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## MEMORANDUM

TO: MEMBERS, Board of Supervisors  
MEMBERS, Ethics Commission

CC: Angela Calvillo, Clerk, Board of Supervisors  
John St. Croix, Executive Director, Ethics Commission

FROM: Therese M. Stewart *TMS*  
Chief Deputy City Attorney  
Cheryl Adams *CA*  
General Counsel, Board of Supervisors

DATE: April 12, 2012

RE: Legal Counsel for Ethics Commission and Board of Supervisors for Official  
Misconduct Charges

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We write to confirm that the Board of Supervisors ("Board") and the Ethics Commission ("Commission") will retain outside counsel for the upcoming hearings on Mayor Lee's official misconduct charges against Sheriff Mirkarimi. The City Attorney's Office has determined that it will not provide legal advice or representation to the Board or Commission with respect to the Mayor's official misconduct charges against Sheriff Mirkarimi. In our stead, we have arranged for Scott Emblidge, and the firm of Moscone, Emblidge & Sater, to provide you with legal counsel during this proceeding. At your request, we will provide you a form contract for formal retention of Mr. Emblidge and his firm.

Mr. Emblidge and his colleagues have substantial experience in municipal law, and represent many public entities in the course of their practice. Even in light of the significant commitment a representation like this will entail, Mr. Emblidge and his firm will provide legal representation to the Board and the Commission without compensation. We understand that the Commission will conduct its first hearing in the misconduct proceedings on April 23, 2012. Mr. Emblidge is prepared to advise the Commission at that hearing, and is available to offer counsel to members of the Board and the Commission in advance of that date.

As you know, our office established a screen at the outset of the matter to separate attorneys representing the Mayor from those attorneys and staff whom it was anticipated might advise the Board and Commission. Subject to that screen, we have avoided communicating about the official misconduct proceeding with our colleagues in this office who have advised the Mayor regarding misconduct charges.

Over the last few weeks, we have provided general legal advice to the Board and the Commission regarding the official misconduct process. However, our primary focus during this period has been to locate and secure appropriate outside counsel for the Board and the Commission.

Now that we have arranged for outside counsel, we do not plan to communicate with you or your staff regarding the substance of this matter any further. We intend to leave the screen in

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place and to avoid communicating with the attorneys who are working with the Mayor on the official misconduct process. Nonetheless, we request that you and your staff avoid communicating with any employees of the City Attorney's Office regarding the matter, ourselves included, unless counsel for Sheriff Mirkarimi is party to the communication. If you have any questions, you may direct them to Mr. Emblidge.

We are confident that the Board and the Commission will be well served by Mr. Emblidge and his firm. We are also confident that, with Mr. Emblidge's assistance, the Board and the Commission will carry out their Charter-mandated duties in a fair, neutral, and impartial manner.

You may contact Mr. Emblidge and his colleagues at:

Moscone Emblidge & Sater LLP  
220 Montgomery Street, Suite 2100  
San Francisco, California 94104  
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Fax: 415-362-2006