

# Overview of Affordable Housing Trust Charter Amendment

# Overview

- Legal Description of Proposal
  - *Emily Smart Woerner, Deputy City Solicitor*
- Operational Considerations
  - *Billy Weber, Chief of Staff – City Manager’s Office*
- Anticipated Budget Impact
  - *Christopher Bigham, Assistant City Manager*

# Background

- Proposed amendment to Charter
- Can only be altered or amended at an election if voters approve the change

# Current Proposed Ballot Language Omits Key Facts

- Ballot summary language must offer a fair, honest, clear and complete summary
- Voters have the right to know what they are being asked to vote upon

CHARTER AMENDMENT	
A majority vote is necessary for passage.	
YES	Shall the Charter of the City of Cincinnati be amended to establish the City of Cincinnati Affordable Housing Trust Fund for the purpose of creating and preserving affordable housing to meet the needs of families, households, and individuals with low incomes, preventing the displacement of families and individuals, promoting neighborhood
NO	stabilization and preventing the loss of affordable housing; establish the City of Cincinnati Housing Trust Fund Board to oversee the Fund; and authorize Council to provide for minimum financing of the Fund by enacting new Article XVII

*Omits essential parts*

Mandatory appropriation.  
No state or federal offset

\$50M annually forever

Unelected, inherently conflicted

## Key Facts

- Establishes an Affordable Housing Trust Fund restricted account
- Requires an annual appropriation of **\$50 Million** to that account in perpetuity
- If passed, effective for FY22 Budget
  - (July '21 – June '22)

## What can the \$50M be spent on?

- “Affordable” means costs associated with residing in home require no more than 30% of income
- *Half* of the funds (**\$25 million** in year one) are restricted to housing that is affordable for households at or below **30%** of Hamilton County’s median household income
- *All* of the funds are restricted to housing that is affordable for households at or below **60%** of Hamilton County’s median household income

## What can the \$50M be spent on?

- \$25 million on housing where housing costs are no more than \$429 per month
- No funds can be spent on housing where housing costs are more than \$858.18 per month.
- To receive funds, the owner **must** agree to a deed restriction that the property will forever be affordable (costs no more than 30% of 60% mhi)
- Sole exception for owner-occupied single-family residences

## Who spends these public funds?

- An unelected 11-person volunteer board serving 4- year terms with no term limits
- 9 members are selected by outside agencies, 2 members are selected by Council President Pro Tem
- Members must have certain experience or relation to affordable housing issues
- Council has no discretion to reject nominees



## Who spends these public funds?

- Some members will be inherently ethically conflicted
- No removal or suspension provision
- 6 votes for action
- City Manager must execute the Board's approved contracts

Where does the \$50M come from?

The City's General Capital and Operating Funds.

## Where does the \$50M come from?

The proposed charter amendment identifies the following funding sources:

- Income tax on the award of stock options
- Fee assessed to developers
- Revenue from lease or sale of Cincinnati Southern Railway
- City's general capital or operating funds

## The City cannot tax stock options

- The Ohio Constitution provides that the state General Assembly may limit cities' ability to levy taxes
- The Ohio General Assembly passed a municipal income tax uniformity law that caused the City to rewrite its local income tax chapter in 2016
- At that time, the City exempted income from stock options and so it cannot now impose a tax on stock options

## Where does the money come from?

The proposed charter amendment identifies the following funding sources:

- ~~Income tax on the award of stock options~~
- Fee assessed to developers
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## Fees must be related to cost of service

- In Ohio, fees charged must be related to the cost of the service provided or the impact of the activity
- Here, we'd have to prove that the creation of new housing is causing a lack of affordable housing in Cincinnati
- The fee cannot simply generate excess revenue for the fund. That “fee” would be a tax—a tax the City is not allowed to impose

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## Revenue from the CSR is restricted

- State law requires that **all revenue** (rent or sale proceeds) from the lease or sale of the Cincinnati Southern Railway must go to pay our bond debt
- Currently, rent from the CSR funds bonds that pay for required maintenance of existing City infrastructure
- If the City does not meet its infrastructure maintenance obligations, it cannot levy .1% of its income tax



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*State and Federal funds – no matter the amount—do not eliminate the \$50M obligation*

## Other legal deficiencies

- The City cannot – even in its Charter – conflict with state eviction law
  - The purported eviction protections might never apply
- Contracts could evade minority, women, and small business enterprise goals and requirements
- Law Department is issuing an opinion outlining in detail its analysis

# Operational Considerations

- Lack of Public Accountability and Oversight
- Inadequate Expertise
- Inefficient Use of Public Investment