

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.]

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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.**

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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.

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11 **Ordinance amending the current Sunshine Ordinance by amending the current**
12 **Sunshine Ordinance set forth in Chapter 67 of the San Francisco Administrative Code**
13 **by amending Sections 67.1; 67.2; 67.3; 67.4; 67.5; 67.6; 67.7; 67.7-1; 67.9; 67.13; 67.14;**
14 **67.15; 67.16; 67.21; 67.22; 67.23; 67.24; 67.25; 67.28; 67.29; 67.29-1; 67.29-3; 67.29-5;**
15 **67.29-6; 67.29-7; 67.30; 67.31; 67.32; 67.33; 67.34, and 67.36 to require passive meeting**
16 **bodies to formally notice their meetings; to require policy bodies to provide more**
17 **opportunities for the public to review public documents being considered at public**
18 **meetings; to require more opportunities for public participation at policy body**
19 **meetings; to require audio/video records to be kept indefinitely; to require the City**
20 **Attorney's Office to monitor the public documents of public officials who leave office;**
21 **to require other public entities and non profit organizations who contract with the City**
22 **to agree to follow the Open Government Ordinance as a condition precedent to**
23 **working with the City; to change the name of the Sunshine Ordinance Task Force to the**
24 **Commission for Open Government; and to provide the Commission with subpoena**

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1 power, and to provide for the use of outside counsel to prosecute violations of the
2 Ordinance.

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

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

6 Section 1. The San Francisco Administrative Code is hereby amended by amending
7 Sections 67.1; 67.2; 67.3; 67.4; 67.5; 67.6; 67.7; 67.7-1; 67.9; 67.13; 67.14; 67.15; 67.16;
8 67.21; 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;
9 67.30; 67.31; 67.32; 67.33; 67.34, and 67.36 to read as follows;

10 **Sec. SEC. 67.1. FINDINGS AND PURPOSE.**

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

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

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

18 (c) Although California has a long tradition of laws designed to protect the public's
19 access to the workings of government, every generation of governmental leaders includes
20 officials who feel more comfortable conducting public business away from the scrutiny of
21 those who elect and employ them. New approaches to government constantly offer public
22 officials additional ways to hide the making of public policy from the public. As government
23 evolves, so must the laws designed to ensure that the process remains visible.
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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 Open*
10 *Government* Ordinance, enforced by a strong *Sunshine Ordinance Task Force* COMMISSION FOR
11 OPEN GOVERNMENT can 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 **SEC. 67.2. CITATION.**

19 This Chapter may be cited as the San Francisco *Sunshine Ordinance*. OPEN
20 GOVERNMENT Ordinance.

21
22 **Section 2. ARTICLE II**
23 **PUBLIC ACCESS TO MEETINGS**

24 Sec. 67.3. Definitions.

- 1 Sec. 67.4. Passive Meetings.
- 2 Sec. 67.5. Meetings To Be Open and Public; Application of Brown Act.
- 3 Sec. 67.6. Conduct of Business; Time and Place For Meetings.
- 4 Sec. 67.7. Agenda Requirements; Regular Meetings.
- 5 Sec. 67.7-1. Public Notice Requirements.
- 6 Sec. 67.8. Agenda Disclosures: Closed Sessions.
- 7 Sec. 67.8-1. Additional Requirements for Closed Sessions
- 8 Sec. 67.9. Agendas and Related Materials: Public Records.
- 9 Sec. 67.10. Closed Sessions: Permitted Topics.
- 10 Sec. 67.11. Statement of Reasons For Closed Sessions.
- 11 Sec. 67.12. Disclosure of Closed Session Discussions and Actions.
- 12 Sec. 67.13. Barriers to Attendance Prohibited.
- 13 Sec. 67.14. Tape Recording, Filming and Still Photography.
- 14 Sec. 67.15. Public Testimony.
- 15 Sec. 67.16. Minutes.
- 16 Sec. 67.17. Public Comment By Members of Policy Bodies.

17 **SEC. 67.3. DEFINITIONS.**

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

- 20 (a) "City" shall mean the City and County of San Francisco.
- 21 (b) "Meeting" shall mean any of the following:
- 22 (1) A congregation of a majority of the members of a policy body at the same time
23 and place;

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

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

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

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

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

19 (C) The attendance of a majority of the members of a policy body at a purely social,
20 recreational or ceremonial occasion other than one sponsored or organized by or for the
21 policy body itself, provided that a majority of the members refrains from using the occasion to
22 discuss any business within the subject matter jurisdiction of this body. A meal gathering of a
23 policy body before, during or after a business meeting of the body is part of that meeting and
24 shall be conducted only under circumstances that permit public access to hear and observe
25 the discussion of members. Such meetings shall not be conducted in restaurants or other

1 accommodations where public access is possible only in consideration of making a purchase
2 or some other payment of value.

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

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

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

10 (1) Advisory committees created by the initiative of a member of a policy body, the
11 Mayor, or a department head;

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

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

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

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

24 (d) "Policy Body" shall mean:

25 (1) The Board of Supervisors;

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

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

9 ~~(6)-(7)~~ "Policy Body" shall not include a committee, which consists solely of
10 employees of the City and County of San Francisco, unless such committee was established
11 by charter or by ordinance or resolution of the Board of Supervisors.

12 ~~(7)-(8)~~ Any advisory board, commission, committee, or council created by a
13 federal, state, or local grant whose members are appointed by city officials, employees or
14 agents.

15 **SEC. 67.4. PASSIVE MEETINGS.**

16 ~~(a) All gatherings of passive meeting bodies shall be accessible to individuals upon inquiry
17 and to the extent possible consistent with the facilities in which they occur.~~

18 (a) All gatherings of passive meeting bodies shall be accessible to individuals upon
19 inquiry and to the extent that the meeting sites have sufficient capacity, facilities, furniture
20 and equipment. ~~possible consistent with the facilities in which they occur.~~

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22 ~~(1) Such gatherings need not be formally noticed, except on the City's website whenever
23 possible, although and the time, place and nature of the gathering shall be disclosed~~
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1 ~~upon inquiry by a member of the public, and any agenda actually prepared for the~~
2 ~~gathering shall be accessible to such inquirers as a public record.~~

3 (1) Such gatherings ~~need not~~ must be formally noticed ~~except~~ 72 hours prior to the
4 scheduled meeting on the City's website ~~whenever possible, although~~ and the time, place and
5 nature of the gathering shall be posted at the main library and be disclosed by mail, e-mail, or fax
6 upon inquiry by a member of the public, and any agenda actually prepared for the gathering
7 shall be ~~accessible to such inquirers as~~ a public record.

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

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

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

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

1 (6) Gatherings defined in subdivision (5) may hold closed sessions under
2 circumstances allowed by this Article.

3 (b) To the extent not inconsistent with state or federal law, ~~a policy body~~ the City and
4 any of its commissions, departments or officers shall include in any contract or grant ~~with an entity~~
5 ~~that owns, operates or manages any property in which the City has or will have an ownership interest,~~
6 ~~including a mortgage, and on which the entity performs~~ for the performance of a government
7 function related to the furtherance of health, safety or welfare, a requirement that any meeting
8 of the governing ~~board~~ body, if any of the entity to address any matter relating to ~~the property or~~
9 ~~its government related activities on the property, or~~ performance under the contract or grant, be
10 conducted as provided in subdivision (a) of this section. Records made available to the
11 governing ~~board~~ body relating to such matters shall be likewise available to the public, at a
12 cost not to exceed the actual cost up to 10 cents per page, or at a higher actual cost as
13 demonstrated in writing to such governing ~~board~~ body.

14 **SEC. 67.5. MEETINGS TO BE OPEN AND PUBLIC; APPLICATION OF BROWN ACT.**

15 All meetings of any policy body shall be open and public, and governed by the
16 provisions of the Ralph M. Brown Act (Government Code Sections 54950 et. seq.) and of this
17 article. In case of inconsistent requirements under the Brown Act and this article, the
18 requirement, which would result in greater or more expedited public access, shall apply.

19 **SEC. 67.6. CONDUCT OF BUSINESS; TIME AND PLACE FOR MEETINGS.**

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

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

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

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

13 ~~(e) — Meetings of passive meeting bodies as specified in Section 67.6(d)(4) of this article shall
14 be preceded by notice delivered personally or by mail, e-mail, or facsimile as
15 reasonably requested at least 72 hours before the time of such meeting to each person
16 who has requested, in writing, notice of such meeting. If the advisory body elects to hold
17 regular meetings, it shall provide by bylaws, or whatever other rule is utilized by that
18 advisory body for the conduct of its business, for the time and place for holding such
19 regular meetings. In such case, no notice of regular meetings, other than the posting of
20 an agenda pursuant to Section 67.7 of this article in the place used by the policy body,
21 which it advises, is required.~~

22 (e) Meetings of passive meeting bodies as specified in Section ~~67.6(d)(4)~~ 67.3(c) of
23 this article shall be preceded by notice ~~delivered personally or by mail, e-mail, or~~
24 ~~facsimile as reasonably requested at least 72 hours before the time of such meeting to~~
25 ~~each person who has requested, in writing, notice of such meeting.~~ as governed by

1 Section 67.7 of this Ordinance. If ~~the~~ an advisory body elects to hold regular
2 meetings, it shall provide by bylaws, or whatever other rule is utilized by that
3 advisory body for the conduct of its business, for the time and place for holding
4 such regular meetings. ~~In such case, no notice of regular meetings, other than the~~
5 ~~posting of an agenda pursuant to Section 67.7 of this article in the place used by the~~
6 ~~policy body, which it advises, is required.~~

7 (f) Special meetings of any policy body, including advisory bodies that choose to
8 establish regular meeting times, may be called at any time by the presiding officer thereof or
9 by a majority of the members thereof, by delivering personally or by mail written notice to each
10 member of such policy body and the local media who have requested written notice of special
11 meetings in writing. Such notice of a special meeting shall be delivered as described in (e) at
12 least 72 hours before the time of such meeting as specified in the notice. The notice shall
13 specify the time and place of the special meeting and the business to be transacted. No other
14 business shall be considered at such meetings. Such written notice may be dispensed with
15 as to any member who at or prior to the time the meeting convenes files with the presiding
16 officer or secretary of the body or commission a written waiver of notice. Such waiver may be
17 given by telegram. Such written notice may also be dispensed with as to any member who is
18 actually present at the meeting at the time it convenes. Each special meeting shall be held at
19 the regular meeting place of the policy body except that the policy body may designate an
20 alternate meeting place provided that such alternate location is specified in the notice of the
21 special meeting; further provided that the notice of the special meeting shall be given at least
22 15 days prior to said special meeting being held at an alternate location. This provision shall
23 not apply where the alternative meeting location is located within the same building as the
24 regular meeting place.

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

5 (h) Each policy body shall designate one or more posting locations for notices and agendas
6 required by this ordinance. The COMMISSION FOR OPEN GOVERNMENT shall be so notified in
7 writing and shall cause a master list to be maintained of such designated location by the policy bodies.

8 **SEC. 67.7. AGENDA REQUIREMENTS; REGULAR MEETINGS.**

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

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

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.

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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 ~~SUNSHINE~~ OPEN GOVERNMENT 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
13 the public. Commissions, boards, councils and other agencies of the City and
14 County exist to conduct the people's business. This ordinance assures that
15 deliberations are conducted before the people and that City operations are
16 open to the people's review.

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

23 (h) Each agenda of a policy body covered by this ~~SUNSHINE-OPEN GOVERNMENT~~
24 Ordinance shall include the address, area code and phone number, fax number, e-mail
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1 address, and contact ~~person's name~~ person for the ~~Sunshine Ordinance Task Force~~, COMMISSION
2 FOR OPEN GOVERNMENT Information on how to obtain a free copy of the Sunshine
3 Ordinance shall be included on each agenda.

4 **SEC. 67.7-1. PUBLIC NOTICE REQUIREMENTS.**

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

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

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

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

3 **SEC. 67.9. AGENDAS AND RELATED MATERIALS: PUBLIC RECORDS.**

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

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

20 (c) Records which are subject to disclosure under subdivision (a) and which are
21 distributed during a public meeting but prior to commencement of their discussion shall be
22 made available for public inspection prior to commencement of, and during, their discussion.
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1 (d) Records which are subject to disclosure under subdivision (a) and which are
2 distributed during their discussion at a public meeting shall be made available for public
3 inspection immediately or as soon thereafter as is practicable.

4 (e) A policy body may charge a duplication fee of one cent per page for a copy of a
5 public record prepared for consideration at a public meeting, unless a special fee has been
6 established pursuant to the procedure set forth in Section 67.28(d). Neither this section nor
7 the California Public Records Act (Government Code sections 6250 et seq.) shall be
8 construed to limit or delay the public's right to inspect any record required to be disclosed by
9 that act, whether or not distributed to a policy body.

10 **SEC. 67.13. BARRIERS TO ATTENDANCE PROHIBITED.**

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

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

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

6 (d) Each board and commission enumerated in the charter shall include on the
7 agenda for each regular and special meeting the following statement: "In order to assist the
8 City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple
9 chemical sensitivity or related disabilities, attendees at public meetings are reminded that
10 other attendees may be sensitive to various chemical based products. Please help the City
11 accommodate these individuals."

12 (e) ~~The Board of Supervisors~~ All Policy Bodies shall seek to provide translators at
13 each of its regular meetings and all meetings of its committees for each language requested,
14 where the translation is necessary to enable San Francisco residents with limited English
15 proficiency to participate in the proceedings provided that a request for such translation
16 services is communicated to the ~~Clerk of the Board of Supervisors~~ Policy Body at least 48 hours
17 before the meeting. For meetings on a Monday or a Tuesday, the request must be made by
18 noon of the last business day of the preceding week. The ~~Clerk of the Board of Supervisors~~
19 Policy Body shall first solicit volunteers from the ranks of City employees and/or from the
20 community to serve as translators. If volunteers are not available the ~~Clerk of the Board of~~
21 ~~Supervisors~~ Policy Body may next solicit translators from non-profit agencies, which may be
22 compensated. If these options do not provide the necessary translation services, the ~~Clerk of~~
23 ~~the Board of Supervisors~~ Policy Body may employ professional translators. The unavailability of
24 a translator shall not affect the ability of the Policy Body or its committees to deliberate or vote
25 upon any matter presented to them. In any calendar year in which the costs to the City for

1 providing translator services under this subsection exceeds \$20,000, the Board of Supervisors
2 shall, as soon as possible thereafter, review the provisions of this subsection.

3 (f) Each Policy Body that meets in City Hall and televises its meetings on the San Francisco
4 Government Cable Channel may provide for participation by members of the public via telephone
5 "bridge lines" for public comment on each item in the same manner as if the member of the public were
6 in actual physical attendance at the meeting. Each Policy Body subject to this provision may develop
7 reasonable procedures for its implementation.

8 **SEC. 67.14. TAPE RECORDING, FILMING AND STILL PHOTOGRAPHY.**

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

14 (b) All policy bodies ~~each board and commission enumerated in the charter~~ shall audio
15 record each regular and special meeting. Each such audio recording, and any audio or video
16 recording of a meeting of any other policy body made at the direction of the policy body shall
17 be a public record subject to inspection pursuant to the California Public Records Act
18 (Government Code Section 6250 et seq.), and shall not be erased or destroyed. *the audio*
19 *and/or video record shall be kept indefinitely as current technology allows.* Inspection of any such
20 recording shall be provided without charge on an appropriate play back device made available
21 by the City. Audio records of audio taped meetings shall be provided upon request and payment for
22 the actual cost of the recording. Requests shall be made through the department, board, commission,
23 task force, or committee whose meeting is recorded.

1 **SEC. 67.15. PUBLIC TESTIMONY.**

2 (a) Every agenda for regular meetings shall provide an opportunity for members of
3 the public to directly address a policy body on items of interest to the public that are within
4 policy body's subject matter jurisdiction, provided that no action shall be taken on any item not
5 appearing on the agenda unless the action is otherwise authorized by Section 67.7(e) of this
6 article. However, in the case of a meeting of the Board of Supervisors, the agenda need not
7 provide an opportunity for members of the public to address the Board on any item that has
8 already been considered by a committee, composed exclusively of members of the Board, at
9 a public meeting wherein all interested members of the public were afforded the opportunity to
10 address the committee on the item, before or during the committee's consideration of the
11 item, unless the item has been substantially changed since the committee heard the item, as
12 determined by the Board.

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

16 (c) A policy body shall adopt reasonable regulations to ensure that the intent of
17 subdivisions (a) and (b) are carried out, including, but not limited to, regulations limiting the
18 total amount of time allocated for public testimony on particular issues and for each individual
19 speaker. Each policy body shall adopt a rule providing that each person wishing to speak on
20 an item before the body at a regular or special meeting shall be permitted to be heard once for
21 a minimum of three minutes. However, the Chair of the meeting has discretion to reduce the
22 speaking time in situations where there is a large number of persons who wish to speak on a
23 particular agenda item. Time limits shall be applied uniformly to members of the public
24 wishing to testify.

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

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

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

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

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

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

20 **SEC. 67.16. MINUTES.**

21 ~~The clerk or secretary of each board and commission enumerated in the charter shall record the~~
22 ~~minutes for each regular and special meeting of the board or commission.~~

23 (a) The clerk or secretary of ~~each~~ all board and commission policy bodies shall record
24 the minutes for each regular and special meeting of ~~the board or commission~~ those bodies. ...

1 **(b)** The minutes shall state the time the meeting was called to order, the names of
2 the members attending the meeting, the roll call vote on each matter considered at the
3 meeting, the time the board or commission began and ended any closed session, the names
4 of the members and the names, and titles where applicable, of any other persons attending
5 any closed session, a list of those members of the public who spoke on each matter if the
6 speakers identified themselves, whether such speakers supported or opposed the matter, a
7 brief summary of each person's statement during the public comment period for each agenda
8 item, and the time the meeting was adjourned. Any person speaking during a public comment
9 period may supply a brief written summary of their comments which shall, if no more than 150
10 words, be included in the minutes.

11 The draft minutes of each meeting shall be posted on the policy body's website if any and
12 be available for inspection and copying upon request no later than ten working days after the
13 meeting. The officially adopted minutes shall be available for inspection and copying upon
14 request no later than ten working days after the meeting at which the minutes are adopted.
15 Upon request, minutes required to be produced by this section shall be made available in
16 Braille or increased type size.

17 ~~(c) — All non-charter boards and commissions and their committees and sub-committees must~~
18 ~~keep, and have available for public inspection, minutes of the proceedings of each regular or special~~
19 ~~meeting, identifying the members in attendance, and recording the vote of each member on action~~
20 ~~items. However, non-charter boards and commissions and their committees and sub-committees need~~
21 ~~not comply with the format listed in paragraph (a) above.~~

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ARTICLE III
PUBLIC INFORMATION AND PUBLIC RECORDS

- 1
- 2
- 3 Sec. 67.20. Definitions.
- 4 Sec. 67.21. Process for Gaining Access to Public Records; Administrative Appeals.
- 5 Sec. 67.21-1. Policy Regarding Use and Purchase of Computer Systems.
- 6 Sec. 67.22. Release of Oral Public Information.
- 7 Sec. 67.23. Public Review File - Policy Body Communications.
- 8 Sec. 67.24. Public Information that Must Be Disclosed.
- 9 Sec. 67.25. Immediacy of Response.
- 10 Sec. 67.26. Withholding Kept to a Minimum.
- 11 Sec. 67.27. Justification of Withholding.
- 12 Sec. 67.28. Fees for Duplication.
- 13 Sec. 67.29. Index to Records.
- 14 Sec. 67.29-1. Records Survive Transition of Officials.
- 15 Sec. 67.29-2. Internet Access/World Wide Web Minimum Standards.
- 16 Sec. 67.29-3. Agreements Between the City and Advertising Providers
- 17 Sec. 67.29-4. Lobbyist On Behalf of the City.
- 18 Sec. 67.29-5. Calendars of Certain Officials.
- 19 Sec. 67.29-6. Sources of Outside Funding.
- 20 Sec. 67.29-7. Correspondence and Records Shall Be Maintained.

21 **SEC. 67.21. PROCESS FOR GAINING ACCESS TO PUBLIC RECORDS;**
22 **ADMINISTRATIVE APPEALS.**

23 (a) Every person having custody of any public record or public information, as
24 defined herein, (hereinafter referred to as a custodian of a public record) shall, at normal times
25 and during normal and reasonable hours of operation, without unreasonable delay, and

1 without requiring an appointment, permit the public record, or any segregable portion of a
2 record, to be inspected and examined by any person and shall furnish one copy thereof upon
3 payment of a reasonable copying charge, not to exceed the lesser of the actual cost or ten
4 cents per page.

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

13 (c) A *custodian of a public record* shall assist a requester in identifying the
14 existence, form, and nature of any records or information maintained by, available to, or in the
15 custody of the custodian, whether or not the contents of those records are exempt from
16 disclosure and shall, when requested to do so, provide in writing within seven days following
17 receipt of a request, a statement as to the existence, quantity, form and nature of records
18 relating to a particular subject or questions with enough specificity to enable a requester to
19 identify records in order to make a request under (b). A custodian of any public record, when
20 not in possession of the record requested, shall assist a requester in directing a request to the
21 proper office or staff person.

22 (d) If the custodian refuses, fails to comply, or incompletely complies with a request
23 described in (b), the person making the request may petition the *supervisor of records* for a
24 determination whether the record requested is public. The supervisor of records shall inform
25 the petitioner, as soon as possible and within 10 days, of its determination whether the record

1 requested, or any part of the record requested, is public. Where requested by the petition,
2 and where otherwise desirable, this determination shall be in writing. Upon the determination
3 by the supervisor of records that the record is public, the supervisor of records shall
4 immediately order the custodian of the public record to comply with the person's request. If
5 the custodian refuses or fails to comply with any such order within 5 days, the supervisor of
6 records shall notify the district attorney or the attorney general who shall take whatever
7 measures she or he deems necessary and appropriate to insure compliance with the
8 provisions of this ordinance.

9 (e) If the custodian refuses, fails to comply, or incompletely complies with a request
10 described in (b) above or if a petition is denied or not acted on by the supervisor of public
11 records, the person making the request may petition ~~the Sunshine Task Force~~ COMMISSION
12 FOR OPEN GOVERNMENT for a determination whether the record requested is public. The
13 ~~Task Force~~ COMMISSION FOR OPEN GOVERNMENT shall inform the petitioner, as soon as
14 possible and within 2 days after its next meeting but in no case later than 45 days from when a
15 petition in writing is received, of its determination whether the record requested, or any part of
16 the record requested, is public. Where requested by the petition, and where otherwise
17 desirable, this determination shall be in writing. Upon the determination that the record is
18 public, the ~~SUNSHINE Task Force~~ COMMISSION FOR OPEN GOVERNMENT shall immediately
19 order the custodian of the public record to comply with the person's request. If the custodian
20 refuses or fails to comply with any such order within 5 (five) days, ~~the Sunshine Task Force~~
21 COMMISSION FOR OPEN GOVERNMENT may notify the district attorney or the attorney general
22 who may take whatever measures she or he deems necessary to insure compliance with the
23 provisions of this ordinance. The Board of Supervisors and the City Attorney's office shall
24 provide sufficient staff and resources to allow the ~~Sunshine Task Force~~ COMMISSION FOR
25 OPEN GOVERNMENT to fulfill its duties under this provision. Where requested by the petition,

1 the ~~Sunshine Task Force~~ COMMISSION FOR OPEN GOVERNMENT may conduct a public hearing
2 concerning the records request denial. An authorized representative of the custodian of the
3 public records requested shall attend any hearing and explain the basis for its decision to
4 withhold the records requested.

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

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

16 (h) At least once a year, ~~On at least an annual basis~~ and as otherwise requested by the
17 ~~SUNSHINE ORDINANCE TASK FORCE~~ COMMISSION FOR OPEN GOVERNMENT, the
18 supervisor of public records shall prepare a tally and report of every petition brought before it
19 for access to records since the time of its last tally and report. The report shall at least identify
20 for each petition the record or records sought, the custodian of those records, the ruling of the
21 supervisor of public records, whether any ruling was overturned by a court and whether orders
22 given to custodians of public records were followed. The report shall also summarize any
23 court actions during that period regarding petitions the Supervisor has decided. At the
24 request of the COMMISSION FOR OPEN GOVERNMENT ~~Sunshine Ordinance Task Force~~, the
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1 report shall also include copies of all rulings made by the supervisor of public records and all
2 opinions issued.

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

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

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

17 (l) Inspection and copying of documentary public information stored in electronic
18 form shall be made available to the person requesting the information in any form requested
19 which is available to or easily generated by the department, its officers or employees,
20 including disk, tape, printout or monitor at a charge no greater than the cost of the media on
21 which it is duplicated. Inspection of documentary public information on a computer monitor
22 need not be allowed where the information sought is necessarily and unseparably intertwined
23 with information not subject to disclosure under this ordinance. Nothing in this section shall
24 require a department to program or reprogram a computer to respond to a request for
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1 information or to release information where the release of that information would violate a
2 licensing agreement or copyright law.

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4 **SEC. 67.22. RELEASE OF ORAL PUBLIC INFORMATION.**

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

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

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

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

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

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

16 **SEC. 67.23. PUBLIC REVIEW FILE - POLICY BODY COMMUNICATIONS.**

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

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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 ("RFP's") shall be kept in a central repository
6 and shall be made available for public inspection. In addition the RFP's shall be placed on the city's
7 website for a period from the date the RFP is issued to the date that the RFP is due.

8 ~~(1)~~ (2) Contracts, contractors' bids, responses to requests for proposals and all other
9 records of communications between the department and persons or firms seeking contracts
10 shall be open to inspection immediately after a contract has been awarded. Nothing in this
11 provision requires the disclosure of a private person's or organization's net worth or other
12 proprietary financial data submitted for qualification for a contract or other benefit until and
13 unless that person or organization is awarded the contract or benefit. All bidders and
14 contractors shall be advised that information provided which is covered by this subdivision will
15 be made available to the public upon request- Immediately after any review or evaluation or rating
16 of responses to a Request for Proposal ("RFP") has been completed, evaluation forms and score sheets
17 and any other documents used by persons in the RFP evaluation or contractor selection process shall
18 be available for public inspection. The names of scorers, graders or evaluators, along with their
19 individual ratings, comments, and score sheets or comments on related documents, shall be made
20 immediately available after the review or evaluation of a RFP has been completed.

21 [the above section that was initially stricken is now back in]

22 ~~(2)~~ (3) Notwithstanding the provisions of this subdivision or any other provision of this ordinance,
23 the Director of Public Health may withhold from disclosure proposed and final rates of
24 payment for managed health care contracts if the Director determines that public disclosure
25 would adversely affect the ability of the City to engage in effective negotiations for managed

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

9 ~~(3)~~ (4) During the course of negotiations for:

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

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

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

1 ~~(iv) At the end of each fiscal year, Not later than July 15th annually,~~ each City department
2 shall provide to the Board of Supervisors a list of all sole source contracts entered into or
3 renewed during the past fiscal year. This list shall be made available for inspection and
4 copying as provided for elsewhere in this Article.

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

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

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

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

1 **SEC. 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*
5 *to the requester in the mode of communication that the request was received (i.e. fax, e-mail, or mail)*
6 *or 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 ~~6456.1~~ 6253(c)(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 **SEC. 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 exceed~~
17 ~~10 cents per page~~ not to exceed the actual cost of materials per page may be charged, plus any
18 postage.

19 (d) A department may establish and charge a higher fee than the one cent
20 presumptive fee in subdivision (b) ~~and the 10 cent presumptive fee in subdivision (c)~~ if it prepares
21 and posts an itemized cost analysis establishing that its cost per page impression exceeds ~~40~~
22 ~~cents or~~ one cent, as the case may be. The cost per page impression shall include the
23 following costs: one sheet of paper; one duplication cycle of the copying machine in terms of
24 toner and other specifically identified operation or maintenance factors, excluding electrical
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1 power. Any such cost analysis shall identify the manufacturer, model, vendor and
2 maintenance contractor, if any, of the copying machine or machines referred to.

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

8 **SEC. 67.29. INDEX TO RECORDS.**

9 The City and County shall prepare a public records index that identifies the types of
10 information and documents maintained by City and County departments, agencies, boards,
11 commissions, and elected officers. The index shall be for the use of City officials, staff and
12 the general public, and shall be organized to permit a general understanding of the types of
13 information maintained, by which officials and departments, for which purposes and for what
14 periods of retention, and under what manner of organization for accessing, e.g. by reference
15 to a name, a date, a proceeding or project, or some other referencing system. The index
16 need not be in such detail as to identify files or records concerning a specific person,
17 transaction or other event, but shall clearly indicate where and how records of that type are
18 kept. Any such master index shall be reviewed by appropriate staff for accuracy and
19 presented for formal adoption to the administrative official or policy body responsible for the
20 indexed records. The City Administrator shall be responsible for the preparation of this
21 records index. The City Administrator shall report on the progress of the index to the ~~Sunshine~~
22 ~~Ordinance Task Force~~ COMMISSION FOR OPEN GOVERNMENT on at least a semi-annual basis
23 until the index is completed. Each department, agency, commission and public official shall
24 cooperate with the City Administrator to identify the types of records it maintains, including
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1 those documents created by the entity and those documents received in the ordinary course
2 of business and the types of requests that are regularly received. Each department, agency,
3 commission and public official is encouraged to solicit and encourage public participation to
4 develop a meaningful records index. The index shall clearly and meaningfully describe, with
5 as much specificity as practicable, the individual types of records that are prepared or
6 maintained by each department, agency, commission or public official of the City and County.
7 The index shall be sufficient to aid the public in making an inquiry or a request to inspect. Any
8 changes in the department, agency, commission or public official's practices or procedures
9 affecting the accuracy of the information provided to the City Administrator shall be recorded
10 by the City Administrator on a periodic basis so as to maintain the integrity and accuracy of
11 the index. The index shall be continuously maintained on the City's World Wide Website and
12 made available at public libraries within the City and County of San Francisco.

13 **SEC. 67.29-1. RECORDS SURVIVE TRANSITION OF OFFICIALS.**

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

21
22 **SEC. 67.29-3. AGREEMENTS BETWEEN CITY AND ADVERTISING PROVIDERS.**

23 Any future agreements between the city and an advertising space provider shall be
24 public records and shall include as a basis for the termination of the contract any action by, or
25 permitted by, the space provider to remove or deface or otherwise interfere with an

1 advertisement without first notifying the advertiser and the city and obtaining the advertiser's
2 consent. In the event advertisements are defaced or vandalized, the space provider shall
3 provide written notice to the city and the advertiser and shall allow the advertiser the option of
4 replacing the defaced or vandalized material. Any request by any city official or by any space
5 provider to remove or alter any advertising must be in writing and shall be a public record.

6 **SEC. 67.29-5. CALENDARS OF ~~CERTAIN~~ ELECTED OFFICIALS, DEPARTMENT HEADS**
7 **AND HEADS OF OTHER AGENCIES**

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

18 **SEC. 67.29-6. SOURCES OF OUTSIDE FUNDING.**

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

4 **SEC. 67.29-7. CORRESPONDENCE AND RECORDS SHALL BE MAINTAINED.**

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

12 (b) Any e-mail that is created or received in connection with the transaction of public
13 business and which (1) the department or office retains as evidence of its activities, or (2) relates to the
14 legal or financial rights of the City or of persons directly affected by the activities of the City is a public
15 record. The standard for determining if e-mail is a public record that must be retained is identical to
16 the standard that applies to any document. See California Government Code § 6252(e) and
17 Administrative Code § 67.20. If the-mail must be retained, it should be printed out and the hard copy
18 retained in the appropriate file unless the department or office can reliably retain and retrieve the e-
19 mail in electronic format.

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

1 ~~(e)~~(d) In any contract, agreement or permit between the City and any outside entity
2 that authorizes that entity to demand any funds or fees from citizens, the City shall ensure that
3 accurate records of each transaction are maintained in a professional and businesslike
4 manner and are available to the public as public records under the provisions of this
5 ordinance. Failure of an entity to comply with these provisions shall be grounds for
6 terminating the contract or for imposing a financial penalty equal to one-half of the fees
7 derived under the agreement or permit during the period of time when the failure was in effect.
8 Failure of any Department Head under this provision shall be a violation of this ordinance.
9 This paragraph shall apply to any agreement allowing an entity to tow or impound vehicles in
10 the City and shall apply to any agreement allowing an entity to collect any fee from any
11 persons in any pretrial diversion program.
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ARTICLE IV POLICY IMPLEMENTATION

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- 20 Sec. **67.30.** The ~~Sunshine Ordinance~~ COMMISSION FOR OPEN GOVERNMENT
- 21 Sec. **67.31.** Responsibility for Administration.
- 22 Sec. **67.32.** Provision of Services to Other Agencies; Sunshine Required.
- 23 Sec. **67.33.** Department Head Declaration.
- 24 Sec. **67.34.** Willful Failure Shall be Official Misconduct.
- 25 Sec. **67.35.** Enforcement Provisions.

1 Sec. 67.36. *Sunshine* OPEN GOVERNMENT Ordinance Supersedes Other Local
2 Laws.

3 Sec. 67.37. Severability.
4

5 **SEC. 67.30. THE ~~SUNSHINE ORDINANCE~~ COMMISSION FOR OPEN GOVERNMENT**

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

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

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

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

1 provisions of this ordinance or the Acts. The ~~Task Force~~ COMMISSION shall, from time to time
2 as it sees fit, issue public reports evaluating compliance with this ordinance and related
3 California laws by the City or any Department, Office, or Official thereof.

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

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

14 ~~(d) In addition to the powers specified above, the Task Force shall possess such powers as~~
15 ~~the Board of Supervisors may confer upon it by ordinance or as the People of San Francisco shall~~
16 ~~confer upon it by initiative.~~

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

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

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

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

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

10 **SEC. 67.31. RESPONSIBILITY FOR ADMINISTRATION.**

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

21 **SEC. 67.32. PROVISION OF SERVICES TO OTHER AGENCIES; OPEN GOVERNMENT**
22 **REQUIRED.**

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

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

3 **SEC. 67.33. DEPARTMENT HEAD DECLARATION.**

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

13 **SEC. 67.34. WILLFUL FAILURE SHALL BE OFFICIAL MISCONDUCT.**

14 The willful failure of any elected official, department head, or other managerial city
15 employee to discharge any duties imposed by the ~~Sunshine~~ OPEN GOVERNMENT Ordinance,
16 the Brown Act or the Public Records Act shall be deemed official misconduct. Complaints
17 involving allegations of willful violations of this ordinance, the Brown Act or the Public Records
18 Act by elected officials or department heads of the City and County of San Francisco shall be
19 handled by the Ethics Commission.
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1 **SEC. 67.36. ~~SUNSHINE-OPEN GOVERNMENT~~ ORDINANCE SUPERSEDES OTHER LOCAL**
2 **LAWS.**

3 The provisions of this ~~Sunshine~~ OPEN GOVERNMENT Ordinance supersede other local
4 laws. Whenever a conflict in local law is identified, the requirement which would result in
5 greater or more expedited public access to public information shall apply.

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

8 By: _____
9 ERNEST H. LLORENTE
10 Deputy City Attorney