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**CONSIDERATION REQUEST**

16 JAN 28 PM 2: 50

TO: Mayor & City Council

FROM: Councilman Roberto C. Treviño, District 1

COPIES TO: Sheryl Sculley, City Manager; Leticia Vacek, City Clerk; John Peterek, Chief of Staff; Christopher Callanen, Assistant to the City Council; Martha G. Sepeda, Acting City Attorney

SUBJECT: Ethics Code Amendments

DATE: January 28, 2016

Issue Proposed for Consideration

We ask for your support for the inclusion of the following item on the agenda of the next scheduled meeting of the Governance Committee, directing the City Attorney to draft language for City Council consideration that would amend the City Ethics Code as follows:

The strength of a city's ethics code depends not only on the code's substance, but also on its implementation. In order to earn and to keep the public's trust, the ethics code must provide for fairness, transparency, and independence. As much as possible, the city's ethics system must be administered by personnel who are not beholden to city staff or to elected officials in any way.

In this regard, the code should be updated when needed. In May of 2013, the City Council passed Ordinance 2013-05-09-1317, amending Chapter 2, Article III, and Chapter 2, Article VII of the San Antonio City Code. The Ethics Code should be further strengthened by adding new language that will better achieve the goals of fairness, transparency and independence.

Section 2-84 in the 2013 Ethics Code Amendment created the position of an independent ethics Compliance Auditor. This was a major step forward. The independence of the position would be strengthened by making his/her selection solely by the Ethics Review Board (ERB), and not dependent on being appointed by the City Auditor after the ERB's recommendation. The City Auditor is hired by the City Council.

Changes in the ethics code should also be made to increase the Compliance Auditor's independence from the City Attorney's office, increase and strengthen his/her responsibility and control over ethics education of all city employees and officers, and over the implementation and enforcement of the ethics code. The Compliance Auditor should be the city official who gives ethical advice to employees and elected officials. The City Attorney's office should not be involved in giving ethics advice to city

employees and/or officers including elected officials. The hiring of the City Attorney is a process where the City Manager nominates a candidate, and the City Council approves the appointment. Therefore, the hiring of the City Attorney is not independent of the City Manager's role or the City Council's role. The City Attorney has a demanding and complicated job, and is charged with representing the city, the City Council, all city departments and the city staff. The Ethics Auditor should be encouraged to hire counsel independent from the City Attorney's office whenever he/she deems it necessary.

The last change necessary to secure total independence of our ethics system would require a City Charter amendment to change the appointment process for ERB members. This item should be added to the agenda of the Citizens Charter Review Commission when it is convened in February or March of 2016. There are currently 11 members in the ERB appointed by the Mayor and Council. This process is prescribed in our City Charter. Giving Council members the power to appoint these board members does not ensure their independence. In the cities of Atlanta, Georgia, and Tallahassee, Florida, there are 7 ethics board members who are appointed independent of city staff and City Council. They are appointed by respected institutions in the communities such as universities, Chambers of Commerce, Bar Associations, League of Women Voters, and others. The San Antonio City Charter should be amended to follow this model of appointing ERB members.

Submitted for Council consideration by:



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 Councilman Roberto C. Treviño, District 1

Supporting Councilmembers' Signatures	District No.
1. <u>          Drew R. Taylor          </u>	<u>          MAYOR          </u>
2. <u>          R. S. Smith          </u>	<u>          4          </u>
3. <u>          Mike Hulby          </u>	<u>          10          </u>
4. <u>          [Signature]          </u>	<u>          8          </u>