

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

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

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

10
11 **Ordinance amending the current Sunshine Ordinance set forth in Chapter 67 of the San**
12 **Francisco Administrative Code by amending Sections 67.1; 67.2; 67.3; 67.4; 67.6; 67.7;**
13 **67.7-1; 67.9; 67.13; 67.14; 67.15; 67.16; 67.21; 67.22; 67.23; 67.24; 67.25; 67.28; 67.29;**
14 **67.29-1; 67.29-3; 67.29-5; 67.29-6; 67.29-7; 67.30; 67.31; 67.32; 67.33; 67.34, and 67.36 to**
15 **require advisory bodies appointed by the Mayor to create policy to be considered**
16 **“policy bodies;” to require passive meeting bodies to give formal notice of their**
17 **meetings; to require documents prepared by the City for consideration by a policy**
18 **body to be available to the public 48 hours before the meeting; to require all policy**
19 **bodies to provide translators at their meetings upon request; to require all policy**
20 **bodies to record their meetings and keep minutes; to permit a policy body to decline to**
21 **take public comment on an item where the item was heard in committee and the public**
22 **had an opportunity to speak before the committee; to give members of the public the**
23 **right to speak for a minimum of three minutes on an item unless a large number of**
24 **speakers wish to speak on the item or it is during general public comment before the**
25 **Board of Supervisors; to require the City Administrator to monitor the City records of**

1 public officials who leave office; to require departments to maintain records consistent
2 with City records retention policies; to make additional technical changes; and to add
3 section 67.37 to allow the Board of Supervisors upon a two-thirds vote to amend the
4 Sunshine Ordinance to conform to state law or allow further the public's access to
5 government. to require ~~passive meeting bodies to give formal~~ formally notice of their
6 meetings; to require ~~policy bodies to provide more opportunities for the public to review public~~
7 documents being considered at public meetings; to require more opportunities for public
8 participation at policy body meetings; to require all policy bodies to record their meetings and
9 keep those recordings indefinitely; to require the ~~City Administrator City Attorney's Office to~~
10 monitor the public documents of public officials who leave office; to require other public and
11 private entities that contract with the City to agree to follow the Open Government Ordinance
12 as a condition precedent to receiving funds from the City; to change the name of the Sunshine
13 Ordinance Task Force to the Open Government Task Force Commission for Open
14 Government; to provide the Commission with subpoena powers, and to provide for the use of
15 outside counsel to prosecute violations of the Ordinance and to make other technical
16 corrections to the Ordinance.

17
18 Note: Additions are *single-underline italics Times New Roman*;
deletions are *strikethrough italics Times New Roman*.

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

20 Section 1. The San Francisco Administrative Code is hereby amended by amending
21 Section 67.1; 67.2; 67.3; 67.4; 67.6; 67.7; 67.7-1; 67.9; 67.13; 67.14; 67.15; 67.16; 67.21;
22 67.22; 67.23; 67.24; 67.25; 67.28; 67.29; 67.29-1; 67.29-3; 67.29-5; 67.29-6; 67.29-7; 67.30;
23 67.31; 67.32; 67.33; 67.34, and 67.36 to read as follows:
24
25

1 **Section 67.1 FINDINGS AND PURPOSE.**

2 The Board of Supervisors and the People of the City and County of San Francisco find
3 and declare:

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

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

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

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

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

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

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

7 **Section 67.2. CITATION.**

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

9 **Section 67.3. DEFINITIONS.**

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

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

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

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

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

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

24 (4) "Meeting" shall not include any of the following:
25

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

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

10 (C) The attendance of a majority of the members of a policy body at a purely social,
11 recreational or ceremonial occasion other than one sponsored or organized by or for the
12 policy body itself, provided that a majority of the members refrains from using the occasion to
13 discuss any business within the subject matter jurisdiction of this body. A meal gathering of a
14 policy body before, during or after a business meeting of the body is part of that meeting and
15 shall be conducted only under circumstances that permit public access to hear and observe
16 the discussion of members. Such meetings shall not be conducted in restaurants or other
17 accommodations where public access is possible only in consideration of making a purchase
18 or some other payment of value.

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

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

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

1 (1) Advisory committees, created by the initiative of a member of a policy body, the
2 Mayor, the City Administrator, an elective officer, or a department head, to advise on fiscal,
3 economic or policy issues;

4 ~~(2) Any group that meets to discuss with or advise the Mayor or any dDepartment~~
5 ~~hHead on fiscal, economic, or policy issues;~~

6 ~~(2)(3) Social, recreational or ceremonial occasions sponsored or organized by or for a~~
7 ~~policy body to which a majority of the body has been invited.~~

8 ~~(3)(4) "Passive meeting body" shall not include a committee that consists solely of~~
9 ~~employees of the City and County of San Francisco created by the initiative of a member of a~~
10 ~~policy body, the Mayor, or a department head;~~

11 ~~(4)(5) Notwithstanding the provisions of paragraph (3)(4) above, "pPassive meeting~~
12 ~~body" shall include a committee that consists solely of employees of the City and County of~~
13 ~~San Francisco when such committee is reviewing, developing, modifying, or creating Ccity~~
14 ~~policies or procedures relating to the public health, safety, or welfare or relating to services for~~
15 ~~the homeless;~~

16 (d) "Policy Body" shall mean:

17 (1) The Board of Supervisors;

18 (2) Any other board or commission enumerated in the charter;

19 (3) Any board, commission, committee, or other body created by ordinance or
20 resolution of the Board of Supervisors;

21 (4) Any advisory board, commission, committee or body, created by the initiative of
22 a policy body;

23 (5) Any standing committee, ad hoc committee, and tTask fForce of a policy body
24 irrespective of its composition.

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

1 ~~(7)(6)~~—"Policy Body" shall not include a committee which consists solely of employees
2 of the City and County of San Francisco, unless such committee was established by charter
3 or by ordinance or resolution of the Board of Supervisors.

4 ~~(8)(7)~~ Any advisory board, commission, committee, or council created by a federal,
5 state, or local grant whose members are appointed by Ccity officials, employees or agents.

6 **Section 67.4. PASSIVE MEETINGS.**

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

9 ~~(a) All gatherings of passive meeting bodies shall be accessible to individuals upon inquiry
10 and to the extent that the meeting sites have sufficient capacity, facilities, furniture and equipment.~~

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

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

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

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

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

8 ~~(5)(6)~~ Gatherings defined in section 67.3(c) subdivision (5) may hold closed sessions
9 under circumstances allowed by this Article.

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

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

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

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

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

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

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

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

24 (e) Meetings of advisory ~~passive~~ meeting bodies as specified in Section 67.3(d)(4),
25 67.3(d)(6) and 67.3(d)(8) ~~67.3(c)67.6(d)(4)~~ of this article shall be preceded by notice delivered

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

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

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

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

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

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

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

17 (b) A description is meaningful if it is sufficiently clear and specific to alert a person
18 of average intelligence and education whose interests are affected by the item that he or she
19 may have reason to attend the meeting or seek more information on the item. The description
20 should be brief, concise and written in plain, easily understood English. It shall refer to any
21 explanatory documents that have been provided to the policy body in connection with an
22 agenda item, such as correspondence or reports, and such documents shall be posted
23 adjacent to the agenda or, if such documents are of more than one page in length, made
24 available for public inspection and copying at a location indicated on the agenda during
25 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. The requirement that a policy body post copies of its
4 agendas at the branch libraries is satisfied if the branch library has a computer accessible to
5 the public upon which members of the public may access the City's website to search for
6 agendas of meetings of City policy bodies.

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

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

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

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

24 (3) The item was on an agenda posted pursuant to subdivision (a) for a prior
25 meeting of the body occurring not more than five calendar days prior to the date action is

1 taken on the item, and at the prior meeting the item was continued to the meeting at which
2 action is being taken.

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

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

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

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

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

24
25

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

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

7 (a)(1) Any public notice that is mailed, posted or published by a City department,
8 board, agency or commission to residents residing within a specific area to inform those
9 residents of a matter that may impact their property or that neighborhood area, shall be brief,
10 concise and written in plain, easily understood English.

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

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

21 (b)(d) When notice is given, as provided in these articles, by public policy or advisory bodies
22 other than those referred to listed in Section 67.7-1, members of the public may submit statements
23 and/or comments regarding any item on those bodies' meeting agendas; those statements or comments
24 shall become a public record, regardless of whether their authors are present when the item at issue is
25 discussed. The policy bodies may review and consider those statements or comments if

1 received statements or comments shall be subject to review and consideration by those
2 bodies if submitted before or during the hearing on the item. Statements or comments received within
3 ten business days after the hearing shall go on the public record with a notation as to when they were
4 it was received.

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

6 (a) Agendas of meetings, meeting packets, or documents created by a department, and
7 any other documents on file with the clerk or secretary of the policy body, ~~when intended for~~
8 ~~distribution to all, or a majority of all, of the members of a policy body~~ in connection with a matter
9 anticipated for discussion or consideration at a public meeting shall be made available to the
10 public for inspection and copying at the office of the policy body at least 48 hours before the hearing
11 and be available to the public in sufficient quantities at the hearing commensurate with the anticipated
12 number of people attending the hearing. If any document being acted upon by the policy body at
13 a meeting is not available at least 48 hours before the meeting and a member of the policy
14 body requests that the matter be continued, the policy body must continue the item to a time
15 not less than 48 hours after the document was made available. Nothing in this subsection
16 shall prohibit the policy body from amending a document at a meeting. The materials that are
17 distributed at the hearing shall be of such a quality that a person with 20/20 vision would have no
18 difficulty reading them. To the extent possible, such documents shall also be made available
19 through the policy body's Internet site. However, this disclosure need not include any material
20 exempt from public disclosure under this ordinance.

21 (b) — ~~Records which are subject to disclosure under subdivision (a) and which are~~
22 ~~intended for distribution to a policy body prior to commencement of a public meeting shall be~~
23 ~~made available for public inspection and copying upon request prior to commencement of~~
24 ~~such meeting, whether or not actually distributed to or received by the body at the time of the~~
25 ~~request.~~

1 ~~(c)~~— Records which are subject to disclosure under subdivision (a) and which are
2 distributed during a public meeting but prior to commencement of their discussion shall be
3 made available for public inspection prior to commencement of, and during, their discussion.

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

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

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

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

24 (b) Each board and commission enumerated in the charter shall provide sign
25 language interpreters or note-takers at each regular meeting, provided that a request for such

1 services is communicated to the secretary or clerk of the board or commission at least 48
2 hours before the meeting, except for Monday meetings, for which the deadline shall be 4 p.m.
3 of the last business day of the preceding week.

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

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

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

1 presented to them. In any calendar year in which the costs to the City for providing translator
2 services under this subsection exceeds \$20,000, the Board of Supervisors shall, as soon as
3 possible thereafter, review the provisions of this subsection.

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

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

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

15 (b) ~~All policy bodies~~ *Each board and commission enumerated in the charter* shall audio
16 record each regular and special meeting. Each such audio recording, and any audio or video
17 recording of a meeting of any other policy body made at the direction of the policy body shall
18 be a public record subject to inspection pursuant to the California Public Records Act
19 (Government Code Section 6250 et seq.), and shall not be erased or destroyed and shall be
20 retained for at least ten years, or permanently where technologically and economically
21 feasible. The City may retain these recordings digitally. ~~The audio and/or video record shall~~
22 ~~be kept indefinitely as current technology allows.~~ Inspection of any such recording shall be
23 provided without charge on an appropriate play back device made available by the City.
24 Requests shall be made through the department, board, commission, task force, or committee whose
25

1 meeting is recorded. The City Administrator shall assist policy bodies in carrying out their duties
2 under this subsection.

3 **Section 67.15. PUBLIC TESTIMONY.**

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

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

18 ~~(b)(c)~~ A policy body shall may adopt reasonable regulations to ensure that the intent of
19 subdivisions (a) and (b) are carried out, including, but not limited to, regulations limiting the
20 total amount of time allocated for public testimony on particular issues and for each individual
21 speaker. Each policy body shall adopt a rule providing that each person wishing to speak on
22 an item before the body at a regular or special meeting shall be permitted to be heard once for
23 a minimum of up to three minutes; provided, however, if the chair of the meeting finds that a
24 large number of speakers wish to speak on a particular item, the chair may reduce each
25 speaker's time to under three minutes. Notwithstanding the foregoing, during general public

1 comment at the Board of Supervisors, the Board or its President may limit the total amount of
2 time allocated for public testimony and for each individual speaker. Time limits shall be
3 applied uniformly to members of the public wishing to testify.

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

7 (A) Speaker cards, when available and submitted, shall be used in the order of submission
8 as the order of speakers, except that the chair may alternate “pro” and “con” speakers if they are
9 designated on the forms.

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

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

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

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

23 **Section 67.16. MINUTES.**

24 (a) The clerk or secretary of each board and commission enumerated in the Charter
25 all policy bodies ~~each board and commission enumerated in the charter~~ shall record the minutes for

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

12 (b) The draft minutes of each meeting of a policy body enumerated in the Charter
13 shall be *posted on the policy body's website, if any, and be* available for inspection and copying
14 upon request no later than ten working days after the meeting. Any draft minutes that are
15 posted on the website shall be titled "Unapproved Draft Minutes" and shall provide information
16 on where to send proposed corrections to the draft minutes. The officially adopted minutes
17 shall be available for inspection and copying upon request no later than ten working days after
18 the meeting at which the minutes are adopted. Upon request, minutes required to be
19 produced by this section shall be made available in Braille or increased type size.

20 (c) The clerk or secretary of policy bodies that are not enumerated in the Charter
21 shall record minutes consisting of the time the meeting was called to order and adjourned, the
22 names of members in attendance, any action taken, and the roll call vote, if any, on the action.
23
24
25

1 **Section 67.21. PROCESS FOR GAINING ACCESS TO PUBLIC RECORDS;**
2 **ADMINISTRATIVE APPEALS.**

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

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

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

1 not in possession of the record requested, shall assist a requester in directing a request to the
2 proper office or staff person.

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

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

1 immediately order the custodian of the public record to comply with the person's request. In
2 the event that the Task Force determines that the record is public, the entity shall schedule
3 the Task Force's determination for discussion and response at the entity's next regularly
4 scheduled meeting. If the custodian refuses or fails to comply with the determination any
5 such order within 5 days after the meeting, the Open Government Task Force Commission for
6 ~~Open Government~~ *Sunshine Task Force* shall notify the Board of Supervisors or other
7 appropriate enforcement agency district attorney or the attorney general who may take
8 whatever measures she or he deems necessary to insure compliance with the provisions of
9 this ordinance. The Board of Supervisors and the City Attorney's Office shall provide
10 sufficient staff and resources to allow the Open Government Task Force Commission for
11 ~~Open Government~~ *Sunshine Task Force* to fulfill its duties under this provision. Where
12 requested by the petition, the Open Government Task Force Commission for ~~Open~~
13 ~~Government~~ *Sunshine Task Force* may conduct a public hearing concerning the records request
14 denial. An authorized representative of the custodian of the public records requested shall
15 attend any hearing and explain the basis for its decision to withhold the records requested.

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

24
25

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

4 (h) ~~At least once a year, On at least an annual basis,~~ and as otherwise requested by the
5 Open Government Task Force ~~Commission for Open Government~~ ~~Sunshine Ordinance Task~~
6 ~~Force~~, the supervisor of public records shall prepare a tally and report of every petition brought
7 before it for access to records since the time of its last tally and report. The report shall at
8 least identify for each petition the record or records sought, the custodian of those records,
9 the ruling of the supervisor of public records, whether any ruling was overturned by a court
10 and whether orders given to custodians of public records were followed. The report shall also
11 summarize any court actions during that period regarding petitions the Supervisor has
12 decided. At the request of the Open Government Task Force ~~Commission for Open~~
13 ~~Government~~ ~~Sunshine Ordinance Task Force~~, the report shall also include copies of all rulings
14 made by the supervisor of public records and all opinions issued.

15 (i) The San Francisco City Attorney's Office shall act to protect and secure the
16 rights of the people of San Francisco to access public information and public meetings and
17 shall not act as legal counsel for any City employee or any person having custody of any
18 public record for purposes of denying access to the public. The City Attorney may publish
19 legal opinions in response to a request from any person as to whether a record or information
20 is public. All communications with the City Attorney's Office with regard to this ordinance,
21 including petitions, requests for opinion, and opinions shall be public records.

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

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

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

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

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

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

24 (b) The role of the person or persons so designated shall be to provide information
25 on as timely and responsive a basis as possible to those members of the public who are not

1 requesting information from a specific person. This section shall not be interpreted to curtail
2 existing informal contacts between employees and members of the public when these
3 contacts are occasional, acceptable to the employee and the department, not disruptive of his
4 or her operational duties and confined to accurate information not confidential by law.

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

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

22 (e) Notwithstanding any other provisions of this ordinance, public employees shall
23 not be discouraged from or disciplined for disclosing any information that is public information
24 or a public record to any journalist or any member of the public. Any public employee who is
25

1 disciplined for disclosing public information or a public record shall have a cause of action
2 against the City and the supervisor imposing the discipline.

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

4 (a) The Clerk of the Board of Supervisors and the secretary clerk of each *policy*
5 *body board and commission enumerated in the charter* enumerated in the Charter or established
6 by voter initiative shall maintain a file, accessible to any person during normal office hours,
7 containing a copy of any letter, memorandum or other communication which the clerk has
8 distributed to or received from a quorum of the policy body concerning a matter calendared by
9 the body within the previous 30 days or likely to be calendared within the next 30 days,
10 irrespective of subject matter, origin or recipient, except commercial solicitations, periodical
11 publications or communications exempt from disclosure under the California Public Records
12 Act (Government Code Section 6250 et seq.) and not deemed disclosable under Section
13 67.24 of this article.

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

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

22 (d) Effective July 1, 2005, each ~~Each~~ *policy body shall keep for public inspection a*
23 *master list of any documents that reflect any actions taken by the policy body relating to any*
24 *capital projects within its jurisdiction.* ~~involving capital projects for public inspection.~~ *The list*
25

1 ~~shall identify each document and the document's date, specify the document date and the~~
2 ~~identification of the document.~~

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

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

8 (a) Drafts and Memoranda.

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

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

1 (b) Litigation Material.

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

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

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

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

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

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

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

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

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

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

24 (iv) Whether currently employed in the same position for another public agency.
25

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

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

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

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

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

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

14 (7) The record of any confirmed misconduct of a public employee involving personal
15 dishonesty, misappropriation of public funds, resources or benefits, unlawful discrimination
16 against another on the basis of status, abuse of authority, or violence, and of any discipline
17 imposed for such misconduct.

18 (d) Law Enforcement Information.

19 The District Attorney, Chief of Police, and Sheriff are encouraged to cooperate with the
20 press and other members of the public in allowing access to local records pertaining to
21 investigations, arrests, and other law enforcement activity. However, no provision of this
22 ordinance is intended to abrogate or interfere with the constitutional and statutory power and
23 duties of the District Attorney and Sheriff as interpreted under Government Code section
24 25303, or other applicable state law or judicial decision. Records pertaining to any
25 investigation, arrest or other law enforcement activity shall be disclosed to the public once the

1 District Attorney or court determines that a prosecution will not be sought against the subject
2 involved, or once the statute of limitations for filing charges has expired, whichever occurs
3 first. Notwithstanding the occurrence of any such event, individual items of information in the
4 following categories may be segregated and withheld if, on the particular facts, the public
5 interest in nondisclosure clearly and substantially outweighs the public interest in disclosure:

- 6 (1) The names of juvenile witnesses (whose identities may nevertheless be
7 indicated by substituting a number or alphabetical letter for each individual interviewed);
- 8 (2) Personal or otherwise private information related to or unrelated to the
9 investigation if disclosure would constitute an unwarranted invasion of privacy;
- 10 (3) The identity of a confidential source;
- 11 (4) Secret investigative techniques or procedures;
- 12 (5) Information whose disclosure would endanger law enforcement personnel; or
- 13 (6) Information whose disclosure would endanger the successful completion of an
14 investigation where the prospect of enforcement proceedings is concrete and definite.

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

18 (e) Contracts, Bids and Proposals

19 (1) The Purchaser shall maintain and make available for public inspection all
20 initial City Requests for Proposals (“RFPs”) ~~shall be kept in a central repository and shall be~~
21 ~~made available for public inspection.~~ In addition, the RFPs shall be placed on the City’s website for
22 a period from the date the RFP is issued until the date that the responses to the RFP are due.

23 (2)(1) ~~Contracts, contractors' bids, responses to requests for proposals and all other~~
24 ~~records of communications between the department and persons or firms seeking contracts~~
25 ~~shall be open to inspection immediately after a contract has been awarded. Nothing in this~~

1 provision requires the disclosure of a private person's or organization's net worth or other
2 proprietary financial data submitted for qualification for a contract or other benefit until and
3 unless that person or organization is awarded the contract or benefit. All bidders and
4 contractors shall be advised that information provided which is covered by this subdivision will
5 be made available to the public upon request. Immediately after any review or evaluation or
6 rating of responses to a Request for Proposal ("RFP") has been completed, evaluation forms
7 and score sheets and any other documents used by persons in the RFP evaluation or
8 contractor selection process shall be available for public inspection. The names of scorers,
9 graders or evaluators, along with their individual ratings, comments, and score sheets or
10 comments on related documents, shall be made immediately available after the review or
11 evaluation of a RFP has been completed.

12 ~~(3)~~ (2) Notwithstanding the provisions of this subdivision or any other provision of this
13 ordinance, the Director of Public Health may withhold from disclosure proposed and final rates
14 of payment for managed health care contracts if the Director determines that public disclosure
15 would adversely affect the ability of the City to engage in effective negotiations for managed
16 health care contracts. The authority to withhold this information applies only to contracts
17 pursuant to which the City (through the Department of Public Health) either pays for health
18 care services or receives compensation for providing such services, including mental health
19 and substance abuse services, to covered beneficiaries through a pre-arranged rate of
20 payment. This provision also applies to rates for managed health care contracts for the
21 University of California, San Francisco, if the contract involves beneficiaries who receive
22 services provided jointly by the City and University. This provision shall not authorize the
23 Director to withhold rate information from disclosure for more than three years.

24 ~~(4)~~ (3) During the course of negotiations for:
25

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

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

7 (iii) any franchise agreements, all documents exchanged and related to the position
8 of the parties, including draft contracts, shall be made available for public inspection and
9 copying upon request. In the event that no records are prepared or exchanged during
10 negotiations in the above-mentioned categories, or the records exchanged do not provide a
11 meaningful representation of the respective positions, the Ccity attorney or Ccity
12 representative familiar with the negotiations shall, upon a written request by a member of the
13 public, prepare written summaries of the respective positions within five working days
14 following the final day of negotiation of any given week. The summaries will be available for
15 public inspection and copying. Upon completion of negotiations, the executed contract,
16 including the dollar amount of said contract, shall be made available for inspection and
17 copying. *No later than July 15th annually, ~~At the end of each fiscal year,~~* each City department shall
18 provide to the Board of Supervisors a list of all sole source contracts entered into *or renewed*
19 during the past fiscal year. This list shall be made available for inspection and copying as
20 provided for elsewhere in this Article.

21 (f) Budgets and Other Financial Information. Budgets, whether tentative, proposed
22 or adopted, for the City or any of its departments, programs, projects or other categories, and
23 all bills, claims, invoices, vouchers or other records of payment obligations as well as records
24 of actual disbursements showing the amount paid, the payee and the purpose for which

25

1 payment is made, other than payments for social or other services whose records are
2 confidential by law, shall not be exempt from disclosure under any circumstances.

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

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

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

17 **Section 67.25. IMMEDIACY OF RESPONSE.**

18 (a) Notwithstanding the 10-day period for response to a request permitted in
19 Government Code Section ~~6253~~ 6256 and in this Article, a written request for information
20 described in any category of non-exempt public information shall be satisfied with a response to
21 the requester in the mode of communication that the request was received (i.e. fax, e-mail, or mail) or
22 in the mode requested by the requester no later than the close of business on the day following
23 the day of the request. This deadline shall apply only if the words "Immediate Disclosure
24 Request" are placed across the top of the request and on the envelope, subject line, or cover
25 sheet in which the request is transmitted. Maximum deadlines provided in this article are

1 appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling
2 a simple, routine or otherwise readily answerable request.

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

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

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

24 **Section 67.28. FEES FOR DUPLICATION.**

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

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

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

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

16 (e) Pursuant to California Government Code section 54985, the Board of Supervisors
17 may establish a fee for providing copies of any record it deems appropriate, based on a
18 determination of the average cost (including direct and indirect costs) of producing copies of
19 the records, in accordance with the requirements of this Ordinance.

20 (f)(e) Video copies of video recorded meetings shall be provided to the public upon
21 request for the actual cost of materials (i.e. tapes) \$10.00 or less per meeting. The policy body
22 whose meeting was recorded shall handle requests for videotapes of its meetings. Public
23 requests for videotapes shall be handled by the policy body whose meeting was recorded.
24 Audiotapes of audio taped a meeting shall be provided upon public request for the actual cost of the
25 tapes by the policy body whose meeting was recorded.

1 **Section 67.29. INDEX TO RECORDS.**

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

1 official's practices or procedures affecting the accuracy of the information provided to the City
2 Administrator shall be recorded by the City Administrator on a periodic basis so as to maintain
3 the integrity and accuracy of the index. The index shall be continuously maintained on the
4 City's World Wide Website and made available at public libraries within the City and County of
5 San Francisco.

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

7 All documents prepared, received, or maintained by the Office of the Mayor, by any
8 elected Ccity and Ccounty official, and by the head of any City or County dDepartment are the
9 property of the City and County of San Francisco. The originals of these documents shall be
10 maintained consistent with the records retention policies of the City and County of San
11 Francisco. The City Administrator shall monitor. The City Attorney and his/her designee shall
12 monitor the transition of the Mayor, members of the Board of Supervisors, or any department head
13 when he/she leaves office by ensuring that City documents are retained consistent with records'
14 retention requirements. ~~to ensure that public documents are not unlawfully removed or~~
15 ~~destroyed during the transition.~~

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

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

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

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

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

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

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

24 (a) The Mayor, the Board of Supervisors and every member thereof, and all dDepartment
25 hHeads shall maintain and, ~~and~~ preserve consistent with City records retention policies, ~~and~~

1 ~~archive in a professional and businesslike manner~~ all documents and correspondence, including
2 but not limited to letters, e-mails, ~~drafts,~~ memorandum, invoices, reports, ordinances,
3 resolutions, and motions and ~~proposals that pertain to or are within the subject matter~~
4 ~~jurisdiction of the official's duties (including but not limited to documents which may be the~~
5 ~~basis of investigations of possible violations of the City's Codes)~~ and shall disclose all such
6 records in accordance with this ordinance.

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

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

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

1 the City and shall apply to any agreement allowing an entity to collect any fee from any
2 persons in any pretrial diversion program.

3 **Section 67.30. THE OPEN GOVERNMENT TASK FORCE COMMISSION FOR OPEN**
4 **GOVERNMENT ~~SUNSHINE ORDINANCE TASK FORCE.~~**

5 (a) There is hereby established a task force to be known as the Open Government
6 Task Force ~~Commission for Open Government *Sunshine Ordinance Task Force*~~ consisting of
7 eleven voting members appointed by the Board of Supervisors. All members must have
8 experience and/or demonstrated interest in the issues of citizen access and participation in
9 local government. Two members shall be appointed from individuals whose names have
10 been submitted by the local chapter of the Society of Professional Journalists, one of whom
11 shall be an attorney and one of whom shall be a local journalist. One member shall be
12 appointed from the press or electronic media. One member shall be appointed from
13 individuals whose names have been submitted by the local chapter of the League of Women
14 Voters. Four members shall be members of the public who have demonstrated interest in or
15 have experience in the issues of citizen access and participation in local government. Two
16 members shall be members of the public experienced in consumer advocacy. One member
17 shall be a journalist from a racial/ethnic-minority-owned news organization and shall be
18 appointed from individuals whose names have been submitted by New California Media. ~~At~~
19 ~~all times the task force~~ The Task Force ~~Commission~~ shall include at least one member who shall
20 be a member of the public with a disability that meets the definition of disabled under the Federal
21 Americans with Disabilities Act and who is physically handicapped and who has demonstrated
22 interest in citizen access and participation in local government. Lobbyists as defined in
23 Chapter 1 of Article II of the San Francisco Campaign and Governmental Conduct Code and
24 campaign consultants as defined in Chapter 5 of Article 1 of the San Francisco Campaign and
25 Governmental Conduct Code, or employees of such lobbyists and campaign consultants, may

1 not serve on the Task Force. The Mayor or his or her designee, and the Clerk of the Board of
2 Supervisors or his or her designee, and a designated representative from the Youth Commission, if
3 the Youth Commission so designates, shall serve as non-voting members of the Task Force
4 Commission ~~task force~~. The City Attorney shall serve as legal advisor to the Task
5 Force ~~Commission~~ ~~task force~~. The Open Government Task Force ~~Commission for Open~~
6 ~~Government~~ ~~Sunshine Ordinance Task Force~~ shall, at its request, have assigned to it in an
7 attorney from within the City Attorney's Office or other appropriate City Office, who is
8 experienced in public-access law matters. This attorney shall serve solely as a legal advisor
9 and advocate to the Task Force ~~Commission~~ ~~Task Force~~ and due process ~~an ethical wall~~ will
10 be maintained between the work of this attorney on behalf of the Task Force ~~Commission~~ ~~Task~~
11 ~~Force~~ and any person or Office that the Task Force ~~Commission~~ ~~Task Force~~ determines may
12 have a conflict of interest with regard to the matters being handled by the attorney.

13 (b) The term of each appointive member shall be two years unless earlier removed
14 by the Board of Supervisors. To stagger the terms of members thereafter, in the year 2005,
15 as Task Force member terms begin to expire, the terms shall be set for six terms expiring in
16 one year, and five terms expiring in the next year. In the event of such removal or in the event
17 a vacancy otherwise occurs during the term of office of any appointive member, a successor
18 shall be appointed for the unexpired term of the office vacated in a manner similar to that
19 described herein for the initial members. The Task Force ~~Commission~~ ~~task force~~ shall elect a
20 chair from among its appointive members. The term of office as chair shall be one year.
21 Members of the Task Force ~~Commission~~ ~~task force~~ shall serve without compensation.

22 (c) The Task Force ~~Commission~~ ~~task force~~ shall advise the Board of Supervisors and
23 provide information to other City departments on appropriate ways in which to implement this
24 chapter. The Task Force ~~Commission~~ ~~task force~~ shall develop appropriate goals to ensure
25 practical and timely implementation of this chapter. The Task Force ~~Commission~~ ~~task force~~

1 shall propose to the Board of Supervisors amendments to this chapter. The Task Force
2 ~~Commission~~ ~~task force~~ shall report to the Board of Supervisors at least once annually on any
3 practical or policy problems encountered in the administration of this chapter. The Task Force
4 ~~Commission~~ ~~Task Force~~ shall receive and review the annual report of the Supervisor of Public
5 Records and may request additional reports or information as it deems necessary. The Task
6 Force ~~Commission~~ ~~Task Force~~ shall make referrals to a municipal office with enforcement
7 power under this ordinance or under the California Public Records Act and the Brown Act
8 whenever it concludes that any person has violated any provisions of this ordinance or the
9 Acts. The Task Force ~~Commission~~ ~~Task Force~~ shall, from time to time as it sees fit, issue
10 public reports evaluating compliance with this ordinance and related California laws by the
11 City or any ~~d~~Department, ~~o~~Office, or ~~o~~Official thereof.

12 (d) ~~—The Task Force Commission shall conduct administrative hearings on~~
13 ~~complaints made by members of the public for alleged violations of the public meeting or~~
14 ~~public records provisions of the Ordinance, violations of the State Public Records Act, or the~~
15 ~~State Brown Act governing public meetings. The Task Force Commission may issue Orders~~
16 ~~of Determination following the hearing on a particular complaint. An Order of Determination~~
17 ~~finding a violation of the above state laws shall be evidence of such violation in any other~~
18 ~~administrative or judicial proceeding.~~

19 (e) ~~—In the event that the Task Force Commission issues an Order of Determination~~
20 ~~finding that any entity covered by the Open Government Ordinance violated the Ordinance in~~
21 ~~handling public meetings or release of public records, the Task Force Commission may~~
22 ~~require that entity to schedule at its next regularly scheduled meeting the Order of~~
23 ~~Determination for its discussion and response.~~

24 (f) ~~—Unless otherwise prohibited by state law or other existing local ordinance, the~~
25 ~~Task Force Commission may subpoena witnesses, compel their attendance and testimony,~~

1 administer oaths and affirmation, take evidence and require by subpoena the production of
2 any books, papers, records or other items material to the performance of the Task Force's
3 Commission's duties or exercise of its powers.

4 (g) — (1) — In the event the Task Force Commission finds a serious violation of the
5 Ordinance, the Task Force Commission by a 2/3 vote of the entire body may seek outside
6 counsel to prosecute the violations of the Ordinance in the Civil Courts to the extent permitted
7 by the City Charter.

8 (2) — The amount of expenditure shall be governed by the budget provisions of the
9 City Charter and in no event shall the expenditure to prosecute these cases be more than
10 \$50,000.00 per fiscal year.

11 (d) — *In addition to the powers specified above, the Task Force shall possess such powers as*
12 *the Board of Supervisors may confer upon it by ordinance or as the People of San Francisco shall*
13 *confer upon it by initiative.*

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

17 (e) (i) *In addition to the powers specified above, the Task Force Commission shall possess*
18 *such powers as the Board of Supervisors may confer upon it by ordinance or as the People of San*
19 *Francisco shall confer upon it by initiative.*

20 **Section 67.31. RESPONSIBILITY FOR ADMINISTRATION.**

21 The Mayor shall administer and coordinate the implementation of the provisions of this
22 chapter for departments under his or her control. The Mayor shall administer and coordinate
23 the implementation of the provisions of this chapter for departments under the control of board
24 and commissions appointed by the Mayor. Elected officers shall administer and coordinate
25 the implementation of the provisions of this chapter for departments under their respective

1 control. The Clerk of the Board of Supervisors shall provide a full-time staff person to perform
2 administrative duties for the Task Force Commission ~~Sunshine Ordinance Task Force~~ and to
3 assist any person in gaining access to public meetings or public information. The Clerk of the
4 Board of Supervisors shall provide that staff person with whatever facilities and equipment are
5 necessary to perform said duties.

6 **Section 67.32. PROVISION OF SERVICES TO OTHER AGENCIES; SUNSHINE**
7 **REQUIRED.**

8 (a) It is the policy of the City and County of San Francisco to ensure opportunities for
9 informed civic participation embodied in this Ordinance to all local, state, regional and federal
10 agencies and institutions with which it maintains continuing legal and political relationships.
11 Officers, agents and other representatives of the City shall continually, consistently and
12 assertively work to seek commitments to enact open meetings, public information and citizen
13 comment policies by these agencies and institutions, including but not limited to the Presidio
14 Trust, the San Francisco Unified School District, the San Francisco Community College
15 District, the San Francisco Transportation Authority, the San Francisco Housing Authority, the
16 Treasure Island Development Authority, the San Francisco Redevelopment Authority and the
17 University of California. The Open Government Task Force shall hold hearings regarding
18 these entities to determine areas in which the entities' compliance with state and federal open
19 government laws differ from compliance under the Sunshine Ordinance. The Task Force
20 shall report its findings to the Board of Supervisors. Upon receipt of any report, the Board of
21 Supervisors shall take any appropriate action to further citizens' access to those entities. To
22 the extent not expressly prohibited by law, copies of all written communications with the above
23 identified entities and any City employee, officer, agents, or and representative, shall be
24 accessible as public records. To the extent not expressly prohibited by law, any meeting of
25 the governing body of any such agency and institution at which City officers, agents or

1 representatives are present in their official capacities shall be open to the public, and this
2 provision cannot be waived by any City officer, agent or representative. ~~To the extent not~~
3 ~~expressly prohibited by law, the City shall give no subsidy in money, tax abatement, land,~~
4 ~~services, or benefits to any state agency, federal agency, or special district operating within~~
5 ~~the City and County of San Francisco unless the agency agrees to comply with the provisions~~
6 ~~of the Open Government Ordinance.~~ The Ccity shall give no subsidy in money, tax
7 abatements, land, or services to any for-profit private entity unless that private entity agrees in
8 writing to provide the city with financial projections (including profit and loss figures), and
9 annual audited financial statements for the project thereafter, for the project upon which the
10 subsidy is based and all such projections and financial statements shall be public records that
11 must be disclosed.

12 (b) — ~~Compliance with the Open Government Ordinance is a condition precedent to~~
13 ~~the execution of any new or renewed contract made between the City and any other entity~~
14 ~~including but not limited to non-profit corporations, where the City issues payments totaling~~
15 ~~\$100,000.00 or more in money or in-kind consideration.~~

16 **Section 67.33. DEPARTMENT HEAD DECLARATION.**

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

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

2 The willful failure of any elected official, department head, or other managerial city
3 employee to discharge any duties imposed by the *Open Government Sunshine* Ordinance, the
4 Brown Act or the Public Records Act shall be deemed official misconduct. Complaints
5 involving allegations of willful violations of this ordinance, the Brown Act or the Public Records
6 Act by elected officials or department heads of the City and County of San Francisco shall be
7 handled by the Ethics Commission.

8 **Section 67.36. OPEN GOVERNMENT SUNSHINE ORDINANCE SUPERSEDES OTHER**
9 **LOCAL LAWS.**

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

13 **Section 67.37. AMENDMENTS.**

14 (a) By a two-thirds vote of its members, the Board of Supervisors may amend or repeal
15 a provision of the Open Government Ordinance, as codified in Chapter 67 of the San
16 Francisco Administrative Code, (1) to make the Ordinance consistent with state law or (2) to
17 further the public's access to government.

18 (b) Before the Board of Supervisors takes final action on any amendments to this
19 Ordinance, the Clerk of the Board of Supervisors shall refer the matter to the Open
20 Government Task Force for comment and recommendation. The Task Force shall provide
21 any response it deems fit within 30 days of the date the Board of Supervisors referred the
22 matter to the Commission. After the 30 day period has elapsed, the Board of Supervisors
23 may act on the matter whether or not the Board has received a response.

24 (c) The Open Government Task Force may propose to the Board of Supervisors any
25 amendments to this Ordinance.

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

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

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25