

1 [Outside Counsel - Official Misconduct Proceedings]

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3 **Motion to approve the retention of outside legal counsel to advise and represent the**
4 **Board of Supervisors, in place of the City Attorney's Office, with respect to legal**
5 **issues relating to the official misconduct proceedings involving Sheriff**
6 **Ross Mirkarimi.**

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8 WHEREAS, Pursuant to Charter Section 15.105, on March 21, 2012, Mayor Ed Lee
9 suspended Sheriff Ross Mirkarimi on grounds of official misconduct; and

10 WHEREAS, Charter Section 15.105 requires the Ethics Commission to conduct a
11 hearing regarding said charges and to transmit the full record of the hearing to the Board of
12 Supervisors (Board); and

13 WHEREAS, Charter Section 15.105 requires the Board to review the complete record
14 and determine whether to sustain said charges; and

15 WHEREAS, Therese M. Stewart, Chief Deputy City Attorney, and Cheryl Adams,
16 General Counsel to the Board, in a Memorandum dated April 12, 2012 (the "Memo") to the
17 Board and the Ethics Commission, a copy of which is on file with the Clerk of the Board of
18 Supervisors in File No. _____ and which is hereby declared to be a part of this Motion, as if
19 set forth fully herein, advised that the Board and the Commission should retain independent
20 outside legal counsel to advise the Board and the Commission during the misconduct
21 proceedings related to Sheriff Mirkarimi; and

22 WHEREAS, Like many public law offices, the City Attorney's office regularly creates
23 due process screens to separate attorneys appearing on behalf of a party from those
24 advising a neutral decision maker and courts recognize this practice and have held it to be
25 consistent with due process requirements; and

1 WHEREAS, In light of the importance and high-profile nature of this proceeding and to
2 attain a degree and appearance of fairness that go beyond that required by law, the Board
3 has determined in consultation with the City Attorney's Office, to retain outside counsel; and

4 WHEREAS, Ms. Stewart and Ms. Adams recommended that the Board and
5 Commission retain the legal services of attorney Scott Emblidge, from the firm of Moscone,
6 Emblidge & Slater, who has agreed to provide legal representation to the Board and the
7 Commission without compensation; and

8 WHEREAS, Ms. Stewart and Ms. Adams stated that their offices "do not plan to
9 communicate with [the Board nor the Commission] regarding the substance of this matter
10 any further"; now, therefore, be it

11 MOVED, That the Board of Supervisors retain Scott Emblidge, from the firm of
12 Moscone, Emblidge & Slater, to advise the Board in place of the City Attorney's Office on
13 legal issues relating to the Official Misconduct proceedings involving
14 Sheriff Ross Mirkarimi; and, be it

15 FURTHER MOVED, That the Clerk of the Board take such actions as are necessary or
16 appropriate to retain Mr. Emblidge for such purposes.