

FILE NO. 040688

MOTION NO.

1 [Open Government Ordinance to provide for more public accessibility to policy body meetings
2 and documents; and more public participation; to safeguard the maintenance of records; to
3 make the Sunshine Ordinance Task Force a Commission with more enforcement powers.]

4 **Motion ordering submitted to the voters an ordinance authorizing the Open**
5 **Government Ordinance at an election to be held on November 2, 2004.**

6
7 MOVED, That the Board of Supervisors hereby submits the following ordinance to the
8 voters of the City and County of San Francisco, at an election to be held on November 2,
9 2004.

10
11 **Ordinance amending the current Sunshine Ordinance set forth in Chapter 67 of the San**
12 **Francisco Administrative Code by amending Sections 67.1; 67.2; 67.3; 67.4; 67.6; 67.7;**
13 **67.7-1; 67.9; 67.13; 67.14; 67.15; 67.16; 67.21; 67.22; 67.23; 67.24; 67.25; 67.28; 67.29;**
14 **67.29-1; 67.29-3; 67.29-5; 67.29-6; 67.29-7; 67.30; 67.31; 67.32; 67.33; 67.34, and 67.36 to**
15 **require passive meeting bodies to give formal formally notice of their meetings; to**
16 **require policy bodies to provide more opportunities for the public to review public**
17 **documents being considered at public meetings; to require more opportunities for**
18 **public participation at policy body meetings; to require all policy bodies to record their**
19 **meetings and keep those recordings indefinitely; to require the City Attorney's Office to**
20 **monitor the public documents of public officials who leave office; to require other public**
21 **and private entities that contract with the City to agree to follow the Open Government**
22 **Ordinance as a condition precedent to receiving funds from the City; to change the name of**
23 **the Sunshine Ordinance Task Force to the Commission for Open Government; to**
24 **provide the Commission with subpoena powers, and to provide for the use of outside**
25

1 **counsel to prosecute violations of the Ordinance and to make other technical corrections**
2 **to the Ordinance.**

3
4 Note: Additions are *single-underline italics Times New Roman*;
5 deletions are *strikethrough italics Times New Roman*.

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

7 Section 1. The San Francisco Administrative Code is hereby amended by amending
8 Section 67.1; 67.2; 67.3; 67.4; 67.6; 67.7; 67.7-1; 67.9; 67.13; 67.14; 67.15; 67.16; 67.21;
9 67.22; 67.23; 67.24; 67.25; 67.28; 67.29; 67.29-1; 67.29-3; 67.29-5; 67.29-6; 67.29-7; 67.30;
10 67.31; 67.32; 67.33; 67.34, and 67.36 to read as follows:

11 **Section 67.1 FINDINGS AND PURPOSE.**

12 The Board of Supervisors and the People of the City and County of San Francisco find
13 and declare:

14 (a) Government's duty is to serve the public, reaching its decisions in full view of the
15 public.

16 (b) Elected officials, commissions, boards, councils and other agencies of the City
17 and County exist to conduct the people's business. The people do not cede to these entities
18 the right to decide what the people should know about the operations of local government.

19 (c) Although California has a long tradition of laws designed to protect the public's
20 access to the workings of government, every generation of governmental leaders includes
21 officials who feel more comfortable conducting public business away from the scrutiny of
22 those who elect and employ them. New approaches to government constantly offer public
23 officials additional ways to hide the making of public policy from the public. As government
24 evolves, so must the laws designed to ensure that the process remains visible.
25

1 (d) The right of the people to know what their government and those acting on
2 behalf of their government are doing is fundamental to democracy, and with very few
3 exceptions, that right supersedes any other policy interest government officials may use to
4 prevent public access to information. Only in rare and unusual circumstances does the public
5 benefit from allowing the business of government to be conducted in secret, and those
6 circumstances should be carefully and narrowly defined to prevent public officials from
7 abusing their authority.

8 (e) Public officials who attempt to conduct the public's business in secret should be
9 held accountable for their actions. Only a strong Open Government and Sunshine Ordinance,
10 enforced by a strong Commission for Open Government~~Sunshine Ordinance Task Force~~, can
11 protect the public's interest in open government.

12 (f) The people of San Francisco enact these amendments to assure that the people
13 of the City remain in control of the government they have created.

14 (g) Private entities and individuals and employees and officials of the City and
15 County of San Francisco have rights to privacy that must be respected. However, when a
16 person or entity is before a policy body or passive meeting body, that person, and the public,
17 has the right to an open and public process.

18 **Section 67.2. CITATION.**

19 This Chapter may be cited as the San Francisco Open Government ~~Sunshine~~ Ordinance.

20 **Section 67.3. DEFINITIONS.**

21 Whenever in this Article the following words or phrases are used, they shall have the
22 following meanings:

23 (a) "City" shall mean the City and County of San Francisco.

24 (b) "Meeting" shall mean any of the following:
25

1 (1) A congregation of a majority of the members of a policy body at the same time
2 and place;

3 (2) A series of gatherings, each of which involves less than a majority of a policy
4 body, to hear, discuss or deliberate upon any item that is within the subject matter jurisdiction
5 of the City, if the cumulative result is that a majority of members has become involved in such
6 gatherings; or

7 (3) Any other use of personal intermediaries or communications media that could
8 permit a majority of the members of a policy body to become aware of an item of business
9 and of the views or positions of other members with respect thereto, and to negotiate
10 consensus thereupon.

11 (4) "Meeting" shall not include any of the following:

12 (A) Individual contacts or conversations between a member of a policy body and
13 another person that do not convey to the member the views or positions of other members
14 upon the subject matter of the contact or conversation and in which the member does not
15 solicit or encourage the restatement of the views of the other members;

16 (B) The attendance of a majority of the members of a policy body at a regional,
17 statewide or national conference, or at a meeting organized to address a topic of local
18 community concern and open to the public, provided that a majority of the members refrains
19 from using the occasion to collectively discuss the topic of the gathering or any other business
20 within the subject matter jurisdiction of the City; or

21 (C) The attendance of a majority of the members of a policy body at a purely social,
22 recreational or ceremonial occasion other than one sponsored or organized by or for the
23 policy body itself, provided that a majority of the members refrains from using the occasion to
24 discuss any business within the subject matter jurisdiction of this body. A meal gathering of a
25 policy body before, during or after a business meeting of the body is part of that meeting and

1 shall be conducted only under circumstances that permit public access to hear and observe
2 the discussion of members. Such meetings shall not be conducted in restaurants or other
3 accommodations where public access is possible only in consideration of making a purchase
4 or some other payment of value.

5 (C-1) The attendance of a majority of the members of a policy body at an open and
6 noticed meeting of a standing committee of that body, provided that the members of the policy
7 body who are not members of the standing committee attend only as observers.

8 (D) Proceedings of the Department of Social Services Child Welfare Placement and
9 Review Committee or similar committees which exist to consider confidential information and
10 make decisions regarding Department of Social Services clients.

11 (c) "Passive meeting body" shall mean:

12 (1) Advisory committees created by the initiative of a member of a policy body, the
13 Mayor, the City Administrator, an elective officer, or a department head;

14 (2) Any group that meets to discuss with or advise the Mayor or any Department
15 Head on fiscal, economic, or policy issues;

16 (3) Social, recreational or ceremonial occasions sponsored or organized by or for a
17 policy body to which a majority of the body has been invited.

18 (4) "Passive meeting body" shall not include a committee that consists solely of
19 employees of the City and County of San Francisco created by the initiative of a member of a
20 policy body, the Mayor, or a department head;

21 (5) Notwithstanding the provisions of paragraph (4) above, "Passive meeting body"
22 shall include a committee that consists solely of employees of the City and County of San
23 Francisco when such committee is reviewing, developing, modifying, or creating city policies
24 or procedures relating to the public health, safety, or welfare or relating to services for the
25 homeless;

- 1 (d) "Policy Body" shall mean:
- 2 (1) The Board of Supervisors;
- 3 (2) Any other board or commission enumerated in the charter;
- 4 (3) Any board, commission, committee, or other body created by ordinance or
- 5 resolution of the Board of Supervisors;
- 6 (4) Any advisory board, commission, committee or body, created by the initiative of
- 7 a policy body;
- 8 (5) Any standing committee, ad hoc committee, and Task Force of a policy body
- 9 irrespective of its composition.

10 ~~(6)~~ Any body appointed by the Mayor for the purpose of creating policy.

11 ~~(7)(6)~~—"Policy Body" shall not include a committee which consists solely of employees

12 of the City and County of San Francisco, unless such committee was established by charter

13 or by ordinance or resolution of the Board of Supervisors.

14 ~~(8)(7)~~ Any advisory board, commission, committee, or council created by a federal,

15 state, or local grant whose members are appointed by city officials, employees or agents.

16 **Section 67.4. PASSIVE MEETINGS.**

17 ~~(a) — All gatherings of passive meeting bodies shall be accessible to individuals upon inquiry~~

18 ~~and to the extent possible consistent with the facilities in which they occur.~~

19 ~~(a) — All gatherings of passive meeting bodies shall be accessible to individuals upon inquiry~~

20 ~~and to the extent that the meeting sites have sufficient capacity, facilities, furniture and equipment.~~

21 (1) Such gatherings ~~must need not~~ be formally noticed, 72 hours prior to the scheduled

22 meeting except on the City's website ~~whenever possible, although~~ and the time, place and nature

23 of the gathering shall be posted at the main library and be disclosed by mail, e-mail, or fax upon

24 inquiry by a member of the public, and any agenda actually prepared for the gathering shall

25 be accessible to such inquirers as a public record.

1 (2) Such gatherings need not be conducted in any particular space for the
2 accommodation of members of the public, although members of the public shall be permitted
3 to observe on a space available basis consistent with legal and practical restrictions on
4 occupancy.

5 (3) Such gatherings of a business nature need not provide opportunities for
6 comment by members of the public, although the person presiding may, in his or her
7 discretion, entertain such questions or comments from spectators as may be relevant to the
8 business of the gathering.

9 (4) Such gatherings of a social or ceremonial nature need not provide refreshments
10 to spectators.

11 ~~(5) — Gatherings subject to this subsection include the following: advisory committees
12 or other multimember bodies created in writing or by the initiative of, or otherwise primarily
13 formed or existing to serve as a non-governmental advisor to, a member of a policy body, the
14 Mayor, the City Administrator, a department head, or any elective officer, and social,
15 recreational or ceremonial occasions sponsored or organized by or for a policy body to which
16 a majority of the body has been invited. This subsection shall not apply to a committee which
17 consists solely of employees of the City and County of San Francisco.~~

18 ~~(5)(6)~~ Gatherings defined in section 67.3(c) subdivision ~~(5)~~ may hold closed sessions
19 under circumstances allowed by this Article.

20 (b) To the extent not inconsistent with state or federal law, *the City and any of its*
21 *commissions, departments or officers a policy body* shall include in any contract *or a grant with an*
22 *entity that owns, operates or manages any property in which the City has or will have an ownership*
23 *interest, including a mortgage, and on which the entity performs for the performance of a government*
24 function related to the furtherance of health, safety or welfare, a requirement that any meeting
25 of the governing *body, if any, board* of the entity to address any matter relating to *the property or*

1 ~~its government related activities on the property, or~~ performance under the contract or grant, be
2 conducted as provided in subdivision (a) of this section. Records made available to the
3 governing ~~body~~board relating to such matters shall be likewise available to the public, at a cost
4 not to exceed the actual cost up to 10 cents per page, or at a higher actual cost as
5 demonstrated in writing to such governing body~~board~~.

6 **Section 67.6. CONDUCT OF BUSINESS; TIME AND PLACE FOR MEETINGS.**

7 (a) Each policy body, except for advisory bodies, shall establish by resolution or
8 motion the time and place for holding regular meetings.

9 (b) Unless otherwise required by state or federal law or necessary to inspect real
10 property or personal property which cannot be conveniently brought within the territory of the
11 City and County of San Francisco or to meet with residents residing on property owned by the
12 City, or to meet with residents of another jurisdiction to discuss actions of the policy body that
13 affect those residents, all meetings of its policy bodies shall be held within the City and County
14 of San Francisco.

15 (c) If a regular meeting would otherwise fall on a holiday, it shall instead be held on
16 the next business day, unless otherwise rescheduled in advance.

17 (d) If, because of fire, flood, earthquake or other emergency, it would be unsafe to
18 meet at the regular meeting place, meetings may be held for the duration of the emergency at
19 some other place specified by the policy body. The change of meeting site shall be
20 announced, by the most rapid means of communication available at the time, in a notice to the
21 local media who have requested written notice of special meetings pursuant to Government
22 Code Section 54956. Reasonable attempts shall be made to contact others regarding the
23 change in meeting location.

24 (e) Meetings of advisory ~~passive~~ meeting bodies as specified in Section 67.3(d)(4)
25 and 67.3(d)(7) ~~67.3(c) 67.6(d)(4)~~ of this article shall be preceded by notice delivered personally

1 or by mail, e-mail, or facsimile as reasonably requested at least 72 hours before the time of
2 such meeting to each person who has requested, in writing, notice of such meeting. as
3 ~~governed by Section 67.7 of this Ordinance. delivered personally or by mail, e-mail, or facsimile as~~
4 ~~reasonably requested at least 72 hours before the time of such meeting to each person who has~~
5 ~~requested, in writing, notice of such meeting.~~ If an the advisory body elects to hold regular
6 meetings, it shall provide by bylaws, or whatever other rule is utilized by that advisory body for
7 the conduct of its business, for the time and place for holding such regular meetings. ~~In such~~
8 ~~case, no notice of regular meetings, other than the posting of an agenda pursuant to Section 67.7 of this~~
9 ~~article in the place used by the policy body which it advises, is required.~~

10 (f) Special meetings of any policy body, including advisory bodies that choose to
11 establish regular meeting times, may be called at any time by the presiding officer thereof or
12 by a majority of the members thereof, by delivering personally or by mail written notice to each
13 member of such policy body and the local media who have requested written notice of special
14 meetings in writing. Such notice of a special meeting shall be delivered as described in (e) at
15 least 72 hours before the time of such meeting as specified in the notice. The notice shall
16 specify the time and place of the special meeting and the business to be transacted. No other
17 business shall be considered at such meetings. Such written notice may be dispensed with
18 as to any member who at or prior to the time the meeting convenes files with the presiding
19 officer or secretary of the body or commission a written waiver of notice. Such waiver may be
20 given by telegram. Such written notice may also be dispensed with as to any member who is
21 actually present at the meeting at the time it convenes. Each special meeting shall be held at
22 the regular meeting place of the policy body except that the policy body may designate an
23 alternate meeting place provided that such alternate location is specified in the notice of the
24 special meeting; further provided that the notice of the special meeting shall be given at least
25 15 days prior to said special meeting being held at an alternate location. This provision shall

1 not apply where the alternative meeting location is located within the same building as the
2 regular meeting place.

3 (g) If a meeting must be canceled, continued or rescheduled for any reason, notice
4 of such change shall be provided to the public as soon as is reasonably possible, including
5 posting of a cancellation notice in the same manner as described in section 67.7(c), and
6 mailed notice if sufficient time permits.

7 (h) Each policy body shall designate one or more posting locations for notices and agendas
8 required by this ordinance. The Commission for Open Government shall be so notified in writing and
9 shall cause a master list to be maintained of such designated location by the policy bodies.

10 **Section 67.7. AGENDA REQUIREMENTS; REGULAR MEETINGS.**

11 (a) At least 72 hours before a regular meeting, a policy body shall post an agenda
12 containing a meaningful description of each item of business to be transacted or discussed at
13 the meeting. Agendas shall specify for each item of business the proposed action or a
14 statement the item is for discussion only. In addition, a policy body shall post a current
15 agenda on its Internet site at least 72 hours before a regular meeting.

16 (b) A description is meaningful if it is sufficiently clear and specific to alert a person
17 of average intelligence and education whose interests are affected by the item that he or she
18 may have reason to attend the meeting or seek more information on the item. The description
19 should be brief, concise and written in plain, easily understood English. It shall refer to any
20 explanatory documents that have been provided to the policy body in connection with an
21 agenda item, such as correspondence or reports, and such documents shall be posted
22 adjacent to the agenda or, if such documents are of more than one page in length, made
23 available for public inspection and copying at a location indicated on the agenda during
24 normal office hours.

25

1 (c) The agenda shall specify the time and location of the regular meeting and shall
2 be posted at the main public library, in the branch libraries and in a location that is freely
3 accessible to members of the public.

4 (d) No action or discussion shall be undertaken on any item not appearing on the
5 posted agenda, except that members of a policy body may respond to statements made or
6 questions posed by persons exercising their public testimony rights, to the extent of asking a
7 question for clarification, providing a reference to staff or other resources for factual
8 information, or requesting staff to report back to the body at a subsequent meeting concerning
9 the matter raised by such testimony.

10 (e) Notwithstanding subdivision (d), the policy body may take action on items of
11 business not appearing on the posted agenda under any of the following conditions:

12 (1) Upon a determination by a majority vote of the body that an accident, natural
13 disaster or work force disruption poses a threat to public health and safety.

14 (2) Upon a good faith, reasonable determination by a two-thirds vote of the body, or,
15 if less than two-thirds of the members are present, a unanimous vote of those members
16 present, that (A) the need to take immediate action on the item is so imperative as to threaten
17 serious injury to the public interest if action were deferred to a subsequent special or regular
18 meeting, or relates to a purely commendatory action, and (B) that the need for such action
19 came to the attention of the body subsequent to the agenda being posted as specified in
20 subdivision (a).

21 (3) The item was on an agenda posted pursuant to subdivision (a) for a prior
22 meeting of the body occurring not more than five calendar days prior to the date action is
23 taken on the item, and at the prior meeting the item was continued to the meeting at which
24 action is being taken.

25

1 (f) Each board and commission enumerated in the charter shall ensure that
2 agendas for regular and special meetings are made available to speech and hearing impaired
3 persons through telecommunications devices for the deaf, telecommunications relay services
4 or equivalent systems, and, upon request, to sight impaired persons through Braille or
5 enlarged type.

6 (g) Each policy body shall ensure that notices and agendas for regular and special
7 meetings shall include the following notice:

8
9 KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT~~SUNSHINE~~ ORDINANCE
10 (Chapter 67 of the San Francisco Administrative Code)

11
12 Government's duty is to serve the public, reaching its decisions in full view of the
13 public. Commissions, boards, councils and other agencies of the City and County exist to
14 conduct the people's business. This ordinance assures that deliberations are conducted
15 before the people and that City operations are open to the people's review.

16
17 FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE
18 OPEN GOVERNMENT~~SUNSHINE~~ ORDINANCE
19 OR TO REPORT A VIOLATION OF THE ORDINANCE,
20 CONTACT THE COMMISSION FOR OPEN GOVERNMENT~~SUNSHINE ORDINANCE TASK~~
21 ~~FORCE~~.

22
23 (h) Each agenda of a policy body covered by this Open Government~~Sunshine~~
24 Ordinance shall include the address, area code and phone number, fax number, e-mail
25 address, and a contact person for the Commission for Open Government~~person's name for the~~

1 ~~Sunshine Ordinance Task Force~~. Information on how to obtain a free copy of the Sunshine
2 Ordinance shall be included on each agenda.

3 **Section 67.7-1. PUBLIC NOTICE REQUIREMENTS.**

4 (a) Any public notice that is mailed, posted or published by a City department,
5 board, agency or commission to residents residing within a specific area to inform those
6 residents of a matter that may impact their property or that neighborhood area, shall be brief,
7 concise and written in plain, easily understood English.

8 (b) The notice should inform the residents of the proposal or planned activity, the
9 length of time planned for the activity, the effect of the proposal or activity, and a telephone
10 contact for residents who have questions.

11 (c) If the notice informs the public of a public meeting or hearing, then the notice
12 shall state that persons who are unable to attend the public meeting or hearing may submit to
13 the City, by the time the proceeding begins, written comments regarding the subject of the
14 meeting or hearing, that these comments will be made a part of the official public record, and
15 that the comments will be brought to the attention of the person or persons conducting the
16 public meeting or hearing. The notice should also state the name and address of the person
17 or persons to whom those written comments should be submitted.

18 (d) When notice is given, as provided in these articles, by public policy or advisory bodies
19 other than those listed in Section 67.7-1, members of the public may submit statements and/or
20 comments regarding any item on those bodies' meeting agendas; those statements or comments shall
21 become a public record, regardless of whether their authors are present when the item at issue is
22 discussed; statements or comments shall be subject to review and consideration by those bodies if
23 submitted before or during the hearing on the item. Statements or comments received within ten
24 business days after the hearing shall go on the public record with a notation as to when it was received.

25

1 **Section 67.9. AGENDAS AND RELATED MATERIALS: PUBLIC RECORDS.**

2 (a) Agendas of meetings, meeting packets, or documents created by a department, and
3 any other documents on file with the clerk of the policy body, ~~when intended for distribution to~~
4 ~~all, or a majority of all, of the members of a policy body~~ in connection with a matter anticipated for
5 discussion or consideration at a public meeting shall be made available to the public for
6 inspection and copying at the office of the policy body at least 48 hours before the hearing and be
7 available to the public in sufficient quantities at the hearing commensurate with the anticipated number
8 of people attending the hearing. The materials that are distributed at the hearing shall be of such a
9 quality that a person with 20/20 vision would have no difficulty reading them. To the extent
10 possible, such documents shall also be made available through the policy body's Internet site.
11 However, this disclosure need not include any material exempt from public disclosure under
12 this ordinance.

13 (b) Records which are subject to disclosure under subdivision (a) and which are
14 intended for distribution to a policy body prior to commencement of a public meeting shall be
15 made available for public inspection and copying upon request prior to commencement of
16 such meeting, whether or not actually distributed to or received by the body at the time of the
17 request.

18 (c) Records which are subject to disclosure under subdivision (a) and which are
19 distributed during a public meeting but prior to commencement of their discussion shall be
20 made available for public inspection prior to commencement of, and during, their discussion.

21 (d) Records which are subject to disclosure under subdivision (a) and which are
22 distributed during their discussion at a public meeting shall be made available for public
23 inspection immediately or as soon thereafter as is practicable.

24 (e) A policy body may charge a duplication fee of one cent per page for a copy of a
25 public record prepared for consideration at a public meeting, unless a special fee has been

1 established pursuant to the procedure set forth in Section 67.28(d). Neither this section nor
2 the California Public Records Act (Government Code sections 6250 et seq.) shall be
3 construed to limit or delay the public's right to inspect any record required to be disclosed by
4 that act, whether or not distributed to a policy body.

5 **Section 67.13. BARRIERS TO ATTENDANCE PROHIBITED.**

6 (a) No policy body shall conduct any meeting, conference or other function in any
7 facility that excludes persons on the basis of actual or presumed class identity or
8 characteristics, or which is inaccessible to persons with physical disabilities, or where
9 members of the public may not be present without making a payment or purchase. Whenever
10 the Board of Supervisors, a board or commission enumerated in the charter, or any committee
11 thereof anticipates that the number of persons attending the meeting will exceed the legal
12 capacity of the meeting room, any public address system used to amplify sound in the
13 meeting room shall be extended by supplementary speakers to permit the overflow audience
14 to listen to the proceedings in an adjacent room or passageway, unless such supplementary
15 speakers would disrupt the operation of a City office.

16 (b) Each board and commission enumerated in the charter shall provide sign
17 language interpreters or note-takers at each regular meeting, provided that a request for such
18 services is communicated to the secretary or clerk of the board or commission at least 48
19 hours before the meeting, except for Monday meetings, for which the deadline shall be 4 p.m.
20 of the last business day of the preceding week.

21 (c) Each board and commission enumerated in the charter shall ensure that
22 accessible seating for persons with disabilities, including those using wheelchairs, is made
23 available for each regular and special meeting.

24 (d) Each board and commission enumerated in the charter shall include on the
25 agenda for each regular and special meeting the following statement: "In order to assist the

1 City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple
2 chemical sensitivity or related disabilities, attendees at public meetings are reminded that
3 other attendees may be sensitive to various chemical based products. Please help the City
4 accommodate these individuals."

5 (e) All policy bodies ~~The Board of Supervisors~~ shall seek to provide translators at each
6 of its regular meetings and all meetings of its committees for each language requested, where
7 the translation is necessary to enable San Francisco residents with limited English proficiency
8 to participate in the proceedings provided that a request for such translation services is
9 communicated to the policy body ~~Clerk of the Board of Supervisors~~ at least 48 hours before the
10 meeting. For meetings on a Monday or a Tuesday, the request must be made by noon of the
11 last business day of the preceding week. The policy body ~~Clerk of the Board of Supervisors~~ shall
12 first solicit volunteers from the ranks of City employees and/or from the community to serve as
13 translators. If volunteers are not available the policy body ~~Clerk of the Board of Supervisors~~ may
14 next solicit translators from non-profit agencies, which may be compensated. If these options
15 do not provide the necessary translation services, the policy body ~~Clerk~~ may employ
16 professional translators. The unavailability of a translator shall not affect the ability of the
17 policy body ~~Board of Supervisors~~ or its committees to deliberate or vote upon any matter
18 presented to them. In any calendar year in which the costs to the City for providing translator
19 services under this subsection exceeds \$20,000, the Board of Supervisors shall, as soon as
20 possible thereafter, review the provisions of this subsection.

21 (f) Each policy body that meets in City Hall and televises its meetings on the San Francisco
22 Government Cable Channel may provide for participation by members of the public via telephone
23 “bridge lines” for public comment on each item in the same manner as if the member of the public
24 were in actual physical attendance at the meeting. Each policy body subject to this provision may
25 develop reasonable procedures for its implementation.

1 **Section 67.14. TAPE RECORDING, FILMING AND STILL PHOTOGRAPHY.**

2 (a) Any person attending an open and public meeting of a policy body shall have
3 the right to record the proceedings with an audio or video recorder or a still or motion picture
4 camera, or to broadcast the proceedings, in the absence of a reasonable finding of the policy
5 body that the recording or broadcast cannot continue without such noise, illumination or
6 obstruction of view as to constitute a persistent disruption of the proceedings.

7 (b) All policy bodies ~~Each board and commission enumerated in the charter~~ shall audio
8 record each regular and special meeting. Each such audio recording, and any audio or video
9 recording of a meeting of any other policy body made at the direction of the policy body shall
10 be a public record subject to inspection pursuant to the California Public Records Act
11 (Government Code Section 6250 et seq.), and shall not be erased or destroyed and shall be
12 retained for at least ten years, or permanently where technologically and economically
13 feasible. ~~The audio and/or video record shall be kept indefinitely as current technology~~
14 ~~allows.~~ Inspection of any such recording shall be provided without charge on an appropriate
15 play back device made available by the City. Requests shall be made through the department,
16 board, commission, task force, or committee whose meeting is recorded.

17 **Section 67.15. PUBLIC TESTIMONY.**

18 (a) Every agenda for regular meetings shall provide an opportunity for members of
19 the public to directly address a policy body on items of interest to the public that are within
20 policy body's subject matter jurisdiction, provided that no action shall be taken on any item not
21 appearing on the agenda unless the action is otherwise authorized by Section 67.7(e) of this
22 article. However, in the case of a meeting of the Board of Supervisors, the agenda need not
23 provide an opportunity for members of the public to address the Board on any item that has
24 already been considered by a committee, composed exclusively of members of the Board, at
25 a public meeting wherein all interested members of the public were afforded the opportunity to

1 address the committee on the item, before or during the committee's consideration of the
2 item, unless the item has been substantially changed since the committee heard the item, as
3 determined by the Board.

4 (b) Every agenda for ~~special~~ meetings at which action is proposed to be taken on an
5 item shall provide an opportunity for each member of the public to directly address the body
6 concerning that item prior to action thereupon.

7 (c) A policy body ~~shall may~~ adopt reasonable regulations to ensure that the intent of
8 subdivisions (a) and (b) are carried out, including, but not limited to, regulations limiting the
9 total amount of time allocated for public testimony on particular issues and for each individual
10 speaker. Each policy body shall adopt a rule providing that each person wishing to speak on
11 an item before the body at a regular or special meeting shall be permitted to be heard once for
12 a minimum of ~~up to~~ three minutes. Time limits shall be applied uniformly to members of the
13 public wishing to testify.

14 (1) A chair shall accept public testimony in a fair and evenhanded way, without
15 manipulation in the order of speakers. A policy body and each advisory committee shall adopt
16 regulations for the order of speaking, which shall include but is not limited to the following:

17 (A) Speaker cards, when available and submitted, shall be used in the order of submission
18 as the order of speakers, except that the chair may alternate "pro" and "con" speakers if they are
19 designated on the forms.

20 (B) Members of the public who have not submitted speakers cards may form a line to speak
21 and shall be called upon in the order of appearance at the front of the line, except that the chair may
22 allow disabled or elderly-frail members of the public to speak out of turn.

23 (C) If a meeting is recessed, adjourned or a break has been ordered by the chair, the order
24 of speakers from the previous session shall be maintained.

1 (d) A policy body shall not abridge or prohibit public criticism of the policy,
2 procedures, programs or services of the City, or of any other aspect of its proposals or
3 activities, or of the acts or omissions of the body, on the basis that the performance of one or
4 more public employees is implicated, or on any basis other than reasonable time constraints
5 adopted in regulations pursuant to subdivision (c) of this section.

6 (e) To facilitate public input, any agenda changes or continuances shall be
7 announced by the presiding officer of a policy body at the beginning of a meeting, or as soon
8 thereafter as the change or continuance becomes known to such presiding officer

9 **Section 67.16. MINUTES.**

10 (a) The clerk or secretary of all policy bodies ~~each board and commission enumerated in~~
11 ~~the charter~~ shall record the minutes for each regular and special meeting of those bodies~~the~~
12 ~~board or commission~~. The minutes shall state the time the meeting was called to order, the
13 names of the members attending the meeting, the roll call vote on each matter considered at
14 the meeting, the time the board or commission began and ended any closed session, the
15 names of the members and the names, and titles where applicable, of any other persons
16 attending any closed session, a list of those members of the public who spoke on each matter
17 if the speakers identified themselves, whether such speakers supported or opposed the
18 matter, a brief summary of each person's statement during the public comment period for
19 each agenda item, and the time the meeting was adjourned. Any person speaking during a
20 public comment period may supply a brief written summary of their comments which shall, if
21 no more than 150 words, be included in the minutes.

22 (b) The draft minutes of each meeting shall be posted on the policy body's website, if
23 any, and be available for inspection and copying upon request no later than ten working days
24 after the meeting. The officially adopted minutes shall be available for inspection and copying
25 upon request no later than ten working days after the meeting at which the minutes are

1 adopted. Upon request, minutes required to be produced by this section shall be made
2 available in Braille or increased type size.

3 **Section 67.21. PROCESS FOR GAINING ACCESS TO PUBLIC RECORDS;**
4 **ADMINISTRATIVE APPEALS.**

5 (a) Every person having custody of any public record or public information, as
6 defined herein, (hereinafter referred to as a custodian of a public record) shall, at normal times
7 and during normal and reasonable hours of operation, without unreasonable delay, and
8 without requiring an appointment, permit the public record, or any segregable portion of a
9 record, to be inspected and examined by any person and shall furnish one copy thereof upon
10 payment of a reasonable copying charge, not to exceed the lesser of the actual cost or ten
11 cents per page.

12 (b) A custodian of a public record shall, as soon as possible and within ten days
13 following receipt of a request for inspection or copy of a public record, comply with such
14 request. Such request may be delivered to the office of the custodian by the requester orally
15 or in writing by fax, postal delivery, or e-mail. If the custodian believes the record or
16 information requested is not a public record or is exempt, the custodian shall justify
17 withholding any record by demonstrating, in writing as soon as possible and within ten days
18 following receipt of a request, that the record in question is exempt under express provisions
19 of this ordinance.

20 (c) A custodian of a public record shall assist a requester in identifying the
21 existence, form, and nature of any records or information maintained by, available to, or in the
22 custody of the custodian, whether or not the contents of those records are exempt from
23 disclosure and shall, when requested to do so, provide in writing within seven days following
24 receipt of a request, a statement as to the existence, quantity, form and nature of records
25 relating to a particular subject or questions with enough specificity to enable a requester to

1 identify records in order to make a request under (b). A custodian of any public record, when
2 not in possession of the record requested, shall assist a requester in directing a request to the
3 proper office or staff person.

4 (d) If the custodian refuses, fails to comply, or incompletely complies with a request
5 described in (b), the person making the request may petition the supervisor of records for a
6 determination whether the record requested is public. The supervisor of records shall inform
7 the petitioner, as soon as possible and within 10 days, of its determination whether the record
8 requested, or any part of the record requested, is public. Where requested by the petition,
9 and where otherwise desirable, this determination shall be in writing. Upon the determination
10 by the supervisor of records that the record is public, the supervisor of records shall
11 immediately order the custodian of the public record to comply with the person's request. If
12 the custodian refuses or fails to comply with any such order within 5 days, the supervisor of
13 records shall notify the district attorney or the attorney general who shall take whatever
14 measures she or he deems necessary and appropriate to insure compliance with the
15 provisions of this ordinance.

16 (e) If the custodian refuses, fails to comply, or incompletely complies with a request
17 described in (b) above or if a petition is denied or not acted on by the supervisor of public
18 records, the person making the request may petition the Commission for Open
19 Government~~Sunshine Task Force~~ for a determination whether the record requested is public.
20 The Commission for Open Government~~Sunshine Task Force~~ shall inform the petitioner, as soon as
21 possible and within 2 days after its next meeting but in no case later than 45 days from when
22 a petition in writing is received, of its determination whether the record requested, or any part
23 of the record requested, is public. Where requested by the petition, and where otherwise
24 desirable, this determination shall be in writing. Upon the determination that the record is
25 public, the Commission for Open Government~~Sunshine Task Force~~ shall immediately order the

1 custodian of the public record to comply with the person's request. If the custodian refuses or
2 fails to comply with any such order within 5 days, the Sunshine Task Force shall notify the
3 district attorney or the attorney general who may take whatever measures she or he deems
4 necessary to insure compliance with the provisions of this ordinance. The Board of
5 Supervisors and the City Attorney's office shall provide sufficient staff and resources to allow
6 the Commission for Open Government Sunshine Task Force to fulfill its duties under this provision.
7 Where requested by the petition, the Commission for Open Government Sunshine Task Force may
8 conduct a public hearing concerning the records request denial. An authorized representative
9 of the custodian of the public records requested shall attend any hearing and explain the basis
10 for its decision to withhold the records requested.

11 (f) The administrative remedy provided under this article shall in no way limit the
12 availability of other administrative remedies provided to any person with respect to any officer
13 or employee of any agency, executive office, department or board; nor shall the administrative
14 remedy provided by this section in any way limit the availability of judicial remedies otherwise
15 available to any person requesting a public record. If a custodian of a public record refuses or
16 fails to comply with the request of any person for inspection or copy of a public record or with
17 an administrative order under this section, the superior court shall have jurisdiction to order
18 compliance.

19 (g) In any court proceeding pursuant to this article there shall be a presumption that
20 the record sought is public, and the burden shall be upon the custodian to prove with
21 specificity the exemption which applies.

22 (h) At least once a year, ~~On at least an annual basis,~~ and as otherwise requested by the
23 Commission for Open Government Sunshine Ordinance Task Force, the supervisor of public records
24 shall prepare a tally and report of every petition brought before it for access to records since
25 the time of its last tally and report. The report shall at least identify for each petition the record

1 or records sought, the custodian of those records, the ruling of the supervisor of public
2 records, whether any ruling was overturned by a court and whether orders given to custodians
3 of public records were followed. The report shall also summarize any court actions during that
4 period regarding petitions the Supervisor has decided. At the request of the Commission for
5 Open Government Sunshine Ordinance Task Force, the report shall also include copies of all
6 rulings made by the supervisor of public records and all opinions issued.

7 (i) The San Francisco City Attorney's office shall act to protect and secure the
8 rights of the people of San Francisco to access public information and public meetings and
9 shall not act as legal counsel for any city employee or any person having custody of any
10 public record for purposes of denying access to the public. The City Attorney may publish
11 legal opinions in response to a request from any person as to whether a record or information
12 is public. All communications with the City Attorney's Office with regard to this ordinance,
13 including petitions, requests for opinion, and opinions shall be public records.

14 (j) Notwithstanding the provisions of this section, the City Attorney may defend the
15 City or a City Employee in litigation under this ordinance that is actually filed in court to any
16 extent required by the City Charter or California Law.

17 (k) Release of documentary public information, whether for inspection of the original
18 or by providing a copy, shall be governed by the California Public Records Act (Government
19 Code Section 6250 et seq.) in particulars not addressed by this ordinance and in accordance
20 with the enhanced disclosure requirements provided in this ordinance.

21 (l) Inspection and copying of documentary public information stored in electronic
22 form shall be made available to the person requesting the information in any form requested
23 which is available to or easily generated by the department, its officers or employees,
24 including disk, tape, printout or monitor at a charge no greater than the cost of the media on
25 which it is duplicated. Inspection of documentary public information on a computer monitor

1 need not be allowed where the information sought is necessarily and unseparably intertwined
2 with information not subject to disclosure under this ordinance. Nothing in this section shall
3 require a department to program or reprogram a computer to respond to a request for
4 information or to release information where the release of that information would violate a
5 licensing agreement or copyright law.

6 **Section 67.22. RELEASE OF ORAL PUBLIC INFORMATION.**

7 Release of oral public information shall be accomplished as follows:

8 (a) Every department head shall designate a person or persons knowledgeable
9 about the affairs of the department, to provide information, including oral information, to the
10 public about the department's operations, plans, policies and positions. The department head
11 may designate himself or herself for this assignment, but in any event shall arrange that an
12 alternate be available for this function during the absence of the person assigned primary
13 responsibility. If a department has multiple bureaus or divisions, the department may
14 designate a person or persons for each bureau or division to provide this information.

15 (b) The role of the person or persons so designated shall be to provide information
16 on as timely and responsive a basis as possible to those members of the public who are not
17 requesting information from a specific person. This section shall not be interpreted to curtail
18 existing informal contacts between employees and members of the public when these
19 contacts are occasional, acceptable to the employee and the department, not disruptive of his
20 or her operational duties and confined to accurate information not confidential by law.

21 (c) ~~No employee shall be required to respond to an inquiry or inquiries from an individual~~
22 ~~if~~ If it would take ~~an the~~ employee more than fifteen minutes to obtain the information
23 responsive to ~~an the~~ inquiry or inquiries from a member of the public, the employee shall notify the
24 requestor of the procedures for obtaining records under sections 67.21(a), (b), and (c), and 67.25 of
25 this Ordinance.

1 (d) Public employees shall not be discouraged from or disciplined for the expression
2 of their personal opinions on any matter of public concern while not on duty, so long as the
3 opinion (1) is not represented as that of the department and does not misrepresent the
4 department position; and (2) does not disrupt coworker relations, impair discipline or control
5 by superiors, erode a close working relationship premised on personal loyalty and
6 confidentiality, interfere with the employee's performance of his or her duties or obstruct the
7 routine operation of the office in a manner that outweighs the employee's interests in
8 expressing that opinion. In adopting this subdivision, the Board of Supervisors intends merely
9 to restate and affirm court decisions recognizing the First Amendment rights enjoyed by public
10 employees. Nothing in this section shall be construed to provide rights to City employees
11 beyond those recognized by courts, now or in the future, under the First Amendment, or to
12 create any new private cause of action or defense to disciplinary action.

13 (e) Notwithstanding any other provisions of this ordinance, public employees shall
14 not be discouraged from or disciplined for disclosing any information that is public information
15 or a public record to any journalist or any member of the public. Any public employee who is
16 disciplined for disclosing public information or a public record shall have a cause of action
17 against the City and the supervisor imposing the discipline.

18 **Section 67.23. PUBLIC REVIEW FILE - POLICY BODY COMMUNICATIONS.**

19 (a) The clerk of the Board of Supervisors and the clerk of each *policy body board and*
20 *commission enumerated in the charter* shall maintain a file, accessible to any person during
21 normal office hours, containing a copy of any letter, memorandum or other communication
22 which the clerk has distributed to or received from a quorum of the policy body concerning a
23 matter calendared by the body within the previous 30 days or likely to be calendared within
24 the next 30 days, irrespective of subject matter, origin or recipient, except commercial
25 solicitations, periodical publications or communications exempt from disclosure under the

1 California Public Records Act (Government Code Section 6250 et seq.) and not deemed
2 disclosable under Section 67.24 of this article.

3 (b) Communications, as described in subsection (a), sent or received in the last
4 three business days shall be maintained in chronological order in the office of the department
5 head or at a place nearby, clearly designated to the public. After documents have been on file
6 for two full days, they may be removed, and, in the discretion of the board or commission,
7 placed in a monthly chronological file.

8 (c) Multiple-page reports, studies or analyses which are accompanied by a letter or
9 memorandum of transmittal need not be included in the file so long as the letter or
10 memorandum of transmittal is included.

11 (d) Each policy body shall keep a master list of documents involving capital projects for
12 public inspection. The list shall specify the document date and the identification of the document.

13 **Section 67.24. PUBLIC INFORMATION THAT MUST BE DISCLOSED.**

14 Notwithstanding a department's legal discretion to withhold certain information under
15 the California Public Records Act, the following policies shall govern specific types of
16 documents and information and shall provide enhanced rights of public access to information
17 and records:

18 (a) Drafts and Memoranda.

19 (1) Except as provided in subparagraph (2), no preliminary draft or department
20 memorandum, whether in printed or electronic form, shall be exempt from disclosure under
21 Government Code Section 6254, subdivision (a) or any other provision. If such a document is
22 not normally kept on file and would otherwise be disposed of, its factual content is not exempt
23 under subdivision (a). Only the recommendation of the author may, in such circumstances,
24 be withheld as exempt.

25

1 (2) Draft versions of an agreement being negotiated by representatives of the City
2 with some other party need not be disclosed immediately upon creation but must be
3 preserved and made available for public review for 10 days prior to the presentation of the
4 agreement for approval by a policy body, unless the body finds that and articulates how the
5 public interest would be unavoidably and substantially harmed by compliance with this 10 day
6 rule, provided that policy body as used in this subdivision does not include committees. In the
7 case of negotiations for a contract, lease or other business agreement in which an agency of
8 the City is offering to provide facilities or services in direct competition with other public or
9 private entities that are not required by law to make their competing proposals public or do not
10 in fact make their proposals public, the policy body may postpone public access to the final
11 draft agreement until it is presented to it for approval.

12 (b) Litigation Material.

13 (1) Notwithstanding any exemptions otherwise provided by law, the following are
14 public records subject to disclosure under this Ordinance:

15 (i) A pre-litigation claim against the City;

16 (ii) A record previously received or created by a department in the ordinary course
17 of business that was not attorney/client privileged when it was previously received or created;

18 (iii) Advice on compliance with, analysis of, an opinion concerning liability under, or
19 any communication otherwise concerning the California Public Records Act, the Ralph M.
20 Brown Act, the Political Reform Act, any San Francisco governmental ethics code, or this
21 Ordinance.

22 (2) Unless otherwise privileged under California law, when litigation is finally
23 adjudicated or otherwise settled, records of all communications between the department and
24 the adverse party shall be subject to disclosure, including the text and terms of any
25 settlement.

1 (c) Personnel Information. None of the following shall be exempt from disclosure
2 under Government Code Section 6254, subdivision (c), or any other provision of California
3 Law where disclosure is not forbidden:

4 (1) The job pool characteristics and employment and education histories of all
5 successful job applicants, including at a minimum the following information as to each
6 successful job applicant:

7 (i) Sex, ~~age~~ and ethnic group;

8 (ii) Years of graduate and undergraduate study, degree(s) and major or discipline;

9 (iii) Years of employment in the private and/or public sector;

10 (iv) Whether currently employed in the same position for another public agency.

11 (v) Other non-identifying particulars as to experience, credentials, aptitudes, training
12 or education entered in or attached to a standard employment application form used for the
13 position in question.

14 (2) The professional biography or curriculum vitae of any employee, provided that
15 the home address, home telephone number, social security number, age, and marital status
16 of the employee shall be redacted.

17 (3) The job description of every employment classification.

18 (4) The exact gross salary and City-paid benefits available to every employee.

19 (5) Any memorandum of understanding between the City or department and a
20 recognized employee organization.

21 (6) The amount, basis, and recipient of any performance-based increase in
22 compensation, benefits, or both, or any other bonus, awarded to any employee, which shall
23 be announced during the open session of a policy body at which the award is approved.

24 (7) The record of any confirmed misconduct of a public employee involving personal
25 dishonesty, misappropriation of public funds, resources or benefits, unlawful discrimination

1 against another on the basis of status, abuse of authority, or violence, and of any discipline
2 imposed for such misconduct.

3 (d) Law Enforcement Information.

4 The District Attorney, Chief of Police, and Sheriff are encouraged to cooperate with the
5 press and other members of the public in allowing access to local records pertaining to
6 investigations, arrests, and other law enforcement activity. However, no provision of this
7 ordinance is intended to abrogate or interfere with the constitutional and statutory power and
8 duties of the District Attorney and Sheriff as interpreted under Government Code section
9 25303, or other applicable state law or judicial decision. Records pertaining to any
10 investigation, arrest or other law enforcement activity shall be disclosed to the public once the
11 District Attorney or court determines that a prosecution will not be sought against the subject
12 involved, or once the statute of limitations for filing charges has expired, whichever occurs
13 first. Notwithstanding the occurrence of any such event, individual items of information in the
14 following categories may be segregated and withheld if, on the particular facts, the public
15 interest in nondisclosure clearly and substantially outweighs the public interest in disclosure:

16 (1) The names of juvenile witnesses (whose identities may nevertheless be
17 indicated by substituting a number or alphabetical letter for each individual interviewed);

18 (2) Personal or otherwise private information related to or unrelated to the
19 investigation if disclosure would constitute an unwarranted invasion of privacy;

20 (3) The identity of a confidential source;

21 (4) Secret investigative techniques or procedures;

22 (5) Information whose disclosure would endanger law enforcement personnel; or

23 (6) Information whose disclosure would endanger the successful completion of an
24 investigation where the prospect of enforcement proceedings is concrete and definite.

25

1 This subdivision shall not exempt from disclosure any portion of any record of a
2 concluded inspection or enforcement action by an officer or department responsible for
3 regulatory protection of the public health, safety, or welfare.

4 (e) Contracts, Bids and Proposals

5 (1) All initial City Requests for Proposals ("RFPs") shall be kept in a central repository
6 and shall be made available for public inspection. In addition, the RFPs shall be placed on the City's
7 website for a period from the date the RFP is issued until the date that the responses to the RFP are
8 due.

9 ~~(2)(1)~~ Contracts, contractors' bids, responses to requests for proposals and all other
10 records of communications between the department and persons or firms seeking contracts
11 shall be open to inspection immediately after a contract has been awarded. Nothing in this
12 provision requires the disclosure of a private person's or organization's net worth or other
13 proprietary financial data submitted for qualification for a contract or other benefit until and
14 unless that person or organization is awarded the contract or benefit. All bidders and
15 contractors shall be advised that information provided which is covered by this subdivision will
16 be made available to the public upon request. Immediately after any review or evaluation or
17 rating of responses to a Request for Proposal ("RFP") has been completed, evaluation forms
18 and score sheets and any other documents used by persons in the RFP evaluation or
19 contractor selection process shall be available for public inspection. The names of scorers,
20 graders or evaluators, along with their individual ratings, comments, and score sheets or
21 comments on related documents, shall be made immediately available after the review or
22 evaluation of a RFP has been completed.

23 ~~(3)(2)~~ Notwithstanding the provisions of this subdivision or any other provision of this
24 ordinance, the Director of Public Health may withhold from disclosure proposed and final rates
25 of payment for managed health care contracts if the Director determines that public disclosure

1 would adversely affect the ability of the City to engage in effective negotiations for managed
2 health care contracts. The authority to withhold this information applies only to contracts
3 pursuant to which the City (through the Department of Public Health) either pays for health
4 care services or receives compensation for providing such services, including mental health
5 and substance abuse services, to covered beneficiaries through a pre-arranged rate of
6 payment. This provision also applies to rates for managed health care contracts for the
7 University of California, San Francisco, if the contract involves beneficiaries who receive
8 services provided jointly by the City and University. This provision shall not authorize the
9 Director to withhold rate information from disclosure for more than three years.

10 ~~(4)~~ (3) During the course of negotiations for:

11 (i) personal, professional, or other contractual services not subject to a competitive
12 process or where such a process has arrived at a stage where there is only one qualified or
13 responsive bidder;

14 (ii) leases or permits having total anticipated revenue or expense to the City and
15 County of five hundred thousand dollars (\$500,000) or more or having a term of ten years or
16 more; or

17 (iii) any franchise agreements, all documents exchanged and related to the position
18 of the parties, including draft contracts, shall be made available for public inspection and
19 copying upon request. In the event that no records are prepared or exchanged during
20 negotiations in the above-mentioned categories, or the records exchanged do not provide a
21 meaningful representation of the respective positions, the city attorney or city representative
22 familiar with the negotiations shall, upon a written request by a member of the public, prepare
23 written summaries of the respective positions within five working days following the final day
24 of negotiation of any given week. The summaries will be available for public inspection and
25 copying. Upon completion of negotiations, the executed contract, including the dollar amount

1 of said contract, shall be made available for inspection and copying. No later than July 15th
2 annually. ~~At the end of each fiscal year,~~ each City department shall provide to the Board of
3 Supervisors a list of all sole source contracts entered into or renewed during the past fiscal
4 year. This list shall be made available for inspection and copying as provided for elsewhere in
5 this Article.

6 (f) Budgets and Other Financial Information. Budgets, whether tentative, proposed
7 or adopted, for the City or any of its departments, programs, projects or other categories, and
8 all bills, claims, invoices, vouchers or other records of payment obligations as well as records
9 of actual disbursements showing the amount paid, the payee and the purpose for which
10 payment is made, other than payments for social or other services whose records are
11 confidential by law, shall not be exempt from disclosure under any circumstances.

12 (g) Neither the City nor any office, employee, or agent thereof may assert California
13 Public Records Act Section 6255 or any similar provision as the basis for withholding any
14 documents or information requested under this ordinance.

15 (h) Neither the City nor any office, employee, or agent thereof may assert an
16 exemption for withholding for any document or information based on a "deliberative process"
17 exemption, either as provided by California Public Records Act Section 6255 or any other
18 provision of law that does not prohibit disclosure.

19 (i) Neither the City, nor any office, employee, or agent thereof, may assert an
20 exemption for withholding for any document or information based on a finding or showing that
21 the public interest in withholding the information outweighs the public interest in disclosure.
22 All withholdings of documents or information must be based on an express provision of this
23 ordinance providing for withholding of the specific type of information in question or on an
24 express and specific exemption provided by California Public Records Act that is not
25 forbidden by this ordinance.

1 **Section 67.25. IMMEDIACY OF RESPONSE.**

2 (a) Notwithstanding the 10-day period for response to a request permitted in
3 Government Code Section ~~6253.6256~~ and in this Article, a written request for information
4 described in any category of non-exempt public information shall be satisfied *with a response to*
5 *the requester in the mode of communication that the request was received (i.e. fax, e-mail, or mail) or*
6 *in the mode requested by the requester* no later than the close of business on the day following
7 the day of the request. This deadline shall apply only if the words "Immediate Disclosure
8 Request" are placed across the top of the request and on the envelope, subject line, or cover
9 sheet in which the request is transmitted. Maximum deadlines provided in this article are
10 appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling
11 a simple, routine or otherwise readily answerable request.

12 (b) If the voluminous nature of the information requested, its location in a remote
13 storage facility or the need to consult with another interested department warrants an
14 extension of ~~14-10~~ days as provided in Government Code Section ~~6253(c)(1)6456.1~~, the
15 requester shall be notified as required by the close of business on the business day following
16 the request.

17 (c) The person seeking the information need not state his or her reason for making
18 the request or the use to which the information will be put, and requesters shall not be
19 routinely asked to make such a disclosure. Where a record being requested contains
20 information most of which is exempt from disclosure under the California Public Records Act
21 and this article, however, the City Attorney or custodian of the record may inform the
22 requester of the nature and extent of the non-exempt information and inquire as to the
23 requester's purpose for seeking it, in order to suggest alternative sources for the information
24 which may involve less redaction or to otherwise prepare a response to the request.

1 (d) Notwithstanding any provisions of California Law or this ordinance, in response
2 to a request for information describing any category of non-exempt public information, when
3 so requested, the City and County shall produce any and all responsive public records as
4 soon as reasonably possible on an incremental or "rolling" basis such that responsive records
5 are produced as soon as possible by the end of the same business day that they are reviewed
6 and collected. This section is intended to prohibit the withholding of public records that are
7 responsive to a records request until all potentially responsive documents have been
8 reviewed and collected. Failure to comply with this provision is a violation of this article.

9 **Section 67.28. FEES FOR DUPLICATION.**

10 (a) No fee shall be charged for making public records available for review.

11 (b) For documents routinely produced in multiple copies for distribution, e.g.
12 meeting agendas and related materials, unless a special fee has been established pursuant to
13 subdivision (d) of this section, a fee not to exceed one cent per page may be charged, plus
14 any postage costs.

15 (c) For documents assembled and copied to the order of the requester, unless a
16 special fee has been established pursuant to subdivision (d) of this section, a fee not to
17 exceed the actual cost of materials ~~10 cents~~ per page may be charged, plus any postage.

18 (d) A department may establish and charge a higher fee than the one cent
19 presumptive fee in subdivision (b) ~~and the 10 cent presumptive fee in subdivision (c)~~ if it prepares
20 and posts an itemized cost analysis establishing that its cost per page impression exceeds 10
21 cents or one cent, as the case may be. The cost per page impression shall include the
22 following costs: one sheet of paper; one duplication cycle of the copying machine in terms of
23 toner and other specifically identified operation or maintenance factors, excluding electrical
24 power. Any such cost analysis shall identify the manufacturer, model, vendor and
25 maintenance contractor, if any, of the copying machine or machines referred to.

1 (e) Video copies of video recorded meetings shall be provided to the public upon
2 request for the actual cost of materials (i.e. tape) \$10.00 or less per meeting. Public requests for
3 videotapes shall be handled by the policy body whose meeting was recorded. Audiotapes of audio
4 taped meeting shall be provided upon public request for the actual cost of the tape by the policy body
5 whose meeting was recorded.

6 **Section 67.29. INDEX TO RECORDS.**

7 The City and County shall prepare a public records index that identifies the types of
8 information and documents maintained by City and County departments, agencies, boards,
9 commissions, and elected officers. The index shall be for the use of City officials, staff and
10 the general public, and shall be organized to permit a general understanding of the types of
11 information maintained, by which officials and departments, for which purposes and for what
12 periods of retention, and under what manner of organization for accessing, e.g. by reference
13 to a name, a date, a proceeding or project, or some other referencing system. The index
14 need not be in such detail as to identify files or records concerning a specific person,
15 transaction or other event, but shall clearly indicate where and how records of that type are
16 kept. Any such master index shall be reviewed by appropriate staff for accuracy and
17 presented for formal adoption to the administrative official or policy body responsible for the
18 indexed records. The City Administrator shall be responsible for the preparation of this
19 records index. The City Administrator shall report on the progress of the index to the
20 Commission for Open Government ~~Sunshine Ordinance Task Force~~ on at least a semi-annual basis
21 until the index is completed. Each department, agency, commission and public official shall
22 cooperate with the City Administrator to identify the types of records it maintains, including
23 those documents created by the entity and those documents received in the ordinary course
24 of business and the types of requests that are regularly received. Each department, agency,
25 commission and public official is encouraged to solicit and encourage public participation to

1 develop a meaningful records index. The index shall clearly and meaningfully describe, with
2 as much specificity as practicable, the individual types of records that are prepared or
3 maintained by each department, agency, commission or public official of the City and County.
4 The index shall be sufficient to aid the public in making an inquiry or a request to inspect. Any
5 changes in the department, agency, commission or public official's practices or procedures
6 affecting the accuracy of the information provided to the City Administrator shall be recorded
7 by the City Administrator on a periodic basis so as to maintain the integrity and accuracy of
8 the index. The index shall be continuously maintained on the City's World Wide Website and
9 made available at public libraries within the City and County of San Francisco.

10 **Section 67.29-1. RECORDS SURVIVE TRANSITION OF OFFICIALS.**

11 All documents prepared, received, or maintained by the Office of the Mayor, by any
12 elected city and county official, and by the head of any City or County Department are the
13 property of the City and County of San Francisco. The originals of these documents shall be
14 maintained consistent with the records retention policies of the City and County of San
15 Francisco. The City Attorney and his/her designee shall monitor the transition of the Mayor, members
16 of the Board of Supervisors, or any department head when he/she leaves office to ensure that public
17 documents are not unlawfully removed or destroyed during the transition.

18 **Section 67.29-3. AGREEMENTS BETWEEN CITY AND ADVERTISING PROVIDERS.**

19 Any future agreements between the city and an advertising space provider shall be
20 public records and shall include as a basis for the termination of the contract any action by, or
21 permitted by, the space provider to remove or deface or otherwise interfere with an
22 advertisement without first notifying the advertiser and the city and obtaining the advertiser's
23 consent. In the event advertisements are defaced or vandalized, the space provider shall
24 provide written notice to the city and the advertiser and shall allow the advertiser the option of
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1 replacing the defaced or vandalized material. Any request by any city official or by any space
2 provider to remove or alter any advertising must be in writing and shall be a public record.

3 **Section 67.29-5. CALENDARS OF CERTAIN ELECTED OFFICIALS, DEPARTMENT**
4 **HEADS AND HEADS OF OTHER AGENCIES.**

5 The Mayor, The City Attorney, *the members of the Board of Supervisors, and* every
6 Department Head, *and where legally required, the heads of agencies that are discussed in section*
7 *67.32 of this ordinance,* shall keep or cause to be kept a daily calendar wherein is recorded the
8 time and place of each meeting or event attended by that official, with the exclusion of purely
9 personal or social events at which no city business is discussed and that do not take place at
10 City Offices or at the offices or residences of people who do substantial business with or are
11 otherwise substantially financially affected by actions of the city. For meetings not otherwise
12 publicly recorded, the calendar shall include a general statement of issues discussed. Such
13 calendars shall be public records and shall be available to any requester three business days
14 subsequent to the calendar entry date.

15 **Section 67.29-6. SOURCES OF OUTSIDE FUNDING.**

16 No official or employee or agent of the city shall accept, allow to be collected, or direct
17 or influence the spending of, any money, or any goods or services worth more than one
18 hundred dollars in aggregate, for the purpose of carrying out or assisting any City function
19 unless the amount and source of all such funds is disclosed as a public record and made
20 available on the website for the department to which the funds are directed. When such funds
21 are provided or managed by an entity, and not an individual, that entity must agree in writing
22 to abide by *the disclosure requirements of* this ordinance. The disclosure shall include the
23 names of all individuals or organizations contributing such money and a statement as to any
24 financial interest the contributor has involving the City.

1 **Section 67.29-7. CORRESPONDENCE AND RECORDS SHALL BE MAINTAINED.**

2 (a) The Mayor, the Board of Supervisors and every member thereof, and all Department
3 Heads shall maintain, ~~and~~ preserve, and archive in a professional and businesslike manner all
4 documents and correspondence, including but not limited to letters, e-mails, drafts,
5 memorandum, invoices, reports and proposals that pertain to or are within the subject matter
6 jurisdiction of the official's duties (including but not limited to documents which may be the basis of
7 investigations of possible violations of the City's Codes) and shall disclose all such records in
8 accordance with this ordinance.

9 (b) Any e-mail that is created or received in connection with the transaction of public
10 business and which (1) the department or office retains as evidence of its activities, or (2) relates to the
11 legal or financial rights of the City or of persons directly affected by the activities of the City is a public
12 record. If the e-mail must be retained it should be printed out and the hard copy retained in the
13 appropriate file unless the department or office can reliably retain and retrieve the e-mail in electronic
14 format.

15 (c)(b) The Department of Elections shall keep and preserve all records and invoices
16 relating to the design and printing of ballots and other election materials and shall keep and
17 preserve records documenting who had custody of ballots from the time ballots are cast until
18 ballots are received and certified by the Department of Elections.

19 (d)(e) In any contract, agreement or permit between the City and any outside entity
20 that authorizes that entity to demand any funds or fees from citizens, the City shall ensure that
21 accurate records of each transaction are maintained in a professional and businesslike
22 manner and are available to the public as public records under the provisions of this
23 ordinance. Failure of an entity to comply with these provisions shall be grounds for
24 terminating the contract or for imposing a financial penalty equal to one-half of the fees
25 derived under the agreement or permit during the period of time when the failure was in effect.

1 Failure of any Department Head under this provision shall be a violation of this ordinance.
2 This paragraph shall apply to any agreement allowing an entity to tow or impound vehicles in
3 the City and shall apply to any agreement allowing an entity to collect any fee from any
4 persons in any pretrial diversion program.

5 **Section 67.30. THE COMMISSION FOR OPEN GOVERNMENT SUNSHINE ORDINANCE**
6 **TASK FORCE.**

7 (a) There is hereby established a task force to be known as the Commission for Open
8 Government Sunshine Ordinance Task Force consisting of eleven voting members appointed by
9 the Board of Supervisors. All members must have experience and/or demonstrated interest in
10 the issues of citizen access and participation in local government. Two members shall be
11 appointed from individuals whose names have been submitted by the local chapter of the
12 Society of Professional Journalists, one of whom shall be an attorney and one of whom shall
13 be a local journalist. One member shall be appointed from the press or electronic media.
14 One member shall be appointed from individuals whose names have been submitted by the
15 local chapter of the League of Women Voters. Four members shall be members of the public
16 who have demonstrated interest in or have experience in the issues of citizen access and
17 participation in local government. Two members shall be members of the public experienced
18 in consumer advocacy. One member shall be a journalist from a racial/ethnic-minority-owned
19 news organization and shall be appointed from individuals whose names have been submitted
20 by New California Media. ~~At all times the task force~~ The Commission shall include at least one
21 member who shall be a member of the public with a disability that meets the definition of disabled
22 under the Federal Americans with Disabilities Act and who is physically handicapped and who has
23 demonstrated interest in citizen access and participation in local government. The Mayor or
24 his or her designee, and the Clerk of the Board of Supervisors or his or her designee, and a
25 designated representative from the Youth Commission shall serve as non-voting members of the

1 Commission task force. The City Attorney shall serve as legal advisor to the Commission task
2 force. The Commission for Open Government Sunshine Ordinance Task Force shall, at its request,
3 have assigned to in an attorney from within the City Attorney's Office or other appropriate City
4 Office, who is experienced in public-access law matters. This attorney shall serve solely as a
5 legal advisor and advocate to the Commission Task Force and an ethical wall will be maintained
6 between the work of this attorney on behalf of the Commission Task Force and any person or
7 Office that the Commission Task Force determines may have a conflict of interest with regard to
8 the matters being handled by the attorney.

9 (b) The term of each appointive member shall be two years unless earlier removed
10 by the Board of Supervisors. In the event of such removal or in the event a vacancy
11 otherwise occurs during the term of office of any appointive member, a successor shall be
12 appointed for the unexpired term of the office vacated in a manner similar to that described
13 herein for the initial members. The Commission task force shall elect a chair from among its
14 appointive members. The term of office as chair shall be one year. Members of the
15 Commission task force shall serve without compensation.

16 (c) The Commission task force shall advise the Board of Supervisors and provide
17 information to other City departments on appropriate ways in which to implement this chapter.
18 The Commission task force shall develop appropriate goals to ensure practical and timely
19 implementation of this chapter. The Commission task force shall propose to the Board of
20 Supervisors amendments to this chapter. The Commission task force shall report to the Board
21 of Supervisors at least once annually on any practical or policy problems encountered in the
22 administration of this chapter. The Commission Task Force shall receive and review the annual
23 report of the Supervisor of Public Records and may request additional reports or information
24 as it deems necessary. The Commission Task Force shall make referrals to a municipal office
25 with enforcement power under this ordinance or under the California Public Records Act and

1 the Brown Act whenever it concludes that any person has violated any provisions of this
2 ordinance or the Acts. The ~~Commission Task Force~~ shall, from time to time as it sees fit, issue
3 public reports evaluating compliance with this ordinance and related California laws by the
4 City or any Department, Office, or Official thereof.

5 (d) The Commission shall conduct administrative hearings on complaints made by members
6 of the public for alleged violations of the public meeting or public records provisions of the Ordinance,
7 violations of the State Public Records Act, or the State Brown Act governing public meetings. The
8 Commission may issue Orders of Determination following the hearing on a particular complaint. An
9 Order of Determination finding a violation of the above state laws shall be evidence of such violation in
10 any other administrative or judicial proceeding.

11 (e) In the event that the Commission issues an Order of Determination finding that any
12 entity covered by the Open Government Ordinance violated the Ordinance in handling public meetings
13 or release of public records, the Commission may require that entity to schedule at its next regularly
14 scheduled meeting the Order of Determination for its discussion and response.

15 (f) Unless otherwise prohibited by state law or other existing local ordinance, the
16 Commission may subpoena witnesses, compel their attendance and testimony, administer oaths and
17 affirmation, take evidence and require by subpoena the production of any books, papers, records or
18 other items material to the performance of the Commission's duties or exercise of its powers.

19 (g) (1) In the event the Commission finds a serious violation of the Ordinance, the
20 Commission by a 2/3 vote of the entire body may seek outside counsel to prosecute the violation(s) of
21 the Ordinance in the Civil Courts to the extent permitted by the City Charter.

22 (2) The amount of expenditure shall be governed by the budget provisions of the City
23 Charter and in no event shall the expenditure to prosecute these cases be more than \$50,000.00 per
24 fiscal year.

25 ~~(d) In addition to the powers specified above, the Task Force shall possess such powers as~~

1 ~~the Board of Supervisors may confer upon it by ordinance or as the People of San Francisco shall~~
2 ~~confer upon it by initiative.~~

3 ~~(h)(e)~~ The ~~Commission Task Force~~ shall approve by-laws specifying a general schedule
4 for meetings, requirements for attendance by ~~Commission Task Force~~ members, and
5 procedures and criteria for removing members for non-attendance.

6 ~~(i)~~ In addition to the powers specified above, the Commission shall possess such powers as
7 the Board of Supervisors may confer upon it by ordinance or as the People of San Francisco shall
8 confer upon it by initiative.

9 **Section 67.31. RESPONSIBILITY FOR ADMINISTRATION.**

10 The Mayor shall administer and coordinate the implementation of the provisions of this
11 chapter for departments under his or her control. The Mayor shall administer and coordinate
12 the implementation of the provisions of this chapter for departments under the control of board
13 and commissions appointed by the Mayor. Elected officers shall administer and coordinate
14 the implementation of the provisions of this chapter for departments under their respective
15 control. The Clerk of the Board of Supervisors shall provide a full-time staff person to perform
16 administrative duties for the ~~Commission Sunshine Ordinance Task Force~~ and to assist any
17 person in gaining access to public meetings or public information. The Clerk of the Board of
18 Supervisors shall provide that staff person with whatever facilities and equipment are
19 necessary to perform said duties.

20 **Section 67.32. PROVISION OF SERVICES TO OTHER AGENCIES; SUNSHINE**
21 **REQUIRED.**

22 ~~(a)~~ It is the policy of the City and County of San Francisco to ensure opportunities for
23 informed civic participation embodied in this Ordinance to all local, state, regional and federal
24 agencies and institutions with which it maintains continuing legal and political relationships.
25 Officers, agents and other representatives of the City shall continually, consistently and

1 assertively work to seek commitments to enact open meetings, public information and citizen
2 comment policies by these agencies and institutions, including but not limited to the Presidio
3 Trust, the San Francisco Unified School District, the San Francisco Community College
4 District, the San Francisco Transportation Authority, the San Francisco Housing Authority, the
5 Treasure Island Development Authority, the San Francisco Redevelopment Authority and the
6 University of California. To the extent not expressly prohibited by law, copies of all written
7 communications with the above identified entities and any City employee, officer, agents, or
8 and representative, shall be accessible as public records. To the extent not expressly
9 prohibited by law, any meeting of the governing body of any such agency and institution at
10 which City officers, agents or representatives are present in their official capacities shall be
11 open to the public, and this provision cannot be waived by any City officer, agent or
12 representative. To the extent not expressly prohibited by law, the City shall give no subsidy in money,
13 tax abatement, land, services, or benefits to any state agency, federal agency, or special district
14 operating within the City and County of San Francisco unless the agency agrees to comply with the
15 provisions of the Open Government Ordinance. The city shall give no subsidy in money, tax
16 abatements, land, or services to any private entity unless that private entity agrees in writing
17 to provide the city with financial projections (including profit and loss figures), and annual
18 audited financial statements for the project thereafter, for the project upon which the subsidy
19 is based and all such projections and financial statements shall be public records that must be
20 disclosed.

21 ~~(b) — Compliance with the Open Government Ordinance is a condition precedent to~~
22 ~~the execution of any new or renewed contract made between the City and any other entity~~
23 ~~including but not limited to non-profit corporations, where the City issues payments totaling~~
24 ~~\$100,000.00 or more in money or in-kind consideration.~~

25

1 **Section 67.33. DEPARTMENT HEAD DECLARATION.**

2 All City department heads and all City management employees and all employees or
3 officials who are required to sign an affidavit of financial interest with the Ethics Commission
4 shall sign an annual affidavit or declaration stating under penalty of perjury that they have
5 read the Open Government Sunshine Ordinance and have attended or will attend when next
6 offered, a training session on the Open Government Sunshine Ordinance, to be held at least
7 once annually. The affidavit or declarations shall be maintained by the Ethics Commission
8 and shall be available as a public record. Annual training shall be provided by the San
9 Francisco City Attorney's Office with the assistance of the ~~Commission Sunshine Ordinance Task~~
10 ~~Force.~~

11 **Section 67.34. WILLFUL FAILURE SHALL BE OFFICIAL MISCONDUCT.**

12 The willful failure of any elected official, department head, or other managerial city
13 employee to discharge any duties imposed by the Open Government Sunshine Ordinance, the
14 Brown Act or the Public Records Act shall be deemed official misconduct. Complaints
15 involving allegations of willful violations of this ordinance, the Brown Act or the Public Records
16 Act by elected officials or department heads of the City and County of San Francisco shall be
17 handled by the Ethics Commission.

18 **Section 67.36. OPEN GOVERNMENT SUNSHINE ORDINANCE SUPERSEDES OTHER**
19 **LOCAL LAWS.**

20 The provisions of this Open Government Sunshine Ordinance supersede other local laws.
21 Whenever a conflict in local law is identified, the requirement which would result in greater or
22 more expedited public access to public information shall apply.

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

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3 By: _____
Amy S. Ackerman
4 Deputy City Attorney

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