



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

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LEEANN PELHAM
EXECUTIVE DIRECTOR

Date: February 13, 2018

To: San Francisco Ethics Commission

From: Kyle Kundert, Senior Policy Analyst

Re: **Agenda Item 5 - Staff Memorandum Regarding the Status of the Whistleblower Protection Ordinance and Possible Commission Action**

Summary This Memorandum provides a status update on the Whistleblower Protection Ordinance and requests further action by the Commission to advance its likelihood of enactment into law.

Action Requested That the Commission consider the information contained in this memo and provide its direction on this item.

Background

Following its review and analysis of the substantive recommendations contained in the 2014-2015 San Francisco Civil Grand Jury report ("Jury Report"), the Ethics Commission proposed changes to strengthen and clarify the City's Whistleblower Protection Ordinance ("WPO"). The Commission adopted proposed amendments to the WPO at its meeting on March 28, 2016, and transmitted them to the Board of Supervisors (BOS) on April 11, 2016, for enactment. BOS President London Breed introduced the WPOs sponsor of the legislation on June 14, 2016 (File No.160689).

After introducing the WPO approved by the Commission, Supervisor Breed requested that Staff also engage the Controller's Office, Department of Human Resources ("DHR"), and the City's bargaining units for any comments on the Commission's proposed changes. Over the next several months and into 2017, Staff engaged the Controller's Office, the Department of Human Resources, and interested bargaining units and responded to constructive comments from those entities. Those revisions were reflected in a 2017 version of the WPO, which the Ethics Commission considered and formally approved at its regular meeting on January 16, 2018.¹ At its January meeting, the Commission also asked that a final version of the WPO be prepared as a ballot measure ordinance for potential submission to the voters on the June 5, 2018 election for possible action at its next regular meeting on February 16, 2018.

¹ For full background on the proposed WPO and text of both the 2016 and 2017 drafts considered by the Ethics Commission, see [Agenda item 4 from the Commission's January 16, 2018 meeting](#).

On January 24, 2018, Staff from the Ethics Commission and DHR concluded the meet and confer process with interested bargaining units. As a result of those discussions, one modification was made at the request of bargaining units. That change deleted the requirement that obligated supervisors to complete a proscribed form to assist them with the referral of complainants and complaints to the appropriate intake agency.

In addition, because the Commission does not have jurisdiction over provisions contained in the WPO that addressed duties assigned to the Controller's Office Whistleblower Program, sections not within the Commission's authority were identified by the Office of the City Attorney and removed from the ordinance prepared for consideration to be placed on the ballot. The 2017 WPO that has been revised to accommodate these changes, and which the Ethics Commission may now consider for placement on the June 2018 ballot, appears at Attachment 1.

Separately, following the conclusion of the meet and confer process, Staff from the Commission, Controller's Office, and DHR met with Supervisor Breed's legislative staff to brief that office on changes to the language of the WPO since Supervisor Breed introduced the initial legislation in mid-2016 and on the recent outcome of the meet and confer process. That office is also aware of the interest the Ethics Commission has expressed in possibly placing the WPO on the June ballot.

Next Steps

With WPO Ordinance language now resolved, several options exist as to how the Ethics Commission may wish to proceed to move the WPO toward enactment into law. These include:

- Option 1. Place the attached ordinance on the June 5, 2018 ballot as a measure to be decided directly by San Francisco voters, by approving the ordinance with an affirmative vote of 4/5ths of its members, and then submitting the approved ordinance to the Department of Elections no later than March 2, 2018.
- Option 2. Alternatively, defer action to place the attached ordinance on the June 2018 ballot and direct Staff to work with Supervisor Breed to re-introduce the revised 2017 legislative version of the Ordinance and seek adoption by action of the Board of Supervisors. Under this approach the Commission would retain the ability to place the item on the November 2018 ballot should it wish to do.
- Option 3. Defer action to place the ordinance on the November 2018 ballot.

We look forward to answering any questions during the Commission's discussion on February 16.

FILE NO.

ORDINANCE NO.

[Initiative Ordinance - Campaign and Governmental Conduct Code - Expanding Whistleblower Protections]

Motion ordering submitted to the voters an ordinance amending the Campaign and Governmental Conduct Code to provide retaliation protections for City contractors, increase the remedies available for whistleblowers who have suffered retaliation, and establish greater confidentiality protections for whistleblowers' identities, at an election to be held on June 5, 2018.

MOVED, That pursuant to Charter section 15.102, the Ethics Commission hereby submits the following ordinance to the voters of the City and County of San Francisco, at an election to be held on June 5, 2018.

Ordinance amending the Campaign and Governmental Conduct Code to provide retaliation protections for City contractors, increase the remedies available for whistleblowers who have suffered retaliation, and establish greater confidentiality protections for whistleblowers' identities.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in single-underline italics Times New Roman font.
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Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Campaign and Governmental Conduct Code is hereby amended by revising Sections 4.100, 4.105, 4.110, 4.115, and 4.120, and adding a new Section 4.117, to read as follows:

SEC. 4.100. FINDINGS.

The City and County of San Francisco ("City") has a paramount interest in protecting the integrity of its government institutions. To further this interest, individuals should be encouraged to report ~~to the City's Ethics Commission, Controller, District Attorney, City Attorney and the complainant's department~~ possible violations of laws, regulations, and rules governing the conduct of City officers and employees, City contractors, and employees of City contractors.

This Chapter 1 fulfills the Charter's requirements for two City programs relating to whistleblowers, as required by Charter Appendix Section F1.107. First, as required by the Charter, the Office of the Controller has authority to receive and investigate whistleblower complaints concerning deficiencies in the quality and delivery of City government services, wasteful and inefficient City government practices, misuse of City funds, and improper activities by City officers and employees.

Second, as required by the Charter, this ordinance protects the confidentiality of whistleblowers, and protects City officers and employees from retaliation for filing whistleblower complaints or providing assistance with the investigation of such complaints. As set forth in this Chapter 1, the Ethics Commission has primary responsibility for ensuring such protections.

~~This Chapter protects all City officers and employees from retaliation for filing a complaint with, or providing information to, the Ethics Commission, Controller, District Attorney, City Attorney or complainant's department about improper government activity by City officers and employees.~~

~~This Chapter ensures that complaints that do not allege a violation of law over which the Ethics Commission or Controller has jurisdiction are directed to the appropriate agency for investigation and possible disciplinary or enforcement action.~~

~~Finally, this Chapter implements Charter Appendix Section F1.107. Section F1.107 directs the Controller, as City Services Auditor, to administer a whistleblower program and investigate reports of complaints concerning the misuse of City funds, improper activities by City officers and employees,~~

~~deficiencies in the quality and delivery of government services, and wasteful and inefficient City government practices.~~

**SEC. 4.105. COMPLAINTS OF IMPROPER GOVERNMENT ACTIVITY;
INVESTIGATION PROCEDURES; REFERRAL TO OTHER AGENCIES.**

(a) COMPLAINTS. Any person may file a complaint with the Ethics Commission, Controller, District Attorney City Attorney, or a written complaint with the complainant's department alleging that a City officer or employee has engaged in improper government activity by: violating local campaign finance, lobbying, conflicts of interest or governmental ethics laws, regulations or rules; violating the California Penal Code by misusing City resources; creating a specified and substantial danger to public health or safety by failing to perform duties required by the officer or employee's City position; or abusing his or her City position to advance a private interest.

(b) ETHICS COMMISSION COMPLAINT PROCEDURES. The Ethics Commission shall investigate complaints filed under this Section 4.105 that *allege contain potential* violations of local campaign finance, lobbying, conflicts of interest, and governmental ethics laws pursuant to the procedures specified in Charter Section C3.699-13 and the regulations adopted thereunder. Nothing in this subsection (b) shall preclude the Ethics Commission from referring any matter to any other City department, commission, board, officer, or employee or to other government agencies for investigation and possible disciplinary or enforcement action. The Ethics Commission may require that any City department, commission, board, officer, or employee report to the Ethics Commission on the referred matter.

(c) REFERRAL. The Ethics Commission shall refer complaints that do not allege a violation of law, regulation or rule that is within the Ethics Commission's jurisdiction to the appropriate agency for investigation and possible disciplinary or enforcement action. The Commission may conduct preliminary investigations into such complaints to determine

whether the complaint contains sufficient information to warrant referral. The Ethics Commission may require ~~that~~ any City department, ~~commission, board, officer or employee to provide a written report regarding the department's investigation and any action that the department has taken in response to the Ethics Commission's referral within a time-frame that the Ethics Commission shall specify.~~ ~~report to the Ethics Commission on the referred matter.~~

SEC. 4.110. DEFINITIONS.

For purposes of this Chapter 1, the following words and phrases shall have the following meanings:

~~(a) The term "City" or "City agency" shall~~ means the City and County of San Francisco, its departments, commissions, task forces, committees, and boards.

~~(b) The term "e~~Complainant's department" includes the complainant's supervisor, the executive director or highest ranking officer in the complainant's department, and the board or commission overseeing the complainant's department.

"Deficiencies in the quality and delivery of government services" shall mean the failure to perform a service, when performance is required under any law, regulation or policy, or under a City contract or grant.

"Improper government activity" shall mean violation of any federal, state, or local law, regulation, or rule, including but not limited to laws, regulations, or rules governing campaign finance, conflicts of interest, or governmental ethics laws; or action which creates a danger to public health or safety by the failure of City officers or employees to perform duties required by their positions.

"Improper government activity" does not include employment actions for which other remedies exist.

"Misuse of City funds" shall mean any use of City funds for purposes outside of those directed by the City.

~~(e) The term "p~~Preliminary investigation" shall be limited to, but need not include all of the following: review of the complaint and any documentary evidence provided with the

complaint; interview of the complainant; interview of the respondent, counsel to respondent and any witnesses who voluntarily agree to be interviewed for this purpose; review of any relevant public documents and documents provided voluntarily to the Commission.

"Supervisor" shall mean any individual having the authority, on behalf of the City, to hire, transfer, suspend, lay off, recall, promote, discharge, reward, or discipline other employees, or the responsibility to routinely direct them, to adjust their grievances, or to effectively recommend such action, if, in connection with the foregoing, the exercise of that authority is not merely routine or clerical, but requires the use of independent judgment.

"Unlawful activity" shall mean violations of any federal, state or local law, regulation or rule including but not limited to those laws, regulations or rules governing campaign finance, conflicts of interest or governmental ethics laws; or actions which create a danger to public health or safety by the failure of City officers or employees to perform duties imposed by a City contract.

"Wasteful and inefficient City government practices" shall mean the expenditure of City funds that could be eliminated without harming public health or safety, or reducing the quality of government services.

SEC. 4.115. PROTECTION OF WHISTLEBLOWERS - CITY EMPLOYEES.

(a) RETALIATION PROHIBITED. No City officer or employee may terminate, demote, suspend, or take other similar adverse employment action against any City officer or employee because the officer or employee has in good faith:

~~(i) (1) filed a complaint as set forth in Section 4.105(a); with the Ethics Commission, Controller, District Attorney or City Attorney, or a written complaint with the complainant's department, alleging that a City officer or employee engaged in improper government activity by: violating local campaign finance, lobbying, conflicts of interest or governmental ethics laws, regulations or rules; violating the California Penal Code by misusing City resources; creating a specified and substantial danger to public health or safety by failing to perform duties required by the~~

~~officer or employee's City position; or abusing his or her City position to advance a private interest, (ii) filed a complaint with the Controller's Whistleblower Program, or~~

~~(2) attempted to file a complaint through the procedures set forth in Section 4.105(a) but, in good faith, did not file the complaint with the appropriate City department or official; or~~

~~(iii) (3) provided any information in connection with or otherwise cooperated with any investigation conducted under this Chapter 1.~~

~~(b) COMPLAINTS OF RETALIATION FOR HAVING FILED A COMPLAINT ALLEGING IMPROPER GOVERNMENT ACTIVITY.~~

~~(i) (1) **Administrative Complaints.** Any ~~city~~ City officer or employee, or former ~~city~~ City officer or employee, who believes he or she has been the subject of retaliation in violation of ~~S~~subsection (a) of this Section 4.115 may file a complaint with the Ethics Commission. The complaint must be filed no later than two years after the date of the alleged retaliation.~~

The Ethics Commission shall investigate complaints of violations of ~~S~~subsection (a) of this Section 4.115 pursuant to the procedures specified in ~~San Francisco~~ Charter Section C3.699-13 and the regulations adopted thereunder. The Ethics Commission may decline to investigate complaints alleging violations of ~~S~~subsection (a) if it determines that the same or similar allegations are pending with or have been finally resolved by another administrative or judicial body. Nothing in this ~~S~~subsection (b)(1) shall preclude the Ethics Commission from referring any matter to any other City department, commission, board, officer, or employee, or to other government agencies for investigation and possible disciplinary or enforcement action. The Ethics Commission may refer matters to the Department of Human Resources with a recommendation. The Ethics Commission may require ~~that~~ any City department, ~~commission, board, officer or employee~~ to provide a written report regarding the department's investigation and any action that the department has taken in response to the Ethics Commission's

~~referral within a time frame that the Ethics Commission shall specify. report to the Ethics Commission on the referred matter.~~

~~(ii)~~ **(2) Civil Complaints.** Any City officer or employee who believes he or she has been the subject of retaliation in violation of ~~§~~subsection (a) of this Section 4.115 may bring a civil action against the City officer or employee who committed the violation. Such action must be filed no later than two years after the date of the retaliation.

~~(iii)~~ **(3) Burden of Establishing Retaliation.** In order to establish under this Section 4.115 that retaliation ~~occurred under this Section~~, a complainant in a civil action must demonstrate, ~~or the Ethics Commission in an administrative proceeding must determine~~, by a preponderance of the evidence, that the complainant's engagement in activity protected under ~~§~~subsection (a) was a substantial motivating factor for the adverse employment action. The ~~employer~~ respondent may rebut this claim if ~~it~~ the respondent demonstrates by a preponderance of the evidence that he, she, or it would have taken the same employment action irrespective of the complainant's participation in protected activity.

(4) Duty to Assist with Retaliation Complaints. Supervisors who receive a complaint alleging retaliation under this Chapter 1 must keep the complaint confidential and immediately assist the complainant by referring the complainant to the Ethics Commission and documenting the referral in writing. Documentation must include the date and time of the referral and that the complaint was about retaliation. Supervisors who fail to comply with this subsection (b) are subject to the penalties and remedies set forth in subsection (c).

(c) PENALTIES AND REMEDIES.

~~(i)~~ **(1) Charter Administrative Penalties.** Any City officer or employee who violates ~~§~~subsection (a) of this Section 4.115 may be subject to administrative penalties pursuant to Charter Section C3.699-13.

(2) Redress for Retaliatory Employment Action. Following an administrative hearing and after making a finding that an adverse employment action has been taken for purposes of retaliation, the Ethics Commission may, subject to the Charter's budgetary and civil service provisions, recommend the cancellation of the retaliatory termination, demotion, suspension or other adverse employment action.

~~(ii)~~ **(3) Discipline by Appointing Authority.** Any City officer or employee who violates ~~Subsections~~ (a) or (b)(4) of this Section 4.115 shall be subject to disciplinary action up to and including dismissal by his or her appointing authority. If no disciplinary action is taken by the appointing authority, the Ethics Commission may refer the matter to the Civil Service Commission for action pursuant to Charter Section A8.341.

~~(iii)~~ **(4) Civil Penalties.** Any City officer or employee who violates ~~Subsection~~ (a) of this Section 4.115 may be personally liable in a civil action authorized under ~~Subsection~~ ~~(b)(ii)~~ subsection (b)(2) of this Section for a civil penalty not to exceed ~~\$5,000~~ \$10,000.

(d) RESERVATION OF AUTHORITY.

~~(i)~~ **(1) Civil Service Commission.** Nothing in this Section 4.115 shall interfere with the powers granted to the Civil Service Commission by the ~~San Francisco~~ Charter.

~~(ii)~~ **(2) Appointing Authority.** Nothing in this Section 4.115 shall interfere with the power of an appointing officer, manager, or supervisor to take action with respect to any City officer or employee, provided that the appointing officer, manager, or supervisor reasonably believes that such action is justified on facts separate and apart from the fact that the officer or employee filed a complaint as set forth in Section 4.105(a), attempted to file such a complaint in good faith, or cooperated with an investigation of such a complaint. ~~filed a complaint with, or cooperated with, an Ethics Commission investigation of such complaint; or filed a complaint with or provided information to the Controller, District Attorney, City Attorney or the complainant's department.~~

(e) NOTICE OF WHISTLEBLOWER PROTECTIONS. The Controller shall prepare, and each City department shall post a notice of whistleblower protections. The notice shall be posted in a location that is conspicuous and accessible to all employees.

(f) WHISTLEBLOWER PROTECTION AWARENESS TRAINING.

(1) The Controller, in collaboration with the Ethics Commission, shall prepare, and all City departments shall distribute, materials to publicize and promote whistleblower protections as part of each department's new hire training programs.

(2) The Ethics Commission, in collaboration with the Controller and Department of Human Resources, shall prepare, and all City departments shall distribute, materials to publicize and promote supervisors' responsibilities under this Chapter 1. In addition, the Department of Human Resources, in collaboration with the Controller and Ethics Commission, shall prepare web-based training for supervisors regarding their responsibilities under this Chapter 1, which shall be implemented by January 1, 2019. This training must be provided to all City supervisors annually by April of each year thereafter.

SEC. 4.117. PROTECTION OF WHISTLEBLOWERS - CITY CONTRACTORS.

(a) RETALIATION PROHIBITED. No City officer or employee may take steps to terminate a contract with a City contractor; refuse to use a City contractor for contracted services; request that a City contractor terminate, demote, or suspend one of its employees; or take other similar adverse action against any City contractor or employee of a City contractor because the contractor or the contractor's employee:

(1) filed a complaint with any supervisor within a City agency alleging that a City officer or employee engaged in improper government activity, misused City funds, caused deficiencies in the quality and delivery of government services, or engaged in wasteful and inefficient government practices;

(2) filed a complaint with any supervisor within a City agency alleging that another City contractor, or employee of another City contractor, engaged in unlawful activity, misused City funds, caused deficiencies in the quality and delivery of government services or engaged in wasteful and inefficient government practices; or

(3) provided any information in connection with or otherwise cooperated with any investigation conducted under this Chapter 1.

(b) COMPLAINTS OF RETALIATION.

(1) Administrative Complaints. Any City contractor or employee of a City contractor, who believes it, he, or she has been the subject of retaliation in violation of subsection (a) of this Section 4.117 may file a complaint with the Ethics Commission. The complaint must be filed no later than two years after the date of the alleged retaliation.

The Ethics Commission shall investigate complaints of violations of subsection (a) of this Section 4.117 pursuant to the procedures specified in Charter Section C3.699-13 and the regulations adopted thereunder. The Ethics Commission may decline to investigate complaints alleging violations of subsection (a) if it determines that the same or similar allegations are pending with or have been finally resolved by another administrative or judicial body. Nothing in this subsection shall preclude the Ethics Commission from referring any matter to any other City department, commission, board, officer, or employee, or to other government agencies for investigation and possible disciplinary or enforcement action. The Ethics Commission may refer matters to the Department of Human Resources with a recommendation. The Ethics Commission may require any City department to provide a written report regarding the department's investigation and any action that the department has taken in response to the Ethics Commission's referral, within a time frame that the Ethics Commission shall specify.

(2) Burden of Establishing Retaliation. In order to establish that retaliation occurred under this Section 4.117, the Ethics Commission in an administrative proceeding must determine, by a

preponderance of the evidence, that the complainant's engagement in activity protected under subsection (a) was a substantial motivating factor for the adverse action. The respondent may rebut this claim if it demonstrates by a preponderance of the evidence that it would have taken the same adverse action irrespective of the complainant's participation in protected activity.

(c) PENALTIES AND REMEDIES.

(1) Administrative Penalties. Any City officer or employee who violates subsection (a) of this Section 4.117 may be subject to administrative penalties pursuant to Charter Section C3.699-13.

(2) Redress for Retaliatory Adverse Action. Following an administrative hearing and after making a finding that an adverse action has been taken for purposes of retaliation, the Ethics Commission may, subject to the Charter's budgetary and contracting provisions, order the cancellation of retaliatory adverse action taken against a City contractor or employee of a City contractor.

(3) Discipline by Appointing Authority. Any City officer or employee who violates subsection (a) of this Section 4.117 shall be subject to disciplinary action up to and including dismissal by his or her appointing authority. If no disciplinary action is taken by the appointing authority, the Ethics Commission may refer the matter to the Civil Service Commission for action pursuant to Charter Section A8.341.

(d) NOTICE OF WHISTLEBLOWER PROTECTIONS. The Controller shall prepare, and each City department shall post, a notice of the whistleblower protections established by this Section 4.117. City contractors shall distribute the notice of protections to all of their employees.

SEC. 4.120. CONFIDENTIALITY.

(a) WHISTLEBLOWER IDENTITY. Any individual who files a complaint under Section 4.105 of this Chapter may elect to have his or her identity kept confidential as provided by Charter Section C3.699-13(a). Such election must be made at the time the complaint is filed.

(b) COMPLAINTS AND INVESTIGATIONS.

(1) The Ethics Commission shall treat as confidential complaints made under Section 4.105 of this Chapter, and related information, including but not limited to materials gathered and prepared in the course of investigation of such complaints, and deliberations regarding such complaints, as provided by Charter Section C3.699-13(a).

(2) City officers and employees shall treat as confidential complaints filed under Sections 4.115 and 4.117, and related information, including but not limited to materials gathered and prepared in the course of investigating such complaints, and deliberations regarding such complaints.

(c) PENALTIES. Except as provided in subsection (d), violations of subsections (a) and (b) may be subject to the administrative proceedings and penalties set forth in Charter Section C3.699-13, in addition to disciplinary action up to and including dismissal by his or her appointing authority.

~~(e)~~ (d) EXCEPTIONS.

~~(i)~~ (1) Conduct of Investigations. Nothing in this Section 4.120 shall preclude the Controller's Office, Ethics Commission, District Attorney, and City Attorney from disclosing the identity of an individual or other information to the extent necessary to conduct its investigation.

(2) Legal Proceedings. Nothing in this Section 4.120 shall preclude City officers and employees from disclosing the identity of an individual or other information relating to a complaint to the extent required by the rules governing an administrative or court proceeding.

~~(ii)~~ (3) Referrals. Nothing in this Section 4.120 shall preclude the Ethics Commission from referring any matter to any other City department, commission, board, officer, or employee, or to other government agencies, for investigation and possible disciplinary or enforcement action.

Section 2. Effective Date. This ordinance shall become effective 10 days after the Board of Supervisors declares the results of the June 5, 2018 election.

Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

Section 4. Amendment or Repeal. The Board of Supervisors may amend this ordinance, without further voter approval, if all of the following conditions are met:

(a) the amendment furthers the purposes of this ordinance;

(b) the Ethics Commission approves the proposed amendment in advance by at least a four-fifths vote of all its members;

(c) the proposed amendment is available for public review at least 30 days before the amendment is considered by the Board of Supervisors or any committee of the Board of Supervisors; and

(d) the Board of Supervisors approves the proposed amendment by at least a two-thirds vote of all its members.

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

By:


ANDREW SHEN
Deputy City Attorney

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FILE NO.

ORDINANCE NO.

[Initiative Ordinance - Campaign and Governmental Conduct Code - Expanding Whistleblower Protections]

Motion ordering submitted to the voters an ordinance amending the Campaign and Governmental Conduct Code to provide retaliation protections for City contractors, increase the remedies available for whistleblowers who have suffered retaliation, and establish greater confidentiality protections for whistleblowers' identities, at an election to be held on June 5, 2018.

MOVED, That pursuant to Charter section 15.102, the Ethics Commission hereby submits the following ordinance to the voters of the City and County of San Francisco, at an election to be held on June 5, 2018.

Ordinance amending the Campaign and Governmental Conduct Code to ~~broaden the scope of whistleblower complaints,~~ provide retaliation protections for City contractors, increase the remedies available for whistleblowers who have suffered retaliation, and establish greater confidentiality protections for whistleblowers' identities.

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SEC. 4.100. FINDINGS.

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This Chapter 1 fulfills the Charter's requirements for two City programs relating to whistleblowers, as required by Charter Appendix Section F1.107. First, as required by the Charter, the Office of the Controller ~~has authority to receives~~ and ~~investigates~~ whistleblower complaints concerning deficiencies in the quality and delivery of City government services, wasteful and inefficient City government practices, misuse of City funds, and improper activities by City officers, employees, and contractors.

Second, as required by the Charter, this ordinance protects the confidentiality of whistleblowers, and protects City officers and employees from retaliation for filing whistleblower complaints or providing assistance with the investigation of such complaints. As set forth in this Chapter 1, the Ethics Commission has primary responsibility for ensuring such protections.

~~This Chapter protects all City officers and employees from retaliation for filing a complaint with, or providing information to, the Ethics Commission, Controller, District Attorney, City Attorney or complainant's department about improper government activity by City officers and employees.~~

~~This Chapter ensures that complaints that do not allege a violation of law over which the Ethics Commission or Controller has jurisdiction are directed to the appropriate agency for investigation and possible disciplinary or enforcement action.~~

~~Finally, this Chapter implements Charter Appendix Section F1.107. Section F1.107 directs the Controller, as City Services Auditor, to administer a whistleblower program and investigate reports of complaints concerning the misuse of City funds, improper activities by City officers and employees,~~

~~deficiencies in the quality and delivery of government services, and wasteful and inefficient City government practices.~~

SEC. 4.105. COMPLAINTS ~~OF IMPROPER GOVERNMENT ACTIVITY~~ OF IMPROPER GOVERNMENT ACTIVITY; INVESTIGATION PROCEDURES; REFERRAL TO OTHER AGENCIES.

(a) COMPLAINTS. Any person may file a complaint ~~for investigation~~ with the ~~Office of the Controller's Whistleblower Program,~~ Ethics Commission, ~~Controller,~~ Controller, District Attorney, ~~or~~ City Attorney, or ~~a written complaint with~~ a written complaint with the complainant's department alleging that a City officer or employee has engaged in improper government activity, ~~misused City funds, caused deficiencies in the quality and delivery of government services or engaged in wasteful and inefficient government practices, or that a City contractor or employee of a City contractor has engaged in unlawful activity in connection with a City contract.~~ by: violating local campaign finance, lobbying, conflicts of interest or governmental ethics laws, regulations or rules; violating the California Penal Code by misusing City resources; creating a specified and substantial danger to public health or safety by failing to perform duties required by the officer or employee's City position; or abusing his or her City position to advance a private interest. by: violating local campaign finance, lobbying, conflicts of interest or governmental ethics laws, regulations or rules; violating the California Penal Code by misusing City resources; creating a specified and substantial danger to public health or safety by failing to perform duties required by the officer or employee's City position; or abusing his or her City position to advance a private interest.

(b) ETHICS COMMISSION COMPLAINT PROCEDURES. The Ethics Commission shall investigate complaints filed under this Section 4.105 that ~~allege~~ contain potential violations of local campaign finance, lobbying, conflicts of interest, and governmental ethics laws pursuant to the procedures specified in Charter Section C3.699-13 and the regulations adopted thereunder. Nothing in this subsection (b) shall preclude the Ethics Commission from

1 referring any matter to any other City department, commission, board, officer, or employee or
 2 to other government agencies for investigation and possible disciplinary or enforcement
 3 action. The Ethics Commission may require that any City department, commission, board,
 4 officer, or employee report to the Ethics Commission on the referred matter.

5 (c) REFERRAL. The Ethics Commission shall refer complaints that do not allege a
 6 violation of law, regulation or rule that is within the Ethics Commission's jurisdiction to the
 7 appropriate agency for investigation and possible disciplinary or enforcement action. The
 8 Commission may conduct preliminary investigations into such complaints to determine
 9 whether the complaint contains sufficient information to warrant referral. The Ethics
 10 Commission may require ~~that~~ any City department, ~~commission, board, officer or employee to~~
 11 provide a written report regarding the department's investigation and any action that the department
 12 has taken in response to the Ethics Commission's referral within a time-frame that the Ethics
 13 Commission shall specify. ~~report to the Ethics Commission on the referred matter.~~

14 **~~SEC. 4.107. COMPLAINTS BY CITIZENS AND EMPLOYEES; WHISTLEBLOWER~~** 15 **~~PROGRAM.~~**

16 (a) ~~WHISTLEBLOWER PROGRAM. The Controller shall administer and publicize a~~
 17 ~~whistleblower and citizen complaint program for citizens and employees to report the misuse~~
 18 ~~of City funds, improper government activities by City officers and employees, deficiencies in the~~
 19 ~~quality and delivery of government services, and wasteful and inefficient City government~~
 20 ~~practices. Subject to subsection (b), The Controller shall investigate and otherwise attempt to~~
 21 ~~resolve complaints reported to the Whistleblower Program. The Controller shall administer a~~
 22 ~~hotline telephone number and website and publicize the hotline and website through press~~
 23 ~~releases, public advertising, and communications to City employees.~~

24 (b) ~~REFERRAL OF CERTAIN COMPLAINTS. The Controller shall refer the following~~
 25 ~~complaints as set forth in this subSection (b):~~

~~(i) (1) Those which another City agency is required by federal, state, or local law to adjudicate: To that agency;~~

~~(ii) (2) Those which may be resolved through a grievance mechanism established by collective bargaining agreement or contract: To the official or agency designated in the agreement or contract;~~

~~(iii) (3) Those which involve allegations of conduct which may constitute a violation of criminal law: To the District Attorney or other appropriate law enforcement agency;~~

~~(iv) (4) Those which are subject to an existing, ongoing investigation by the District Attorney, City Attorney, or Ethics Commission, where the applicable official or Commission states in writing that investigation by the Controller would substantially impede or delay his, her, or its own investigation of the matter: To the investigating office; and~~

~~(v) (5) Those which allege conduct that may constitute a violation of local campaign finance, lobbying, conflict of interest, or governmental ethics laws, regulations, or rules:
To the Ethics Commission and the City Attorney.~~

~~Where the conduct that is the subject of the complaint may violate criminal law and any civil or administrative law, statute, ordinance, or regulation, the Controller may take action on the noncriminal aspects of the matter under this Section 4.107 even if a referral has been made to another agency under this subSection (b).~~

~~If a complaint is referred under this subSection (b), the Controller shall inform the complainant of the appropriate procedure for the resolution of the complaint.~~

~~(c) TRACKING AND INVESTIGATION. The Controller shall receive, track, and investigate complaints made or referred to the Whistleblower Program. The investigation may include all steps that the Controller deems appropriate, including the review of the complaint and any documentary or other evidence provided with it, the gathering of any other relevant~~

documents from any City department or other source, and interviews of the complainant and other persons with relevant information.

(d) ~~INFORMATION PROVIDED UNDER PENALTY OF PERJURY.~~ In those instances in which the Controller deems it appropriate, the Controller may require that persons making complaints or providing information swear to the truth of their statements by taking an oath administered by the Controller, or an agent of the Controller, or through written declarations made under penalty of perjury under the laws of the State of California.

(e) ~~REFERRAL AND RECOMMENDATION BY CONTROLLER.~~ The Controller may refer the complaint to a City department for investigation, either before conducting an initial investigation or after doing so, and may recommend that a City department take specific action based on the Controller's initial investigation. Within 60 days of receiving a complaint for investigation or a recommendation by the Controller for specific action, or such other time as the Controller shall specify, the City department shall report to the Controller in writing the results of the department's investigation and any action that the department has taken in response to a recommendation by the Controller that the department take specific action.

(f) ~~REPORT BY DEPARTMENT AND FURTHER ACTION BY CONTROLLER.~~ If the Controller has recommended that a City department take disciplinary or other corrective action that the department has declined to take, the department shall report to the Controller its reasons for failing to do so within the ~~timeframe~~ time frame that the Controller specifies for reporting on its investigation of the complaint. If the Controller determines that the department's reasons are inadequate and that further investigation may be appropriate, the Controller may refer the matter to the Mayor, City Attorney, or District Attorney, or to any officer or agency that has jurisdiction over the matter.

(g) ~~RESPONSIBILITY OF DEPARTMENTS.~~ The department head shall be responsible for compliance by his or her department with these duties. If department staff fail

~~to comply with the duties to investigate complaints referred by the Controller and to make the reports required by this Section 4.107, the Controller shall notify the department head. If the department head fails to take action to obtain the department's compliance with these duties, the Controller may refer the matter to the Mayor, City Attorney, or District Attorney, or to any officer or agency that has jurisdiction over the matter.~~

SEC. 4.110. DEFINITIONS.

For purposes of this Chapter I, the following words and phrases shall have the following meanings:

~~(a) The term "City" or "City agency" shall~~ means the City and County of San Francisco, its departments, commissions, task forces, committees, and boards.

~~(b) The term "Complainant's department"~~ includes the complainant's supervisor, the executive director or highest ranking officer in the complainant's department, and the board or commission overseeing the complainant's department.

"Deficiencies in the quality and delivery of government services" shall mean the failure to perform a service, when performance is required under any law, regulation or policy, or under a City contract or grant.

"Improper government activity" shall mean violation of any federal, state, or local law, regulation, or rule, including but not limited to laws, regulations, or rules governing campaign finance, conflicts of interest, or governmental ethics laws; or action which creates a danger to public health or safety by the failure of City officers or employees to perform duties required by their positions.

"Improper government activity" does not include employment actions for which other remedies exist.

"Misuse of City funds" shall mean any use of City funds for purposes outside of those directed by the City.

~~(c) The term "Preliminary investigation"~~ shall be limited to, but need not include all of the following: review of the complaint and any documentary evidence provided with the

complaint; interview of the complainant; interview of the respondent, counsel to respondent and any witnesses who voluntarily agree to be interviewed for this purpose; review of any relevant public documents and documents provided voluntarily to the Commission.

“Supervisor” shall mean any individual having the authority, on behalf of the City, to hire, transfer, suspend, lay off, recall, promote, discharge, reward, or discipline other employees, or the responsibility to routinely direct them, to adjust their grievances, or to effectively recommend such action, if, in connection with the foregoing, the exercise of that authority is not merely routine or clerical, but requires the use of independent judgment.

“Unlawful activity” shall mean violations of any federal, state or local law, regulation or rule including but not limited to those laws, regulations or rules governing campaign finance, conflicts of interest or governmental ethics laws; or actions which create a danger to public health or safety by the failure of City officers or employees to perform duties imposed by a City contract.

“Wasteful and inefficient City government practices” shall mean the expenditure of City funds that could be eliminated without harming public health or safety, or reducing the quality of government services.

SEC. 4.115. PROTECTION OF WHISTLEBLOWERS - CITY EMPLOYEES.

(a) RETALIATION PROHIBITED. No City officer or employee may terminate, demote, suspend, or take other similar adverse employment action against any City officer or employee because the officer or employee has in good faith:

~~(i) (1) filed a complaint as set forth in Section 4.105(a); with the Ethics Commission, Controller, District Attorney or City Attorney, or a written complaint with the complainant's department, alleging that a City officer or employee engaged in improper government activity by: violating local campaign finance, lobbying, conflicts of interest or governmental ethics laws, regulations or rules; violating the California Penal Code by misusing City resources; creating a specified and substantial danger to public health or safety by failing to perform duties required by the~~

~~officer or employee's City position; or abusing his or her City position to advance a private interest, (ii) filed a complaint with the Controller's Whistleblower Program, or~~

~~(2) attempted to file a complaint through the procedures set forth in Section 4.105(a) but, in good faith, did not file the complaint with the appropriate City department or official; or~~

~~(iii) (3) provided any information in connection with or otherwise cooperated with any investigation conducted under this Chapter 1.~~

~~(b) COMPLAINTS OF RETALIATION FOR HAVING FILED A COMPLAINT ALLEGING IMPROPER GOVERNMENT ACTIVITY.~~

~~(i) (1) Administrative Complaints.~~ Any ~~city~~ City officer or employee, or former ~~city~~ City officer or employee, who believes he or she has been the subject of retaliation in violation of ~~S~~subsection (a) of this Section 4.115 may file a complaint with the Ethics Commission. The complaint must be filed no later than two years after the date of the alleged retaliation.

The Ethics Commission shall investigate complaints of violations of ~~S~~subsection (a) of this Section 4.115 pursuant to the procedures specified in ~~San Francisco~~ Charter Section C3.699-13 and the regulations adopted thereunder. The Ethics Commission may decline to investigate complaints alleging violations of ~~S~~subsection (a) if it determines that the same or similar allegations are pending with or have been finally resolved by another administrative or judicial body. Nothing in this ~~S~~subsection (b)(1) shall preclude the Ethics Commission from referring any matter to any other City department, commission, board, officer, or employee, or to other government agencies for investigation and possible disciplinary or enforcement action. The Ethics Commission may refer matters to the Department of Human Resources with a recommendation. The Ethics Commission may require ~~that~~ any City department, ~~commission, board, officer or employee~~ to provide a written report regarding the department's investigation and any action that the department has taken in response to the Ethics Commission's

referral within a time frame that the Ethics Commission shall specify. ~~report to the Ethics Commission on the referred matter.~~

*(ii) (2) **Civil Complaints.** Any City officer or employee who believes he or she has been the subject of retaliation in violation of § subsection (a) of this Section 4.115 may bring a civil action against the City officer or employee who committed the violation. Such action must be filed no later than two years after the date of the retaliation.*

*(iii) (3) **Burden of Establishing Retaliation.** In order to establish under this Section 4.115 that retaliation occurred under this Section, a complainant in a civil action must demonstrate, or the Ethics Commission in an administrative proceeding must determine, by a preponderance of the evidence, that the complainant's engagement in activity protected under § subsection (a) was a substantial motivating factor for the adverse employment action. The ~~employer respondent~~ may rebut this claim if ~~# the respondent~~ demonstrates by a preponderance of the evidence that he, she, or it would have taken the same employment action irrespective of the complainant's participation in protected activity.*

*(4) **Duty to Assist with Retaliation Complaints.** Supervisors who receive a complaint alleging retaliation under this Chapter 1 must keep the complaint confidential and immediately assist the complainant by referring the complainant to the Ethics Commission and documenting the referral in writing. Documentation must include the date and time of the referral and that the complaint was about retaliation. Supervisors who fail to comply with this subsection (b) are subject to the penalties and remedies set forth in subsection (c).*

(c) PENALTIES AND REMEDIES.

*(i) (1) ~~Charter~~ **Administrative Penalties.** Any City officer or employee who violates § subsection (a) of this Section 4.115 may be subject to administrative penalties pursuant to Charter Section C3.699-13.*

(2) **Redress for Retaliatory Employment Action.** Following an administrative hearing and after making a finding that an adverse employment action has been taken for purposes of retaliation, the Ethics Commission may, subject to the Charter's budgetary and civil service provisions, recommend the cancellation of the retaliatory termination, demotion, suspension or other adverse employment action.

~~(ii)~~ (3) **Discipline by Appointing Authority.** Any City officer or employee who violates ~~§subsection~~ (a) ~~or (b)(4)~~ of this Section 4.115 shall be subject to disciplinary action up to and including dismissal by his or her appointing authority. If no disciplinary action is taken by the appointing authority, the Ethics Commission may refer the matter to the Civil Service Commission for action pursuant to Charter Section A8.341.

~~(iii)~~ (4) **Civil Penalties.** Any City officer or employee who violates ~~§subsection~~ (a) of this Section 4.115 may be personally liable in a civil action authorized under ~~Subsection~~ ~~(b)(ii)~~ subsection (b)(2) of this Section for a civil penalty not to exceed ~~\$5,000~~ \$10,000.

(d) RESERVATION OF AUTHORITY.

~~(i)~~ (1) **Civil Service Commission.** Nothing in this Section 4.115 shall interfere with the powers granted to the Civil Service Commission by the ~~San Francisco~~ Charter.

~~(ii)~~ (2) **Appointing Authority.** Nothing in this Section 4.115 shall interfere with the power of an appointing officer, manager, or supervisor to take action with respect to any City officer or employee, provided that the appointing officer, manager, or supervisor reasonably believes that such action is justified on facts separate and apart from the fact that the officer or employee filed a complaint as set forth in Section 4.105(a), attempted to file such a complaint in good faith, or cooperated with an investigation of such a complaint. ~~filed a complaint with, or cooperated with, an Ethics Commission investigation of such complaint; or filed a complaint with or provided information to the Controller, District Attorney, City Attorney or the complainant's department.~~

(e) NOTICE OF WHISTLEBLOWER PROTECTIONS. The Controller shall prepare, and each City department shall post a notice of whistleblower protections. The notice shall be posted in a location that is conspicuous and accessible to all employees.

(f) WHISTLEBLOWER PROTECTION AWARENESS TRAINING.

(1) The Controller, in collaboration with the Ethics Commission, shall prepare, and all City departments shall distribute, materials to publicize and promote whistleblower protections as part of each department's new hire training programs.

(2) The Ethics Commission, in collaboration with the Controller and Department of Human Resources, shall prepare, and all City departments shall distribute, materials to publicize and promote supervisors' responsibilities under this Chapter 1. In addition, the Department of Human Resources, in collaboration with the Controller and Ethics Commission, shall prepare web-based training for supervisors regarding their responsibilities under this Chapter 1, which shall be implemented by January 1, 2019. This training must be provided to all City supervisors annually by April of each year thereafter.

SEC. 4.117. PROTECTION OF WHISTLEBLOWERS - CITY CONTRACTORS.

(a) RETALIATION PROHIBITED. No City officer or employee may take steps to terminate a contract with a City contractor; refuse to use a City contractor for contracted services; request that a City contractor terminate, demote, or suspend one of its employees; or take other similar adverse action against any City contractor or employee of a City contractor because the contractor or the contractor's employee:

(1) filed a complaint with any supervisor within a City agency alleging that a City officer or employee engaged in improper government activity, misused City funds, caused deficiencies in the quality and delivery of government services, or engaged in wasteful and inefficient government practices;

(2) filed a complaint with any supervisor within a City agency alleging that another City contractor, or employee of another City contractor, engaged in unlawful activity, misused City funds, caused deficiencies in the quality and delivery of government services or engaged in wasteful and inefficient government practices; or

(3) provided any information in connection with or otherwise cooperated with any investigation conducted under this Chapter 1.

(b) COMPLAINTS OF RETALIATION.

(1) **Administrative Complaints.** Any City contractor or employee of a City contractor, who believes it, he, or she has been the subject of retaliation in violation of subsection (a) of this Section 4.117 may file a complaint with the Ethics Commission. The complaint must be filed no later than two years after the date of the alleged retaliation.

The Ethics Commission shall investigate complaints of violations of subsection (a) of this Section 4.117 pursuant to the procedures specified in Charter Section C3.699-13 and the regulations adopted thereunder. The Ethics Commission may decline to investigate complaints alleging violations of subsection (a) if it determines that the same or similar allegations are pending with or have been finally resolved by another administrative or judicial body. Nothing in this subsection shall preclude the Ethics Commission from referring any matter to any other City department, commission, board, officer, or employee, or to other government agencies for investigation and possible disciplinary or enforcement action. The Ethics Commission may refer matters to the Department of Human Resources with a recommendation. The Ethics Commission may require any City department to provide a written report regarding the department's investigation and any action that the department has taken in response to the Ethics Commission's referral, within a time frame that the Ethics Commission shall specify.

(2) **Burden of Establishing Retaliation.** In order to establish that retaliation occurred under this Section 4.117, the Ethics Commission in an administrative proceeding must determine, by a

preponderance of the evidence, that the complainant's engagement in activity protected under subsection (a) was a substantial motivating factor for the adverse action. The respondent may rebut this claim if it demonstrates by a preponderance of the evidence that it would have taken the same adverse action irrespective of the complainant's participation in protected activity.

(c) PENALTIES AND REMEDIES.

(1) Administrative Penalties. *Any City officer or employee who violates subsection (a) of this Section 4.117 may be subject to administrative penalties pursuant to Charter Section C3.699-13.*

(2) Redress for Retaliatory Adverse Action. *Following an administrative hearing and after making a finding that an adverse action has been taken for purposes of retaliation, the Ethics Commission may, subject to the Charter's budgetary and contracting provisions, order the cancellation of retaliatory adverse action taken against a City contractor or employee of a City contractor.*

(3) Discipline by Appointing Authority. *Any City officer or employee who violates subsection (a) of this Section 4.117 shall be subject to disciplinary action up to and including dismissal by his or her appointing authority. If no disciplinary action is taken by the appointing authority, the Ethics Commission may refer the matter to the Civil Service Commission for action pursuant to Charter Section A8.341.*

(d) NOTICE OF WHISTLEBLOWER PROTECTIONS. *The Controller shall prepare, and each City department shall post, a notice of the whistleblower protections established by this Section 4.117. City contractors shall distribute the notice of protections to all of their employees.*

SEC. 4.120. CONFIDENTIALITY.

(a) WHISTLEBLOWER IDENTITY. ~~*City officers and employees shall treat as confidential the identity of any person who files a complaint as set forth in Section 4.105(a). A complainant may voluntarily disclose his or her identity. Any individual who files a complaint under Section 4.105 of this Chapter may elect to have his or her identity kept confidential as provided by Charter Section C3.699-13(a). Such election must be made at the time the complaint is filed.*~~ **Any individual who files**

1 a complaint under Section 4.105 of this Chapter may elect to have his or her identity kept
 2 confidential as provided by Charter Section C3.699-13(a). Such election must be made at the
 3 time the complaint is filed.

4 (b) COMPLAINTS AND INVESTIGATIONS. ~~*City officers and employees shall treat as*~~
 5 ~~*confidential complaints filed under Sections 4.105, 4.115, and 4.117, and related information,*~~
 6 ~~*including but not limited to materials gathered and prepared in the course of investigating such*~~
 7 ~~*complaints, and deliberations regarding such complaints. The Ethics Commission shall treat as*~~
 8 ~~*confidential complaints made under Section 4.105 of this Chapter, and related information, including*~~
 9 ~~*but not limited to materials gathered and prepared in the course of investigation of such complaints,*~~
 10 ~~*and deliberations regarding such complaints, as provided by Charter Section C3.699-13(a).*~~

11 (1) The Ethics Commission shall treat as confidential complaints made under
 12 Section 4.105 of this Chapter, and related information, including but not limited to materials
 13 gathered and prepared in the course of investigation of such complaints, and deliberations
 14 regarding such complaints, as provided by Charter Section C3.699-13(a).

15 (2) City officers and employees shall treat as confidential complaints filed under
 16 Sections 4.115 and 4.117, and related information, including but not limited to materials gathered and
 17 prepared in the course of investigating such complaints, and deliberations regarding such complaints.

18 (c) PENALTIES. Except as provided in subsection (d), violations of subsections (a) and (b)
 19 may be subject to the administrative proceedings and penalties set forth in Charter Section C3.699-13,
 20 in addition to disciplinary action up to and including dismissal by his or her appointing authority.

21 ~~(e)~~ (d) EXCEPTIONS.

22 ~~(i)~~ (1) Conduct of Investigations. Nothing in this Section 4.120 shall preclude the
 23 Controller's Office, Ethics Commission, District Attorney, and City Attorney from disclosing the
 24 identity of an individual or other information to the extent necessary to conduct its
 25 investigation.

(2) Legal Proceedings. Nothing in this Section 4.120 shall preclude City officers and employees from disclosing the identity of an individual or other information relating to a complaint to the extent required by the rules governing an administrative or court proceeding.

~~(ii)~~ (3) Referrals. Nothing in this Section 4.120 shall preclude the Ethics Commission from referring any matter to any other City department, commission, board, officer, or employee, or to other government agencies, for investigation and possible disciplinary or enforcement action.

Section 2. Effective Date. ~~This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.~~ This ordinance shall become effective 10 days after the Board of Supervisors declares the results of the June 5, 2018 election.

Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

Section 4. Amendment or Repeal. The Board of Supervisors may amend this ordinance, without further voter approval, if all of the following conditions are met:

- (a) the amendment furthers the purposes of this ordinance;
- (b) the Ethics Commission approves the proposed amendment in advance by at least a four-fifths vote of all its members;

(c) the proposed amendment is available for public review at least 30 days before the amendment is considered by the Board of Supervisors or any committee of the Board of Supervisors; and

(d) the Board of Supervisors approves the proposed amendment by at least a two-thirds vote of all its members.

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

By: _____
ANDREW SHEN,
Deputy City Attorney

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FILE NO.

ORDINANCE NO.

[Campaign and Governmental Conduct Code - Expanding Whistleblower Protections]

Ordinance amending the Campaign and Governmental Conduct Code to broaden the scope of whistleblower complaints, provide retaliation protections for City contractors, increase the remedies available for whistleblowers who have suffered retaliation, and establish greater confidentiality protections for whistleblowers' identities.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in single-underline italics Times New Roman font.
Deletions to Codes are in ~~strikethrough italics Times New Roman font~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Campaign and Governmental Conduct Code is hereby amended by revising Sections 4.100, 4.105, 4.107, 4.110, 4.115, and 4.120, and adding a new Section 4.117, to read as follows:

SEC. 4.100. FINDINGS.

The City and County of San Francisco ("City") has a paramount interest in protecting the integrity of its government institutions. To further this interest, individuals should be encouraged to report ~~to the City's Ethics Commission, Controller, District Attorney, City Attorney and the complainant's department~~ possible violations of laws, regulations, and rules governing the conduct of City officers and employees, City contractors, and employees of City contractors.

This Chapter 1 fulfills the Charter's requirements for two City programs relating to whistleblowers, as required by Charter Appendix Section F1.107. First, as required by the Charter, the Office of the Controller has authority to receive and investigate whistleblower complaints concerning deficiencies in the quality and delivery of City government services, wasteful and inefficient City

government practices, misuse of City funds, and improper activities by City officers, employees, and contractors.

Second, as required by the Charter, this ordinance protects the confidentiality of whistleblowers, and protects City officers and employees from retaliation for filing whistleblower complaints or providing assistance with the investigation of such complaints. As set forth in this Chapter 1, the Ethics Commission has primary responsibility for ensuring such protections.

~~This Chapter protects all City officers and employees from retaliation for filing a complaint with, or providing information to, the Ethics Commission, Controller, District Attorney, City Attorney or complainant's department about improper government activity by City officers and employees.~~

~~This Chapter ensures that complaints that do not allege a violation of law over which the Ethics Commission or Controller has jurisdiction are directed to the appropriate agency for investigation and possible disciplinary or enforcement action.~~

~~Finally, this Chapter implements Charter Appendix Section F1.107. Section F1.107 directs the Controller, as City Services Auditor, to administer a whistleblower program and investigate reports of complaints concerning the misuse of City funds, improper activities by City officers and employees, deficiencies in the quality and delivery of government services, and wasteful and inefficient City government practices.~~

SEC. 4.105. COMPLAINTS-OF-IMPROPER-GOVERNMENT-ACTIVITY; INVESTIGATION PROCEDURES; REFERRAL TO OTHER AGENCIES.

(a) COMPLAINTS. Any person may file a complaint for investigation with the Office of the Controller's Whistleblower Program, Ethics Commission, ~~Controller~~, District Attorney, ~~or~~ City Attorney, or ~~a written complaint with~~ the complainant's department alleging that a City officer or employee has engaged in improper government activity, misused City funds, caused deficiencies in the quality and delivery of government services or engaged in wasteful and inefficient government practices, or that a City contractor or employee of a City contractor has engaged in unlawful activity in

~~connection with a City contract. by: violating local campaign finance, lobbying, conflicts of interest or governmental ethics laws, regulations or rules; violating the California Penal Code by misusing City resources; creating a specified and substantial danger to public health or safety by failing to perform duties required by the officer or employee's City position; or abusing his or her City position to advance a private interest.~~

(b) ETHICS COMMISSION COMPLAINT PROCEDURES. The Ethics Commission shall investigate complaints filed under this Section 4.105 that ~~allege~~ contain potential violations of local campaign finance, lobbying, conflicts of interest, and governmental ethics laws pursuant to the procedures specified in Charter Section C3.699-13 and the regulations adopted thereunder. Nothing in this subsection ~~(b)~~ shall preclude the Ethics Commission from referring any matter to any other City department, commission, board, officer, or employee or to other government agencies for investigation and possible disciplinary or enforcement action. The Ethics Commission may require that any City department, commission, board, officer, or employee report to the Ethics Commission on the referred matter.

(c) REFERRAL. The Ethics Commission shall refer complaints that do not allege a violation of law, regulation or rule that is within the Ethics Commission's jurisdiction to the appropriate agency for investigation and possible disciplinary or enforcement action. The Commission may conduct preliminary investigations into such complaints to determine whether the complaint contains sufficient information to warrant referral. The Ethics Commission may require ~~that~~ any City department, ~~commission, board, officer or employee to~~ provide a written report regarding the department's investigation and any action that the department has taken in response to the Ethics Commission's referral within a time-frame that the Ethics Commission shall specify. ~~report to the Ethics Commission on the referred matter.~~

SEC. 4.107. COMPLAINTS BY CITIZENS AND EMPLOYEES; WHISTLEBLOWER PROGRAM.

(a) WHISTLEBLOWER PROGRAM. The Controller shall administer and publicize a whistleblower and citizen complaint program for citizens and employees to report the misuse of City funds, improper government activities by City officers and employees, deficiencies in the quality and delivery of government services, and wasteful and inefficient City government practices. Subject to subsection (b), ~~The~~ Controller shall investigate and otherwise attempt to resolve complaints reported to the Whistleblower Program. The Controller shall administer a hotline telephone number and website and publicize the hotline and website through press releases, public advertising, and communications to City employees.

(b) REFERRAL OF CERTAIN COMPLAINTS. The Controller shall refer the following complaints as set forth in this sub~~s~~Section (b):

~~(i)~~ (1) Those which another City agency is required by federal, state, or local law to adjudicate: To that agency;

~~(ii)~~ (2) Those which may be resolved through a grievance mechanism established by collective bargaining agreement or contract: To the official or agency designated in the agreement or contract;

~~(iii)~~ (3) Those which involve allegations of conduct which may constitute a violation of criminal law: To the District Attorney or other appropriate law enforcement agency;

~~(iv)~~ (4) Those which are subject to an existing, ongoing investigation by the District Attorney, City Attorney, or Ethics Commission, where the applicable official or Commission states in writing that investigation by the Controller would substantially impede or delay his, her, or its own investigation of the matter: To the investigating office; and

~~(v)~~ (5) Those which allege conduct that may constitute a violation of local campaign finance, lobbying, conflict of interest, or governmental ethics laws, regulations, or rules: ~~To~~ the Ethics Commission and the City Attorney.

1 Where the conduct that is the subject of the complaint may violate criminal law
2 and any civil or administrative law, statute, ordinance, or regulation, the Controller may take
3 action on the noncriminal aspects of the matter under this Section 4.107 even if a referral has
4 been made to another agency under this subSection (b).

5 If a complaint is referred under this subSection (b), the Controller shall inform
6 the complainant of the appropriate procedure for the resolution of the complaint.

7 (c) TRACKING AND INVESTIGATION. The Controller shall receive, track, and
8 investigate complaints made or referred to the Whistleblower Program. The investigation may
9 include all steps that the Controller deems appropriate, including the review of the complaint
10 and any documentary or other evidence provided with it, the gathering of any other relevant
11 documents from any City department or other source, and interviews of the complainant and
12 other persons with relevant information.

13 (d) INFORMATION PROVIDED UNDER PENALTY OF PERJURY. In those instances
14 in which the Controller deems it appropriate, the Controller may require that persons making
15 complaints or providing information swear to the truth of their statements by taking an oath
16 administered by the Controller, or an agent of the Controller, or through written declarations
17 made under penalty of perjury under the laws of the State of California.

18 (e) REFERRAL AND RECOMMENDATION BY CONTROLLER. The Controller may
19 refer the complaint to a City department for investigation, either before conducting an initial
20 investigation or after doing so, and may recommend that a City department take specific
21 action based on the Controller's initial investigation. Within 60 days of receiving a complaint
22 for investigation or a recommendation by the Controller for specific action, or such other time
23 as the Controller shall specify, the City department shall report to the Controller in writing the
24 results of the department's investigation and any action that the department has taken in
25 response to a recommendation by the Controller that the department take specific action.

(f) REPORT BY DEPARTMENT AND FURTHER ACTION BY CONTROLLER. If the Controller has recommended that a City department take disciplinary or other corrective action that the department has declined to take, the department shall report to the Controller its reasons for failing to do so within the ~~timeframe~~ time frame that the Controller specifies for reporting on its investigation of the complaint. If the Controller determines that the department's reasons are inadequate and that further investigation may be appropriate, the Controller may refer the matter to the Mayor, City Attorney, or District Attorney, or to any officer or agency that has jurisdiction over the matter.

(g) RESPONSIBILITY OF DEPARTMENTS. The department head shall be responsible for compliance by his or her department with these duties. If department staff fail to comply with the duties to investigate complaints referred by the Controller and to make the reports required by this Section 4.107, the Controller shall notify the department head. If the department head fails to take action to obtain the department's compliance with these duties, the Controller may refer the matter to the Mayor, City Attorney, or District Attorney, or to any officer or agency that has jurisdiction over the matter.

SEC. 4.110. DEFINITIONS.

For purposes of this Chapter 1, the following words and phrases shall have the following meanings:

~~(a) The term "City" or "City agency" shall~~ means the City and County of San Francisco, its departments, commissions, task forces, committees, and boards.

~~(b) The term "Complainant's department"~~ includes the complainant's supervisor, the executive director or highest ranking officer in the complainant's department, and the board or commission overseeing the complainant's department.

1 "Deficiencies in the quality and delivery of government services" shall mean the failure to
 2 perform a service, when performance is required under any law, regulation or policy, or under a City
 3 contract or grant.

4 "Improper government activity" shall mean violation of any federal, state, or local law,
 5 regulation, or rule, including but not limited to laws, regulations, or rules governing campaign finance,
 6 conflicts of interest, or governmental ethics laws; or action which creates a danger to public health or
 7 safety by the failure of City officers or employees to perform duties required by their positions.

8 "Improper government activity" does not include employment actions for which other remedies exist.

9 "Misuse of City funds" shall mean any use of City funds for purposes outside of those directed
 10 by the City.

11 ~~(e) The term "p~~Preliminary investigation" shall be limited to, but need not include all of
 12 the following: review of the complaint and any documentary evidence provided with the
 13 complaint; interview of the complainant; interview of the respondent, counsel to respondent
 14 and any witnesses who voluntarily agree to be interviewed for this purpose; review of any
 15 relevant public documents and documents provided voluntarily to the Commission.

16 "Supervisor" shall mean any individual having the authority, on behalf of the City, to hire,
 17 transfer, suspend, lay off, recall, promote, discharge, reward, or discipline other employees, or the
 18 responsibility to routinely direct them, to adjust their grievances, or to effectively recommend such
 19 action, if, in connection with the foregoing, the exercise of that authority is not merely routine or
 20 clerical, but requires the use of independent judgment.

21 "Unlawful activity" shall mean violations of any federal, state or local law, regulation or rule
 22 including but not limited to those laws, regulations or rules governing campaign finance, conflicts of
 23 interest or governmental ethics laws; or actions which create a danger to public health or safety by the
 24 failure of City officers or employees to perform duties imposed by a City contract.
 25

"Wasteful and inefficient City government practices" shall mean the expenditure of City funds that could be eliminated without harming public health or safety, or reducing the quality of government services.

SEC. 4.115. PROTECTION OF WHISTLEBLOWERS - CITY EMPLOYEES.

(a) RETALIATION PROHIBITED. No City officer or employee may terminate, demote, suspend, or take other similar adverse employment action against any City officer or employee because the officer or employee has in good faith:

~~(i) (1) filed a complaint as set forth in Section 4.105(a); with the Ethics Commission, Controller, District Attorney or City Attorney, or a written complaint with the complainant's department, alleging that a City officer or employee engaged in improper government activity by: violating local campaign finance, lobbying, conflicts of interest or governmental ethics laws, regulations or rules; violating the California Penal Code by misusing City resources; creating a specified and substantial danger to public health or safety by failing to perform duties required by the officer or employee's City position; or abusing his or her City position to advance a private interest, (ii) filed a complaint with the Controller's Whistleblower Program, or~~

~~(2) attempted to file a complaint through the procedures set forth in Section 4.105(a) but, in good faith, did not file the complaint with the appropriate City department or official; or~~

~~(iii) (3) provided any information in connection with or otherwise cooperated with any investigation conducted under this Chapter 1.~~

(b) COMPLAINTS OF RETALIATION ~~FOR HAVING FILED A COMPLAINT ALLEGING IMPROPER GOVERNMENT ACTIVITY.~~

~~(i) (1)~~ **Administrative Complaints.** Any ~~city~~ City officer or employee, or former ~~city~~ City officer or employee, who believes he or she has been the subject of retaliation in violation of ~~S~~subsection (a) of this Section 4.115 may file a complaint with the Ethics

Commission. The complaint must be filed no later than two years after the date of the alleged retaliation.

The Ethics Commission shall investigate complaints of violations of §subsection (a) of this Section 4.115 pursuant to the procedures specified in ~~San Francisco~~ Charter Section C3.699-13 and the regulations adopted thereunder. The Ethics Commission may decline to investigate complaints alleging violations of §subsection (a) if it determines that the same or similar allegations are pending with or have been finally resolved by another administrative or judicial body. Nothing in this §subsection (b)(1) shall preclude the Ethics Commission from referring any matter to any other City department, commission, board, officer, or employee, or to other government agencies for investigation and possible disciplinary or enforcement action. The Ethics Commission may refer matters to the Department of Human Resources with a recommendation. The Ethics Commission may require ~~that~~ any City department, ~~commission, board, officer or employee~~ to provide a written report regarding the department's investigation and any action that the department has taken in response to the Ethics Commission's referral within a time frame that the Ethics Commission shall specify. ~~report to the Ethics Commission on the referred matter.~~

~~(ii)~~ (2) **Civil Complaints.** Any City officer or employee who believes he or she has been the subject of retaliation in violation of §subsection (a) of this Section 4.115 may bring a civil action against the City officer or employee who committed the violation. Such action must be filed no later than two years after the date of the retaliation.

~~(iii)~~ (3) **Burden of Establishing Retaliation.** In order to establish under this Section 4.115 that retaliation ~~occurred under this Section~~, a complainant in a civil action must demonstrate, or the Ethics Commission in an administrative proceeding must determine, by a preponderance of the evidence, that the complainant's engagement in activity protected under §subsection (a) was a substantial motivating factor for the adverse employment action. The

1 ~~employer respondent~~ may rebut this claim if ~~it~~ the respondent demonstrates by a preponderance
 2 of the evidence that he, she, or it would have taken the same employment action irrespective of
 3 the complainant's participation in protected activity.

4 (4) Duty to Assist with Retaliation Complaints. Supervisors who receive a complaint
 5 alleging retaliation under this Chapter 1 must keep the complaint confidential and immediately assist
 6 the complainant by referring the complainant to the Ethics Commission and documenting the referral
 7 in writing. Documentation must include the date and time of the referral and that the complaint was
 8 about retaliation. Supervisors who fail to comply with this subsection (b) are subject to the penalties
 9 and remedies set forth in subsection (c).

10 (c) PENALTIES AND REMEDIES.

11 ~~(i)~~ (1) **Charter Administrative Penalties**. Any City officer or employee who
 12 violates ~~S~~subsection (a) of this Section 4.115 may be subject to administrative penalties
 13 pursuant to Charter Section C3.699-13.

14 (2) Redress for Retaliatory Employment Action. Following an administrative hearing
 15 and after making a finding that an adverse employment action has been taken for purposes of
 16 retaliation, the Ethics Commission may, subject to the Charter's budgetary and civil service provisions,
 17 recommend the cancellation of the retaliatory termination, demotion, suspension or other adverse
 18 employment action.

19 ~~(ii)~~ (3) **Discipline by Appointing Authority**. Any City officer or employee who
 20 violates ~~S~~subsections (a) or (b)(4) of this Section 4.115 shall be subject to disciplinary action up
 21 to and including dismissal by his or her appointing authority. If no disciplinary action is taken
 22 by the appointing authority, the Ethics Commission may refer the matter to the Civil Service
 23 Commission for action pursuant to Charter Section A8.341.

~~(iii)~~ (4) **Civil Penalties.** Any City officer or employee who violates ~~Subsection~~ (a) of this Section 4.115 may be personally liable in a civil action authorized under ~~Subsection~~ ~~(b)(ii)~~ subsection (b)(2) of this Section for a civil penalty not to exceed ~~\$5,000~~ \$10,000.

(d) RESERVATION OF AUTHORITY.

~~(i)~~ (1) **Civil Service Commission.** Nothing in this Section 4.115 shall interfere with the powers granted to the Civil Service Commission by the ~~San Francisco~~ Charter.

~~(ii)~~ (2) **Appointing Authority.** Nothing in this Section 4.115 shall interfere with the power of an appointing officer, manager, or supervisor to take action with respect to any City officer or employee, provided that the appointing officer, manager, or supervisor reasonably believes that such action is justified on facts separate and apart from the fact that the officer or employee filed a complaint as set forth in Section 4.105(a), attempted to file such a complaint in good faith, or cooperated with an investigation of such a complaint. ~~filed a complaint with, or cooperated with, an Ethics Commission investigation of such complaint; or filed a complaint with or provided information to the Controller, District Attorney, City Attorney or the complainant's department.~~

(e) NOTICE OF WHISTLEBLOWER PROTECTIONS. The Controller shall prepare, and each City department shall post a notice of whistleblower protections. The notice shall be posted in a location that is conspicuous and accessible to all employees.

(f) WHISTLEBLOWER PROTECTION AWARENESS TRAINING.

(1) The Controller, in collaboration with the Ethics Commission, shall prepare, and all City departments shall distribute, materials to publicize and promote whistleblower protections as part of each department's new hire training programs.

(2) The Ethics Commission, in collaboration with the Controller and Department of Human Resources, shall prepare, and all City departments shall distribute, materials to publicize and promote supervisors' responsibilities under this Chapter 1. In addition, the Department of Human

Resources, in collaboration with the Controller and Ethics Commission, shall prepare web-based training for supervisors regarding their responsibilities under this Chapter 1, which shall be implemented by January 1, 2019. This training must be provided to all City supervisors annually by April of each year thereafter.

SEC. 4.117. PROTECTION OF WHISTLEBLOWERS - CITY CONTRACTORS.

(a) RETALIATION PROHIBITED. No City officer or employee may take steps to terminate a contract with a City contractor; refuse to use a City contractor for contracted services; request that a City contractor terminate, demote, or suspend one of its employees; or take other similar adverse action against any City contractor or employee of a City contractor because the contractor or the contractor's employee:

(1) filed a complaint with any supervisor within a City agency alleging that a City officer or employee engaged in improper government activity, misused City funds, caused deficiencies in the quality and delivery of government services, or engaged in wasteful and inefficient government practices;

(2) filed a complaint with any supervisor within a City agency alleging that another City contractor, or employee of another City contractor, engaged in unlawful activity, misused City funds, caused deficiencies in the quality and delivery of government services or engaged in wasteful and inefficient government practices; or

(3) provided any information in connection with or otherwise cooperated with any investigation conducted under this Chapter 1.

(b) COMPLAINTS OF RETALIATION.

(1) Administrative Complaints. Any City contractor or employee of a City contractor, who believes it, he, or she has been the subject of retaliation in violation of subsection (a) of this Section 4.117 may file a complaint with the Ethics Commission. The complaint must be filed no later than two years after the date of the alleged retaliation.

The Ethics Commission shall investigate complaints of violations of subsection (a) of this Section 4.117 pursuant to the procedures specified in Charter Section C3.699-13 and the regulations adopted thereunder. The Ethics Commission may decline to investigate complaints alleging violations of subsection (a) if it determines that the same or similar allegations are pending with or have been finally resolved by another administrative or judicial body. Nothing in this subsection shall preclude the Ethics Commission from referring any matter to any other City department, commission, board, officer, or employee, or to other government agencies for investigation and possible disciplinary or enforcement action. The Ethics Commission may refer matters to the Department of Human Resources with a recommendation. The Ethics Commission may require any City department to provide a written report regarding the department's investigation and any action that the department has taken in response to the Ethics Commission's referral, within a time frame that the Ethics Commission shall specify.

(2) **Burden of Establishing Retaliation.** In order to establish that retaliation occurred under this Section 4.117, the Ethics Commission in an administrative proceeding must determine, by a preponderance of the evidence, that the complainant's engagement in activity protected under subsection (a) was a substantial motivating factor for the adverse action. The respondent may rebut this claim if it demonstrates by a preponderance of the evidence that it would have taken the same adverse action irrespective of the complainant's participation in protected activity.

(c) **PENALTIES AND REMEDIES.**

(1) **Administrative Penalties.** Any City officer or employee who violates subsection (a) of this Section 4.117 may be subject to administrative penalties pursuant to Charter Section C3.699-13.

(2) **Redress for Retaliatory Adverse Action.** Following an administrative hearing and after making a finding that an adverse action has been taken for purposes of retaliation, the Ethics Commission may, subject to the Charter's budgetary and contracting provisions, order the cancellation of retaliatory adverse action taken against a City contractor or employee of a City contractor.

1 (3) Discipline by Appointing Authority. Any City officer or employee who violates
 2 subsection (a) of this Section 4.117 shall be subject to disciplinary action up to and including dismissal
 3 by his or her appointing authority. If no disciplinary action is taken by the appointing authority, the
 4 Ethics Commission may refer the matter to the Civil Service Commission for action pursuant to Charter
 5 Section A8.341.

6 (d) NOTICE OF WHISTLEBLOWER PROTECTIONS. The Controller shall prepare, and each
 7 City department shall post, a notice of the whistleblower protections established by this Section 4.117.
 8 City contractors shall distribute the notice of protections to all of their employees.

9 **SEC. 4.120. CONFIDENTIALITY.**

10 (a) WHISTLEBLOWER IDENTITY. City officers and employees shall treat as confidential
 11 the identity of any person who files a complaint as set forth in Section 4.105(a). A complainant may
 12 voluntarily disclose his or her identity. Any individual who files a complaint under Section 4.105 of
 13 this Chapter may elect to have his or her identity kept confidential as provided by Charter Section
 14 C3.699-13(a). Such election must be made at the time the complaint is filed.

15 (b) COMPLAINTS AND INVESTIGATIONS. City officers and employees shall treat as
 16 confidential complaints filed under Sections 4.105, 4.115, and 4.117, and related information,
 17 including but not limited to materials gathered and prepared in the course of investigating such
 18 complaints, and deliberations regarding such complaints. The Ethics Commission shall treat as
 19 confidential complaints made under Section 4.105 of this Chapter, and related information, including
 20 but not limited to materials gathered and prepared in the course of investigation of such complaints,
 21 and deliberations regarding such complaints, as provided by Charter Section C3.699-13(a).

22 (c) PENALTIES. Except as provided in subsection (d), violations of subsections (a) and (b)
 23 may be subject to the administrative proceedings and penalties set forth in Charter Section C3.699-13,
 24 in addition to disciplinary action up to and including dismissal by his or her appointing authority.

25 (e) ~~(d)~~ EXCEPTIONS.

(i) (1) Conduct of Investigations. Nothing in this Section 4.120 shall preclude the Controller's Office, Ethics Commission, District Attorney, and City Attorney from disclosing the identity of an individual or other information to the extent necessary to conduct its investigation.

(2) Legal Proceedings. Nothing in this Section 4.120 shall preclude City officers and employees from disclosing the identity of an individual or other information relating to a complaint to the extent required by the rules governing an administrative or court proceeding.

(ii) (3) Referrals. Nothing in this Section 4.120 shall preclude the Ethics Commission from referring any matter to any other City department, commission, board, officer, or employee, or to other government agencies, for investigation and possible disciplinary or enforcement action.

Section 2. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

By: ANDREW SHEN, Deputy City Attorney

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