

1 [Charter Amendment - Housing and Development Commission]

2

3 **Describing and setting forth a proposal to the voters, at an election to be held on November**

4 **8, 2016, to amend the Charter of the City and County of San Francisco, to create the**

5 **Housing and Development Commission to oversee the Department of Economic and**

6 **Workforce Development and the Department of Housing and Community Development; to**

7 **require the Commission to review and make recommendations regarding proposed**

8 **development agreements and conveyance of certain surplus City property before the Board**

9 **of Supervisors considers such proposals; to require the Commission to hold hearings and**

10 **make recommendations regarding proposals to adopt or change inclusionary housing**

11 **requirements for housing developments; to require the Commission to adopt rules creating**

12 **competitive selection processes for the Department of Housing and Community**

13 **Development’s expenditure of affordable housing funds and for the development of**

14 **affordable housing on City-owned property under the jurisdiction of the Department of**

15 **Housing and Community Development; and to provide that ordinances regarding**

16 **inclusionary housing requirements and rules regarding competitive selection for affordable**

17 **housing adopted under the processes set forth in the Charter may supersede ordinances**

18 **and rules adopted by the Board of Supervisors or the voters prior to March 1, 2017.**

19

20 Section 1. The Board of Supervisors hereby submits to the qualified voters of the City

21 and County, at an election to be held on November 8, 2016, a proposal to amend the Charter of

22 the City and County by adding Section 4.133 and revising Sections 15.105 and 16.110, to read as

23 follows:

24 NOTE: **Unchanged Charter text and uncodified text** are in plain font.

25 **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.

1
2 **SEC. 4.133. HOUSING AND DEVELOPMENT COMMISSION**

3 (a) Membership and Terms of Office.

4 (1) The Housing and Development Commission shall consist of seven members,
5 appointed as follows:

6 (A) Seats 1, 2, and 3 shall be nominated by the Mayor subject to
7 confirmation by the Board of Supervisors. Each nomination shall be the subject of a public
8 hearing and vote within 60 days. If the Board of Supervisors fails to act on a nomination within
9 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors, the
10 nominee shall be deemed confirmed. Seat 1 shall be held by a person with significant experience
11 in the field of affordable housing development or community development. Seat 2 shall be held
12 by a person with significant experience in providing services to prevent homelessness or to
13 provide supportive housing. Seat 3 shall have no required qualifications in addition to those set
14 forth in Section 4.101.

15 (B) Seats 4, 5, and 6 shall be appointed by the Board of Supervisors. Seat
16 4 shall be held by a person with significant experience in the field of affordable housing
17 development or community development. Seats 5 and 6 shall have no required qualifications in
18 addition to those set forth in Section 4.101.

19 (C) Seat 7 shall be appointed by the Controller, and shall be a person
20 with significant experience in the field of finance.

21 (2) Commissioners shall serve four-year terms, beginning at noon on March 1,
22 2017; provided, however, the term of the initial appointees in Seats 3, 6, and 7 shall expire at
23 noon on March 1, 2019, and the term of the initial appointees in Seats 1, 2, 4, and 5 shall expire
24 at noon on March 1, 2021.

1 (3) No person may serve more than two successive terms as a Commissioner. No
2 person having served two successive terms may serve as a Commissioner until at least four years
3 after the expiration of the second successive term. For purposes of this subsection (a)(3), service
4 for a part of a term that is more than half the period of the term shall count as a full term, and
5 service that is half or less than half the period of a term shall not count as a full term; further,
6 this subsection makes no distinction between two-year terms and four-year terms.

7 (4) Commissioners may be removed from office only for official misconduct
8 under Article XV.

9 (b) Powers and Duties.

10 (1) With regard to the two departments described in subsection (c), and subject
11 to the transition provision in subsection (d)(3), the Commission shall exercise all the powers and
12 duties of boards and commissions set forth in Sections 4.102, 4.103, and 4.104, except that the
13 Commission shall have the exclusive power to appoint, evaluate, and remove the department
14 heads of the two departments.

15 (2) In addition to any other process or approvals required by law, including but
16 not limited to review by the Planning Commission, the Commission shall review and recommend
17 to the Board of Supervisors whether to approve (A) a development agreement that the
18 Department of Economic and Workforce Development participated in negotiating under
19 California Government Code Section 65864 et seq. or any successor State legislation, or (B) a
20 collateral agreement requiring a developer or property owner to provide for and implement
21 social, economic, or environmental benefits or programs in connection with a development
22 agreement under Administrative Code Chapter 56 or any successor legislation, before the Board
23 of Supervisors considers whether to approve the development agreement or collateral
24 agreement. The Commission may recommend that the Board of Supervisors approve or reject
25 the development agreement or collateral agreement, and may also recommend specific changes

1 to the development agreement or collateral agreement for consideration by the Board of
2 Supervisors. If the Board of Supervisors approves changes to a development agreement or
3 collateral agreement after the Commission’s hearing, the Board of Supervisors is not required to
4 refer the development agreement or collateral agreement back to the Commission for further
5 review or recommendations.

6 (3) In addition to any other process or approvals required by law, and except as
7 set forth in subsection (f) below, the Commission shall review and recommend to the Board of
8 Supervisors whether to approve any fee simple absolute conveyance of surplus real property
9 owned by the City, before the Board of Supervisors considers whether to approve the
10 conveyance. For the purpose of this Section 4.133, “surplus real property” shall mean any real
11 property that is not required to fulfill the mission of the City department, commission, or agency
12 with jurisdiction or control of such property, and that is not required to fulfill the mission of
13 another City department, commission or agency or other governmental entity, as determined by
14 the Board of Supervisors by resolution, and shall not include any real property that is sold or
15 exchanged for purposes other than housing development. The Commission may recommend that
16 the Board of Supervisors approve or reject a proposed fee simple absolute conveyance, and may
17 also recommend specific changes for consideration by the Board of Supervisors. If the Board of
18 Supervisors approves changes to a proposed fee simple absolute conveyance after the
19 Commission’s hearing, the Board of Supervisors shall not be required to refer the matter back to
20 the Commission for further review or recommendations.

21 (4) The Commission shall adopt rules to create competitive selection processes
22 for (A) the development of affordable housing on City-owned real property under the jurisdiction
23 of the Department of Housing and Community Development, and (B) the Department of Housing
24 and Community Development’s expenditure of the City’s affordable housing funds. Such rules
25 may include exceptions and limitations as deemed appropriate by the Commission to maximize

1 and expedite the creation of affordable housing and leverage the City's affordable housing
2 funds, maintain existing affordable housing, increase funding to previously selected projects,
3 provide funding availability on a rolling basis, and provide emergency funding. The rules may
4 also recognize affordable housing projects with federal or state funding sources, and exempt
5 such projects from the competitive bid process. Any such rules adopted by the Commission shall
6 supersede any ordinance, rule, process or regulation enacted by the City or adopted by the
7 voters before March 1, 2017, relating to a competitive bid process for the City's development of
8 affordable housing. The Commission shall transmit to the Board of Supervisors any rules
9 adopted by the Commission under this subsection (b)(4) within 24 hours of their adoption. The
10 rules adopted by the Commission shall become effective 60 days after the date of adoption unless
11 two-thirds of all members of the Board of Supervisors vote by motion to veto the rules before the
12 expiration of this 60-day period.

13 (5) In addition to any other process or approvals required by law, including but not
14 limited to review by the Planning Commission, the Commission shall review any proposed
15 ordinance that would set or change the minimum or maximum inclusionary or affordable
16 housing obligations for housing development projects. The Board of Supervisors and its
17 committees shall not hold any hearings on such a proposed ordinance until the Commission has
18 held a hearing to review the proposal, unless the Commission fails to hold a hearing within 90
19 days after the Clerk of the Board of Supervisors forwards the proposed ordinance to the
20 Commission for its consideration. The Commission may recommend that the Board of
21 Supervisors approve, reject, or specifically modify the proposed ordinance. If the Board of
22 Supervisors approves changes to such a proposed ordinance after the Commission's hearing, the
23 Board of Supervisors is not required to refer the proposed ordinance back to the Commission for
24 further review or recommendations. Any ordinance adopted by the Board of Supervisors
25 following the process set forth in this subsection (b)(5) shall supersede conflicting provisions in

1 any ordinance enacted by the City or adopted by the voters before March 1, 2017, setting or
2 changing the minimum or maximum inclusionary or affordable housing obligations for housing
3 development projects.

4 (6) The Commission shall adopt rules and procedures regarding the award of
5 contracts and grants by the two departments described in subsection (c). Unless expressly
6 allowed by ordinance, the rules and procedures shall not require Commission approval prior to
7 the award of (A) grants awarded using funds under the Community Development Block Grant
8 program or any successor funding program of the federal Department of Housing and Urban
9 Development, or (B) grants awarded using funds under the federal Workforce Investment Act, 29
10 U.S.C. § 2801, et seq. or any successor legislation.

11 (7) By no later than December 31, 2017 and at least once every five years thereafter,
12 the Commission shall adopt a strategic plan for housing and community development in the City,
13 and shall forward the strategic plan to the Board of Supervisors for its consideration and
14 approval by resolution. The Board of Supervisors may modify the proposed plan prior to
15 adopting a resolution. The plan shall specify the City's goals for affordable housing and
16 community development projects, the short-term and long-term plans of each of the two
17 departments described in subsection (c) to achieve those goals, and the City's plans for
18 prioritizing investment in neighborhoods with the highest needs for affordable housing and
19 community development. The activities of the two departments shall be consistent with the plan.

20 (c) Departments. The Commission shall oversee the following two departments, which
21 shall come into existence as stated in subsection (d)(3):

22 (1) Department of Economic and Workforce Development. Except as otherwise
23 provided for in this Charter, the Department of Economic and Workforce Development shall
24 oversee City programs related to private workforce development and job training; business
25 attraction and retention, including international businesses; real estate development projects

1 involving the City and other public or private property owners; commercial corridors
2 revitalization; community business districts; infrastructure financing districts; and any other
3 related responsibilities prescribed by ordinance. The Department of Economic and Workforce
4 Development shall assist other departments, including the Planning Department, in negotiating
5 development agreements with private property owners.

6 Between July and September each fiscal year, the Department of Economic and
7 Workforce Development shall present an annual work plan to the Commission summarizing the
8 work and projects that the Department anticipates during that fiscal year. Additionally,
9 whenever the Department anticipates its involvement in negotiation of (A) a possible
10 development agreement under California Government Code Section 65864 et seq. or any
11 successor State legislation, or (B) a possible collateral agreement requiring a developer or
12 property owner to provide for and implement social, economic, or environmental benefits or
13 programs in connection with a development agreement under Administrative Code Chapter 56
14 or any successor legislation, the director of the Department shall inform the Commission, and
15 the Commission may provide direction to the Department regarding the terms of the
16 development agreement or collateral agreement.

17 (2) Department of Housing and Community Development. Except as otherwise
18 provided for in this Charter, the Department of Housing and Community Development shall
19 provide financing for the development, rehabilitation, and purchase of affordable housing in the
20 City; administer programs to finance the development of affordable housing; administer
21 programs to finance housing rehabilitation for low-income and moderate-income homeowners;
22 administer the City's below-market-rate inclusionary housing program; administer grants
23 programs to support community development and economic infrastructure; and undertake any
24 other responsibilities prescribed in Section 16.110 or by ordinance.

1 Between July and September each fiscal year, the Department of Housing and
2 Community Development shall present an annual work plan to the Commission summarizing the
3 work and projects that the Department anticipates during that fiscal year.

4 (d) Transition provisions.

5 (1) The Mayor, the Board of Supervisors, and the Controller shall make initial
6 appointments to the Commission by no later than noon, March 1, 2017, when the Commission
7 shall come into existence.

8 (2) The Commission shall have its inaugural meeting by no later than April 1,
9 2017.

10 (3) Beginning May 15, 2017, the Department of Economic and Workforce
11 Development and the Department of Housing and Community Development shall come into
12 existence, and shall succeed to the powers and duties of the previously existing Office of
13 Economic and Workforce Development and Office of Housing and Community Development
14 under the Mayor, respectively, and those offices shall cease to exist.

15 (e) Existing Contracts. Nothing in this Section 4.133 shall be interpreted to impair the
16 obligations of any existing contract entered into by the City before May 15, 2017, or require the
17 City to abandon a competitive bid or contractor selection process that started before May 15,
18 2017.

19 (f) Non-applicability. The requirements of this Section 4.133 shall not apply to any other
20 governmental entity, such as the Successor Agency to the Redevelopment Agency of the City and
21 County of San Francisco, or to any department, commission or agency of the City that has
22 exclusive jurisdiction over its real property, and shall not be interpreted to interfere with a
23 department's ability to carry out its core functions under this Charter. Without limiting the
24 foregoing, nothing in this Section is intended to amend or limit the rights and powers granted to
25

1 City commissions under Sections 4.112, 4.113, 4.114, 4.115, B3.581, Article V, or Article VIII
2 of this Charter.

3
4 **SEC. 15.105. SUSPENSION AND REMOVAL.**

5 (a) ELECTIVE AND CERTAIN APPOINTED OFFICERS. Any elective officer, and
6 any member of the Airport Commission, Asian Art Commission, Civil Service Commission,
7 Commission on the Status of Women, Golden Gate Concourse Authority Board of Directors,
8 Health Commission, Human Services Commission, Juvenile Probation Commission, Municipal
9 Transportation Agency Board of Directors, Port Commission, Public Utilities Commission,
10 Recreation and Park Commission, Fine Arts Museums Board of Trustees, ~~Taxi Commission~~, War
11 Memorial and Performing Art Center Board of Trustees, Board of Education or Community
12 College Board is subject to suspension and removal for official misconduct as provided in this
13 section. Such officer may be suspended by the Mayor and the Mayor shall appoint a qualified
14 person to discharge the duties of the office during the period of suspension. Upon such
15 suspension, the Mayor shall immediately notify the Ethics Commission and Board of
16 Supervisors thereof in writing and the cause thereof, and shall present written charges against
17 such suspended officer to the Ethics Commission and Board of Supervisors at or prior to their
18 next regular meetings following such suspension, and shall immediately furnish a copy of the
19 same to such officer, who shall have the right to appear with counsel before the Ethics
20 Commission in his or her defense. The Ethics Commission shall hold a hearing not less than five
21 days after the filing of written charges. After the hearing, the Ethics Commission shall transmit
22 the full record of the hearing to the Board of Supervisors with a recommendation as to whether
23 the charges should be sustained. If, after reviewing the complete record, the charges are
24 sustained by not less than a three-fourths vote of all members of the Board of Supervisors, the
25 suspended officer shall be removed from office; if not so sustained, or if not acted on by the

1 Board of Supervisors within 30 days after the receipt of the record from the Ethics Commission,
2 the suspended officer shall thereby be reinstated.

3 (b) BUILDING INSPECTION COMMISSION, PLANNING COMMISSION, BOARD
4 OF APPEALS, ELECTIONS COMMISSION, ETHICS COMMISSION, HOUSING AND
5 DEVELOPMENT COMMISSION, AND ENTERTAINMENT COMMISSION. Members of the
6 Building Inspection Commission, the Planning Commission, the Board of Appeals, the Elections
7 Commission, the Ethics Commission, the Housing and Development Commission, and the
8 Entertainment Commission may be suspended and removed pursuant to the provisions of
9 subsection (a) of this section except that the Mayor may initiate removal only of the Mayor's
10 appointees and the appointing authority shall act in place of the Mayor for all other appointees.

11 * * * *

12
13 **SEC. 16.110. HOUSING TRUST FUND.**

14 (a) **Creation of Fund.** There is hereby established a Housing Trust Fund to support
15 creating, acquiring and rehabilitating affordable housing and promoting affordable home
16 ownership programs in the City, as provided in this Section.

17 (b) **Definitions.** For purposes of this Section:

18 "First Responder" shall mean a City employee who responds first in cases of
19 natural disaster or emergencies, including, but not limited to, all active uniformed, sworn
20 members of the San Francisco Police and Fire Departments.

21 "General Fund Discretionary Revenues" shall mean revenues that the City
22 receives and deposits in its treasury, that are unrestricted, and that the City may appropriate for
23 any lawful City purpose.

24 "Household" shall mean any person or persons who reside or intend to reside in
25 the same housing unit.

1 ~~—————"Mayor's Office of Housing" shall mean the Mayor's Office of Housing and~~
2 ~~Community Development or any successor City agency.~~

3 (c) **Funding.**

4 (1) In the Fiscal Year 2013-2014 budget, the City shall appropriate to the
5 Housing Trust Fund \$20 million.

6 (2) For the next 11 fiscal years, in each of the annual budgets for Fiscal Year
7 2014-2015 through Fiscal Year 2024-2025, the City shall appropriate to the Housing Trust Fund
8 an amount increasing by \$2.8 million per year, until the annual appropriation required by this
9 Section reaches \$50.8 million in the Fiscal Year 2024-2025 budget.

10 (3) In the annual budgets for Fiscal Year 2025-2026 through Fiscal Year 2042-
11 43, the City shall appropriate to the Housing Trust Fund an amount equal to the prior year's
12 appropriation, adjusted by the percentage increase or decrease in General Fund Discretionary
13 Revenues budgeted for the year compared to the prior year's original budgeted amount of
14 General Fund Discretionary Revenues.

15 (4) Should the City adopt a fixed two-year budget under Charter Section 9.101,
16 the adjustment for the Housing Trust Fund appropriation for the two years of the two-year
17 budget shall be based on the amount of General Fund Discretionary Revenues estimated for the
18 two-year period included in the budget.

19 (5) During Fiscal Years 2025-2026 through 2042-2043, if the Controller submits
20 a revised estimate of General Fund Discretionary Revenues for a given Fiscal Year or two-year
21 budget period that is lower than the amount originally budgeted for that period, then the Board
22 may, by ordinance, reduce the appropriation to the Housing Trust Fund for that budget period in
23 an amount that does not exceed the amount proportionate to the percentage shortfall in the
24 discretionary revenue projection.

1 (6) The Controller's method of calculating the amount of and changes in General
2 Fund Discretionary Revenues shall be consistent from fiscal year to fiscal year and with the
3 Controller's method for calculating those figures under Charter Sections 8A.105, 16.108, and
4 16.109. The Controller shall treat General Fund appropriations to the Housing Trust Fund as
5 reductions in General Fund Discretionary Revenues when calculating other funding allocations
6 that are tied to General Fund Discretionary Revenues, including funding allocations under
7 Charter Sections 8A.105, 16.108, and 16.109. The Controller shall correct errors in the estimate
8 of discretionary revenues for a fiscal year through an adjustment to the next fiscal year's
9 estimate.

10 (7) In any year during the term of this Section, the City may, in its discretion,
11 reduce its annual contribution to the Housing Trust Fund for that year by an amount equal to or
12 less than 56.7% of the annual debt service required to service any SB2113 Affordable Housing
13 Bonds issued after January 1, 2013. "SB2113 Affordable Housing Bonds" are bonds issued by
14 the City to support the acquisition and creation of replacement affordable housing citywide using
15 property tax increment from former Redevelopment project areas under California Health and
16 Safety Code Section 33333.7

17 (8) The Controller shall set aside and maintain the amounts appropriated to the
18 Housing Trust Fund under this Section, together with any interest earned thereon, and any
19 amount unexpended or uncommitted at the end of the fiscal year shall be carried forward to the
20 next fiscal year and, subject to the budgetary and fiscal limitations of this Charter, shall be
21 appropriated for the purposes specified in this Section.

22 (d) **Uses of the Housing Trust Fund.** The City may disburse monies from the Housing
23 Trust Fund through loans, grants or other types of payments, on terms determined by the ~~Mayor's~~
24 ~~Office of Housing~~ Department of Housing and Community Development in its sole discretion.
25 Any repayment of a loan or grant from the Fund that the City receives, or any interest from a

1 loan from the Fund that the City receives, will be returned to the Housing Trust Fund. The City,
2 acting through the ~~Mayor's Office of Housing~~ Department of Housing and Community
3 Development, shall disburse the monies from the Housing Trust Fund for the following eligible
4 expenditures:

5 (1) The creation, acquisition, and rehabilitation of rental and ownership housing
6 affordable to Households earning up to 120% of the Area Median Income, including, without
7 limitation, the acquisition of land for such purpose.

8 (2) No later than July 1, 2018, the City shall appropriate \$15 million from the
9 Housing Trust Fund to a program that provides loans to Households earning up to 120% of the
10 Area Median Income and to Households including a First Responder (subject to Area Median
11 Income limits designated by the ~~Mayor's Office of Housing~~ Department of Housing and
12 Community Development) for use as a down payment on the purchase of a housing unit ("the
13 Down Payment Assistance Loan Program"). As soon as is practical, the ~~Mayor's Office of~~
14 ~~Housing~~ Department of Housing and Community Development shall develop and implement a
15 manual for the Down Payment Assistance Loan Program.

16 (3) No later than July 1, 2018, the City shall appropriate up to \$15 million from
17 the Housing Trust Fund to a program that provides funds to Households earning up to 120% of
18 Area Median Income for use as assistance to reduce the risk to current occupants of a loss of
19 housing and/or to help current occupants make their homes safer, more accessible, more energy
20 efficient, and more sustainable (the "Housing Stabilization Program"). As soon as is practical,
21 the ~~Mayor's Office of Housing~~ Department of Housing and Community Development shall
22 implement and develop a manual for the Housing Stabilization Program.

23 (4) The City may use monies in the Housing Trust Fund to operate and
24 administer the Infrastructure Grant Program as described in subsection (e). The City may not
25 allocate to the Infrastructure Grant Program in any fiscal year an amount exceeding the greater of

1 \$2 million or 10% of the amount appropriated to the Housing Trust Fund for that fiscal year
2 under subsection (c).

3 (5) In any fiscal year, the City may allocate a sufficient amount from the
4 Housing Trust Fund to pay for all legally permissible administrative costs of the Fund, including,
5 without limitation, legal costs, associated with any use of the Housing Trust Fund.

6 (e) **Complete Neighborhoods Infrastructure Grant Program.** After conferring with
7 the Director of Planning, the Director of the ~~Mayor's Office of Housing~~ Department of Housing
8 and Community Development shall design and administer a Complete Neighborhoods
9 Infrastructure Grant Program ("Infrastructure Grant Program"). The purpose of the Infrastructure
10 Grant Program is to accelerate the build-out of the public realm infrastructure needed to support
11 increased residential density in the City's neighborhoods. The City may use monies from the
12 Infrastructure Grant Program only for public facilities identified in the Community Facilities
13 District law (Cal. Govt. Code §§ 53311 et seq., as amended), and shall give priority to the use of
14 such monies by residential development project sponsors, community-based organizations, and
15 City departments for public realm improvements associated with proposed residential
16 development projects.

17 (f) **Bonding Authority.** Notwithstanding the limitations set forth in Sections
18 9.107, 9.108, and 9.109 of this Charter, upon recommendation of the Mayor, the Board of
19 Supervisors may authorize the issuance, without limitation, of revenue bonds, lease financing,
20 notes, or other evidences of indebtedness or other obligations ("Debt Obligations"), the proceeds
21 of which are to be used for creating, acquiring, and rehabilitating rental and ownership housing
22 affordable to Households earning up to 120% of the Area Median Income, including, without
23 limitation, the acquisition of land for such purpose. Such Debt Obligations shall be secured by
24 and/or repaid from any available funds pledged or appropriated by Board of Supervisors
25 ordinance for such purpose, which amount may include funds in the Housing Trust Fund

1 allocated under subsection (c). Debt Obligations authorized hereby shall be issued in accordance
2 with the ~~Mayor's Office of Housing~~ Department of Housing and Community Development
3 policies, and upon the terms and conditions as the Board of Supervisors shall approve. Funds
4 appropriated to pay debt service on the Debt Obligations in such fiscal year under the terms of
5 this Section shall be set aside in an account for such use until such payment is made.

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

10 By: _____
11 JON GIVNER
12 Deputy City Attorney

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