



Charter Review Committee

City of Arts & Innovation

TO: CHARTER REVIEW COMMITTEE MEMBERS DATE: February 10, 2020

FROM: CITY ATTORNEY'S OFFICE WARDS: ALL

**SUBJECT: DRAFT LANGUAGE FOR PROPOSED AMENDMENT TO CITY CHARTER
§ 1113 REQUIRING CITY COUNCIL TO PUBLISH ANNUAL REPORT OF
INTERNAL INVESTIGATIONS OF COMPLAINTS OF FRAUD, WASTE,
ABUSE, OR OTHER CRIMINAL CONDUCT**

ISSUE:

At the January 13, 2020 meeting, the Charter Review Committee ("Committee") voted to conceptually approve an amendment to City Charter ("Charter") Section 1113 which would require the City Council to annually publish a report of the City's internal claims and investigations. The Committee directed staff to return with draft language for the amendment.

RECOMMENDATION:

That the Committee vote to approve the draft language amending Charter Section 1113, to be proposed to the City Council to be submitted to the voters for approval.

BACKGROUND:

At the January 13, 2020 Committee meeting, Alternate Malissa McKeith proposed an amendment to Charter Section 1113 which would require the City Council to annually publish a report specifying the nature of City internal claims and investigations. After discussion and modifications of Alternate McKeith's proposed language, the Committee approved in concept the Section 1113 amendment, and directed staff to return with draft language.

The draft language amending Charter Section 1113 is as follows:

Sec. 1113. Independent audit.

The City Council shall employ, at the beginning of each fiscal year, a qualified public accountant who shall, at such time or times as may be specified by the City Council, and at such times as such accountant shall determine, examine the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds and of such other officers, employees or departments as the City Council may direct. As soon as practicable

after the end of the fiscal year, a final audit and report shall be submitted by such accountant to the City Council, with copies to be placed on file in the Office of the City Clerk and on the City's accessible website where they shall be available for inspection by the general public. At least every five years, the City Council shall employ a qualified public accountant different from the qualified public accountant who submitted the immediately preceding year's audit report.

The City Council shall on an annual basis publish a comprehensive report specifying the nature of any material written complaints from community members, written claims, whistle blower complaints alleging fraud, waste, abuse, or other criminal conduct, audits and/or investigation (collective investigations) undertaken by the City, its staff or outside consultants; the outcome of those investigations; and the annual budget (including internal costs) expended to undertake the investigations.

In earlier meetings, The Committee asked if staff would generally advise as to any legal problems with ballot language, as written. Staff wishes to point out the following items that the Committee may wish to clarify:

1. As pointed out by a Committee member, the City receives multiple claims each year for various items, including claims for property damage. The committee may wish to consider whether "written claims" should be revised to be limited to claims of fraud, waste, abuse or other criminal conduct" or some other restriction.
2. "Material written complaints from community members" also is somewhat ambiguous. The Committee may wish to consider clarifying which types of complaints should be included in the annual report, including limiting such complaints of fraud, waste, abuse or other criminal conduct.

For guidance, attached is the City's current Fraud, Waste, and Abuse Reporting and Investigation Policy" as well as copies of the Labor Code which provide protections to employees from retaliation for bringing a "whistle blower" complaint.

FISCAL IMPACT:

None.

Prepared by: Susan Wilson, Assistant City Attorney
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Approved as to form: Gary G. Geuss, City Attorney

Attachments: City of Riverside's Fraud, Waste, and Abuse Reporting and Investigation Policy
Labor Code sections 1102.5, 1102.7, 1102.8