

1 [Urging the Rejection of Assembly Bill 746 regarding Conflict of Interest]

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3 **Resolution urging the California State Legislature to reject the passage of Assembly**
4 **Bill 746 regarding conflicts of interest.**

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6 WHEREAS, Existing California law prohibits specified state and local officers and
7 employees from being financially interested in any contract made by them in their official
8 capacity; and

9 WHEREAS, California's conflict of interest provisions in state law are meant to protect
10 against corruption and the appearance of unfairness in the public procurement process; and

11 WHEREAS, In July of 2008 the San Francisco Public Utilities Commission ("SFPUC")
12 requested a written opinion from the City Attorney of San Francisco as to whether the SFPUC
13 could award Parsons Water and Infrastructure, Inc. a contract for the Water System
14 Improvement Program ("WSIP") Agreement No. CS-940; and

15 WHEREAS, On August 4, 2008 the City Attorney of San Francisco concluded in a
16 written memorandum to the General Manager of the SFPUC that if the SFPUC were to award
17 a contract to Parsons to provide services described in the RFP for Agreement CS-940, a
18 court would likely find a violation of California Government Code 1090 because of Parson's
19 key role in developing the scope of those same services; and

20 WHEREAS, Assembly Bill ("AB") 746, relating to conflict of interest provisions in
21 California state law, was introduced by Assemblymember Joe Coto representing San Jose in
22 California's 23rd Assembly District; and

23 WHEREAS, AB 746 would amend state law to require that an independent contractor
24 not be deemed interested in a contract as a result of the independent contractor's preparation
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1 of certain documents, including a request for proposal or bids, at the request of a
2 governmental agency; and

3 WHEREAS, AB 746 carves out a special exemption to California's current conflict of
4 interest provisions in state law for Parsons; and

5 WHEREAS, AB 746 would overturn a City Attorney opinion meant to protect San
6 Francisco's fair and transparent public bidding practices; and

7 WHEREAS, Government Code 1090 protects public agencies to recover their losses
8 when their employees and independent contractors engage in corrupt behavior, and

9 WHEREAS, AB 746 would undercut public agencies from financial protections when
10 victimized by corruption; and

11 WHEREAS, Government Code 1090 program has removed barriers for many women
12 and minority-owned businesses which have traditionally been underrepresented in large
13 public works projects; and

14 WHEREAS, The Board of Supervisors approved Resolution 277-09 in July Of 2009
15 opposing AB 746, but the bill has been amended slightly and is again being considered in
16 Sacramento; and

17 WHEREAS, The San Francisco Chronicle published an editorial opposing AB 746
18 entitled "An end run on state law"; now, therefore, be it

19 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
20 urges the California State Legislature to reject the passage of AB 746, relating to conflicts of
21 interest and hereby officially opposes AB 746 by Assemblymember Joe Coto.
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City and County of San Francisco
Tails
Resolution

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

File Number: 100821

Date Passed: June 22, 2010

Resolution urging the California State Legislature to reject the passage of Assembly Bill 746 regarding conflicts of interest.

June 22, 2010 Board of Supervisors - ADOPTED

Ayes: 10 - Avalos, Campos, Chiu, Chu, Daly, Duffy, Elsbernd, Mar, Maxwell and Mirkarimi
Excused: 1 - Alioto-Pier

File No. 100821

I hereby certify that the foregoing Resolution was ADOPTED on 6/22/2010 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

RETURNED UNSIGNED

Mayor Gavin Newsom

JULY 1, 2010

Date Approved

Date: July 1, 2010

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter.

Angela Calvillo
Clerk of the Board