

1 [Charter Amendment - Public Advocate; Department of Police Accountability]

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3 **Describing and setting forth a proposal to the voters, at an election to be held on**  
 4 **November 8, 2016, to amend the Charter of the City and County of San Francisco to:**  
 5 **1) create the Office of the Public Advocate; 2) set the Public Advocate’s powers and duties;**  
 6 **3) authorize the Public Advocate to review the administration of City programs, including**  
 7 **programs for transmitting information to the public, and to receive, investigate, and**  
 8 **attempt to resolve complaints regarding City services and programs; 4) authorize the**  
 9 **Public Advocate to receive and investigate specified whistleblower complaints; 5) provide**  
 10 **for the Public Advocate’s election, removal, and salary; 6) set City policy regarding**  
 11 **sufficient funding and minimum staffing for the Office of the Public Advocate; 7) re-name**  
 12 **the Office of Citizen Complaints (OCC) as the Department of Police Accountability (DPA);**  
 13 **8) authorize the Public Advocate to appoint the director of DPA; 9) give DPA direct**  
 14 **authority over its proposed budget; and 10) require DPA to conduct a performance audit**  
 15 **every two years of how the Police Department has handled claims of officer misconduct**  
 16 **and use of force; and setting an operative date.**

17

18 Section 1. The Board of Supervisors hereby submits to the qualified voters of the City  
 19 and County, at an election to be held on November 8, 2016, a proposal to amend the Charter of  
 20 the City and County by revising Sections 4.127, 6.100, 10.104, 13.101, 13.101.5, 13.102, 15.105,  
 21 A8.343, A8.409-1, F1.102, F1.107, and F1.114, adding Sections 4.136, 6.107, and Article VIIC,  
 22 consisting of Sections 8C.101 through 8C.106, and deleting Section F1.108, to read as follows:

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1           NOTE:       **Unchanged Charter text and uncodified text** are in plain font.  
2                       **Additions** are *single-underline italics Times New Roman font*.  
3                       **Deletions** are ~~*strike-through italics Times New Roman font*~~.  
4                       **Asterisks** (\* \* \* \*) indicate the omission of unchanged Charter  
5                       subsections.

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

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

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

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

21          **SEC. 6.107. PUBLIC ADVOCATE.**

22                (a) There shall be a Public Advocate for the City and County of San Francisco. The  
23                functions, powers, and duties of the Public Advocate are set forth in Article VIII C.

24                (b) The Public Advocate shall appoint a Chief Deputy Public Advocate and at least two  
25                Assistant Public Advocates, who shall serve at the pleasure of the Public Advocate, and may

1 have such other staff as provided according to the budgetary and fiscal provisions of the  
2 Charter. The position of Chief Deputy Public Advocate shall be exempt from competitive civil  
3 service selection, appointment, and removal procedures under Section 10.104(2), and the  
4 position of Assistant Public Advocate shall be exempt under Section 10.104(14).

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

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

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

12 (f) No person shall serve as Public Advocate for more than two successive terms. There  
13 shall be no limit on the number of non-successive terms that a person may serve as Public  
14 Advocate. A part of a term that exceeds two years shall count as full term for these purposes, but  
15 the term of the first Public Advocate elected to a shortened term to expire at noon on January 8,  
16 2021 under Section 13.101(b)(6) shall not be deemed to be a full term.

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18 **ARTICLE VIIC: OFFICE OF THE PUBLIC ADVOCATE**

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

20 (a) Access to City Records. Except as provided below, the Public Advocate shall have  
21 timely access to all records in the possession of City officers and agencies that the Public  
22 Advocate deems necessary to complete the investigations, inquiries, and reviews required of him  
23 or her by the Charter or other City law, and if necessary may issue subpoenas to enforce his or  
24 her right of access to such records. The Public Advocate shall not have a right of access to  
25 records the disclosure of which is forbidden by state or federal law, or records protected from

1 disclosure by privileges under federal, state, or local law, or other confidentiality provisions the  
2 existence of which is derived from some source of state law other than the Public Records Act,  
3 including, but not limited to, criminal investigation and prosecution files. The Public Advocate  
4 may not disclose records that the City officer or agency possessing the records may decline to  
5 disclose under the Public Records Act and the Sunshine Ordinance, as amended, or any  
6 successor legislation, if the officer or agency declines to disclose such records.

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

12 (c) **Introduce Legislation.** The Public Advocate may introduce legislation at the Board  
13 of Supervisors to address any matter within the Public Advocate's jurisdiction. The Public  
14 Advocate may not introduce legislation addressing specific contract or personnel decisions  
15 unless those contracts or personnel decisions involve the Office of the Public Advocate.

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

23 (e) **Hearings.** The Public Advocate may hold public hearings in the course of fulfilling  
24 the requirements of this Article VIII C.

1           (f) Confidentiality of Records. The Public Advocate may, to the extent permitted by  
2 state law, designate the records of any investigation, including but not limited to information that  
3 would reveal the identity of complainants and witnesses, as confidential information. It shall be  
4 official misconduct for any person to disclose information about any such investigation, except  
5 as necessary to conduct the investigation, or with proper authorization, or as required by law or  
6 lawful process. The Public Advocate may disclose confidential information to the District  
7 Attorney to initiate or assist in a criminal investigation or prosecution. The unauthorized  
8 release of confidential information shall be sufficient grounds for the termination of any  
9 employee.

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

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

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

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

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

7                   (4) Legislative proposals to improve the provision of City services and programs.  
8                   The Public Advocate may include in this report an assessment of the fiscal implications of  
9 any recommendations presented in the report.

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

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

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

3 (a) The Public Advocate may review the administration of City programs by City  
4 agencies. Such reviews may include, but not be limited to, evaluations of: (1) the distribution of  
5 City programs and services throughout the City; (2) the effectiveness of the public information  
6 and service complaint programs of City agencies; and (3) the responsiveness of City agencies to  
7 individual and group requests for data or information regarding the agencies' structure,  
8 activities, and operations. The Public Advocate shall submit any reports documenting or  
9 summarizing such reviews to the Board of Supervisors, the Mayor, and the appropriate agency,  
10 and shall include in such reports his or her recommendations for addressing the problems  
11 identified and, if appropriate, the fiscal implications of such recommendations.

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

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

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

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1 **SEC. 8C.103. PUBLIC ADVOCATE—INDIVIDUAL COMPLAINTS.**

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

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

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

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

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

16 (b) The Public Advocate shall establish procedures for receiving and processing  
17 complaints, responding to complainants, conducting investigations, and reporting findings, and  
18 shall inform the public about such procedures. Upon an initial determination that a complaint  
19 may be valid or that the Public Advocate is not in a position to judge whether it may be valid, the  
20 Public Advocate shall refer the complaint to the appropriate agency for resolution. If such  
21 agency does not resolve the complaint in a manner that is satisfactory to the Public Advocate  
22 within a reasonable time, the Public Advocate may conduct an investigation and make specific  
23 recommendations to the agency for resolution of the complaint. If, within a reasonable time  
24 after the Public Advocate has completed an investigation and submitted recommendations to the  
25 agency, such agency has failed to respond to the recommendations in a manner that is



1 satisfactory to the Public Advocate, the Public Advocate may issue a report to the Board of  
2 Supervisors, the Mayor, and the agency. Such report shall describe the conclusions of the  
3 investigation and make such recommendations for administrative, legislative, or budgetary  
4 action, together with their fiscal implications, as the Public Advocate deems necessary to resolve  
5 the complaint or to address the underlying problems discovered in the investigation. In  
6 exercising its functions under this subsection (b), the Public Advocate may treat related  
7 complaints together.

8 (c) If the Public Advocate receives a complaint alleging conduct that may constitute a  
9 violation of conflict of interest or governmental ethics laws, he or she shall promptly refer the  
10 complaint to the Ethics Commission and the City Attorney. If the Public Advocate receives a  
11 complaint alleging conduct that may constitute a violation of criminal law, he or she shall  
12 promptly refer the complaint and information in his or her possession regarding the alleged  
13 violation to the District Attorney.

14 If during the conduct of any investigation, inquiry, or review authorized by this  
15 Section 8C.103, the Public Advocate discovers that the matter involves conduct that may  
16 constitute a violation of conflict of interest or governmental ethics laws, he or she shall take no  
17 further action but shall promptly refer the matter to the Ethics Commission and the City  
18 Attorney. If during the conduct of any investigation, inquiry, or review authorized by this  
19 Section, the Public Advocate discovers that the matter involves conduct that may constitute a  
20 violation of criminal law, he or she shall take no further action but shall promptly refer the  
21 matter and information in his or her possession to the District Attorney.

22 Before making a determination whether alleged conduct may constitute a violation of  
23 conflict of interest or governmental ethics laws, the Public Advocate shall consult with the City  
24 Attorney. Before making a determination whether alleged conduct may constitute a violation of  
25 criminal law, the Public Advocate shall consult with the District Attorney.

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2 **SEC. 8C.104. PUBLIC ADVOCATE—WHISTLEBLOWERS.**

3 (a) The Public Advocate shall have the authority to receive complaints by members of  
4 the public concerning: incorrect, unreasonable, or unfair decisions or rulings of City officers or  
5 agencies; inconsistent enforcement, or failure to enforce, laws, rules, or regulations; poor or  
6 inadequate service delivery or treatment; poor communication, including unreasonably long  
7 response or wait times and unreasonable response delays; or inequitable or inefficient provision  
8 of City services. 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 (4) are assigned to the Controller under Section F1.107; or

15 (5) 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.104 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  
15 **SEC. 8C. 105. PUBLIC ADVOCATE—CUSTOMER SERVICE PLANS.**

16 The Public Advocate shall assess the progress of City departments' compliance with  
17 Charter Section 16.120 and any implementing ordinances requiring City departments to prepare  
18 effective customer service plans. The Public Advocate shall make recommendations to  
19 departments to improve the effectiveness of such plans, or to the Mayor and the Board of  
20 Supervisors regarding improvements in such plans generally. The Public Advocate shall report  
21 to the Board of Supervisors and Mayor the failure of any department to comply substantially  
22 with the Public Advocate's recommendations regarding customer service plans.

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1 **SEC. 8C.106. PUBLIC ADVOCATE—POLICY REGARDING FUNDING AND STAFFING.**

2 The voters declare that it shall be the policy of the City and County of San Francisco to  
3 provide sufficient funding and administrative support for the Office of the Public Advocate to  
4 perform its functions, and recommend that the Office have at least one staff member per  
5 Supervisory district to perform constituent services and at least one staff member per  
6 Supervisory district to perform investigations. The Public Advocate may request a  
7 determination from the Ethics Commission whether the Office’s funding is sufficient for these  
8 purposes.

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

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

15 \* \* \* \*

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

17 \* \* \* \*

18 14. The law librarian, assistant law librarians, bookbinder of the Law Library,  
19 purchaser, curators, Assistant Sheriff, Deputy Port Director, Chief of the Bureau of Maritime  
20 Affairs, Director of Administration and Finance of the Port, Port Sales Manager, Port Traffic  
21 Manager, Chief Wharfinger, Port Commercial Property Manager, Actuary of the Employees’  
22 Employee’s Retirement System, Director of the Zoo, Chief Veterinarian of the Zoo, Director of  
23 the Arboretum and Botanical Garden, Director of Employee Relations, Health Service  
24 Administrator, Executive Assistant to the Human Services Director, Assistant Public Advocate,  
25 and any other positions designated as exempt under the 1932 Charter, as amended;

1           \* \* \* \*

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3       **SEC. 13.101. TERMS OF ELECTIVE OFFICE.**

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

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

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

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

14                   (3) At the general municipal election in 2013, and at the general municipal  
15 election in 2015 and every fourth year thereafter, a City Attorney and a Treasurer shall be  
16 elected. Notwithstanding any other provision of this Charter including Section 6.100, the term of  
17 office for the person elected City Attorney or Treasurer at the general municipal election in 2013  
18 shall be two years.

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

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

24                   (6) At the first Citywide general or special municipal election occurring after  
25 January 1, 2017, a Public Advocate shall be elected. Thereafter, at the general municipal

1 election in 2020 and every fourth year thereafter, the Public Advocate shall be elected.  
2 Notwithstanding any other provision of this Charter including Section 6.100, the term of office  
3 for the person elected Public Advocate at the first Citywide general or special municipal election  
4 after January 1, 2017, shall expire at noon on January 8, 2021.

5 (7) ~~(6)~~ The election and terms of office of members of the Board of Supervisors  
6 shall be governed by Section 13.110.

7  
8 **SEC. 13.101.5. VACANCIES.**

9 (a) If the office of Assessor-Recorder, City Attorney, District Attorney, Public Defender,  
10 Sheriff, Treasurer, or Member of the Board of Supervisors, Board of Education, or Governing  
11 Board of the Community College District becomes vacant because of death, resignation, recall,  
12 permanent disability, or the inability of the respective officer to otherwise carry out the  
13 responsibilities of the office, the Mayor shall appoint an individual qualified to fill the vacancy  
14 under this Charter and state laws. If the office of Public Advocate becomes vacant because of  
15 death, resignation, recall, permanent disability, or the inability of the incumbent to otherwise  
16 carry out the responsibilities of the office, the Chief Deputy Public Advocate shall serve as  
17 Public Advocate until a successor is selected pursuant to subsection (c).

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

22 (c) Any person filling a vacancy pursuant to subsection (a) or (b) of this Section shall  
23 serve until a successor is selected at the next election occurring not less than 120 days after the  
24 vacancy, at which time an election shall be held to fill the unexpired term, provided that (1) if an  
25 election for the vacated office is scheduled to occur less than one year after the vacancy, the

1 appointee shall serve until a successor is selected at that election or (2) if an election for any seat  
2 on the same board as the vacated seat is scheduled to occur less than one year but at least 120  
3 days after the vacancy, the appointee shall serve until a successor is selected at that election to  
4 fill the unexpired term.

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

11  
12 **SEC. 13.102. INSTANT RUNOFF ELECTIONS; RANKED-CHOICE VOTING**  
13 **ELECTIONS.**

14 (a) For the purposes of this ~~Section section~~: (1) a candidate shall be deemed "continuing"  
15 if the candidate has not been eliminated from further rounds of tabulation; (2) a ballot shall be  
16 deemed "continuing" if it is not exhausted; and (3) a ballot shall be deemed "exhausted," and not  
17 ~~included counted~~ in further stages of the tabulation, if all of the choices have been eliminated or  
18 there are no more choices indicated on the ballot. If a ranked-choice ballot gives equal rank to  
19 two or more candidates, the ballot shall be declared exhausted when such multiple rankings are  
20 reached. If a voter casts a ranked-choice ballot but skips a rank, the voter's vote shall be  
21 transferred to that voter's next ranked choice.

22 (b) The Mayor, Sheriff, District Attorney, City Attorney, Treasurer, Assessor-Recorder,  
23 Public Defender, Public Advocate, and members of the Board of Supervisors shall be elected  
24 using a ranked-choice, ~~or "instant runoff,"~~ ballot. The ballot shall allow voters to rank a number  
25 of choices in order of preference equal to the total number of candidates for each office;

1 provided, however, that if the voting system, vote tabulation system, or similar or related  
2 equipment used by the City and County cannot feasibly accommodate choices equal to the total  
3 number of candidates running for each office, then the Director of Elections may limit the  
4 number of choices a voter may rank to no fewer than three. The ballot shall in no way interfere  
5 with a voter's ability to cast a vote for a write-in candidate.

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

12 (d) If no candidate receives a majority of votes from the continuing ballots after a  
13 candidate has been eliminated from further rounds of tabulation and his or her votes have been  
14 transferred to the next-ranked candidate, the continuing candidate with the fewest votes from the  
15 continuing ballots shall be eliminated from further rounds of tabulation. All votes cast for that  
16 candidate shall be transferred to the next-ranked continuing candidate on each voter's ballot.  
17 This process of eliminating candidates from further rounds of tabulation and transferring their  
18 votes to the next-ranked continuing candidates shall be repeated until a candidate receives a  
19 majority of the votes from the continuing ballots.

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

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



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

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

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

12 ~~If ranked-choice, or "instant runoff," balloting is not used in November of 2002, and no  
13 candidate for any elective office of the City and County, except the Board of Education and the  
14 Governing Board of the Community College District, receives a majority of the votes cast at an  
15 election for such office, the two candidates receiving the most votes shall qualify to have their  
16 names placed on the ballot for a runoff election held on the second Tuesday in December of  
17 2002.~~

18  
19 **SEC. 15.105. SUSPENSION AND REMOVAL.**

20 (a) ELECTIVE AND CERTAIN APPOINTED OFFICERS. Any elective officer other  
21 than the Mayor, and any member of the Airport Commission, Asian Art Commission, Civil  
22 Service Commission, Commission on the Status of Women, Golden Gate Concourse Authority  
23 Board of Directors, Health Commission, Human Services Commission, Juvenile Probation  
24 Commission, Municipal Transportation Agency Board of Directors, Port Commission, Public  
25 Utilities Commission, Recreation and Park Commission, Fine Arts Museums Board of Trustees,

1 ~~Taxi Commission~~, War Memorial and Performing Art Center Board of Trustees, Board of  
2 Education or Community College Board is subject to suspension and removal for official  
3 misconduct as provided in this section. Such officer may be suspended by the Mayor and the  
4 Mayor shall appoint a qualified person to discharge the duties of the office during the period of  
5 suspension. Upon such suspension, the Mayor shall immediately notify the Ethics Commission  
6 and Board of Supervisors thereof in writing and the cause thereof, and shall present written  
7 charges against such suspended officer to the Ethics Commission and Board of Supervisors at or  
8 prior to their next regular meetings following such suspension, and shall immediately furnish a  
9 copy of the same to such officer, who shall have the right to appear with counsel before the  
10 Ethics Commission in his or her defense.

11 The Ethics Commission shall hold a hearing not less than five days after the filing of  
12 written charges. After the hearing, the Ethics Commission shall transmit the full record of the  
13 hearing to the Board of Supervisors with a recommendation as to whether the charges should be  
14 sustained. If, after reviewing the complete record, the charges are sustained by not less than a  
15 three-fourths vote of all members of the Board of Supervisors, the suspended officer shall be  
16 removed from office; if not so sustained, or if not acted on by the Board of Supervisors within 30  
17 days after the receipt of the record from the Ethics Commission, the suspended officer shall  
18 thereby be reinstated.

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

24 \* \* \* \*

25

1     **SEC. 4.127. POLICE DEPARTMENT.**

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

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

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

9             \* \* \* \*

10            ~~OFFICE OF CITIZEN COMPLAINTS. The Mayor shall appoint a nominee of the Police~~  
11     ~~Commission as the director of the Office of Citizen Complaints, subject to confirmation by the~~  
12     ~~Board of Supervisors. The director shall serve at the pleasure of the Police Commission. If the~~  
13     ~~Board fails to act on the appointment within 30 days, the appointment shall be deemed approved.~~  
14     ~~In the event the office is vacant, until the mayor makes an appointment and that appointment is~~  
15     ~~confirmed by the Board, the Police Commission shall appoint an interim director who shall~~  
16     ~~serve at the pleasure of the Police Commission. The appointment shall be exempt from the civil~~  
17     ~~service requirements of this Charter. The director shall never have been a uniformed member or~~  
18     ~~employee of the department. The director of the Office of Citizen Complaints shall be the~~  
19     ~~appointing officer under the civil service provisions of this Charter for the appointment, removal~~  
20     ~~or discipline of employees of the Office of Citizen Complaints.~~

21            ~~The Police Commission shall have the power and duty to organize, reorganize and~~  
22     ~~manage the Office of Citizen Complaints. Subject to the civil service provisions of this Charter,~~  
23     ~~the Office of Citizen Complaints shall include investigators and hearing officers. As of July 1,~~  
24     ~~1996, the staff of the Office of Citizen Complaints shall consist of no fewer than one line~~  
25     ~~investigator for every 150 sworn members. Whenever the ratio of investigators to police officers~~

1 ~~specified by this section is not met for more than 30 consecutive days, the director shall have the~~  
2 ~~power to hire, and the City Controller must pay, temporary investigators to meet such staffing~~  
3 ~~requirements. No full-time or part-time employee of the Office of Citizen Complaints shall have~~  
4 ~~previously served as a uniformed member of the department. Subject to rule of the Police~~  
5 ~~Commission, the director of the Office of Citizen Complaints may appoint part-time hearing~~  
6 ~~officers who shall be exempt from the civil service requirements of this Charter. Compensation~~  
7 ~~of the hearing officers shall be at rates recommended by the Commission and established by the~~  
8 ~~Board of Supervisors or by contract approved by the Board of Supervisors.~~

9 ~~Complaints of police misconduct or allegations that a member of the Police Department~~  
10 ~~has not properly performed a duty shall be promptly, fairly and impartially investigated by staff~~  
11 ~~of the Office of Citizen Complaints. The Office of Citizen Complaints shall investigate all~~  
12 ~~complaints of police misconduct, or that a member of the Police Department has not properly~~  
13 ~~performed a duty, except those complaints which on their face clearly indicate that the acts~~  
14 ~~complained of were proper and those complaints lodged by other members of the Police~~  
15 ~~Department. The Office of Citizen Complaints shall use its best efforts to conclude investigations~~  
16 ~~of such complaints and, if sustained, transmit the sustained complaint to the Police Department~~  
17 ~~within nine (9) months of receipt thereof by the Office of Citizen Complaints. If the Office of~~  
18 ~~Citizen Complaints is unable to conclude its investigation within such nine-month period, the~~  
19 ~~director of the Office of Citizen Complaints, within such nine-month period, shall inform the~~  
20 ~~Chief of Police of the reasons therefor and transmit information and evidence from the~~  
21 ~~investigation as shall facilitate the Chief's timely consideration of the matter. The Office of~~  
22 ~~Citizen Complaints shall recommend disciplinary action to the Chief of Police on those~~  
23 ~~complaints that are sustained. The director of the Office of Citizen Complaints, after meeting and~~  
24 ~~conferring with the Chief of Police or his or her designee, may verify and file charges with the~~  
25 ~~Police Commission against members of the Police Department arising out of sustained~~

1 ~~complaints; provided, that the director may not verify and file such charges for a period of 60~~  
2 ~~days following the transmittal of the sustained complaint to the Police Department unless the~~  
3 ~~director issues a written determination that the limitations period within which the member or~~  
4 ~~members may be disciplined under Government Code Section 3304, as amended from time to~~  
5 ~~time or any successor provisions thereto, may expire within such 60-day period and either (i) the~~  
6 ~~Chief of Police fails or refuses to file charges with the Police Commission arising out of the~~  
7 ~~sustained complaint, (ii) the Chief of Police or his or her designee fails or refuses to meet and~~  
8 ~~confer with the director on the matter, or (iii) other exigent circumstances necessitate that the~~  
9 ~~director verify and file charges to preserve the ability of the Police Commission to impose~~  
10 ~~punishment pursuant to Section A8.343. The director of the Office of Citizen Complaints shall~~  
11 ~~schedule hearings before hearing officers when such is requested by the complainant or a~~  
12 ~~member of the department and, in accordance with rules of the Commission, such a hearing will~~  
13 ~~facilitate the fact-finding process. The Board of Supervisors may provide by ordinance that the~~  
14 ~~Office of Citizen Complaints shall in the same manner investigate and make recommendations to~~  
15 ~~the Chief of Police regarding complaints of misconduct by patrol special police officers and their~~  
16 ~~uniformed employees.~~

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

22 ~~The Office of Citizen Complaints shall prepare in accordance with rules of the~~  
23 ~~Commission monthly summaries of the complaints received and shall prepare recommendations~~  
24 ~~quarterly concerning policies or practices of the department which could be changed or~~  
25 ~~amended to avoid unnecessary tension with the public or a definable segment of the public while~~

1 ~~insuring effective police services. The Office of Citizen Complaints shall prepare a report for the~~  
2 ~~President of the Board of Supervisors each quarter. This report shall include, but not be limited~~  
3 ~~to, the number and type of complaints filed, the outcome of the complaints, and a review of the~~  
4 ~~disciplinary action taken. The President of the Board of Supervisors shall refer this report to the~~  
5 ~~appropriate committee of the Board of Supervisors charged with public safety responsibilities.~~  
6 ~~Said committee may issue recommendations as needed.~~

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

14 \* \* \* \*

15 POLICE STAFFING. The police force of the City and County shall at all times consist  
16 of not fewer than 1,971 full duty sworn officers. The staffing level of the Police Department shall  
17 be maintained with a minimum of 1,971 full duty sworn officers thereafter. That figure may be  
18 adjusted pursuant to Section 16.123.

19 All officers and employees of the City and County are directed to take all acts necessary  
20 to implement the provisions of this section. The Board of Supervisors is empowered to adopt  
21 ordinances necessary to effectuate the purpose of this section including but not limited to  
22 ordinances regulating the scheduling of police training classes ~~eases~~.

23 \* \* \* \*

24  
25 / / /

1 **SEC. 4.136. DEPARTMENT OF POLICE ACCOUNTABILITY.**

2 (a) There shall be under the Police Commission a Department of Police Accountability  
3 ("DPA").

4 (b) Until the first Public Advocate assumes office following the first election described in  
5 Section 13.101(b)(6), the Mayor shall appoint a nominee of the Police Commission as the  
6 Director of DPA, subject to confirmation by the Board of Supervisors. Thereafter, whenever the  
7 office of Director becomes vacant, the Public Advocate shall appoint a nominee of the Police  
8 Commission as the Director of DPA, subject to confirmation by the Board of Supervisors. The  
9 Director shall serve at the pleasure of the Police Commission. If the Board of Supervisors fails  
10 to act on the appointment within 30 days, the appointment shall be deemed approved. In the  
11 event the office is vacant, until the appointing authority described in this subsection (b) makes an  
12 appointment and that appointment is confirmed by the Board, the Police Commission shall  
13 appoint an interim Director who shall serve at the pleasure of the Police Commission. The  
14 appointment of the Director shall be exempt from the civil service requirements of this Charter.  
15 The Director shall never have been a uniformed member or employee of the Police Department.  
16 The Director shall be the appointing officer under the civil service provisions of this Charter for  
17 the appointment, removal, or discipline of employees of DPA.

18 (c) The Police Commission shall have the power and duty to organize, reorganize, and  
19 manage DPA. Subject to the civil service provisions of this Charter, DPA shall include  
20 investigators and hearing officers. The staff of DPA shall consist of no fewer than one line  
21 investigator for every 150 sworn members. Whenever the ratio of investigators to police officers  
22 specified by this subsection (b) is not met for more than 30 consecutive days, the Director shall  
23 have the power to hire, and the City Controller must pay, temporary investigators to meet such  
24 staffing requirements. No full-time or part-time employee of DPA shall have previously served  
25 as a uniformed member of the Police Department. Subject to rules of the Police Commission, the

1 Director may appoint part-time hearing officers who shall be exempt from the civil service  
2 requirements of this Charter. Compensation of the hearing officers shall be at rates  
3 recommended by the Commission and established by the Board of Supervisors or by contract  
4 approved by the Board of Supervisors.

5 (d) DPA shall promptly, fairly, and impartially investigate all complaints regarding  
6 police use of force, misconduct, or allegations that a member of the Police Department has not  
7 properly performed a duty, except those complaints which on their face clearly indicate that the  
8 acts complained of were proper and those complaints lodged by other members of the Police  
9 Department.

10 DPA shall use its best efforts to conclude investigations of such complaints and, if  
11 sustained, transmit the sustained complaint to the Police Department within nine months of  
12 receipt thereof by DPA. If DPA is unable to conclude its investigation within such nine-month  
13 period, the Director, within such nine-month period, shall inform the Chief of Police of the  
14 reasons therefor and transmit information and evidence from the investigation as shall facilitate  
15 the Chief's timely consideration of the matter.

16 (e) DPA shall recommend disciplinary action to the Chief of Police on those complaints  
17 that are sustained. The Director, after meeting and conferring with the Chief of Police or his or  
18 her designee, may verify and file charges with the Police Commission against members of the  
19 Police Department arising out of sustained complaints; provided, that the Director may not  
20 verify and file such charges for a period of 60 days following the transmittal of the sustained  
21 complaint to the Police Department unless the Director issues a written determination that the  
22 limitations period within which the member or members may be disciplined under Government  
23 Code Section 3304, as amended from time to time or any successor provisions thereto, may  
24 expire within such 60-day period and (1) the Chief of Police fails or refuses to file charges with  
25 the Police Commission arising out of the sustained complaint, (2) the Chief of Police or his or



1 her designee fails or refuses to meet and confer with the Director on the matter, or (3) other  
2 exigent circumstances necessitate that the Director verify and file charges to preserve the ability  
3 of the Police Commission to impose punishment pursuant to Section A8.343.

4 (f) The Director shall schedule hearings before hearing officers when such is requested  
5 by the complainant or a member of the Police Department and, in accordance with rules of the  
6 Commission, such a hearing will facilitate the fact-finding process. The Board of Supervisors  
7 may provide by ordinance that DPA shall in the same manner investigate and make  
8 recommendations to the Chief of Police regarding complaints of misconduct by patrol special  
9 police officers and their uniformed employees.

10 (g) Nothing herein shall prohibit the Chief of Police or a commanding officer from  
11 investigating the conduct of a member of the Police Department under his or her command, or  
12 taking disciplinary or corrective action, otherwise permitted by this Charter, when such is  
13 warranted; and nothing herein shall limit or otherwise restrict the disciplinary powers vested in  
14 the Chief of Police and the Police Commission by other provisions of this Charter.

15 (h) DPA shall prepare in accordance with rules of the Commission monthly summaries  
16 of the complaints received and shall prepare recommendations quarterly concerning policies or  
17 practices of the Police Department which could be changed or amended to avoid unnecessary  
18 tension with the public or a definable segment of the public while insuring effective police  
19 services.

20 (i) DPA shall prepare a report for the President of the Board of Supervisors each  
21 quarter. This report shall include, but not be limited to, the number and type of complaints filed,  
22 the outcome of the complaints, and a review of the disciplinary action taken. The President of  
23 the Board of Supervisors shall refer this report to the appropriate committee of the Board of  
24 Supervisors charged with public safety responsibilities. Said committee may issue  
25 recommendations as needed.

1           (j) In carrying out its objectives, including the preparation of recommendations  
2 concerning departmental policies or practices referenced above, the investigations referenced  
3 above, and the audits noted below, DPA shall receive prompt and full cooperation and  
4 assistance from all departments, officers, and employees of the City and County, which shall,  
5 unless prohibited by state or federal law, promptly produce all records and information  
6 requested by DPA, including but not limited to (1) records relevant to Police Department  
7 policies or practices, (2) personnel and disciplinary records of Police Department employees,  
8 (3) criminal investigative and prosecution files, and (4) all records to which the Police  
9 Commission has access, regardless of whether those records pertain to a particular complaint.  
10 The DPA shall maintain the confidentiality of any records and information it receives to the  
11 extent required by state or federal law governing such records or information. The Director may  
12 also request and the Chief of Police shall require the testimony or attendance of any member of  
13 the Police Department to carry out the responsibilities of DPA. Nothing in this Section 4.136 is  
14 intended or shall be construed to interfere with the duties of the Sheriff or the District Attorney  
15 under state law, including their constitutional and statutory powers and duties under  
16 Government Code Section 25303, as amended from time to time or any successor provisions  
17 thereto, or other applicable state law or judicial decision.

18           (k) Every two years, DPA shall conduct a performance audit or review of police officer  
19 use of force and how the Police Department has handled claims of officer misconduct. DPA  
20 shall also have the authority to conduct performance audits or reviews of whether Police  
21 Department personnel and management have complied with federal and state law, City  
22 ordinances and policies, and Police Department policies. The Director shall have the discretion  
23 to determine the frequency, topics, and scope of such performance audits or reviews. To the  
24 extent permitted by law, DPA shall also allow public access to information on the progress and  
25

1 disposition of claims of misconduct or use of force, and the results of the performance audits and  
2 reviews conducted by DPA.

3 (l) The DPA budget shall be separate from the budget of the Police Department.

4 Notwithstanding Section 4.102(3), the Director shall submit DPA's proposed annual or two-year  
5 budget directly to the Mayor.

6  
7 **SEC. A8.343. FINE, SUSPENSION AND DISMISSAL IN POLICE AND FIRE**  
8 **DEPARTMENTS.**

9 Members of the uniformed ranks of the fire or the police department guilty of any  
10 offense or violation of the rules and regulations of their respective departments, shall be liable to  
11 be punished by reprimand, or by fine not exceeding one month's salary for any offense, or by  
12 suspension for not to exceed three months, or by dismissal, after trial and hearing by the  
13 commissioners of their respective departments; provided, however, that the chief of each  
14 respective department for disciplinary purposes may suspend such member for a period not to  
15 exceed 10 days for violation of the rules and regulations of his department. Any such member so  
16 suspended shall have the right to appeal such suspension to the fire commission or to the police  
17 commission, as the case may be, and have a trial and hearing on such suspension. Written notice  
18 of appeal must be filed within 10 days after such suspension and the hearing of said appeal must  
19 be held within 30 days after the filing of said notice of appeal. If the commission shall reverse or  
20 alter the finding of the chief, it shall order that the member affected be paid salary for the time of  
21 the suspension received or altered. In the event the chief should exercise such power of  
22 suspension, the member involved shall not be subject to any further disciplinary action for the  
23 same offense; provided, that where the Department of Police Accountability ~~Office of Citizen~~  
24 ~~Complaints~~ has sustained a complaint and recommended discipline in excess of a 10-day  
25 suspension, the Chief of Police may not exercise his or her power of suspension under this

1 section without first meeting and conferring with the director of the Department of Police  
2 Accountability Office of Citizen Complaints and affording the director an opportunity to verify  
3 and file charges with the Police Commission pursuant to Section 4.136 4.127. If the director of  
4 the Department of Police Accountability Office of Citizen Complaints verifies and files charges,  
5 the Police Commission shall conduct a trial and hearing thereon, and the Chief of Police may not  
6 suspend the member pending the outcome of the Police Commission proceedings on the charges  
7 except as provided in Section A8.344.

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

16

17 **SEC. A8.409-1. EMPLOYEES COVERED.**

18

\* \* \* \*

19 Except as otherwise provided by this Charter, the Civil Service Commission shall set the  
20 wages and benefits of all elected officials of the City and County of San Francisco as follows:  
21 The Commission shall conduct a salary survey of the offices of chief executive officer, county  
22 counsel, district attorney, public defender, assessor-recorder, treasurer, and sheriff, in the  
23 counties of Alameda, Contra Costa, Marin, San Mateo, and Santa Clara. The Commission shall  
24 then average the salaries for each of those offices to determine respectively the base five-year  
25

1 salaries for the Mayor, City Attorney, District Attorney, Public Defender, Assessor-Recorder,  
2 Treasurer, and Sheriff.

3 If any of the aforementioned counties do not have an office of public defender, that  
4 county shall be omitted from the salary survey for purposes of determining the base five-year  
5 salary of the Public Defender. Among the aforementioned counties, any freestanding county  
6 assessor's office or any county office in which the assessor's function is combined with other  
7 county functions, shall be deemed comparable to the office of Assessor-Recorder for purposes of  
8 determining the base five-year salary of the Assessor-Recorder. If any of the aforementioned  
9 counties do not have a comparable county office of treasurer, the county office whose functions  
10 most closely resemble the Treasurer's functions in San Francisco shall be deemed comparable to  
11 the office of Treasurer for purposes of determining the base five-year salary of the Treasurer.

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

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

1           The Civil Service Commission shall set the salary of the Public Advocate every five years  
2 based on a salary survey of comparable offices, or using such other methodology as the  
3 Commission deems appropriate.

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

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

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

21           In addition, subject to the approval or disapproval of the Board of Supervisors, the Mayor  
22 may create, for employees designated as management, a management compensation package that  
23 recognizes and provides incentives for outstanding managerial performance contributing to  
24 increased productivity and efficiency in the work force. In formulating such a package, the  
25

1 Mayor shall take into account data developed in conjunction with the civil service commission  
2 regarding the terms of executive compensation in other public and private jurisdictions.

3  
4 **F1.102. STREET, SIDEWALK, AND PARK CLEANING AND MAINTENANCE.**

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

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

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

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

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

18 Outside of the audit process, the City departments charged with cleaning and maintaining  
19 streets, sidewalks, and parks shall remain responsible for addressing individual complaints  
20 regarding specific sites, ~~although the Controller may receive and investigate such complaints~~  
21 ~~under Section F1.107.~~

22 (b) In addition, all City agencies engaged in street, sidewalk, or park maintenance shall  
23 establish regular maintenance schedules for streets, sidewalks, parks and park facilities, which  
24 shall be available to the public and on the department's website. Each such department shall  
25 monitor compliance with these schedules, and shall publish regularly data showing the extent to

1 which the department has met its published schedules. The City Services Audit Unit shall audit  
2 each department's compliance with these requirements annually, and shall furnish  
3 recommendations for meaningful ways in which information regarding the timing, amount and  
4 kind of services provided may be gathered and furnished to the public.

5  
6 **F1.107. CITIZENS' COMPLAINTS; WHISTLEBLOWERS.**

7 (a) The Controller shall have the authority to receive and investigate individual  
8 complaints concerning: the misuse of City funds by officers or employees; the use of City  
9 equipment or time for personal purposes; the purchase of unneeded supplies or equipment;  
10 nonperformance, or inadequate performance of, contractually-required services; or, improper or  
11 wasteful activities by City officers or employees. ~~the quality and delivery of government~~  
12 ~~services, wasteful and inefficient City government practices, misuse of City government funds,~~  
13 ~~and improper activities by City government officers and employees.~~ When appropriate, the  
14 Controller shall investigate and otherwise attempt to resolve such individual complaints except  
15 for those which:

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

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

19 (3) involve allegations of conduct which may constitute a violation of criminal  
20 law,

21 (4) are assigned to the Public Advocate under Section 8C.104; or

22 (5) (4) are subject to an existing, ongoing investigation by the District Attorney,  
23 the City Attorney, or the Ethics Commission, where either official or the Commission states in  
24 writing that investigation by the Controller would substantially impede or delay his, her, or its  
25 own investigation of the matter.



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

4           (b) If the Controller receives a complaint alleging conduct that may constitute a violation  
5 of criminal law or a governmental ethics law, he or she shall promptly refer the complaint  
6 regarding criminal conduct to the District Attorney or other appropriate law enforcement agency  
7 and shall refer complaints regarding violations of governmental ethics laws to the Ethics  
8 Commission and the City Attorney. Nothing in this Section shall preclude the Controller from  
9 investigating whether any alleged criminal conduct also violates any civil or administrative law,  
10 statute, ordinance, or regulation.

11           (c) Notwithstanding any provision of this Charter, including, but not limited to  
12 Section C3.699-11, or any ordinance or regulation of the City and County of San Francisco, the  
13 Controller shall administer a whistleblower and citizen complaint hotline telephone number and  
14 website and, together with the Public Advocate, publicize the hotline and website through press  
15 releases, public advertising, and communications to City employees. The Controller shall  
16 receive and track calls and emails related to complaints about the quality and delivery of  
17 government services, wasteful and inefficient City government practices, misuse of government  
18 funds and improper activities by City government officials, employees and contractors and shall  
19 route these complaints to the appropriate agency subject to subsection (a) of this Section. The  
20 Board of Supervisors shall enact and maintain an ordinance protecting the confidentiality of  
21 whistleblowers, and protecting City officers and employees from retaliation for filing a  
22 complaint with, or providing information to, the Controller, Ethics Commission, District  
23 Attorney, City Attorney or a City department or commission about improper government activity  
24 by City officers and employees. The City may incorporate all whistleblower functions set forth  
25 in this Charter or by ordinances into a unified City call center, switchboard, or information

1 number at a later time, provided the supervision of the whistleblower function remains with the  
2 Controller and its responsibilities and function continue unabridged.

3 (d) The Controller shall on a quarterly basis prepare summaries of all complaints  
4 received by the Controller's whistleblower program and transmit those summaries to the Public  
5 Advocate. The Public Advocate shall review the summaries by complaint type, department  
6 involved, and other factors to identify trends in complaints and prepare recommendations for the  
7 improvement of City controls and services. To the extent permitted by state law, the City shall  
8 keep these summaries confidential.

9 (e) The Public Advocate and the Controller may from time to time and by written  
10 agreement shift between themselves jurisdictional responsibilities for investigation and reporting  
11 types of whistleblower complaints established in the Charter. The Public Advocate and the  
12 Controller shall submit a copy of any such agreement to the Mayor and the Board of  
13 Supervisors, and make the agreement available to the public.

14  
15 ~~**F1.108. CUSTOMER SERVICE PLANS.**~~

16 ~~The Controller shall assess the progress of City departments' compliance with Charter~~  
17 ~~Section 16.120 and any implementing ordinances requiring City departments to prepare effective~~  
18 ~~customer service plans. The Controller shall make recommendations to departments to improve~~  
19 ~~the effectiveness of such plans. The Controller shall report to the Board of Supervisors and~~  
20 ~~Mayor the failure of any department to comply substantially with the Controller's~~  
21 ~~recommendations regarding customer service plans.~~

22  
23 ~~**SEC. F1.114. OPERATIVE DATE; SEVERABILITY.**~~

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

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

5  
6            Section 2. The amendments to Charter Sections 6.100, 13.101, 13.102, 4.127, and  
7 A8.343, and the new Charter Section 4.136, shall become operative on the effective date of this  
8 charter amendment. All other provisions of this charter amendment shall become operative at  
9 the date and time that the first Public Advocate takes office.

10  
11  
12 APPROVED AS TO FORM:  
13 DENNIS J. HERRERA, City Attorney

14  
15 By: \_\_\_\_\_  
16            THOMAS J. OWEN  
17            Deputy City Attorney

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