

[Designating the Controller as City Services Auditor, setting duties, making the Controller a non-voting ex-officio member of the Board of Supervisors and all City commissions, and setting aside 0.2 percent of the City's annual budget for a Controller's Audit Fund.]

CHARTER AMENDMENT

PROPOSITION _____

Describing and setting forth a proposal to the qualified voters of the City and County of San Francisco to amend the Charter of the City and County of San Francisco by amending Section 3.105 and adding Appendix F to designate the Controller as the City Services Auditor, establish duties for that function, make the Controller a non-voting ex-officio member of the Board of Supervisors and all City commissions, and set aside 0.2 percent of the City's annual budget for a Controller's Audit Fund.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 4, 2003, a proposal to amend the Charter of the City and County by amending Section 3.105 and adding Appendix F, to read as follows:

Note: Additions are *single-underline italics Times New Roman*.
Deletions are ~~*strikethrough italics Times New Roman*~~.

Section 1. The San Francisco Charter is hereby amended, by amending Section 3.105, to read as follows:

SEC. 3.105. CONTROLLER; CITY SERVICES AUDITOR.

The Mayor shall appoint or reappoint a Controller for a ten-year term, subject to confirmation by the Board of Supervisors. The Controller may only be removed by the Mayor for cause, with the concurrence of the Board of Supervisors by a two-thirds vote.

The Controller shall be responsible for the timely accounting, disbursement or other disposition of monies of the City and County in accordance with sound financial practices applicable to municipalities and counties. The Controller shall have the power and duties of a

county auditor, except as otherwise provided in this Charter. The Controller shall have authority to audit the accounts and operations of all boards, commissions, officers and departments to evaluate their effectiveness and efficiency. The Controller shall have access to, and authority to, examine all documents, records, books and other property of any board, commission, officer or department.

The Controller shall also serve as City Services Auditor for the City and County. As City Services Auditor, the Controller shall be responsible for monitoring the level and effectiveness of services rendered by the City to its residents, as set forth in Appendix F to this Charter.

Should the Controller determine at any time during the fiscal year that the revenues of the General Fund, or any special, sequestered or other fund are insufficient or appear to be insufficient to support the remaining anticipated expenditure from that fund for the fiscal year for any department, function or program, the Controller shall reduce or reserve all or a portion of the expenditure appropriation until such time as the Controller determines that the anticipated revenues for the remainder of that fiscal year are sufficient to support the level of expenditure anticipated for the remainder of the fiscal year. Whenever the Controller makes a reduction or reservation, the Controller shall so inform the Mayor and Board of Supervisors within 24 hours.

The Controller shall exercise general supervision over the accounts of all officers, commissions, boards and employees of the City and County charged in any manner with the receipt, collection or disbursement of City and County funds or other funds, in their capacity as City and County officials or employees. The Controller shall establish accounting records, procedures and internal controls with respect to all financial transactions of the City and County. Such records, procedures and controls shall permit the financial statements of the City and County to be prepared in conformity with generally accepted accounting principles applicable to municipalities and counties.

The Controller shall within 150 days of the end of each fiscal year prepare an annual report of the financial condition of the City and County. Such annual report shall be prepared in

accordance with generally accepted accounting principles. The annual report shall contain such information and disclosures as shall be necessary to present to the public a full and understandable report of all City and County financial activity.

The Controller shall prepare an impartial financial analysis of each City and County ballot measure which shall include the amount of any increase or decrease in the cost of government of the City and County and its effect upon the cost of government. Such analysis shall be issued in sufficient time to permit inclusion in the voters' pamphlet.

The Controller shall issue from time to time such periodic or special financial reports as may be requested by the Mayor or Board of Supervisors.

All disbursements of funds in the custody of the Treasurer must be authorized by the Controller. No officer or employee shall bind the City and County to expend money unless there is a written contract or other instrument and unless the Controller shall certify that sufficient unencumbered balances are available in the proper fund to meet the payments under such contract or other obligation as these become due.

Section 2. The San Francisco Charter is hereby amended, by adding Appendix F (Sections F1.100 to F1.114), to read as follows:

Charter Appendix F:

Authority and Duties of City Services Auditor

SEC. F1.100. FINDINGS.

The people of San Francisco do hereby find and declare that:

(a) City residents rely upon the government of the city and county to deliver many important services affecting the health, vitality and economy of San Francisco. These include services related to the maintenance and cleanliness of streets and parks, health care, emergency services, transportation and public works. Recognizing the difficult economic times the City faces, preservation and enhancement of such services can be achieved only by ensuring that city

services are delivered in an efficient, cost-effective manner, and that government waste and unnecessary bureaucracy are curtailed to the greatest extent possible.

(b) It is often difficult for individual San Franciscans to judge the effectiveness and efficiency of local government in providing direct services to residents because of the size and complexity of city government. Consistent with the goals of open government, the people of San Francisco find that the government should establish tools to enable residents to assess the effectiveness and efficiency of city services; to compare the city's progress in delivering such services to that of other cities, counties and government agencies; and, where appropriate, to adopt "best practices" used in other jurisdictions when consistent with the goals of San Francisco residents.

(c) The San Francisco Controller is uniquely situated to provide objective, rigorous measurement of City service levels and effectiveness because the Controller is already charged with assessment of departmental performance and fiscal soundness. In addition, the Controller is appointed to a ten-year term, and therefore is sufficiently independent to render impartial assessments of the city's provision of public services.

(d) Therefore, this Charter Amendment:

(1) Establishes the Controller as the City Services Auditor, with the authority to conduct independent management and performance audits of departments providing services to San Francisco residents;

(2) Instructs the Controller/City Services Auditor to publish comparisons of the performance of San Francisco departments, the services they deliver, and the outcomes they achieve with other public agencies;

(3) Requires that the Controller/City Services Auditor perform comprehensive financial and performance audits of selected city departments each year;

(4) Mandates that the Controller/City Services Auditor set standards for street and park maintenance and perform an annual Clean Streets/Clean Parks audit to track whether these standards are met;

(5) Provides the Controller/City Services Auditor the authority to set citywide standards for government contracting processes and the development of "Requests For Proposals" to ensure that the selection process is fair and unbiased;

(6) Prohibits conflicts of interest in the auditing process by preventing companies that have participated in departmental operations from acting as outside auditors, requiring that all employees participating in audits be designated confidential employees for labor-relations purposes, and permitting the Controller to obtain outside independent assistance when in-house employees are subject to potential conflicts of interest;

(7) Requires the Controller/City Services Auditor to administer and publicize a whistleblower hotline and website for citizens and employees to report wrongdoing, waste, inefficient practices and poor performance in city government and service delivery;

(8) Establishes a 7-member, independent Citizens Audit Review Board to advise the Controller/City Services Auditor, to recommend departments in need of comprehensive audit, and to review citizen complaints received through the whistleblower program; and

(9) Provides a dedicated source of revenue equivalent to two-tenths of one percent of the budget of the City and County of San Francisco.

SEC. F1.101. CITY SERVICES AUDITOR; SERVICES AUDIT UNIT.

(a) In addition to the other duties prescribed by this Charter, the Controller shall perform the duties of a City Services Auditor, responsible for monitoring the level and effectiveness of services provided by the government of the City and County of San Francisco to

the people of San Francisco. The City Services Auditor shall establish and maintain a Services Audit Unit in the Controller's Office to ensure the financial integrity and improve the overall performance and efficiency of City government. The Services Audit Unit shall establish performance and cost benchmarks for all City departments and conduct comparisons of the cost and performance of San Francisco City government with other cities, counties and public agencies performing similar functions. In particular, the Services Audit Unit shall establish:

(1) Measures of workload addressing the level of service being provided or providing an assessment of need for a service;

(2) Measures of efficiency including cost per unit of service provided, cost per unit of output, or the units of service provided per full time equivalent position; and

(3) Measures of effectiveness including the quality of service provided, citizen perceptions of quality, and the extent a service meets the needs for which it was created.

(b) The service areas for which data is collected and comparisons conducted shall include, but not be limited to:

(1) The cleanliness and condition of streets and sidewalks and the performance of other public works and government-controlled public utilities;

(2) Parks, cultural and recreational facilities;

(3) Transportation, as measured by the standards set out in Charter Section 8A.103, provided, however, that primary responsibility for such assessment shall continue to be exercised by the Municipal Transportation Agency pursuant to Charter Section 8A.100 et seq.;

(4) The criminal justice system, including the Police Department, Juvenile and Adult Probation Departments, Sheriff, District Attorney and Public Defender;

(5) Fire and paramedic services;

(6) Public health and human services;

(7) City management; and,

(8) Human resources functions, including personnel and labor relations.

(c) The information obtained using the service measurement standards set forth above shall be compiled on at least an annual basis, and the results of such benchmark studies, as well as comparative data, shall be available on the City's website.

SEC. F1.102. STREET CLEANING; PARK MAINTENANCE AND CLEANING.

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

(1) Include quantifiable, measurable, objective standards for street and park maintenance;

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

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

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

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

SEC. F1.103. MANAGEMENT PRACTICES.

The City Services Audit Unit shall:

- (a) Conduct and publish an annual review of management practices and MOU provisions that either promote or impede the effective and efficient operation of city government;
- (b) Identify the top five City departments by workers compensation claims, list the cost of these claims, and recommend ways to reduce both workplace injuries and improper claims; and
- (c) Identify the top five departments by overtime expenditures and report on the cause and potential mitigations for any excessive overtime spending.

SEC. F1.104. PERFORMANCE AUDITS.

(a) In addition, the City Services Audit Unit shall conduct periodic, comprehensive financial and performance audits of city departments and activities. Except as provided in Section F1.102, the Controller shall have discretion to select departments and/or agencies for audit giving priority to departments providing direct services to the residents of the City and County of San Francisco. In selecting audit departments and subjects, the Controller shall give preference to requests for performance audits made by the Audit Review Board, the Mayor, the Board of Supervisors, department heads, and commissions.

(b) Each such audit shall include, but not be limited to, a written evaluation of expenditures in terms of the effectiveness of the service or product delivered by the department, and utilization of employees and contractual services, and shall include a review of the following:

- (1) Reform of inefficient operations and functions;
- (2) Consolidation of duplicative and overlapping activities and functions;
- (3) Integration and standardization of information technology and other systems that promote interdepartmental sharing of information and resources;

- (4) Departmental accounting for expenditure of resources in terms of effectiveness of the service or product delivered;
- (5) Departmental deployment and utilization of personnel, the personnel procurement system, and reforms to enhance the quality of work performance of employees;
- (6) Methods of operation to reduce consumption and waste of resources;
- (7) Departmental compliance with judicial, legislative, and administrative mandates;
- (8) Records available, such as Grand Jury reports, Budget Analyst audits, previous budgets and appropriations and justifications, and Controller internal audits;
and
- (9) An analysis of cost-cutting recommendations from employees and suggestions from users of governmental services.

SEC. F1.105. AUDIT RESULTS.

(a) Before making public any portion of any draft, notes, preliminary or final report relating to the operations or activities of a City officer or agency, the Controller shall deliver a copy of the draft report to any such officer, and to the head of any agency discussed in such report and provide the officer and agency, in writing, with a reasonable deadline for their review and response. The Controller shall include in any report, or portion thereof that is made public, a copy or summary of all such officer and agency responses. In addition, the audit shall include an analysis of the anticipated costs and/or savings of any recommendations contained in the report.

(b) The Controller shall publish the results of all final performance audits and a summary of agency responses, shall deliver copies of such audits to the department head, Audit Review Board, Mayor, City Attorney, Board of Supervisors, San Francisco Civil Grand Jury,

and San Francisco Public Library, and shall make the audits available on the City's website. Each audited department shall include with its next two annual budget requests following such audit a report on the status of the Controller's recommendations. In particular, the report shall include:

(1) the Controller's final audit recommendations;

(2) a plan to address the Controller's findings and to implement the Controller's recommendations;

(3) any costs or savings reflected in the proposed budget attributable to implementation of Controller recommendations; and

(4) a statement of the recommendations that the department does not intend to implement and the basis of the department head's determination not to adopt the Controller's recommendation.

(c) To avoid conflicts of interest, all employees engaged in preparation of audits shall be designated as confidential employees. If the Controller determines that any member of the regular audit staff is unable to participate in an audit due to a potential conflict of interest, or as a result the employee's collective bargaining representation, the Controller shall have the option of assigning other employees regardless of civil service job description, hiring outside experts, or contracting for such services with an outside individual or agency.

SEC. F1.106. OVERSIGHT OF CONTRACTING PROCEDURES.

The Controller shall have the duty to perform regular oversight of the City's contracting procedures, including developing model criteria and terms for City Requests for Proposals (RFPs), auditing compliance with City contracting rules and procedures, and, where appropriate, investigating cases of alleged abuse or conflict of interest.

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SEC. 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 state or federal law to adjudicate,
- (2) may be resolved through a grievance mechanism established by collective bargaining agreement or contract,
- (3) are within the exclusive jurisdiction of the Ethics Commission, or
- (4) involve allegations of conduct which may constitute a violation of criminal law.

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 governmental ethics to the Ethics Commission. Nothing in this section shall preclude the Controller from investigating whether any alleged criminal conduct also violates any civil or administrative law, statute, ordinance, or regulation.

(c) Notwithstanding any provision of this Charter, including, but not limited to section C3.699-11, or any ordinance or regulation of the City and County of San Francisco, the Controller shall administer a whistleblower and citizen complaint hotline telephone number and website and publicize the hotline and website through press releases, public advertising, and

communications to City employees. The Controller shall receive and track calls and emails related to complaints about the quality and delivery of government services, wasteful and inefficient City government practices, misuse of government funds and improper activities by City government officials, employees and contractors and shall route these complaints to the appropriate agency subject to subsection (a) of this Section. The Board of Supervisors shall enact and maintain an ordinance protecting the confidentiality of whistleblowers, and protecting City officers and employees from retaliation for filing a complaint with, or providing information to, the Controller, Ethics Commission, District Attorney, City Attorney or a City department or commission about improper government activity by City officers and employees. This section shall not preclude the City from incorporating the whistleblower function into a unified City call center, switchboard, or information number at a later time, provided the supervision of the whistleblower function remains with the Controller and its responsibilities and function continue unabridged.

(d) Except for those matters which involve conduct that may constitute a violation of criminal law, the Controller may, at the request of a resident, taxpayer, neighborhood organization, elected official, or his or her own motion, inquire into any alleged failure of a City officer or agency to comply with any provision of the City Charter, law, or regulation. If, as a result of such inquiry, the Controller concludes that there is any substantial failure to comply with any provision of the City Charter, laws, or regulations, he or she shall submit a preliminary report documenting the conclusions of the inquiry to the officer and the head of each agency involved. Within a reasonable time after submitting such preliminary report, the Controller shall issue a public final report.

SEC. F1.108. CUSTOMER SERVICE PLANS.

The Controller shall assess the progress of City departments' compliance with Charter Section 16.120 and any implementing ordinances requiring City departments to prepare effective

customer service plans. The Controller shall make recommendations to departments to improve 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. F1.109. MEMBERSHIP ON BOARDS AND COMMISSIONS.

The Controller shall serve as a non-voting ex-officio member of the Board of Supervisors, its committees, and all City commissions, and may introduce legislation to improve City programs and services and to make the delivery of such programs and services more efficient. The Controller may attend closed sessions of the Board of Supervisors, its committees, and City commissions, except those closed sessions pertaining to personnel matters. The Controller may, by written authority filed with the appropriate board, committee, or commission, designate officers or employees to act in the place of the Controller whenever the Controller is absent for any reason whatsoever. Notwithstanding any other provision of this Charter, the Controller or Controller's representative's presence at any meeting of the Board of Supervisors, Board committee, or city commission shall not be considered for the purpose of establishing a quorum of these bodies or for any other purpose related to their rules, requirements, and procedures for voting.

SEC. F1.110. ACCESS TO RECORDS; PRELIMINARY REPORTS.

(a) The Controller shall have timely access to all records and documents the Controller deems necessary to complete the inquiries and reviews required by this section. If a City officer, employee, agency, department, commission, or agency does not comply with the Controller's request for such records and documents, the Controller may issue a subpoena. The provisions of this subdivision shall not apply to those records and documents of City agencies for which a claim of privilege has been properly and appropriately raised, or which are prepared or

maintained by the City Attorney or District Attorney for use in any investigation authorized by state law or the Charter.

(b) Notwithstanding any other provision of this Charter, or any ordinance or regulation of the City and County of San Francisco, and except to the extent required by state or federal law, all drafts, notes, preliminary reports of Controller's benchmark studies, audits, investigations and other reports shall be confidential.

SEC. F1.111. CITIZENS AUDIT REVIEW BOARD.

A Citizens Audit Review Board shall be established. The Review Board shall consist of seven members: two appointed by the Mayor, two by the Board of Supervisors, one by the Controller with municipal auditing or performance review experience, one by the Civil Grand Jury who is a member of a bona fide business or taxpayer group, and one by the City Attorney. The Review Board shall provide advisory input to the Controller on matters pertaining to the functions set forth in this section, and, in particular, shall:

(a) Review the Controller's service standards and benchmarks to ensure their accuracy and usefulness;

(b) Review all audits to ensure that they meet the requirements set forth above;

(c) Subject to appropriate rules ensuring the confidentiality of complainants, review citizen and employee complaints received through the whistleblower/complaint hotline and website and the Controller's disposition of those complaints; and

(d) Where it deems appropriate, hold public hearings regarding the results of benchmark studies and audits to encourage the adoption of "best practices" consistent with the conclusions of the studies and audits. An audio or video recording of such hearings shall be made available for public inspection free of charge.

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SEC. F1.112. OUTSIDE EXPERTS.

Notwithstanding any other provision of this Charter or any ordinance or regulation of the City and County of San Francisco, the Controller shall be authorized to contract with outside, independent experts to assist in performing the requirements of this section and shall not be required to seek or obtain the approval of any City agency to execute contracts with such individuals. No outside expert or firm shall be eligible to participate or assist in an audit or investigation of any issue, matter, or question as to which that expert or firm has previously rendered compensated advice or services to any individual, corporation or City department other than the Controller. The Controller shall adopt appropriate written regulations implementing this provision, and shall incorporate this requirement in all written contracts with outside experts and firms utilized pursuant to this section.

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 two-tenths of one percent (0.2%) of the City's overall budget, excluding bond related debt, to implement this provision. This amount shall be referred to as the Controller's Audit Fund, shall be used exclusively to implement the duties and requirements of this section, 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.

SEC. F1.114. OPERATIVE DATE; SEVERABILITY.

(a) This charter amendment shall be operative 180 days after the amendment is accepted and filed by the Secretary of State.

(b) If any section, subsection, provision or part of this charter amendment or its application to any person or circumstances is held to be unconstitutional or invalid, the

remainder of the amendment, and the application of such provision to other persons or circumstances, shall not be affected.

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

By: _____
THOMAS J. OWEN
Deputy City Attorney