

File No. 100821

Committee Item No.

Board Item No. 44

### COMMITTEE/BOARD OF SUPERVISORS

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Committee:

Date:

Board of Supervisors Meeting

Date: June 22, 2010

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#### OTHER

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Completed by: Victor Young

Date June 17, 2010

Completed by: \_\_\_\_\_

Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

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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.**

5  
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 23<sup>rd</sup> 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  
25

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.