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MEMORANDUM

TO: Hon. Mayor Daniel Lurie
Hon. Members of the Board of Supervisors

CC: Angela Calvillo, Clerk of the Board of Supervisors
John Arntz, Director of Elections

FROM: Bradley Russi
Michael Gerchow
Deputy City Attorneys

DATE: September 19, 2025

RE: Vacancy in the Office of District 4 Supervisor

At the special election held on September 16, 2025, District 4 voters approved Proposition A, recalling District 4 Supervisor Joel Engardio. When the recall of Supervisor Engardio becomes effective, the Mayor will appoint a qualified resident of District 4 to fill the vacancy. We write to describe the legal process for that appointment and address questions that may arise.

1. When can the Mayor appoint a new District 4 Supervisor?

Under Charter Section 13.101.5, the Mayor has the power to make an appointment to fill any vacancy in an elective City office until the voters have elected a successor. The Mayor may appoint a qualified person who can assume office as Supervisor as soon as the recall of Supervisor Engardio becomes effective. When the recall becomes effective, the Office of District 4 Supervisor will automatically become vacant. (See question 2 below for when the recall will become effective, question 4 below for qualifications for the person to be appointed, and question 5 for the timing of the election for a successor.)

2. When will the recall of District 4 Supervisor become effective?

The California Elections Code requires the Director of Elections to prepare a certified statement of the election results. (Cal. Elec. Code § 15372.) After the Director of Elections issues the certified statement, the Board of Supervisors (“Board”) must declare the result of Proposition A. (*Id.* § 15400.) The Board declares the election results by adopting a resolution, which the Board must pass by majority vote. The City Attorney typically prepares the resolution at the request of the Director of Elections, and the Board President introduces the resolution and places it on the Board’s Adoption Without Committee Reference agenda. Proposition A will become effective, and the Office of District 4 Supervisor will be vacant, 10 days after the Board approves the resolution declaring the result of the election. (Municipal Elections Code § 380.) The Board’s approval of the resolution declaring the election results is a ministerial act.

The Department of Elections anticipates that it will issue the certified statement of the election results in time for the Board to approve the resolution declaring the election results at its

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October 7, 2025 meeting. Therefore, the vacancy will arise no later than 12:00 a.m., on October 18, 2025.

The Mayor may announce his planned appointment before the office becomes vacant. But that appointment will not be effective until the office is vacant.

3. What is the process for the Mayor to appoint a new Supervisor?

The Mayor appoints a new Supervisor by submitting a written notice to the Clerk of the Board. After the Mayor submits that notice, the appointee may assume the powers and duties of the office as soon as the appointee completes the oath of office.

4. What residency requirements or other qualifications apply to the Mayor's appointee?

The appointee must be a registered San Francisco voter and must reside in District 4 at the time the appointee is sworn in. (Charter § 13.106, 13.110(e).) And the appointee must continue to be a San Francisco registered voter and reside in the District for the duration of the appointee's tenure. (*Id.*) There are no additional qualifications for the office.

5. When will the City hold an election for District 4 Supervisor?

June 2, 2026. Whenever a seat on the Board becomes vacant, the City must hold an election to permanently fill the vacancy within a time period imposed by the Charter. (Charter § 13.101.5(c).) In light of the timing of this vacancy, the vacancy election must be held at the next election occurring at least 120 days after the date of the vacancy. As mentioned above, based on the Director of Elections' anticipated timing for certifying the election results, the vacancy will likely arise no later than October 18, 2025, which is more than 120 days before the June 2, 2026 election.

The winning candidate at the June 2, 2026 election will serve the remainder of Supervisor Engardio's term of office, which will end on January 8, 2027. The City will hold an election for the next term of office on November 3, 2026. The appointed Supervisor could run for a new term at the November 3, 2026 election.

6. If the appointed Supervisor wins the June 2, 2026 election and wins a full term at the November 3, 2026 election, could the Supervisor run for reelection at the end of that term?

Yes. If the appointee wins the June 2, 2026 election to complete Supervisor Engardio's term, the appointee's tenure will not count as a full term for the purpose of calculating term limits. Charter Section 2.101 provides that no person may serve more than two successive terms as Supervisor. Under the Charter's "rounding up" rule, any person "appointed, elected, or any combination thereof to the office of Supervisor to complete in excess of two years of a four-year term shall be deemed for purpose of this section to have served one full term."

There are approximately 15 months remaining in the current term of office for District 4 Supervisor. If the appointee wins the June 2, 2026 vacancy election, the appointee will have served less than two years, and the appointee's service will not count as a full term under Section 2.101. If the appointee goes on to win the November 3, 2026 election, then the appointee will be eligible to serve up to two successive four-year terms starting on January 8, 2027.