FILE NO. 120396 MOTION NO. M12-053

[Outside Counsel - Official Misconduct Proceedings]

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

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

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

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

WHEREAS, Therese M. Stewart, Chief Deputy City Attorney, and Cheryl Adams, General Counsel to the Board, in a Memorandum dated April 12, 2012 (the "Memo") to the Board and the Ethics Commission, a copy of which is on file with the Clerk of the Board of Supervisors in File No.120396 and which is hereby declared to be a part of this Motion, as if set forth fully herein, advised that the Board and the Commission should retain independent outside legal counsel to advise the Board and the Commission during the misconduct proceedings related to Sheriff Mirkarimi; and

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

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

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

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

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

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

City and County of San Francisco
Tails
Motion: M12-053

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 120396 **Date Passed:** April 24, 2012

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April 24, 2012 Board of Supervisors - APPROVED

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Olague and Wiener

File No. 120396

I hereby certify that the foregoing Motion was APPROVED on 4/24/2012 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board