

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: Ben Rosenfield, City Controller

FROM:  Derek Evans, Clerk, Rules Committee  
Board of Supervisors

DATE: June 2, 2016

SUBJECT: LEGISLATION INTRODUCED - CHARTER AMENDMENT

---

The Board of Supervisors Rules Committee has received the following legislation, introduced by Supervisor Campos on May 24, 2016. This matter is being referred to you in accordance with Rules of Order 2.22.3.

**File No. 160583 Charter Amendment - Public Advocate**

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to: 1) create the Office of the Public Advocate; 2) set the Public Advocate's powers and duties; 3) authorize the Public Advocate to review the administration of City programs, including programs for transmitting information to the public, and to receive, investigate, and attempt to resolve complaints regarding City services and programs; 4) place the Public Advocate in charge of the Office of Labor Standards Enforcement (OLSE), the Office of Citizen Complaints (OCC), and the Controller's whistleblower program; 5) call a special election for November 7, 2017, to elect the first Public Advocate; 6) provide for the Public Advocate's election, removal, and salary; and 7) establish a set-aside of 0.03% of the City's budget, as well as the amounts previously budgeted to OLSE, OCC, and the whistleblower program, to fund the Office of the Public Advocate, and setting an operative date, at an election to be held on November 8, 2016.

Please review and submit your written statement pursuant to the Charter to be included with the legislative file.

If you have any questions or concerns please call me at (415) 554-7702 or email [derek.evans@sfgov.org](mailto:derek.evans@sfgov.org). To submit documentation, please forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Todd Rydstrom, Office of the City Controller  
Maura Lane, Office of the City Controller

[Charter Amendment - Public Advocate]

**Describing and setting forth a proposal to the voters, at an election to be held on November 8, 2016, to amend the Charter of the City and County of San Francisco to:**

**1) create the Office of the Public Advocate; 2) set the Public Advocate's powers and duties; 3) authorize the Public Advocate to review the administration of City programs, including programs for transmitting information to the public, and to receive, investigate, and attempt to resolve complaints regarding City services and programs; 4) place the Public Advocate in charge of the Office of Labor Standards Enforcement, the Office of Citizen Complaints, and the Controller's whistleblower program; 5) call a special election for November 7, 2017 to elect the first Public Advocate; 6) provide for the Public Advocate's election, removal, and salary; and 7) establish a set-aside of .03% of the City's budget, as well as the amounts previously budgeted to OLSE, OCC, and the whistleblower program, to fund the Office of the Public Advocate, and setting an operative date.**

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 8, 2016, a proposal to amend the Charter of the City and County by revising Sections 4.127, 6.100, 10.104, 13.101, 13.101.5, 13.102, 15.105, A8.343, A8.409-1, F1.102, F1.113, and F1.114, adding Sections 6.107 and 8C.101 through 8C.108, and deleting Sections F1.107 and F1.108, 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.

/ / /

1     **SEC. 6.100. DESIGNATION OF OTHER ELECTIVE OFFICERS.**

2             In addition to the officers required to be elected under other Articles of this Charter, the  
3     following shall constitute the elective officers of the City and County: the Assessor-Recorder,  
4     City Attorney, District Attorney, Public Defender, Sheriff, ~~and~~ Treasurer, and Public Advocate.  
5     Each such officer shall be elected for a four-year term and shall serve full time.

6             The City Attorney shall be licensed to practice law in all courts of the State of California  
7     and shall have been so licensed for at least ten years next preceding his or her election. The  
8     District Attorney and Public Defender shall each be licensed to practice law in all courts of the  
9     State of California and shall have been so licensed for at least five years next preceding his or her  
10    election. Such officers shall not engage in the private practice of law during the period they  
11    serve as elective officers of the City and County.

12            Subject to the powers and duties set forth in this Charter, the officers named in this  
13    section shall have such additional powers and duties prescribed by state laws for their respective  
14    office. The terms of office in effect for these officers on the date this Charter is adopted shall  
15    continue.

16  
17    **SEC. 6.107. PUBLIC ADVOCATE.**

18            (a) There shall be a Public Advocate for the City and County of San Francisco. The  
19    functions, powers, and duties of the Public Advocate are set forth in Article VIIIC.

20            (b) The Public Advocate shall appoint a Chief Deputy Public Advocate and at least two  
21    Assistant Public Advocates, who shall serve at the pleasure of the Public Advocate, and may  
22    have such other staff as provided according to the budgetary and fiscal provisions of the  
23    Charter, including Section 8C.108. The position of Chief Deputy Public Advocate shall be  
24    exempt from competitive civil service selection, appointment, and removal procedures under  
25

1 Section 10.104(2), and the position of Assistant Public Advocate shall be exempt under  
2 Section 10.104(14).

3 (c) The City Attorney shall be the attorney for the Public Advocate.

4 (d) The Public Advocate shall have an office in City Hall.

5 (e) During his or her tenure, the Public Advocate shall not contribute to, solicit  
6 contributions to, publicly endorse or oppose or urge the endorsement of or opposition to or  
7 otherwise participate in a campaign for a candidate for City elective office, other than himself or  
8 herself, or be an officer, director, or employee of or hold a policy-making position in an  
9 organization that makes political endorsements regarding candidates for City elective office.

10  
11 **ARTICLE VIIIC: OFFICE OF THE PUBLIC ADVOCATE**

12 **SEC. 8C.101. PUBLIC ADVOCATE—GENERAL POWERS AND DUTIES.**

13 (a) Access to City Records. Except as provided below, the Public Advocate shall have  
14 timely access to all records in the possession of City officers and agencies that the Public  
15 Advocate deems necessary to complete the investigations, inquiries, and reviews required of him  
16 or her by the Charter or other City law, and if necessary may issue subpoenas to enforce his or  
17 her right of access to such records. The Public Advocate shall not have a right of access to  
18 records the disclosure of which is forbidden by state or federal law, or records protected from  
19 disclosure by privileges under federal, state, or local law, or other confidentiality provisions the  
20 existence of which is derived from some source of state law other than the Public Records Act,  
21 including, but not limited to, criminal investigation and prosecution files. The Public Advocate  
22 may not disclose records that the City officer or agency possessing the records may decline to  
23 disclose under the Public Records Act and the Sunshine Ordinance, as amended, or any  
24 successor legislation, if the officer or agency declines to disclose such records.

1 (b) **Access to Third-Party Witnesses and Records.** In performing his or her duties, the  
2 Public Advocate may administer oaths, take testimony, and, if necessary to complete the  
3 investigations, inquiries, and reviews required of him or her by the Charter, issue subpoenas to  
4 require witnesses to appear and produce evidence. The Public Advocate may seek enforcement  
5 of such subpoenas in the manner prescribed by law.

6 (c) **Introduce Legislation.** The Public Advocate may introduce legislation at the Board  
7 of Supervisors to address any matter within the Public Advocate's jurisdiction. The Public  
8 Advocate may not introduce legislation addressing specific contract or personnel decisions  
9 unless those contracts or personnel decisions involve the Public Advocate's office.

10 (d) **Non-Interference.** The Public Advocate shall not have any power or authority over,  
11 nor shall the Public Advocate dictate, suggest or interfere with any appointment, promotion,  
12 compensation, disciplinary action, contract or requisition for purchase or other administrative  
13 actions or recommendations of an elected official, the Controller, or the City Administrator, or  
14 of department heads under the Mayor, the City Administrator or under a board or  
15 commission. The Public Advocate shall not have any power or authority over, nor shall the  
16 Public Advocate dictate, suggest, or interfere with, any criminal investigation or prosecution.

17 (e) **Hearings.** The Public Advocate may hold public hearings in the course of fulfilling  
18 the requirements of this Article VIIC.

19 (f) **Confidentiality of Records.** The Public Advocate may, to the extent permitted by  
20 state law, designate the records of any investigation, including but not limited to information that  
21 would reveal the identity of complainants and witnesses, as confidential information. It shall be  
22 official misconduct for any person to disclose information about any such investigation, except  
23 as necessary to conduct the investigation, or with proper authorization, or as required by law or  
24 lawful process. The Public Advocate may disclose confidential information to the District  
25 Attorney to initiate or assist in a criminal investigation or prosecution. The unauthorized

1 release of confidential information shall be sufficient grounds for the termination of any  
2 employee.

3 (g) **Reports.** The Public Advocate may issue reports relating to the operations or  
4 activities of any City officer or agency, including recommendations for administrative or  
5 legislative changes. The Public Advocate may, to the extent permitted by state law, designate  
6 any portion of any draft, preliminary, or final report as confidential information. Before making  
7 public any portion of any draft, preliminary, or final report, the Public Advocate shall send a  
8 copy of the draft report to any officer, and to the head of any agency, discussed in such report  
9 and provide the officer and agency, in writing, with a reasonable deadline for their review and  
10 response. The Public Advocate shall include in any report, or portion thereof, that is made  
11 public a copy of all such officer and agency responses, after redacting any information  
12 contained in such responses that is confidential under state law.

13 (h) **Annual Report.** Not later than December 1 of each year, the Public Advocate shall  
14 present to the Board of Supervisors, the Mayor, the City Administrator, and the Controller a  
15 report on the activities of the office during the preceding fiscal year. The report shall include:

16 (1) A statistical summary of the complaints received during such fiscal year,  
17 categorized by agency, type of complaint, agency response, mode of resolution, and such other  
18 factors as the Public Advocate deems appropriate;

19 (2) An analysis of recurring complaints and complaints raising systemic or  
20 citywide issues and the Public Advocate's recommendations for administrative, legislative, or  
21 budgetary actions to resolve the underlying problems causing the complaints;

22 (3) A summary of the findings and recommendations of the agency program  
23 reviews conducted during the fiscal year and a summary of each agency's responses to such  
24 findings and recommendations; and

25 (4) Legislative proposals to improve the provision of City services and programs.

1        The Controller shall prepare and the Public Advocate shall include in this report an  
2        assessment of the fiscal implications of any recommendations presented in the report.

3        (i) **Outside Experts.** Notwithstanding any other provision of this Charter or any  
4        ordinance or regulation of the City, the Public Advocate may contract with outside, independent  
5        experts to assist in performing the requirements of this Article VIIIC. In doing so, the Public  
6        Advocate shall make good faith efforts to comply with the provisions of Chapters 12 et seq. of the  
7        Administrative Code, as amended, or any successor legislation, but shall not be subject to the  
8        approval processes of other City agencies. The Public Advocate shall submit an annual report  
9        to the Board of Supervisors summarizing any contracts issued pursuant to this Section and  
10       discussing the Public Advocate's compliance with Chapters 12 et seq. Contracts issued by the  
11       Public Advocate pursuant to this Section shall be subject, to the requirements of Sections 6.102  
12       and 9.118.

13       No outside expert or firm shall be eligible to participate or assist in an audit or  
14       investigation of any issue, matter, or question as to which that expert or firm has previously  
15       rendered compensated advice or services to any individual, corporation, or other entity, or City  
16       official or department. The Public Advocate shall adopt appropriate written regulations  
17       implementing this prohibition, and shall incorporate this requirement in all written contracts  
18       with outside experts and firms utilized pursuant to this subsection (i).

19  
20       **SEC. 8C.102. PUBLIC ADVOCATE—REVIEW OF CITY PROGRAMS.**

21       (a) The Public Advocate may review the administration of City programs by City  
22       agencies. Such reviews may include, but not be limited to, evaluations of (1) the distribution of  
23       City programs and services throughout the City; (2) the effectiveness of the public information  
24       and service complaint programs of City agencies; and (3) the responsiveness of City agencies to  
25       individual and group requests for data or information regarding the agencies' structure.

1 activities, and operations. The Public Advocate shall submit any reports documenting or  
2 summarizing such reviews to the Board of Supervisors, the Mayor, and the appropriate agency,  
3 and shall include in such reports his or her recommendations for addressing the problems  
4 identified and the fiscal implications of such recommendations.

5 (b) The Public Advocate may review the management and employment practices of City  
6 officers and departments, including City policies and MOU provisions, that promote or impede  
7 the effective and efficient operation of City government, including management of workers'  
8 compensation claims and overtime expenditures.

9 (c) The Public Advocate may review the City's contracting procedures and compliance  
10 with contracting rules and standards.

11 (d) The Public Advocate may conduct performance audits of City departments, services,  
12 programs, and other activities. Nothing in this Section 8C.102 shall affect the powers or duties  
13 of the Controller acting as City Services Auditor under Charter Section F1.104, and the Public  
14 Advocate may coordinate with the City Services Auditor when both officers decide to conduct a  
15 performance audit of the same City department, service, program, or activity.

16  
17 **SEC. 8C.103. PUBLIC ADVOCATE—INDIVIDUAL COMPLAINTS.**

18 (a) The Public Advocate may receive, investigate, and attempt to resolve complaints  
19 from members of the public concerning City services, programs, or activities, except for those  
20 that:

21 (1) another City agency is required by law to adjudicate;

22 (2) may be resolved through a grievance mechanism established by collective  
23 bargaining agreement or contract; or,

24 (3) involve allegations of conduct that may constitute a violation of criminal law.  
25

1 If the Public Advocate receives a complaint that involves conduct of a City employee that could  
2 lead to discipline, the Public Advocate shall consult with the Department of Human Resources.  
3 If the Public Advocate receives a complaint that is subject to a procedure described in items (1)  
4 or (2) of this subsection (a), the Public Advocate shall advise the complainant of the appropriate  
5 procedure for the resolution of such complaint. If the Public Advocate receives a complaint of  
6 the type described in item (3) of this subsection, the Public Advocate shall promptly refer the  
7 matter in accordance with subsection (c).

8 (b) The Public Advocate shall establish procedures for receiving and processing  
9 complaints, responding to complainants, conducting investigations, and reporting findings, and  
10 shall inform the public about such procedures. Upon an initial determination that a complaint  
11 may be valid or that the Public Advocate is not in a position to judge whether it may be valid, the  
12 Public Advocate shall refer the complaint to the appropriate agency for resolution. If such  
13 agency does not resolve the complaint in a manner that is satisfactory to the Public Advocate  
14 within a reasonable time, the Public Advocate may conduct an investigation and make specific  
15 recommendations to the agency for resolution of the complaint. If, within a reasonable time  
16 after the Public Advocate has completed an investigation and submitted recommendations to the  
17 agency, such agency has failed to respond to the recommendations in a manner that is  
18 satisfactory to the Public Advocate, the Public Advocate may issue a report to the Board of  
19 Supervisors, the Mayor, and the agency. Such report shall describe the conclusions of the  
20 investigation and make such recommendations for administrative, legislative, or budgetary  
21 action, together with their fiscal implications, as the Public Advocate deems necessary to resolve  
22 the complaint or to address the underlying problems discovered in the investigation. In  
23 exercising its functions under this subsection (b), the Public Advocate may treat related  
24 complaints together.

1       (c) If the Public Advocate receives a complaint alleging conduct that may constitute a  
2 violation of conflict of interest or governmental ethics laws, he or she shall promptly refer the  
3 complaint to the Ethics Commission and the City Attorney. If the Public Advocate receives a  
4 complaint alleging conduct that may constitute a violation of criminal law, he or she shall  
5 promptly refer the complaint and information in his or her possession regarding the alleged  
6 violation to the District Attorney.

7       If during the conduct of any investigation, inquiry, or review authorized by this section,  
8 the Public Advocate discovers that the matter involves conduct that may constitute a violation of  
9 conflict of interest or governmental ethics laws, he or she shall take no further action but shall  
10 promptly refer the matter to the Ethics Commission and the City Attorney. If during the conduct  
11 of any investigation, inquiry, or review authorized by this section, the Public Advocate discovers  
12 that the matter involves conduct that may constitute a violation of criminal law, he or she shall  
13 take no further action but shall promptly refer the matter and information in his or her  
14 possession to the District Attorney.

15       Before making a determination whether alleged conduct may constitute a violation of  
16 conflict of interest or governmental ethics laws, the Public Advocate shall consult with the City  
17 Attorney. Before making a determination whether alleged conduct may constitute a violation of  
18 criminal law, the Public Advocate shall consult with the District Attorney.

19  
20       **SEC. 8C.104. PUBLIC ADVOCATE—OFFICE OF LABOR STANDARDS**  
21 **ENFORCEMENT.**

22       (a) There shall be an Office of Labor Standards Enforcement (OLSE) within the Office of  
23 the Public Advocate. The Public Advocate shall have the power and duty to organize,  
24 reorganize, and manage the OLSE.  
25

1           **(b) The OLSE shall enforce the City's laws relating to labor and employment standards,**  
2           **and shall carry out any additional duties and functions, as assigned by Charter or ordinance,**  
3           **either now or in the future. The OLSE may enforce the provisions of the California Labor Code**  
4           **to the extent permitted by State law.**

5           **(c) The OLSE may impose penalties and take any and all appropriate action to enforce**  
6           **City laws within its jurisdiction, and to the extent permitted by State law, the Labor Code**  
7           **provisions that City law requires or permits the OLSE to enforce.**

8           **(d) The OLSE shall be administered by the Labor Standards Enforcement Officer, who**  
9           **shall be appointed by, and shall serve at the pleasure of, the Public Advocate. In appointing the**  
10           **Labor Standards Enforcement Officer, the Public Advocate shall consider, among other relevant**  
11           **factors, the individual's experience enforcing labor standards. The Labor Standards**  
12           **Enforcement Officer shall coordinate his or her activities with federal and State labor standards**  
13           **agencies, as appropriate.**

14           **(e) All City departments shall cooperate with the OLSE in the exercise of its functions**  
15           **and duties.**

16           **(f) The Labor Standards Enforcement Officer shall have the authority to subpoena the**  
17           **production of books, papers, records, or other items relevant to investigations under the**  
18           **jurisdiction of the OLSE.**

19           **(g) If the OLSE, upon the receipt of a complaint from any person or on its own initiative,**  
20           **has reason to believe that there is or has been a violation of any law that the OLSE is**  
21           **responsible for enforcing, the OLSE immediately shall forward the complaint and/or information**  
22           **in its possession regarding the alleged violation to the City Attorney. Within 10 working days**  
23           **after receipt of the complaint or information, the City Attorney shall inform the OLSE in writing**  
24           **regarding whether the City Attorney has initiated or intends to pursue an investigation of the**  
25           **matter. The OLSE may initiate its own investigation during this 10-day period. If the City**

1 Attorney informs the OLSE in writing that the City Attorney will pursue the case, the OLSE shall  
2 suspend its own investigation.

3  
4 **SEC. 8C.105. PUBLIC ADVOCATE—WHISTLEBLOWERS.**

5 (a) The Public Advocate shall have the authority to receive complaints by members of  
6 the public concerning wasteful and inefficient City government practices, misuse of City  
7 government funds, and improper activities by City government officers, employees, and  
8 contractors. The Public Advocate shall investigate and otherwise attempt to resolve such  
9 individual complaints except for those that:

10 (1) another City agency is required by federal, state, or local law to adjudicate,

11 (2) may be resolved through a grievance mechanism established by collective  
12 bargaining agreement or contract,

13 (3) involve allegations of conduct that may constitute a violation of criminal law,  
14 or

15 (4) are subject to an investigation by the District Attorney, the City Attorney, or  
16 the Ethics Commission, where either official or the Commission states in writing that  
17 investigation by the Public Advocate would substantially impede or delay his, her, or its own  
18 investigation of the matter.

19 If the Public Advocate receives a complaint described in items (1), (2), (3), or (4) of this  
20 subsection (a), the Public Advocate shall advise the complainant of the appropriate procedure  
21 for the resolution of such complaint.

22 (b) If the Public Advocate receives a complaint alleging conduct that may constitute a  
23 conflict of interest or governmental ethics law, he or she shall promptly refer the complaint to  
24 the Ethics Commission and the City Attorney. If the Public Advocate receives a complaint  
25 alleging conduct that may constitute a violation of criminal law, he or she shall promptly refer

1 the complaint and information regarding the alleged violation to the District Attorney. Nothing  
2 in this Section 8C.105 shall preclude the Public Advocate from investigating whether any alleged  
3 criminal conduct also violates any civil or administrative law, statute, ordinance, resolution, or  
4 regulation.

5 Within 10 working days after receipt of the complaint and information, the City Attorney  
6 or the District Attorney shall inform the Public Advocate in writing regarding whether either  
7 office has initiated or intends to pursue an investigation of the matter. If either office informs the  
8 Public Advocate in writing that the office will pursue the case, the Public Advocate shall  
9 suspend its own investigation.

10 Before making a determination whether alleged conduct may constitute a violation of  
11 conflict of interest or governmental ethics laws, the Public Advocate shall consult with the City  
12 Attorney. Before making a determination whether alleged conduct may constitute a violation of  
13 criminal law, the Public Advocate shall consult with the District Attorney.

14 (c) Notwithstanding any provision of this Charter, including but not limited to  
15 Section C3.699-11, or any ordinance, resolution, or regulation of the City, the Public Advocate  
16 shall administer a whistleblower and citizen complaint hotline telephone number and website  
17 and publicize the hotline and website through press releases, public advertising, and  
18 communications to City employees. The Public Advocate shall receive and track telephone calls,  
19 emails and other electronic communications, and other communications, related to complaints  
20 about wasteful and inefficient City government practices, misuse of government funds and  
21 improper activities by City government officials, employees, and contractors, and shall route  
22 these complaints to the appropriate agency subject to subsection (a) of this Section 8C.105. The  
23 Board of Supervisors shall enact an ordinance protecting the confidentiality of whistleblowers,  
24 and protecting City officers and employees from retaliation for filing a complaint with, or  
25 providing information to, the Public Advocate, Controller, Ethics Commission, District Attorney,

1 City Attorney, or a City department or commission about improper government activity by City  
2 officers and employees. The City may incorporate all or part of the whistleblower functions set  
3 forth in this Charter or by ordinances into a unified City call center, switchboard, or information  
4 number at a later time, provided the responsibility for the whistleblower function remains with  
5 the Public Advocate and its responsibilities and function continue consistent with this Section.

6  
7 **SEC. 8C. 106. PUBLIC ADVOCATE—CUSTOMER SERVICE PLANS.**

8 The Public Advocate shall assess the progress of City departments' compliance with  
9 Charter Section 16.120 and any implementing ordinances requiring City departments to prepare  
10 effective customer service plans. The Public Advocate shall make recommendations to  
11 departments to improve the effectiveness of such plans, or to the Mayor and the Board of  
12 Supervisors regarding improvements in such plans generally. The Public Advocate shall report  
13 to the Board of Supervisors and Mayor the failure of any department to comply substantially  
14 with the Public Advocate's recommendations regarding customer service plans.

15  
16 **SEC. 8C.107. PUBLIC ADVOCATE—OFFICE OF CITIZEN COMPLAINTS.**

17 (a) The Office of Citizen Complaints (OCC) shall be a department under the Public  
18 Advocate.

19 (b) The Public Advocate shall appoint a Director of the OCC, subject to confirmation by  
20 the Board of Supervisors. If the Board rejects the appointment, the Public Advocate shall make  
21 additional nominations. If the Board fails to act on an appointment within 30 days, the  
22 appointment shall be deemed approved. If the position of Director is vacant, the Public  
23 Advocate shall exercise the powers and duties of the Director until a new Director is appointed  
24 and confirmed. The transfer of the appointing power for the Director of the Office of Citizen  
25 Complaints from the Mayor to the Public Advocate shall not alter or affect the status of the

1 person serving as Director on the day the Charter amendment adding this Section 8C.107 takes  
2 effect.

3 (c) The Director shall serve at the pleasure of the Public Advocate, and the position of  
4 Director shall be exempt from the civil service requirements of this Charter. The Director shall  
5 never have been a uniformed member or employee of the Police Department. The Director shall  
6 be the appointing officer under the civil service provisions of this Charter for the appointment,  
7 removal, or discipline of employees of the OCC.

8 (d) Subject to the civil service provisions of this Charter, the OCC shall include  
9 investigators and hearing officers, in admission to administrative and clerical employees. The  
10 staff of the OCC shall consist of no fewer than one line investigator for every 150 sworn  
11 members. Whenever the ratio of investigators to police officers specified by this subsection (d) is  
12 not met for more than 30 consecutive days, the Director shall have the power to hire, and the  
13 Controller must pay, temporary investigators to meet that staffing requirement. No full-time or  
14 part-time employee of the OCC shall have previously served as a uniformed member of the  
15 Police Department. With the approval of the Public Advocate, the Director may appoint part-  
16 time hearing officers who shall be exempt from the civil service requirements of this Charter.  
17 Compensation of the hearing officers shall be at rates recommended by the Public Advocate and  
18 established by the Board of Supervisors or by contract approved by the Board of Supervisors.

19 (e) Complaints of police misconduct or allegations that a uniformed member of the  
20 Police Department has not properly performed a duty shall be promptly, fairly, and impartially  
21 investigated by the OCC, except those complaints which (1) on their face clearly indicate that the  
22 acts complained of were proper, or (2) were lodged by a uniformed member of the Police  
23 Department.

24 (f) The OCC shall use its best efforts to conclude investigations of such complaints and,  
25 if sustained, transmit the sustained complaint to the Police Department within nine months of

1 receipt thereof by the OCC. If the OCC sustains a complaint regarding conduct that may  
2 constitute a violation of criminal law, it shall promptly notify the District Attorney of that fact. If  
3 the OCC does not conclude its investigation within such nine-month period, the Director, within  
4 such nine-month period, shall inform the Chief of Police of the reasons therefor and transmit  
5 information and evidence from the investigation as shall facilitate the Chief's timely  
6 consideration of the matter.

7 (g) The OCC shall recommend disciplinary action to the Chief of Police on those  
8 complaints it sustains. The Director, after meeting and conferring with the Chief of Police or his  
9 or her designee, may verify and file charges with the Police Commission against members of the  
10 Police Department arising out of sustained complaints; provided, that the Director may not  
11 verify and file such charges for a period of 60 days following the transmittal of the sustained  
12 complaint to the Police Department unless the Director issues a written determination that the  
13 limitations period within which the member or members may be disciplined under Government  
14 Code Section 3304, as amended from time to time or any successor provisions thereto, may  
15 expire within such 60-day period and either (1) the Chief of Police fails or refuses to file charges  
16 with the Police Commission arising out of the sustained complaint, (2) the Chief of Police or his  
17 or her designee fails or refuses to meet and confer with the Director on the matter, or (3) other  
18 exigent circumstances necessitate that the Director verify and file charges to preserve the ability  
19 of the Police Commission to impose punishment pursuant to Section A8.343.

20 (h) The Director of the OCC shall schedule hearings before hearing officers when such  
21 is requested by the complainant or a member of the Police Department and, in accordance with  
22 rules of the Police Commission, such a hearing will facilitate the fact-finding process.

23 (i) The Board of Supervisors may provide by ordinance that the OCC shall in the same  
24 manner investigate and make recommendations to the Chief of Police regarding complaints of  
25 misconduct by patrol special police officers and their uniformed employees.

1           (j) Nothing herein shall prohibit the Chief of Police or a commanding officer from  
2           investigating the conduct of a member of the department under his or her command, or taking  
3           disciplinary or corrective action, otherwise permitted by this Charter, when such is warranted;  
4           and nothing herein shall limit or otherwise restrict the disciplinary powers vested in the Chief of  
5           Police and the Police Commission by other provisions of this Charter.

6           (k) The OCC shall prepare monthly summaries of the complaints received and shall  
7           prepare recommendations to the Police Commission quarterly concerning policies or practices  
8           of the Police Department which could be changed or amended to avoid unnecessary tension with  
9           the public or a definable segment of the public while insuring effective police services. The OCC  
10          shall prepare a report for the President of the Board of Supervisors each quarter. The OCC  
11          shall provide copies of the report to the City Attorney and District Attorney. This report shall  
12          include, but not be limited to, the number and type of complaints filed, the outcome of the  
13          complaints, and a review of the disciplinary action taken, including a comparison of disciplinary  
14          action recommended by the OCC and discipline imposed by the Chief of Police and/or the Police  
15          Commission. The President of the Board of Supervisors shall refer this report to the appropriate  
16          committee of the Board of Supervisors charged with public safety responsibilities. Said  
17          committee may issue recommendations as needed.

18          (l) In carrying out its objectives, the OCC shall receive prompt and full cooperation and  
19          assistance from all organs of City government, including departments, officers, and employees,  
20          which shall promptly produce all records requested by the OCC, including, but not limited to,  
21          police officer personnel records and disciplinary records, except for records protected by a  
22          privilege under federal, state, or local law, or the disclosure of which to the OCC is prohibited  
23          by law, including, but not limited to, criminal investigation and prosecution files. The Director  
24          may request and the Chief of Police shall require the testimony or attendance of any member of  
25          the Police Department to carry out the responsibilities of the Office of Citizen Complaints.

**SEC. 8C.108. PUBLIC ADVOCATE—FUNDING.**

(a) Notwithstanding any other provision of this Charter, the Mayor and Board of Supervisors shall appropriate each year an amount equal to at least three one-hundredths of one percent (0.03%) of the City's overall budget, apportioned by fund and excluding bonded indebtedness, to fund the office of the Public Advocate.

(b) In addition to the amount required under subsection (a), the Mayor and Board of Supervisors shall appropriate each year to the office of the Public Advocate an amount equal to at least the amount appropriated to:

(1) the Office of Labor Standards Enforcement;

(2) the Controller for administration of the Whistleblower Program under Charter Section FI.107; and,

(3) the Office of Citizen Complaints;  
for fiscal year 2015-2016, 2016-2017, or 2017-2018, whichever amount is greatest by fiscal year for each entity, adjusted annually for inflation.

**SEC. 10.104. EXCLUSIONS FROM CIVIL SERVICE APPOINTMENT.**

All employees of the City and County shall be appointed through competitive examination unless exempted by this Charter. The following positions shall be exempt from competitive civil service selection, appointment and removal procedures, and the person serving in the position shall serve at the pleasure of the appointing authority:

\* \* \* \*

2. All elected officers of the City and County and their chief deputies or chief assistants;

\* \* \* \*

1           14. The law librarian, assistant law librarians, bookbinder of the Law Library,  
2 purchaser, curators, Assistant Sheriff, Deputy Port Director, Chief of the Bureau of Maritime  
3 Affairs, Director of Administration and Finance of the Port, Port Sales Manager, Port Traffic  
4 Manager, Chief Wharfinger, Port Commercial Property Manager, Actuary of the Employees'  
5 Employee's Retirement System, Director of the Zoo, Chief Veterinarian of the Zoo, Director of  
6 the Arboretum and Botanical Garden, Director of Employee Relations, Health Service  
7 Administrator, Executive Assistant to the Human Services Director, Assistant Public Advocate,  
8 and any other positions designated as exempt under the 1932 Charter, as amended;

9           \* \* \* \*

10  
11 **SEC. 13.101. TERMS OF ELECTIVE OFFICE.**

12           (a) Except in the case of an appointment or election to fill a vacancy, the term of office  
13 of each elected officer shall commence at ~~12:00~~ noon on the eighth day of January following the  
14 date of the election.

15           (b) Subject to the applicable provisions of Section 13.102, the elected officers of the City  
16 and County shall be elected as follows:

17                   (1) At the general municipal election in 1995 and every fourth year thereafter, a  
18 Mayor, a Sheriff and a District Attorney shall be elected.

19                   (2) At the general municipal election in 1996 and every fourth year thereafter,  
20 four members of the Board of Education and four members of the Governing Board of the  
21 Community College District shall be elected.

22                   (3) At the general municipal election in 2013, and at the general municipal  
23 election in 2015 and every fourth year thereafter, a City Attorney and a Treasurer shall be  
24 elected. Notwithstanding any other provision of this Charter including Section 6.100, the term of  
25

1 office for the person elected City Attorney or Treasurer at the general municipal election in 2013  
2 shall be two years.

3 (4) At the general municipal election in 2006 and every fourth year thereafter, an  
4 Assessor-Recorder and Public Defender shall be elected.

5 (5) At the general municipal election in 1998 and every fourth year thereafter,  
6 three members of the Board of Education and three members of the Governing Board of the  
7 Community College District shall be elected.

8 (6) At a special municipal election to be held on November 7, 2017, a Public  
9 Advocate shall be elected. Thereafter, at the general municipal election in 2020 and every  
10 fourth year thereafter, the Public Advocate shall be elected. Notwithstanding any other  
11 provision of this Charter including Section 6.100, the term of office for the person elected Public  
12 Advocate at the special municipal election on November 7, 2017, shall expire at noon on  
13 January 8, 2021.

14 (7) (6) The election and terms of office of members of the Board of Supervisors  
15 shall be governed by Section 13.110.

#### 16 17 **SEC. 13.101.5. VACANCIES.**

18 (a) If the office of Assessor-Recorder, City Attorney, District Attorney, Public Defender,  
19 Sheriff, Treasurer, or Member of the Board of Supervisors, Board of Education, or Governing  
20 Board of the Community College District becomes vacant because of death, resignation, recall,  
21 permanent disability, or the inability of the respective officer to otherwise carry out the  
22 responsibilities of the office, the Mayor shall appoint an individual qualified to fill the vacancy  
23 under this Charter and state laws. If the office of Public Advocate becomes vacant because of  
24 death, resignation, recall, permanent disability, or the inability of the incumbent to otherwise  
25

1 carry out the responsibilities of the office, the Chief Deputy Public Advocate shall serve as  
2 Public Advocate until a successor is selected pursuant to subsection (c).

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

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

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

21  
22 **SEC. 13.102. INSTANT RUNOFF ELECTIONS; RANKED-CHOICE VOTING**  
23 **ELECTIONS.**

24 (a) For the purposes of this ~~Section~~ section: (1) a candidate shall be deemed "continuing"  
25 if the candidate has not been eliminated from further rounds of tabulation; (2) a ballot shall be

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

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

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

22 (d) If no candidate receives a majority of votes from the continuing ballots after a  
23 candidate has been eliminated from further rounds of tabulation and his or her votes have been  
24 transferred to the next-ranked candidate, the continuing candidate with the fewest votes from the  
25 continuing ballots shall be eliminated from further rounds of tabulation. All votes cast for that

1 candidate shall be transferred to the next-ranked continuing candidate on each voter's ballot.

2 This process of eliminating candidates from further rounds of tabulation and transferring their  
3 votes to the next-ranked continuing candidates shall be repeated until a candidate receives a  
4 majority of the votes from the continuing ballots.

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

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

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

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

16 ~~(i) Ranked choice, or "instant runoff," balloting shall be used for the general municipal~~  
17 ~~election in November 2002 and all subsequent elections. If the Director of Elections certifies to~~  
18 ~~the Board of Supervisors and the Mayor no later than July 1, 2002 that the Department will not~~  
19 ~~be ready to implement ranked-choice balloting in November 2002, then the City shall begin~~  
20 ~~using ranked-choice, or "instant runoff," balloting at the November 2003 general municipal~~  
21 ~~election.~~

22 ~~If ranked-choice, or "instant runoff," balloting is not used in November of 2002, and no~~  
23 ~~candidate for any elective office of the City and County, except the Board of Education and the~~  
24 ~~Governing Board of the Community College District, receives a majority of the votes cast at an~~  
25 ~~election for such office, the two candidates receiving the most votes shall qualify to have their~~

1 *names placed on the ballot for a runoff election held on the second Tuesday in December of*  
2 *2002.*

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

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

21 The Ethics Commission shall hold a hearing not less than five days after the filing of  
22 written charges. After the hearing, the Ethics Commission shall transmit the full record of the  
23 hearing to the Board of Supervisors with a recommendation as to whether the charges should be  
24 sustained. If, after reviewing the complete record, the charges are sustained by not less than a  
25 three-fourths vote of all members of the Board of Supervisors, the suspended officer shall be

1 removed from office; if not so sustained, or if not acted on by the Board of Supervisors within 30  
2 days after the receipt of the record from the Ethics Commission, the suspended officer shall  
3 thereby be reinstated.

4 Notwithstanding any other provision of this Section 15.105, the Mayor may file written  
5 charges of official misconduct against the Public Advocate and those charges shall be heard and  
6 acted on by the Ethics Commission and the Board of Supervisors in the same manner as other  
7 charges of official misconduct, but the Mayor shall have no power to suspend the Public  
8 Advocate prior to the determination of those charges by the Board of Supervisors.

9 \* \* \* \*

#### 11 **SEC. 4.127. POLICE DEPARTMENT.**

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

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

16 The Chief of Police shall have all powers which are now or that may be conferred upon a  
17 sheriff by state law with respect to the suppression of any riot, public tumult, disturbance of the  
18 public peace or organized resistance against the laws or public authority.

19 \* \* \* \*

20 ~~OFFICE OF CITIZEN COMPLAINTS. The Mayor shall appoint a nominee of the Police~~  
21 ~~Commission as the director of the Office of Citizen Complaints, subject to confirmation by the~~  
22 ~~Board of Supervisors. The director shall serve at the pleasure of the Police Commission. If the~~  
23 ~~Board fails to act on the appointment within 30 days, the appointment shall be deemed approved.~~  
24 ~~In the event the office is vacant, until the mayor makes an appointment and that appointment is~~  
25 ~~confirmed by the Board, the Police Commission shall appoint an interim director who shall~~

1 ~~serve at the pleasure of the Police Commission. The appointment shall be exempt from the civil~~  
2 ~~service requirements of this Charter. The director shall never have been a uniformed member or~~  
3 ~~employee of the department. The director of the Office of Citizen Complaints shall be the~~  
4 ~~appointing officer under the civil service provisions of this Charter for the appointment, removal~~  
5 ~~or discipline of employees of the Office of Citizen Complaints.~~

6 ~~The Police Commission shall have the power and duty to organize, reorganize and~~  
7 ~~manage the Office of Citizen Complaints. Subject to the civil service provisions of this Charter,~~  
8 ~~the Office of Citizen Complaints shall include investigators and hearing officers. As of July 1,~~  
9 ~~1996, the staff of the Office of Citizen Complaints shall consist of no fewer than one line~~  
10 ~~investigator for every 150 sworn members. Whenever the ratio of investigators to police officers~~  
11 ~~specified by this section is not met for more than 30 consecutive days, the director shall have the~~  
12 ~~power to hire, and the City Controller must pay, temporary investigators to meet such staffing~~  
13 ~~requirements. No full-time or part-time employee of the Office of Citizen Complaints shall have~~  
14 ~~previously served as a uniformed member of the department. Subject to rule of the Police~~  
15 ~~Commission, the director of the Office of Citizen Complaints may appoint part-time hearing~~  
16 ~~officers who shall be exempt from the civil service requirements of this Charter. Compensation~~  
17 ~~of the hearing officers shall be at rates recommended by the Commission and established by the~~  
18 ~~Board of Supervisors or by contract approved by the Board of Supervisors.~~

19 ~~Complaints of police misconduct or allegations that a member of the Police Department~~  
20 ~~has not properly performed a duty shall be promptly, fairly and impartially investigated by staff~~  
21 ~~of the Office of Citizen Complaints. The Office of Citizen Complaints shall investigate all~~  
22 ~~complaints of police misconduct, or that a member of the Police Department has not properly~~  
23 ~~performed a duty, except those complaints which on their face clearly indicate that the acts~~  
24 ~~complained of were proper and those complaints lodged by other members of the Police~~  
25 ~~Department. The Office of Citizen Complaints shall use its best efforts to conclude~~

1 ~~investigations of such complaints and, if sustained, transmit the sustained complaint to the~~  
2 ~~Police Department within nine (9) months of receipt thereof by the Office of Citizen Complaints.~~  
3 ~~If the Office of Citizen Complaints is unable to conclude its investigation within such nine-month~~  
4 ~~period, the director of the Office of Citizen Complaints, within such nine-month period, shall~~  
5 ~~inform the Chief of Police of the reasons therefor and transmit information and evidence from~~  
6 ~~the investigation as shall facilitate the Chief's timely consideration of the matter. The Office of~~  
7 ~~Citizen Complaints shall recommend disciplinary action to the Chief of Police on those~~  
8 ~~complaints that are sustained. The director of the Office of Citizen Complaints, after meeting~~  
9 ~~and conferring with the Chief of Police or his or her designee, may verify and file charges with~~  
10 ~~the Police Commission against members of the Police Department arising out of sustained~~  
11 ~~complaints; provided, that the director may not verify and file such charges for a period of~~  
12 ~~60 days following the transmittal of the sustained complaint to the Police Department unless the~~  
13 ~~director issues a written determination that the limitations period within which the member or~~  
14 ~~members may be disciplined under Government Code Section 3304, as amended from time to~~  
15 ~~time or any successor provisions thereto, may expire within such 60-day period and either (i) the~~  
16 ~~Chief of Police fails or refuses to file charges with the Police Commission arising out of the~~  
17 ~~sustained complaint, (ii) the Chief of Police or his or her designee fails or refuses to meet and~~  
18 ~~confer with the director on the matter, or (iii) other exigent circumstances necessitate that the~~  
19 ~~director verify and file charges to preserve the ability of the Police Commission to impose~~  
20 ~~punishment pursuant to Section A8.343. The director of the Office of Citizen Complaints shall~~  
21 ~~schedule hearings before hearing officers when such is requested by the complainant or a~~  
22 ~~member of the department and, in accordance with rules of the Commission, such a hearing will~~  
23 ~~facilitate the fact-finding process. The Board of Supervisors may provide by ordinance that the~~  
24 ~~Office of Citizen Complaints shall in the same manner investigate and make recommendations to~~

1 ~~the Chief of Police regarding complaints of misconduct by patrol special police officers and their~~  
2 ~~uniformed employees.~~

3 ~~Nothing herein shall prohibit the Chief of Police or a commanding officer from~~  
4 ~~investigating the conduct of a member of the department under his or her command, or taking~~  
5 ~~disciplinary or corrective action, otherwise permitted by this Charter, when such is warranted;~~  
6 ~~and nothing herein shall limit or otherwise restrict the disciplinary powers vested in the Chief of~~  
7 ~~Police and the Police Commission by other provisions of this Charter.~~

8 ~~The Office of Citizen Complaints shall prepare in accordance with rules of the~~  
9 ~~Commission monthly summaries of the complaints received and shall prepare recommendations~~  
10 ~~quarterly concerning policies or practices of the department which could be changed or~~  
11 ~~amended to avoid unnecessary tension with the public or a definable segment of the public while~~  
12 ~~insuring effective police services. The Office of Citizen Complaints shall prepare a report for the~~  
13 ~~President of the Board of Supervisors each quarter. This report shall include, but not be limited~~  
14 ~~to, the number and type of complaints filed, the outcome of the complaints, and a review of the~~  
15 ~~disciplinary action taken. The President of the Board of Supervisors shall refer this report to the~~  
16 ~~appropriate committee of the Board of Supervisors charged with public safety responsibilities.~~  
17 ~~Said committee may issue recommendations as needed.~~

18 ~~In carrying out its objectives the Office of Citizen Complaints shall receive prompt and~~  
19 ~~full cooperation and assistance from all departments, officers and employees of the City and~~  
20 ~~County which shall promptly produce all records requested by the Office of Citizen Complaints~~  
21 ~~except for records the disclosure of which to the Office of Citizen Complaints is prohibited by~~  
22 ~~law. The director may also request and the Chief of Police shall require the testimony or~~  
23 ~~attendance of any member of the Police Department to carry out the responsibilities of the Office~~  
24 ~~of Citizen Complaints.~~

25 \* \* \* \*

1  
2 **A8.343. FINE, SUSPENSION AND DISMISSAL IN POLICE AND FIRE**  
3 **DEPARTMENTS.**

4       Members of the uniformed ranks of the fire or the police department guilty of any offense  
5 or violation of the rules and regulations of their respective departments, shall be liable to be  
6 punished by reprimand, or by fine not exceeding one month's salary for any offense, or by  
7 suspension for not to exceed three months, or by dismissal, after trial and hearing by the  
8 commissioners of their respective departments; provided, however, that the chief of each  
9 respective department for disciplinary purposes may suspend such member for a period not to  
10 exceed 10 days for violation of the rules and regulations of his department. Any such member so  
11 suspended shall have the right to appeal such suspension to the fire commission or to the police  
12 commission, as the case may be, and have a trial and hearing on such suspension. Written notice  
13 of appeal must be filed within 10 days after such suspension and the hearing of said appeal must  
14 be held within 30 days after the filing of said notice of appeal. If the commission shall reverse or  
15 alter the finding of the chief, it shall order that the member affected be paid salary for the time of  
16 the suspension received or altered. In the event the chief should exercise such power of  
17 suspension, the member involved shall not be subject to any further disciplinary action for the  
18 same offense; provided, that where the Office of Citizen Complaints has sustained a complaint  
19 and recommended discipline in excess of a 10-day suspension, the Chief of Police may not  
20 exercise his or her power of suspension under this section without first meeting and conferring  
21 with the director of the Office of Citizen Complaints and affording the director an opportunity to  
22 verify and file charges with the Police Commission pursuant to Section 8C.107 4.127. If the  
23 director of the Office of Citizen Complaints verifies and files charges, the Police Commission  
24 shall conduct a trial and hearing thereon, and the Chief of Police may not suspend the member  
25

1 pending the outcome of the Police Commission proceedings on the charges except as provided in  
2 Section A8.344.

3 Subject to the foregoing, members of the uniformed ranks of either department shall not  
4 be subject to dismissal, nor to punishment for any breach of duty or misconduct, except for  
5 cause, nor until after a fair and impartial trial before the commissioners of their respective  
6 departments, upon a verified complaint filed with such commission setting forth specifically the  
7 acts complained of, and after such reasonable notice to them as to time and place of hearings as  
8 such commission may, by rule, prescribe. The accused shall be entitled, upon hearing, to appear  
9 personally and by counsel; to have a public trial; and to secure and enforce, free of expense, the  
10 attendance of all witnesses necessary for his defense.

11  
12 **SEC. A8.409-1. EMPLOYEES COVERED.**

13 \* \* \* \*

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

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

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

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

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

20 The Civil Service Commission shall set the salary of the Public Advocate, as follows. For  
21 each fiscal year, the salary of the Public Advocate shall be the average of the salaries, after  
22 having been increased by any cost-of-living adjustment, for that fiscal year for the offices of  
23 Mayor, City Attorney, District Attorney, Public Defender, Assessor-Recorder, Treasurer, Sheriff,  
24 and Member of the Board of Supervisors.

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

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

12 The Commission shall annually set the benefits of elected officials, to take effect July 1  
13 of each year. Benefits of elected officials may equal but may not exceed those benefits provided  
14 to any classification of miscellaneous officers and employees as of July 1 of each year, except,  
15 after January 7, 2012, the City and County shall not pay the required employee contributions of  
16 said officials into the San Francisco Employees' Retirement System trust fund or into the Retiree  
17 Health Care Trust Fund.

18 In addition, subject to the approval or disapproval of the Board of Supervisors, the Mayor  
19 may create, for employees designated as management, a management compensation package that  
20 recognizes and provides incentives for outstanding managerial performance contributing to  
21 increased productivity and efficiency in the work force. In formulating such a package, the  
22 Mayor shall take into account data developed in conjunction with the civil service commission  
23 regarding the terms of executive compensation in other public and private jurisdictions.

24  
25 **F1.102. STREET, SIDEWALK, AND PARK CLEANING AND MAINTENANCE.**

1 (a) The Services Audit Unit shall conduct annually a performance audit of the City's  
2 street, sidewalk, and public park maintenance and cleaning operations. The annual audit shall:

3 (1) Include quantifiable, measurable, objective standards for street, sidewalk, and  
4 park maintenance, to be developed in cooperation and consultation with the Department of  
5 Public Works and the Recreation and Park Department;

6 (2) Based upon such measures, report on the condition of each geographic  
7 portion of the City;

8 (3) To the extent that standards are not met, assess the causes of such failure and  
9 make recommendations of actions that will enhance the achievement of those standards in the  
10 future;

11 (4) Ensure that all bond funds related to streets, parks and open space are spent in  
12 strict accordance with the stated purposes and permissible uses of such bonds, as approved by the  
13 voters.

14 Outside of the audit process, the City departments charged with cleaning and maintaining  
15 streets, sidewalks, and parks shall remain responsible for addressing individual complaints  
16 regarding specific sites, ~~although the Controller may receive and investigate such complaints~~  
17 ~~under Section FI.107.~~

18 (b) In addition, all City agencies engaged in street, sidewalk, or park maintenance shall  
19 establish regular maintenance schedules for streets, sidewalks, parks and park facilities, which  
20 shall be available to the public and on the department's website. Each such department shall  
21 monitor compliance with these schedules, and shall publish regularly data showing the extent to  
22 which the department has met its published schedules. The City Services Audit Unit shall audit  
23 each department's compliance with these requirements annually, and shall furnish  
24 recommendations for meaningful ways in which information regarding the timing, amount and  
25 kind of services provided may be gathered and furnished to the public.

**~~F1.107. CITIZENS' COMPLAINTS; WHISTLEBLOWERS.~~**

~~(a) The Controller shall have the authority to receive individual complaints concerning the quality and delivery of government services, wasteful and inefficient City government practices, misuse of City government funds, and improper activities by City government officers and employees. When appropriate, the Controller shall investigate and otherwise attempt to resolve such individual complaints except for those which:~~

~~(1) another City agency is required by federal, state, or local law to adjudicate,~~

~~(2) may be resolved through a grievance mechanism established by collective bargaining agreement or contract,~~

~~(3) involve allegations of conduct which may constitute a violation of criminal law, or~~

~~(4) are subject to an existing, ongoing investigation by the District Attorney, the City Attorney, or the Ethics Commission, where either official or the Commission states in writing that investigation by the Controller would substantially impede or delay his, her, or its own investigation of the matter.~~

~~If the Controller receives a complaint described in items (1), (2), (3), or (4) of this paragraph, the Controller shall advise the complainant of the appropriate procedure for the resolution of such complaint.~~

~~(b) If the Controller receives a complaint alleging conduct that may constitute a violation of criminal law or a governmental ethics law, he or she shall promptly refer the complaint regarding criminal conduct to the District Attorney or other appropriate law enforcement agency and shall refer complaints regarding violations of governmental ethics laws to the Ethics Commission and the City Attorney. Nothing in this Section shall preclude the~~

1 ~~Controller from investigating whether any alleged criminal conduct also violates any civil or~~  
2 ~~administrative law, statute, ordinance, or regulation.~~

3 ~~(e) Notwithstanding any provision of this Charter, including, but not limited to~~  
4 ~~Section C3.699-11, or any ordinance or regulation of the City and County of San Francisco, the~~  
5 ~~Controller shall administer a whistleblower and citizen complaint hotline telephone number and~~  
6 ~~website and publicize the hotline and website through press releases, public advertising, and~~  
7 ~~communications to City employees. The Controller shall receive and track calls and emails~~  
8 ~~related to complaints about the quality and delivery of government services, wasteful and~~  
9 ~~inefficient City government practices, misuse of government funds and improper activities by~~  
10 ~~City government officials, employees and contractors and shall route these complaints to the~~  
11 ~~appropriate agency subject to subsection (a) of this Section. The Board of Supervisors shall~~  
12 ~~enact and maintain an ordinance protecting the confidentiality of whistleblowers, and protecting~~  
13 ~~City officers and employees from retaliation for filing a complaint with, or providing information~~  
14 ~~to, the Controller, Ethics Commission, District Attorney, City Attorney or a City department or~~  
15 ~~commission about improper government activity by City officers and employees. The City may~~  
16 ~~incorporate all whistleblower functions set forth in this Charter or by ordinances into a unified~~  
17 ~~City call center, switchboard, or information number at a later time, provided the supervision of~~  
18 ~~the whistleblower function remains with the Controller and its responsibilities and function~~  
19 ~~continue unabridged.~~

20  
21 **~~FI.108. CUSTOMER SERVICE PLANS.~~**

22 ~~The Controller shall assess the progress of City departments' compliance with Charter~~  
23 ~~Section 16.120 and any implementing ordinances requiring City departments to prepare effective~~  
24 ~~customer service plans. The Controller shall make recommendations to departments to improve~~  
25 ~~the effectiveness of such plans. The Controller shall report to the Board of Supervisors and~~

~~Mayor the failure of any department to comply substantially with the Controller's recommendations regarding customer service plans.~~

**SEC. F1.113. CONTROLLER'S AUDIT FUND.**

Notwithstanding any other provision of this Charter, the Mayor and Board of Supervisors shall be required to budget an amount equal to at least one thousand nine hundred and fourteen ten-thousandths two-tenths of one percent (0.1914%) ~~(0.2%)~~ of the City's overall budget, apportioned by fund and excluding bond related debt, to implement this provision. This amount shall be referred to as the Controller's Audit Fund, and shall be used exclusively to implement the duties and requirements of this Appendix, and shall not be used to displace funding for the non-audit related functions of the Controller's Office existing prior to the date this provision is enacted. If the funds are not expended or encumbered by the end of the fiscal year, the balance in the fund shall revert to the General Fund or the enterprise funds where it originated.

**SEC. F1.114. ~~OPERATIVE DATE~~; SEVERABILITY.**

~~(a) This charter amendment shall be operative on July 1, 2004. This amendment shall not affect the term or tenure of the incumbent Controller.~~

~~(b) If any section, subsection, provision or part of this Appendix F charter amendment or its application to any person or circumstances is held to be unconstitutional or invalid, the remainder of Appendix F the amendment, and the application of such provision to other persons or circumstances, shall not be affected.~~

/ / /


/ / /

/ / /

1           Section 2. The provisions of this charter amendment shall become operative at noon on  
2 January 8, 2018.

3  
4  
5 APPROVED AS TO FORM:  
6 DENNIS J. HERRERA, City Attorney

7  
8 By:

  
THOMAS J. OWEN  
Deputy City Attorney

9  
10  
11  
12  
13  
14 n:\legana\as2016\1600489\01108565.docx

**LEGISLATIVE DIGEST**

(First Draft - 5/24/2016)

[Charter Amendment - Public Advocate]

**Describing and setting forth a proposal to the voters, at an election to be held on November 8, 2016, to amend the Charter of the City and County of San Francisco to: 1) create the Office of the Public Advocate; 2) set the Public Advocate's powers and duties; 3) authorize the Public Advocate to review the administration of City programs, including programs for transmitting information to the public, and to receive, investigate, and attempt to resolve complaints regarding City services and programs; 4) place the Public Advocate in charge of the Office of Labor Standards Enforcement, the Office of Citizen Complaints, and the Controller's whistleblower program; 5) call a special election for November 7, 2017 to elect the first Public Advocate; 6) provide for the Public Advocate's election, removal, and salary; and 7) establish a set-aside of .03% of the City's budget, as well as the amounts previously budgeted to OLSE, OCC, and the whistleblower program, to fund the Office of the Public Advocate, and setting an operative date.**

**Existing Law**

The City currently does not have a particular official or central office responsible for overseeing how City departments interact with the public. The City has an Office of Labor Standards Enforcement under the City Administrator, a whistleblower program under the Controller, and an Office of Citizen Complaints under the Police Commission.

**Amendments to Current Law**

The proposal is a charter amendment that would create the Office of the Public Advocate.

The Public Advocate would review the administration of City programs, including the distribution of programs and services throughout the City, the effectiveness of the public information and service complaint programs of City agencies, and the responsiveness of City agencies to individual and group requests for data or information regarding the agencies' structure, activities, and operations. The Public Advocate would also review the management and employment practices of City officers and departments, including City policies and MOU provisions, that promote or impede the effective and efficient operation of City government, and would review the City's contracting procedures and practices. And the Public Advocate would investigate and attempt to resolve complaints from members of the public concerning City services and programs.

The proposal would place the Public Advocate in charge of the City's Office of Labor Standards Enforcement (OLSE), whistleblower program, and Office of Citizen Complaints (OCC). The functions and duties of those entities would not change. The Public Advocate would appoint and remove the Director of OCC.

The Public Advocate could introduce legislation at the Board of Supervisors to address any matter within the Public Advocate's jurisdiction.

The Public Advocate could not interfere with specific contract or personnel decisions or other administrative actions, or with criminal investigations or prosecutions. And during his or her tenure, the Public Advocate could not contribute to, or publicly endorse or oppose, a candidate for City elective office, or be an officer, director, or employee of an organization that makes political endorsements regarding candidates for City elective office.

The first Public Advocate would be elected at a special election to be held on November 7, 2017, and would serve a shortened term. Beginning in November 2020, the Public Advocate would be elected for a four-year term, using ranked-choice voting.

If the office of Public Advocate became vacant, the Chief Deputy Public Advocate would serve as Public Advocate until a successor was elected at the next election occurring not less than 120 days after the vacancy. The Mayor could file written charges of official misconduct against the Public Advocate and those charges would be heard and acted on by the Ethics Commission and the Board of Supervisors in the same manner as other charges of official misconduct, but the Mayor would have no power to suspend the Public Advocate prior to the determination of those charges by the Board of Supervisors.

The Civil Service Commission would set the salary of the Public Advocate at the average of the salaries for the offices of Mayor, City Attorney, District Attorney, Public Defender, Assessor-Recorder, Treasurer, Sheriff, and Member of the Board of Supervisors.

The proposal would require the City to appropriate each year an amount equal to at least three one-hundredths of one percent (0.03%) of the City's overall budget to fund the office of the Public Advocate, and to appropriate an amount equal to the budget for OLSE, the whistleblower program, and OCC for fiscal year 2015-2016, 2016-2017, or 2017-2018, whichever amount is greatest by fiscal year for each entity. The set-aside for the Controller's audit fund would be reduced from 0.2% of the City's overall budget to 0.1914%.

The proposal would become operative at noon on January 8, 2018.