~ shall serve until a successor is selected at the next election occurring not less than 120 days after the vacancy, at which time an election shall be held to fill the unexpired term, provided that (1) if an election for the vacated office is scheduled to occur less than one year after the vacancy, the ~~*appointee*~~ *person filling the vacancy* shall serve until a successor is selected at that election ~~*or*~~ *and* (2) if *an election for the vacated office is not scheduled to occur less than one year after the vacancy but* an election for any seat on the same board as the vacated seat is scheduled to occur less than one year but at least 120 days after the vacancy, the ~~*appointee*~~ *person filling the vacancy* shall serve until a successor is selected at that election to fill the unexpired term.

~~*(d) If no candidate receives a majority of the votes cast at an election to fill a vacated office, the two candidates receiving the most votes shall qualify to have their names placed on the ballot for a municipal runoff election at the next regular or otherwise scheduled election occurring not less than five weeks later. If an instant runoff election process is enacted for the offices enumerated in this Section, that process shall apply to any election required by this Section.*~~

SEC. 13.102. ~~*INSTANT RUNOFF ELECTIONS*~~ *RANKED-CHOICE VOTING ELECTIONS*.

(a) For the purposes of this *Section 13.102* ~~*section*~~: (1) a candidate shall be deemed "continuing" if the candidate has not been eliminated *from further rounds of tabulation*; (2) a ballot shall be deemed "continuing" if it is not exhausted; and (3) a ballot shall be deemed "exhausted," and not *included* ~~*counted*~~ in further stages of the tabulation, if all of the choices have been eliminated or there are no more choices indicated on the ballot. If a ranked-choice ballot gives equal rank to two or more candidates, the ballot shall be declared exhausted when such multiple rankings are reached. If a voter casts a ranked-choice ballot but skips a rank, the voter's vote shall be transferred to that voter's next ranked choice.

(b) The Mayor, Sheriff, District Attorney, City Attorney, Treasurer, Assessor-Recorder, Public Defender, *Director of the Department of Police Accountability*, and members of the Board of Supervisors shall be elected using a ranked-choice~~*, or "instant runoff,"*~~ ballot. The ballot shall allow voters to rank a number of choices in order of preference equal to the total number of candidates for each office; provided, however, *that* if the voting system, vote tabulation system, or similar or related equipment used by the City and County cannot feasibly accommodate choices equal to the total number of candidates running for each office, then the Director of Elections may limit the number of choices a voter may rank to no fewer than three. The ballot shall in no way interfere with a voter's ability to cast a vote for a write-in candidate.

(c) If a candidate receives a majority of the first choices, that candidate shall be declared elected. If no candidate receives a majority, the candidate who received the fewest first choices shall be eliminated *from further rounds of tabulation* and each vote cast for that candidate shall be transferred to the next ranked candidate on that voter's ballot. If, after this transfer of votes, any candidate has a majority of the votes from the continuing ballots, that candidate shall be declared elected.

(d) If no candidate receives a majority of votes from the continuing ballots after a candidate has been eliminated *from further rounds of tabulation* and *that candidate's* ~~*his or her*~~ votes have been transferred to the next-ranked candidate, the continuing candidate with the fewest votes from the continuing ballots shall be eliminated *from further rounds of tabulation*. All votes cast for that candidate shall be transferred to the next-ranked continuing candidate on each voter's ballot. This process of eliminating candidates *from further rounds of tabulation* and transferring their votes to the next-ranked continuing candidates shall be repeated until a candidate receives a majority of the votes from the continuing ballots.

(e) If the total number of votes of the two or more candidates credited with the lowest number of votes is less than the number of votes credited to the candidate with the next highest number of votes, those candidates with the lowest number of votes shall be eliminated *from further rounds of tabulation* simultaneously and their votes transferred to the next-ranked continuing candidate on each ballot in a single counting operation.

(f) A tie between two or more candidates shall be resolved in accordance with State law.

(g) The Department of Elections shall conduct a voter education campaign to familiarize voters with the ranked-choice ~~*or, "instant runoff,"*~~ method of voting.

(h) Any voting system, vote tabulation system, or similar or related equipment acquired by the City and County shall have the capability to accommodate this system of ranked-choice~~*, or "instant runoff,"*~~ balloting.

~~*(i) Ranked choice, or "instant runoff," balloting shall be used for the general municipal election in November 2002 and all subsequent elections. If the Director of Elections certifies to the Board of Supervisors and the Mayor no later than July 1, 2002 that the Department will not be ready to implement ranked-choice balloting in November 2002, then the*~~

~~*City shall begin using ranked-choice, or "instant runoff," balloting at the November 2003 general municipal election.*~~

~~*If ranked-choice, or "instant runoff," balloting is not used in November of 2002, and no candidate for any elective office of the City and County, except the Board of Education and the Governing Board of the Community College District, receives a majority of the votes cast at an election for such office, the two candidates receiving the most votes shall qualify to have their names placed on the ballot for a runoff election held on the second Tuesday in December of 2002.*~~

SEC. 15.105. SUSPENSION AND REMOVAL.

(a) ELECTIVE AND CERTAIN APPOINTED OFFICERS. Any elective officer, and any member of the Airport Commission, Asian Art Commission, Civil Service Commission, Commission on the Status of Women, Golden Gate Concourse Authority Board of Directors, Health Commission, Human Services Commission, Juvenile Probation Commission, Municipal Transportation Agency Board of Directors, Port Commission, Public Utilities Commission, Recreation and Park Commission, Fine Arts Museums Board of Trustees, War Memorial and Performing Art Center Board of Trustees, Board of Education or Community College Board is subject to suspension and removal for official misconduct as provided in this *Section 15.505* ~~*section*~~. Such officer may be suspended by the Mayor and the Mayor shall appoint a qualified person to discharge the duties of the office during the period of suspension. Upon such suspension, the Mayor shall immediately notify the Ethics Commission and Board of Supervisors thereof in writing and the cause thereof, and shall present written charges against such suspended officer to the Ethics Commission and Board of Supervisors at or prior to their next regular meetings following such suspension, and shall immediately furnish a copy of the same to such officer, who shall have the right to appear with counsel before the Ethics

Commission in *their* ~~*his or her*~~ defense. The Ethics Commission shall hold a hearing not less than five days after the filing of written charges. After the hearing, the Ethics Commission shall transmit the full record of the hearing to the Board of Supervisors with a recommendation as to whether the charges should be sustained. If, after reviewing the complete record, the charges are sustained by not less than a three-fourths vote of all members of the Board of Supervisors, the suspended officer shall be removed from office; if not so sustained, or if not acted on by the Board of Supervisors within 30 days after the receipt of the record from the Ethics Commission, the suspended officer shall thereby be reinstated.

* * * *

A8.409-1 EMPLOYEES COVERED

* * * *

Except as otherwise provided by this Charter, the Civil Service Commission shall set the wages and benefits of all elected officials of the City and County of San Francisco as follows: The Commission shall conduct a salary survey of the offices of chief executive officer, county counsel, district attorney, public defender, assessor-recorder, treasurer, and sheriff, in the counties of Alameda, Contra Costa, Marin, San Mateo, and Santa Clara. The Commission shall then average the salaries for each of those offices to determine respectively the base five-year salaries for the Mayor, City Attorney, District Attorney, Public Defender, Assessor-Recorder, Treasurer, and Sheriff.

If any of the aforementioned counties do not have an office of public defender, that county shall be omitted from the salary survey for purposes of determining the base five-year salary of the Public Defender. Among the aforementioned counties, any freestanding county assessor's office or any county office in which the assessor's function is combined with other county functions, shall be deemed comparable to the office of Assessor-Recorder for purposes of

determining the base five-year salary of the Assessor-Recorder. If any of the aforementioned counties do not have a comparable county office of treasurer, the county office whose functions most closely resemble the Treasurer's functions in San Francisco shall be deemed comparable to the office of Treasurer for purposes of determining the base five-year salary of the Treasurer.

The initial base five-year salary determination for the respective salaries of the Mayor, City Attorney, District Attorney, Public Defender, Assessor-Recorder, Treasurer, and Sheriff shall apply to the period from July 1, 2007 through June 30, 2012. Subsequent base five-year salary determinations for those offices shall apply to subsequent five-year periods, for example, July 1, 2012 through June 30, 2017.

For the period January 8, 2027 through June 30, 2027, the Director of the Department of Police Accountability shall receive the salary that was received by the Director immediately before January 8, 2027. If immediately before January 8, 2027, a person is serving in an acting capacity as Director, the salary for the period January 8, 2027 through June 30, 2027 shall be the salary received by the last person to hold the office of Director of the Department of Police Accountability.

For the period July 1, 2027 through June 30, 2032, the initial base five-year salary for the Director of the Department of Police Accountability shall be set by the Civil Service Commission following the Commission's review of salary classifications for non-elected City department heads. Based on that review, the Commission shall determine the most appropriate salary to set as of July 1, 2027. Subsequent base salary determinations for the Director of the Department of Police Accountability shall apply to subsequent five-year periods, and shall be set by the Commission following the Commission's review of salary classifications for non-elected City department heads, to determine the most appropriate salary to set as of July 1 of the first year of the five-year period.

For the second, third, fourth, and fifth years of the period for which any base five-year salary has been set, the Commission shall annually adjust the respective salaries of the Mayor, City Attorney, District Attorney, Public Defender, Assessor-Recorder, Treasurer, ~~*and*~~ Sheriff, *and Director of the Department of Police Accountability* to account for upward annual movement in the Consumer Price Index during the prior calendar year; provided, that whenever the upward movement in the Consumer Price Index during the prior calendar year exceeds 5%, the cost-of-living adjustment shall not be the actual increase in the Consumer Price Index for the prior calendar year but instead shall be 5%. The annual cost-of-living adjustment shall take effect July 1 of the second, third, fourth, and fifth years of the period for which the base five-year salary has been set.

Except as noted below, in setting ~~*the initial and subsequent*~~ base five-year salary determinations for the offices of Mayor, City Attorney, District Attorney, Public Defender, Assessor-Recorder, Treasurer, ~~*and*~~ Sheriff, *and Director of the Department of Police Accountability*, the Commission may not reduce the respective salaries of any of those offices. If implementation of the process for setting the base five-year salary would otherwise result in a salary reduction for any of those offices, the base five-year salary for the affected office or offices shall be the existing salary for the office.

If the City and County of San Francisco and employee organizations agree to amend the compensation provisions of existing memoranda of understanding to reduce costs, the Commission shall review and amend the respective salaries of the Mayor, City Attorney, District Attorney, Public Defender, Assessor-Recorder, Treasurer, ~~*and*~~ Sheriff*, and Director of the Department of Police Accountability* as necessary to achieve comparable cost savings in the affected fiscal year or years.

The Commission shall annually set the benefits of elected officials, to take effect July 1 of each year. Benefits of elected officials may equal but may not exceed those benefits provided

to any classification of miscellaneous officers and employees as of July 1 of each year, except, after January 7, 2012, the City and County shall not pay the required employee contributions of said officials into the San Francisco Employees' Retirement System trust fund or into the Retiree Health Care Trust Fund.

* * * *

Section 2. The amendment to Charter Section 4.136 shall become operative at noon on January 8, 2027. All other amendments to the Charter contained in this measure shall become operative on the effective date of the measure.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ Christina Fletes-Romo
CHRISTINA FLETES-ROMO
Deputy City Attorney

n:\legana\as2024\2400339\01758014.docx