

1 NAVI SINGH DHILLON (SBN 279537)  
navidhillon@paulhastings.com  
2 CHRISTOPHER J. CARR (SBN 184076)  
chriscarr@paulhastings.com  
3 WINSTON P. STROMBERG (SBN 258252)  
winstonstromberg@paulhastings.com  
4 LUCAS V. GRUNBAUM (SBN 314180)  
lucasgrunbaum@paulhastings.com  
5 PAUL HASTINGS LLP  
101 California Street, 48th Floor  
6 San Francisco, California 94111  
Telephone: (415) 856-7000  
7

8 Attorneys for Defendants  
NEWPORT BEACH STEWARDSHIP ASSOC.  
and MARSHALL DUFFIELD  
9

10  
11 SUPERIOR COURT OF CALIFORNIA  
12 COUNTY OF ORANGE  
13

14  
15 CITY OF NEWPORT BEACH, et al.,  
16 Plaintiffs,  
17 v.  
18 NEWPORT BEACH STEWARDSHIP  
ASSOCIATION, et al.,  
19 Defendants.  
20

Case No.: 30-2026-01559183-CU-JR-NJC

**DECLARATION OF NAVI SINGH  
DHILLON IN SUPPORT OF NEWPORT  
BEACH STEWARDSHIP  
ASSOCIATION'S OPPOSITION TO EX  
PARTE APPLICATION**

Date: April 8, 2026  
Time: 1:30 p.m.  
Dept: N14  
Judge: Hon. Julianne Bancroft

Case Filed: March 26, 2026  
21  
22  
23  
24  
25  
26  
27  
28

1 I, Navi Singh Dhillon, declare as follows:

2 1. I am a partner at Paul Hastings LLP and lead counsel for Defendants Newport Beach  
3 Stewardship Association and Marshall Duffield (together, NBSA). I make this declaration in  
4 support of NBSA’s Opposition to Ex Parte Application to Stay Official Duties Pending Litigation.  
5 Unless stated otherwise, I have personal knowledge of the matters set forth below and, if called as  
6 a witness, I could and would testify competently thereto.

7 2. Attached as **Exhibit A** is a true copy of excerpts from the City and County of San  
8 Francisco Voter Information Pamphlet and Sample Ballot for the Consolidated Municipal Election  
9 occurring on November 2, 1999, prepared by the Department of Elections of the City and County  
10 of San Francisco. I obtained this document by visiting the San Francisco Public Library’s website  
11 and selecting file “GIC-VP-1999-11-02.” A full copy of this document can be obtained through  
12 the following website: <https://digitalsf.org/record/56701?ln=en&p=1999&v=pdf>.

13 3. Attached as **Exhibit B** is a true copy of the Sunshine Initiative that NBSA submitted  
14 to the City on December 23, 2025.

15 4. On January 5, 2026, the City Attorney for the City of Newport Beach (City), Aaron  
16 Harp, contacted me to request an extension, until January 14, 2026, of the City’s deadline to prepare  
17 a ballot title and summary for the Sunshine Initiative. I responded that same day to confirm that  
18 NBSA agreed to the request.

19 5. Mr. Harp subsequently contacted me several times in January 2026 and February  
20 2026 to request additional extensions of the City’s deadline to prepare a ballot title and summary  
21 for the Sunshine Initiative. NBSA promptly responded to those requests. The parties ultimately  
22 agreed to extend the deadline for the City to prepare the ballot title and summary to March 30, 2026.

23 6. During our discussions in January 2026 and February 2026, counsel for the City  
24 expressed certain concerns regarding the Sunshine Initiative’s compliance with the single subject  
25 rule (Cal. Const., Art. II, § 8(d)), and indicated the City may file a lawsuit on those grounds.

26 7. On March 26, 2026, counsel for the City, Mr. William Ihrke, informed me that the  
27 City “will proceed . . . with initiating its own action by filing a complaint.” Mr. Ihrke did not inform  
28 me that the City had actually filed its complaint that same day.



# EXHIBIT A

SF  
R45  
#1  
11/2/99  
(9901)

# City and County of San Francisco

## Voter Information Pamphlet and Sample Ballot

**Consolidated Municipal Election**  
**November 2, 1999**

Check the back cover  
of this  
pamphlet for your  
polling place address.

## OUTSTANDING POLL WORKERS — NOVEMBER 3, 1998 ELECTION

Grady Allison Jamie G. Armstrong Clifford Arnett Ralph I. Avendano Frank A. Beerling Frances Berg Maurice Bihan Lydia Boesch Eusebla I. Caparro John M. Casey Bernice Castaing Sandy P. Cates Jess Centeno, Jr. Arthur P. Childs Kam F. Ching David Colbert Dashon Craig Artie F. Darden Louise R. Dean Helen Doherty	Bernard Edelheit Shirley J. Edelheit Roscoe L. Farmer Ralph Gage, Jr. Godofredo S. Gomez Victoria Guzman Diana H. Hall Shirley J. Harper Monique Harris Aurora Hartwig Mark Hetrick Anna L. Hom Justin T. Horner Allan Hummel Burk L. Humphrey Audrey Jamison Della Jones Bonnie B. Jones Mable Jordan Gloria E. Juric	Margaret M. Kennedy Patricia Kirby Karl V. Klemens Thomas J. Knapp Harold W. Lewis Maria Lofredo Craig Lombardi Jacqueline J. Lucas Eveleen Maher Barbara Massey Laurence Monroe Isabelle Musio Maria Navas Suzanne E. Norris Rosa Ozan Angela Pak Jeremiah Paknawin-Mock Joan Panarelli Juanito Patalinghug Peggie Paul	Michael Peppe Linda Annette Pierce Sotero P. Pinca Kalisha N. Puckett Raiford A. Rattan Inez Reid Donald L. Roberts Kevin V. Robinson Lucylle K. Rumold Herbert R. Runyon Richard P. Samuels Victoria Sanchez Ronald Santos Elise Schoux William Schoux J. Michael Sherlock Lauren C. Shurman Michelle Soriano Tracy St.Cyr Elizabeth Steens	Douglas Tallerson Curtis Taylor Lurinze Terrell William H. Travis, Jr. Soledad S. Turla Delores M. Umbarger Alexa C. Uriarte Richard A. Vendiola Erlinda B. Villa Brenda F. Watson James J. Weir, Jr. Tenecia Williams Dewey Wilson Victoria V. Winston Michelle N. Wong Frances Ye Demetri Young Jaly Yu Jean Zenger Paula Zimmerman
--	---	---	---	--

### Dedication and Commitment

The Department of Elections wants to take this opportunity to thank the above-listed poll workers for their dedication and commitment to our City during the November 3, 1998, Consolidated General Election. Please join us in acknowledging the outstanding community service and personal contribution these poll workers have performed for all of us.

Volunteer poll workers are needed in your neighborhood for upcoming elections. A poll worker is required to attend a training session before each election. On Election Day, poll workers start at 6:30a.m. and finish at approximately 9:00p.m. The poll worker who is responsible for picking up supplies, delivering the ballot box and acting as supervisor of a polling site is reimbursed \$105 for the day. The other poll workers are reimbursed \$82 for the day. We urge all of you to make time to volunteer your services to this fundamental aspect of democracy.

## EQUAL CIVIC DUTY OPPORTUNITY - SIGN UP TODAY

### DEMOCRACY NEEDS YOU



### DEPARTMENT OF ELECTIONS — POLL WORKER APPLICATION

I am a resident of San Francisco and a **REGISTERED VOTER** of San Francisco. I hereby request to be a poll worker for the Consolidated Municipal Election to be held on Tuesday, November 2, 1999. If I am not currently registered to vote, my registration form is attached. **BRING THIS FORM IN PERSON TO: Department of Elections, City Hall, 1 Dr. Carlton B. Goodlett Place, Rm. 46.**

*Sign Here*

\_\_\_\_ / \_\_\_\_ / 99

Today's Date

\_\_\_\_ / \_\_\_\_ / \_\_\_\_

DATE of BIRTH (Month/Day/Year)

\_\_\_\_\_  
FIRST NAME

\_\_\_\_\_  
M.I.

\_\_\_\_\_  
LAST NAME

\_\_\_\_\_  
ADDRESS

San Francisco, CA

\_\_\_\_\_  
ZIP CODE

\_\_\_\_ - \_\_\_\_  
DAYTIME PHONE

\_\_\_\_ - \_\_\_\_  
EVENING PHONE

I HAVE A CAR:



Yes  
 No

What language do you speak in addition to English?



# TABLE OF CONTENTS

## Voter Information Pamphlet

### Consolidated Municipal Election, November 2, 1999

#### GENERAL INFORMATION

Poll Worker Application .....	(Inside Front Cover)
Purpose of the Voter Information Pamphlet .....	3
Your Rights as a Voter .....	4
Early Voting/Access for the Disabled Voter .....	5
Permanent Absentee Voter (Permanent Vote-by-Mail)	
Qualifications .....	6
<b>SAMPLE BALLOT</b> .....	<b>9</b>
City and County of San Francisco Offices	
to be Voted on this Election .....	17
Overview of San Francisco's Debt .....	29
Rules for Arguments For and Against Ballot Measures ..	30
Words You Need to Know .....	31
Telephoning the Department of Elections .....	203
Index .....	208
Quick Voters Reference Card .....	(Inside Back Cover)
Absentee Ballot Application .....	(Back Cover)
Location of your Polling Place .....	(Back Cover)
Permanent Absentee Voter Request Form ....	(Back Cover)

#### CANDIDATE STATEMENTS

<b>Mayor</b>	
Martin Lee Eng .....	18
Joel Ventresca .....	18
A. D. Wyatt Norton .....	19
Frank Jordan .....	19
Jim Reid .....	20
Clint Reilly .....	20
Lucrecia Bermúdez .....	21
Willie Lewis Brown, Jr. ....	21
Max Woods .....	22
Cesar Ascarrunz .....	22
Mark "SuperBooty" O'Hara .....	23
J. R. Manuel .....	23
David J. Martz .....	24
William Felzer .....	24

#### CANDIDATE STATEMENTS - (cont.)

<b>District Attorney</b>	
Steve Castleman .....	25
Matt Gonzalez .....	25
Terence Hallinan .....	26
Mike Schaefer .....	26
Bill Fazio .....	27
<b>Sheriff</b>	
Michael Hennessey .....	28

#### PROPOSITIONS

<b>A</b> Laguna Honda Project .....	33
<b>B</b> Firefighter/Police Retirement Benefits .....	57
<b>C</b> Supervisorial District Boundaries .....	67
<b>D</b> Sick Leave/Vacation Credit Transfers .....	75
<b>E</b> Municipal Transportation Agency .....	81
<b>F</b> ATM Fees .....	105
<b>G</b> Sunshine Ordinance Amendment .....	119
<b>H</b> Downtown Caltrain Station .....	146
<b>I</b> Octavia Boulevard Plan .....	156
<b>J</b> Central Freeway Replacement .....	174
<b>K</b> Campaign Expenditure Limit .....	195

### SAN FRANCISCO VOTER INFORMATION PAMPHLET

Published by the Department of Elections  
 City and County of San Francisco  
 One Dr. Carlton B. Goodlett Place, Room 48  
 San Francisco, CA 94102-4634

Printing by Alonzo Printing Company  
 Translations by La Raza Translation Services and Chinese  
 Journal Corp.  
 Mailing Services by FYI Direct

Cover photo provided by: San Francisco Convention and  
 Visitors Bureau

# Sunshine Ordinance Amendment

## PROPOSITION G

Shall the City make changes in the requirements and procedures regarding public access to City records and meetings provided in the Sunshine Ordinance?

YES   
NO

### Digest

by Ballot Simplification Committee

**THE WAY IT IS NOW:** The City's Sunshine Ordinance currently provides rules and procedures for public access to City meetings and records. These provisions include:

- City boards, commissions and other bodies generally must conduct their business at open and publicly announced meetings. They may meet in closed session only for limited purposes, such as conferring with labor negotiators or attorneys.

- The public has a right to view City records, unless the records are confidential. Records may be confidential for a number of reasons, including privacy concerns, ongoing negotiations, ongoing deliberations, because the records are subject to attorney-client privilege, or when the public interest in seeing a record is clearly outweighed by the public interest in keeping the record confidential.

**THE PROPOSAL:** Proposition G is an ordinance that would make numerous changes and additions to the City's Sunshine Ordinance. Some changes would clarify or extend the existing ordinance. Changes and additions include:

- The public would be permitted to attend meetings of any group that meets with the Mayor or City department heads to discuss fiscal, economic or policy issues;

- The public would be permitted to attend meetings of city employees to review or develop City policy or procedures relating to public health, safety or welfare;

- Groups that contribute money for the City's activities would have to comply with the ordinance;

- The Mayor and City department heads would be required to keep, and make public, calendars listing who meets with them and the topic of the meeting;

- Any meeting of the governing bodies of certain local, state, regional and federal agencies attended by City representatives would have to be open to the public;

- The City's assertion of public interest would no longer be a sole basis for withholding records;

- The City would be prohibited from withholding records solely because they reveal the "deliberative process" of City officials;

- In certain negotiations, the City would be required to disclose documents exchanged by the parties or prepared by the City;

- The City Attorney could not give confidential advice to City officers or employees on matters concerning government ethics, public records and open meeting laws; and,

- The City would be required to create certain text, audio, and video records, maintain certain records for longer periods, prepare an index of public records, and be limited in what it could charge for reproducing records. Certain records would have to be made available on the City's website.

Failure to comply with the provisions of the Sunshine Ordinance would be considered official misconduct.

**A "YES" VOTE MEANS:** If you vote yes, you want to make these changes to the City's Sunshine Ordinance.

**A "NO" VOTE MEANS:** If you vote no, you do not want to make these changes to the City's Sunshine Ordinance.

### Controller's Statement on "G"

City Controller Edward Harrington has issued the following statement on the fiscal impact of Proposition G:

In my opinion, should this ordinance be adopted and implemented it would increase the cost of City government by an amount that cannot be fully estimated at this time, but may be substantial.

At a minimum, the ordinance requires additional staffing and computer hardware and software that is likely to cost over \$300,000 initially and over \$400,000 annually. Additional costs that cannot be estimated will arise from:

- requirements for retaining more documents for longer periods of time than would be normal;

- provisions that do not allow the City to recover the labor or computer costs of providing information, even where these costs may be substantial; and

- sections which appear to require the City to make its negotiating positions or other draft documents available to the opposing side in negotiations.

### How "G" Got on the Ballot

On July 15, 1999 the Department of Elections certified that the initiative petition calling for Proposition G to be placed on the ballot had qualified for the ballot.

10,510 signatures were required to place an ordinance petition on the ballot.

This number is equal to 5% of the total number of people who voted for Mayor in 1995. A random check of the signatures submitted on July 5, 1999 by the proponent of the initiative petition showed that more than the required number of signatures were valid.

THIS MEASURE REQUIRES 50%+1 AFFIRMATIVE VOTES TO PASS.

ARGUMENTS FOR AND AGAINST THIS MEASURE IMMEDIATELY FOLLOW THIS PAGE. THE FULL TEXT BEGINS ON PAGE 131

SOME OF THE WORDS USED IN THE BALLOT DIGEST ARE EXPLAINED ON PAGE 31

**G**

# Sunshine Ordinance Amendment

## PROPONENT'S ARGUMENT IN FAVOR OF PROPOSITION G

San Francisco is a city in crisis. Neighborhoods are being gentrified. Downtown and South of Market is undergoing rampant development without infrastructure improvements and long-time residents are forced out by the resulting rise in rents. The millions of dollars that could improve services are being negotiated away in sweetheart deals to big corporations dealing behind closed doors for lucrative city contracts.

San Francisco is being sold out to the highest bidder, and City Hall wants to keep it that way. That's why many of our elected and appointed officials oppose the Sunshine Initiative. It would open the city's contracting process so that all of us can have a voice in deciding how our taxes are used before the money's spent, not after.

It would accomplish much more than that too. It would amend the city's open-government law, the Sunshine Ordinance, to improve access to public meetings and records and establish an enforcement mechanism so that individuals denied access can appeal without having to resort to expensive court battles. A recent statewide poll showed 70% of Californians support reforms contained in Proposition G.

**Don't believe City Hall's misinformation campaign.** Proposition G will not eliminate any state and federal privacy protections for individuals contacting city officials. City Hall's estimates of the cost of implementing the initiative are overstated, and do not consider the cost savings that public scrutiny is certain to bring. (They said \$700,000 when the Sunshine Ordinance was enacted in 1993 - another false prediction.)

**What Prop. G will do** is make city government more accessible and accountable to the San Franciscans it's supposed to serve. That's why Prop. G is endorsed by numerous neighborhood, community, and activist groups.

**Yes on G—It's Good Government.**

*Tom Ammiano, President, Board of Supervisors .  
Leland Yee, PhD, Finance Committee Chair, Board of Supervisors*

## REBUTTAL TO PROPONENT'S ARGUMENT IN FAVOR OF PROPOSITION G

### REDRAFT THE 41 PAGE "SUNSHINE" ORDINANCE INTO SEVERAL COMPACT STATUTES:

Sometimes it's embarrassing to see with whom one finds oneself voting.

I read the 8/18/99 *Bay Guardian* editorial "BROWN'S WAR ON SUNSHINE":

*"The Brown - Burton machine, which runs San Francisco politics with an ever tighter grip, put on a raw display of power Aug. 11 - and open government was the clear loser...[T]he San Francisco Democratic County Central Committee voted 17-9 to oppose the [Sunshine] initiative. The vote was almost exactly along machine lines: Chair (and Brown ally) Natalie Berg, Sups. Sue Bierman and Leslie Katz... [and] virtually every public official, commissioner, or city hall bureaucrat went on record as supporting the mayor's undeclared war on sunshine... The initiative is aimed at preventing the sort of secrecy that has led the FBI to investigate several San Francisco agencies over possible fraud in*

*contracting. It's aimed at preventing Brown and his allies from giving away millions in taxpayer money to big business... [and] at the sleaze that has become the hallmark of the Brown - Burton machine..."*

I agree with the "*Bay Guardian*" that Willie Brown should be defeated for reelection as San Francisco Mayor.

On the subject immediately at hand, Proposition G, I believe that the Sunshine Ordinance needs to be broken down from its current 41 pages and turned into several shorter, more compact, and hard-hitting statutes.

Revise Proposition G.

Give Proposition G more "teeth".

*Dr. Terence Faulkner, J.D.  
Past County Chairman\*  
San Francisco Republican Party  
(Founded: 1856 A.D.)*

\* Titles or organizations for identification purposes only.

Arguments printed on this page are the opinion of the authors and have not been checked for accuracy by any official agency.

# Sunshine Ordinance Amendment



## OPPONENT'S ARGUMENT AGAINST PROPOSITION G

### **41 PAGES OF LEGAL "BOILERPLATE" IS ALREADY TOO MUCH - THE SO-CALLED "SUNSHINE" ORDINANCE CASTS A DARK SHADOW OF LEGAL QUESTIONS:**

The 41 pages of the so-called "Sunshine" Ordinance need to be revised and subdivided into several shorter laws. Legal complexity is not "legal reform".

### **VOTE "NO" ON PROPOSITION G (THE SO-CALLED "SUNSHINE" ORDINANCE AMENDMENT):**

A great deal of cautious redrafting is needed to clean out all the doubts and legal cobwebs from the "Sunshine" Ordinance. Whole new statutes need to be enacted by the voters, not just the much troubled "Sunshine" Ordinance amended is needed.

The life of the "Sunshine" Ordinance needs to be extended, but with more effective penalties for those public officials who openly violate its provisions. The demand in the proposed

Proposition G amendment that the meetings of certain state and federal agencies which are attended by San Francisco representatives be open to the public appears to have federal and State of California preemption problems. Better legal scholarship is needed in revising the "Sunshine" Ordinance.

**VOTE "NO" ON PROPOSITION G !**

*Committee to Reform the City Charter*

*Dr. Terence Faulkner, J.D.*

Chairman of Committee to Reform the City Charter

## REBUTTAL TO OPPONENT'S ARGUMENT AGAINST PROPOSITION G

The Sunshine Initiative is a major step toward open government. Drawing on years of experience encountered by good government activists, much of the language is based on working models from states such as Massachusetts, with effective sunshine laws.

- **The length and complexity** are reflective of the various means bureaucrats have employed to avoid our laws.
- **State and Federal law** may, indeed, supersede in some instances.
- **Costs For Open Government.** The City hired 1400 new staff people last year. Surely many are qualified to keep basic, modern, businesslike records. That is all this initiative seeks. Yet opponents' estimates are based on several new employees.
- **Unrealistic costs for "new equipment" and record storage.** Opponents ignore recent advances in technology and simplifications that allow anyone to perform duties previously reserved for "technicians."
- **The City may need to reassign a staff person** to handle the

backlog from the previous Sunshine Ordinance. But with major loopholes closed, clear laws and penalties, fewer complaints will come before the task force.

Opponents are wrong - 99% of Sunshine requests are not routinely granted. It's exponentially less.

**...And what about THE MILLIONS IN SAVINGS** from public scrutiny of contracts; the postage, reams of stationery, and staff time currently spent on public inquiries that posting on the city's website will save?

We ask opponents, at what point do you draw the line and say, "Open government just ain't worth it?"

**Yes on G**

*Tom Ammiano*

President, Board of Supervisors

*Leland Yee, PhD*

Chair, Finance Committee, Board of Supervisors



# Sunshine Ordinance Amendment

## PAID ARGUMENTS IN FAVOR OF PROPOSITION G

I support full public access to the private dealing of our public officials on our behalf. I oppose any backroom deals and as mayor will appoint investigative reporters/Sunshine advocates to each City Department to report to me and to the press the good and bad goings-on at City Hall.

*Jim Reid*

Candidate for Mayor [www.SFMayor.com](http://www.SFMayor.com)

The true source of funds used for printing fee of this argument is Jim Reid for Mayor Committee.

As tax payers, wouldn't you like to know what *your* tax dollars are paying for?

More important, wouldn't you like to know to whom *your* money is being paid?

Let's bring sunshine into the closed door meetings that occur far too often in our city government.

Support **HONEST** and **OPEN** government.

**VOTE YES ON PROP. G.**

*Angela Alioto*

Former President, Board of Supervisors

The true source of funds used for the printing fee of this argument is Angela Alloto.

True democracy requires informed citizens. The Green Party helped put "Sunshine" on the ballot because of our commitment to city government that is accountable and accessible to *all* its residents. **Information is power.** Vote YES on G.

*San Francisco Green Party*

The true source of funds used for the printing fee of this argument is San Francisco Green Party.

Denying public access to government is reprehensible. Believing our current "Sunshine" laws work is denial. Let's put teeth into democracy, and not be victims of an arrogant bureaucracy. **VOTE YES ON G!**

*San Francisco Tomorrow*

The true source of funds used for the printing fee of this argument is San Francisco Tomorrow.

Local government secrecy is costing the taxpayers hundreds of millions of dollars each year.

More open government reduces waste, inefficiency, and corruption.

*Joel Ventresca*

City and County of San Francisco  
Environmental Commissioner (1994-1997)  
Progressive Mayoral Candidate

The true source of funds used for the printing fee of this argument is Ventresca for Mayor 1999.

The three largest contributors to the true source recipient committee are: 1. Joel Ventresca 2. Brian Ventresca 3. Marc Vraciv.

Proposition G is good for writers, citizens, labor and business.

Proposition G will boost access to information. It will increase public scrutiny of policy-making meetings, advisory bodies, proposed city contracts, and public records.

Journalists are the eyes and ears of the public. Vote YES on G to make sure that government is open to observation by reporters.

*Bruce Hartford*

Secretary-Treasurer  
National Writers Union

The true source of funds used for the printing fee of this argument is National Writers Union.

The League of Women Voters of San Francisco believes citizens have a right to participate in their government.

The League of Women Voters of San Francisco wants to ensure that the public's business is conducted in public.

The Sunshine Ordinance Amendment is a good government measure that will give San Franciscans the information they need to participate in government. Proposition G ensures that individuals have greater access to public records, that meetings where City business is conducted are open, and that all City contracts are awarded in an open process.

The League of Women Voters of San Francisco urges you to support Proposition G.

Vote YES on open government!

Vote YES on your right to participate in government and to be informed!

*Holli P. Thier, J.D.*  
Co-President

*Martha Benioff*  
Co-President

The true source of funds used for the printing fee of this argument is the League of Women Voters of San Francisco.

Arguments printed on this page are the opinion of the authors and have not been checked for accuracy by any official agency.

# Sunshine Ordinance Amendment



## PAID ARGUMENTS IN FAVOR OF PROPOSITION G

Why operate in secrecy? The public isn't going to disrupt the meetings. They will act as watchdogs.

*Martin Lee Eng*

Mayoral candidate 1999

Campaign web site: [HTTP://www.GlobalForum.com](http://www.GlobalForum.com)

The true source of funds used for the printing fee of this argument is Martin Lee Eng.

---

Access to government officials and public information is a life-and-death issue for people with HIV and other serious medical conditions. Prop. G will help ensure that taxpayer money earmarked to protect public health and provide medical services will not be wasted. **PLEASE VOTE YES ON PROP. G.**

AIDS Coalition To Unleash Power

*Michael Lauro*

*Hank Wilson*

*Matthew Sharp*

AIDS Medicine Recycling Project

*Herman (Homer) J. Hobi*

The true source of funds used for the printing fee of this argument is The AIDS Coalition to Unleash Power.

---

Secret deals and machine politics have the FBI investigating City Hall this year. Proposition G will bring in sunshine and stop sleazy backroom dealing.

Vote Yes on G!

*The Harvey Milk Lesbian, Gay, Bisexual, Transgender Democratic Club*

The true source of funds used for the printing fee of this argument is The Harvey Milk Lesbian, Gay, Bisexual, Transgender Democratic Club

### TODAY'S SUNSHINE INEFFECTIVE

The Department of Elections, still ignores Sunshine requests for information about the '97 stadium/mall election.

Where is the printing invoice for ballots?

Who had the ballots for four hours?

How did they get wet?

Who rented the trucks to the City?

Who drove the trucks?

**STRENGTHEN SUNSHINE**—lets find out.

*Committee to Stop the Giveaway*

The true source of funds used for the printing fee of this argument is Committee to Stop the Giveaway.

---

The San Francisco Main Public Library is the repository of city documents preserved through Proposition G (City Code §8.16).

Public access is through the Government Information Center (fifth floor). This Proposition encourages efficient and thoughtful communication and work within government and is invaluable for historical research.

*Mae K. Silver,*

Local History Writer

The true source of funds used for the printing fee of this argument is San Franciscans for Sunshine.

The three largest contributors to the true source recipient committee are: 1. Bruce Brugmann 2. Clint Reilly 3. Angela Alioto.

---

### Disabled San Franciscans Support Sunshine

Disabled San Franciscans support increased access via Internet to notices, agendas, and meeting records to encourage participation for people with sensory and mobility problems.

*Sergio Alunan*

President, Disability Community Democratic Club

*Bob Planthold*

Member, Sunshine Task Force

*Peggy Coster*

*Edward Evans*

*Karen Young-Simmons*

*Wayne Sherman*

*Frank J. Marone*

The true source of funds used for the printing fee of this argument is San Franciscans for Sunshine.

The three largest contributors to the true source recipient committee are: 1. Bruce Brugmann 2. Clint Reilly 3. Angela Alioto.



# Sunshine Ordinance Amendment

## PAID ARGUMENTS IN FAVOR OF PROPOSITION G

Stop anti-democratic City Hall politicians and bureaucrats from refusing to disclose to the citizens of San Francisco the facts exposing their backroom deals and questionable practices.

Support establishing real democracy in San Francisco!

**VOTE YES! on Proposition G!**

*Former Supervisor John Bardis*

The true source of funds used for the printing fee of this argument is John Bardis.

We sponsored San Francisco's current Sunshine Ordinance — the strongest in the nation. And we can make it stronger.

Proposition G does just that. Among other things, it eliminates loopholes allowing secret meetings and establishes penalties for public-records-law violations.

**THIS MEASURE IS ABOUT OPEN GOVERNMENT.** And whatever its implementation costs will be minuscule next to what will be saved because of the powers of scrutiny that the initiative brings to the taxpayers.

*Society of Professional Journalists, Northern California Chapter*

The true source of funds used for the printing fee of this argument is Society of Professional Journalists.

For 25 years, Coleman has fought for governmental openness and broad participation in public decision making. Children, youth, families—and all San Franciscans—benefit when democratic institutions are strengthened.

Vote Yes on G.

*Coleman Advocates for Children and Youth*

The true source of funds used for the printing fee of this argument is Coleman Advocates.

We overcame the barrier to vote. There is another barrier - the devaluing of our right to an open and accessible government. Existing Sunshine laws are a facade and don't protect against corrosive influences. We deserve better! Vote Yes on G.

*SF National Organization for Women PAC*

The true source of funds used for the printing fee of this argument is Tricia Stapleton.

As environmental and transit advocates, we believe that a sustainable future demands a sensible government. We need a stronger "sunshine" law to promote the interests of our diverse communities that aspire to improve our City's environmental-health, economic strength, and a high quality of life. Vote Yes on G!

*John Holtzclaw, SF League of Conservation Voters\**

*Ross Mirkarimi*

*Jane Morrison, President, SFT\**

*Tom Radulovich, BART Director\**

*Dave Synder, Executive Director, SF Bicycle Coalition\**

*Betsy Thagard, Executive Director, Walk SF\**

\*Titles or organizations for identification purposes only.

The true source of funds used for the printing fee of this argument is Jane Morrison and Tricia Stapleton.

### **Tenants Need Sunshine**

Bureaucrats, Downtown and Big Landlords oppose improved public access to meetings and records.

Tenants benefit from open government. The retroactive bond pass-through rent hike was a typical back-room decision protected from public scrutiny by weak Sunshine laws.

**We urge a YES vote on G**

*San Francisco Tenants Union*

The true source of funds used for the printing fee of this argument is San Franciscans for Sunshine.

The three largest contributors to the true source recipient committee are: 1. Bruce Brugmann 2. Clint Reilly 3. Angela Alioto.

What are the opponents trying to hide? This measure simply restores the open-government policies put into effect while I was Mayor.

*Frank M. Jordan*

The true source of funds used for the printing fee of this argument is Jordan for Mayor.

# Sunshine Ordinance Amendment



## PAID ARGUMENTS IN FAVOR OF PROPOSITION G

### Neighborhoods Support Sunshine

Proposition G is a good government measure which provides for greater public access to City meetings and records by closing the legal loopholes in the City's original 1993 Sunshine Ordinance, loopholes which have allowed City officials to continue to deny the public access to public records.

In order to achieve greater public oversight of City government, we citizens need more access to City files, to ensure that our City government, *for which we pay*, works for us, for the greater public good, and not for the special interests which thrive outside of public scrutiny.

We must fight against secrecy in government.

**HELP RESTORE CONFIDENCE IN CITY HALL. VOTE YES ON G.**

*Coalition for San Francisco Neighborhoods*

*Representing 36 neighborhood Associations*

*Buena Vista Neighborhood Association*

*Cole Valley Improvement Association*

*Cow Hollow Association*

*Cayuga Improvement Association*

*Dolores Heights Improvement Club*

*East Mission Improvement Association*

*Excelsior District Improvement Association*

*Friends of Noe Valley*

*Golden Gate Heights Neighborhood Association*

*Golden Gate Valley Neighborhood Association*

*Greater West Portal Neighborhood Association*

*Inner Sunset Action Committee*

*Liberty Hill Neighborhood Association*

*Marina Civic Improvement & Property Owners Association*

*Miraloma Park Improvement Club*

*Mission Creek Harbor Association*

*New Mission Terrace Improvement Association*

*Nob Hill Urban Neighbors*

*North Beach Neighbors*

*North of Panhandle Neighborhood Association*

*Oceanview, Merced Heights, Ingleside Neighbors In Action*

*Pacific Heights Residents Association*

*Panhandle Residents Organization*

*Potrero Boosters Neighborhood Association*

*Richmond Community Association*

*Russian Hill Improvement Association*

*SOMA Residents Association*

*Sunset Heights Association of Responsible People*

*Sunset Parkside Education and Action Committee (SPEAK)*

*Telegraph Hill Dwellers*

*Twin Peaks Council & Open Space Conservancy*

*Twin Peaks Improvement Associaton*

*West Presidio Neighborhood Association*

The true source of funds used for the printing fee of this argument ("Neighborhoods Support Sunshine") is Coalition for San Francisco Neighborhoods.

As small business owners and/or operators who pay a large share of city taxes, we think it is critical to know where our money is going and how policies that affect us are being made at City Hall.

Vote **Yes on G** for Good Government.

*Bruce B. Brugmann*

*San Francisco Bay Guardian, co-founder and co-publisher*

*Jean D. Brugmann*

*San Francisco Bay Guardian, co-founder and co-publisher*

*Gary Frank*

*Owner, The Booksmith*

*Robin Reichert*

*Dance Hall Keeper, Paradise Lounge*

*Lawrence Ferlinghetti*

*Harold T. Yee*

*Jane M. Marelich*

*Eric Schulz*

The true source of funds used for the printing fee of this argument is Bay Guardian.



# Sunshine Ordinance Amendment

## PAID ARGUMENTS IN FAVOR OF PROPOSITION G

One of the greatest dangers to the First Amendment these days comes from increasing secrecy in government.

As journalists, we see the Sunshine Initiative as a national model for countering this trend and bringing open government to the people.

Vote Yes on G for Good Government.

*Bruce B. Brugmann*

San Francisco Bay Guardian, co-founder and co-publisher

*Jean D. Brugmann*

San Francisco Bay Guardian, co-founder and co-publisher

*Phyllis Sherman*

West of Twin Peaks Observer

*David Ish*

New Fillmore

*Glenn Gullme's*

West Portal Monthly

*Michael Martin*

SF Observer

*Jennifer Joseph*

*Beverly Kees*

*Pia Hinckle*

*Julius Duscha*

*Carole Vernier*

*Tim Redmond*

Executive Editor, The Bay Guardian

*Paul Kozakiewicz*

Publisher, Richmond Review and Sunset Beacon Newspapers

*C. Diane Keaton*

*James V. Risser*

The true source of funds used for the printing fee of this argument is Bay Guardian/Bruce B. Brugmann.

Business done by the City is the People's business. we have the right to know what is being done in our name and with our taxes.

This is especially true in this era of FBI investigations of city contracting.

San Francisco Common Cause urges you to VOTE YES ON G in order to make city government more open and accountable.

*S.F. Common Cause*

The true source of funds used for the printing fee of this argument was San Francisco Common Cause.

Former State Senator **Quentin Kopp** and I have been committed to the principles of open government for 25 years. Proposition G, is a basic open government measure which prevents politicians and appointees from withholding basic public information - a practice now so common that a grass-roots coalition of journalists and neighborhood residents were forced to band together to place this initiative on the ballot. Now City Hall claims it's too expensive to provide the public a basic accounting of how our tax dollars are spent. **Rubbish!** Proposition G enables citizens to regain oversight of our hard-earned money. Citizens have a right to know the details of prolific development deals in their neighborhoods, the "fine print" in public transportation contracts and the process behind critical decisions affecting our lives. The mayor and his appointed department heads and supervisors have mastered the art of suppressing public information, making a mockery of open and honest government. **Public participation is our legal right, not a privilege.** Honor Quentin Kopp's legacy to good government. **Vote 'YES' on G.**

*Mara S. Kopp*

The true source of funds used for the printing fee of this argument is Good Government Alliance.

Lightning has struck at City Hall! The Sunshine Ordinance is too expensive for the penny -pinching Brioni-wearing suits strutting down the corridors of power. Never mind that these same priggish politicians have practically **DOUBLED** city spending with nothing to show for it--unless you consider a nearly collapsed public transportation system, rampant homelessness and unparalleled ill-conceived development deals pinnacles of achievement. Suddenly, several hundred thousand dollars will break the city bank, although it's a mere "drop in the bucket" when compared to the burgeoning city payroll - replete with numerous "special assistants," a.k.a. taxpayer-sponsored re-election helpers. City Hall would rather spend our money on their re-election efforts; we'd rather spend it on public information so we know whom to elect! Yes, there's danger in documentation - for those who have something to hide! **Reclaim San Francisco! Approve Proposition G.**

*Julie Sims*

*Richard Bodisco*

*Nathan Rather*

The true source of funds used for the printing fee of this argument is Good Government Alliance.

# Sunshine Ordinance Amendment



## PAID ARGUMENTS IN FAVOR OF PROPOSITION G

In 1997, I led the fight against the backroom stadium-mall deal because Willie Brown and others wanted to keep the faulty financial details of this deal secret. In 1998, I chaired the campaign to Save Treasure Island because Willie Brown was attempting to hide his plans to develop the island from public scrutiny.

Now I'm joining with other progressive-minded leaders in our city to endorse this open-government ordinance because I believe that open and honest access to government information is a cornerstone of Democracy.

The Sunshine Law will ensure that future generations of San Franciscans will have access to the information they need to keep government honest and open. It will make our the city's sunshine ordinance the toughest local open-government law in the country.

As a San Franciscan, I wholeheartedly endorse this measure. As a civic leader, I encourage all to vote for it. As mayor, I will implement this legislation and ensure that it is enforced.

*Clint Reilly*  
Candidate for Mayor

The true source of funds used for the printing fee of this argument is Clint Reilly for Mayor.

The three largest contributors to the true source recipient committee are: 1. Clint Reilly 2. Betty Smith Brassington 3. Francisco Hsieh.

---

The American Federation of State, County, and Municipal Employees represents 2,500 hospital workers at UC Stanford Health Care (USHC), San Francisco's second largest employer. The privatization of UCSF hospitals in 1997 during the merger with Stanford resulted in over \$500 million in public assets transferred to the now private USHC, with NO ACCOUNTABILITY to the public. USHC is a contractor with San Francisco City and County, and under Measure G the public would have input and oversight of these public funds. Instead, public assets are gone, hundreds of workers have been laid off, Mt. Zion hospital is threatened with closure, and services have been severely cut. AFSCME supports Measure G, because any private contractor with the City and County, receiving public funds to serve the public, must be accountable to the public. VOTE YES ON G.

*Linda "Spike" Kahn*  
AFSCME Union Representative

*Corey Menotti*  
AFSCME Local 829 Chapter President

The true source of funds used for the printing fee of this argument is AFSCME Council 57.

## UNION LABOR SUPPORTS G

Union Labor has a pivotal history in advancing good-government reform and Proposition G makes the grade. There is great popular demand for imposing some standards on corporate behavior, for making human values matter in how we run our economy and distribute opportunity and reward. Proposition G makes us all work a bit harder at preserving democracy, but the benefits are well worth it. *Vote Yes on G!*

*Howard Wallace*, Union Organizer, Co-founder, Pride at Work  
*Kathy Lipscomb*, Union Representative, Local 250  
*Howard Wong*, Executive Vice President, IFPTE, Local 21, AFL-CIO  
*Beverly Graffis*, Chair, United Taxicab Workers  
*George Wedemeyer*, Local 2391  
*Ray Bernard*, Instructor, Local 2121 AFT  
*Michael Benardo*, Local 6 ILWU  
*Fred Pecker*, ILWU Local 6

The true source of funds used for the printing fee of this argument is Labor Supports G.

The largest contributors to the true source recipient committee are: 1. Local 250 2. Local 3.



# Sunshine Ordinance Amendment

## PAID ARGUMENTS IN FAVOR OF PROPOSITION G

### PROP. G - Because government IS our business!

- It increases access to public meetings and records.
- It protects whistleblowers.
- It establishes penalties for public servants who withhold public information.
- It protects individual privacy and confidentiality.
- It provides an appeal process when access is denied, reducing court costs.

### THE SUNSHINE INITIATIVE—

*You can't FIGHT CITY HALL without it.*

**Vote YES on G.**

### San Franciscans for Sunshine

- Ruth Asawa, Artist*  
*Angela Alioto, Attorney*  
*Kevin L. Blackwell, Barbara Jordon Democratic Club*  
*Eddie Chin, Member, SF School Board*  
*Doug Comstock, Committee to Stop the Giveaway*  
*Joan Girardot, President*  
 Coalition for San Francisco Neighborhoods  
*Tony Kilroy, Vice Chair, Democratic County Central Committee*  
*Henry Louie, Member*  
 SF Democratic County Central Committee  
*Dorice Murphy, Eureka Valley Trails and Art Network*  
*Clinton Reilly, Manager, Business owner*  
*Clara Rogers, Sojourner Truth Democratic Club*  
*Marjorie Ann Williams, Member*  
 SF Democratic County Central Committee  
*Bud Wilson, W. Twin Peaks Resident*  
*Lawrence Yee, Chinese American Democratic Club*  
*Paul Boden, Directo, Coalition on Homelessness*  
*Betty Medsger, Journalist, Journalism Editor*  
*Tracy Rosenberg, Media Alliance*  
*Belinda Griswold, Media Alliance*  
*Van Jones, Director, Ella Baker Center for Human Rights*  
*Bruce B. Brugmann, San Francisco Bay Guardian*  
*Jean Brugmann, San Francisco Bay Guardian*  
*Bill McCarthy, Consultant*  
*Paul Kozakiewicz*  
 Publisher, Richmond Review and Sunset Beacon Newspapers.  
*Carolyn Knee, Treasurer, San Franciscans for Sunshine*

The true source of funds used for the printing fee of this argument is San Franciscans for Sunshine.

The three largest contributors to the true source recipient committee are: 1. Bruce Brugmann 2. Clint Reilly 3. Angela Alioto

Attorneys helping citizens obtain public information know the need for a stronger Sunshine Ordinance. San Franciscans' rights of access are fewer and weaker than those in many states. Prop. G guarantees greater openness in City Government and a less expensive, more effective administrative appeals process for denied records. Prop. G will continue to protect personal, medical, and other confidential information currently protected by state law.

Vote Yes on G.

- Neil Eisenberg*  
*Robert Links*  
*Judith K. Appel*  
*Sue Hestor*

The true source of funds used for the printing fee of this argument is San Franciscans for Sunshine.

The three largest contributors to the true source recipient committee are: 1. Bruce Brugmann 2. Clint Reilly 3. Angela Alioto.

The Sunshine Initiative provides citizens with greater access to the workings of City Government and greater information regarding city contracts. It does not and is not intended to take away any protections under city or state law for privacy for law enforcement matters, private citizen records, health records, employee records, or labor negotiations and other meetings dealing with matters within the scope of representation under employee collective bargaining laws.

Vote YES ON G.

- Carolyn Knee, Treasurer*  
 San Franciscans for Sunshine

The true source of funds used for the printing fee of this argument is San Franciscans for Sunshine.

The three largest contributors to the true source recipient committee are: 1. Bruce Brugmann 2. Clint Reilly 3. Angela Alioto.

# Sunshine Ordinance Amendment



## PAID ARGUMENTS AGAINST PROPOSITION G

### **TOO MUCH SUNSHINE CAUSES CANCER AND OTHER AILMENTS**

EVERYONE loves sunshine, but don't sit in the sun too long without a screen. **YOU'LL BE BURNED!** It has *too much* sunshine where it's not needed and *not enough* sunshine where it is. This legislation would **PROHIBIT** your neighborhood group from having a private meeting with the mayor.

Similarly, this blatant, *anti-labor legislation* will interfere with contract negotiations with every step being made "public". Furthermore, there's **NO WORKER PRIVACY OR CONFIDENTIALITY**. Legal settlements and contract negotiations will be jeopardized.

### **LABOR AND TAXPAYERS WILL BOTH SUFFER.**

The Board of Supervisors **EXEMPTED THEMSELVES** from the effects of this sunshine ordinance. Members of the board just used this very loophole to **SECRETLY** put an ANTI-CITIZEN, ANTI-FREEWAY PROPOSITION 1, on this very ballot.

### *Citizens for a Clean and Ethical Government*

The true source of funds used for the printing of this argument is Citizens for a Clean and Ethical Government.

### **A Good Thing Gone Too Far — Vote No on Prop G**

The San Francisco Chamber of Commerce supports effective, responsible, open city government. San Francisco currently has one of the most comprehensive sunshine ordinances in the country - one that finds appropriate balance between the public's right to know and private citizens' and organizations' rights to privacy.

**Prop G would make public many sensitive records**, including

- **personnel files** of city employees
- **names of witnesses** to and victims of crimes
- **criminal investigation records**, while still active
- **City contracting documents**, during negotiations— a sure formula for abuse

**Prop G goes too far and is a dangerous, expensive encroachment on the privacy rights of San Franciscans.**

**"Prop G is an ill-conceived, poorly written 41-page document that is far too complicated and impractical to ever be effectively enforced,"** says G. Rhea Serpan, Chamber president & CEO

Join the Chamber, good-government groups, victims rights organizations and fiscal watchdogs and **vote no on Prop G.**

Prop G places an **inordinate financial and administrative burden** on the city. Massive increases in paperwork, recordings and archiving will bring city departments - and critical services - to a grinding halt. The direct cost: millions.

*A. Lee Blich*

2000 Chair

San Francisco Chamber of Commerce

The true source of funds used for the printing of this argument is San Francisco Chamber of Commerce 21st Century Committee.

The three largest contributors to the true source recipient committee are: 1. SBC Communications 2. Wells Fargo 3. The Gap.



# Sunshine Ordinance Amendment

## PAID ARGUMENTS AGAINST PROPOSITION G

San Francisco already has one of the strictest Sunshine Ordinances in the nation. Proposition G is a well-intentioned but misguided attempt to expand the City's Sunshine Ordinance. It is so poorly written that it endangers the safety and privacy of individual citizens and organizations. Here's how:

- City officials would have to disclose the names of people who report the identities and activities of gang members.
- "Whistleblower" city employees would be discouraged from reporting ethics violations to the City Attorney's office.
- Tenants could not meet anonymously with city officials to report problems with their landlords.
- The City would be seriously disadvantaged in negotiating contracts with big corporations like TCI or AT&T — potentially costing taxpayers millions of dollars.
- The City would be required to store meeting tapes FOREVER.

We agree that open government is essential, but this initiative crosses the line to eliminate our most fundamental privacy rights. Proposition G will not make City government better. It will create a bureaucratic maze and make more and more of our private information public. Open government is important, but Proposition G is not the answer.

*Supervisor Barbara Kaufman*  
*Supervisor Michael Yuki*  
*Supervisor Alicia D. Becerril*  
*Supervisor Sue Bierman*  
*Supervisor Leslie Katz*  
*Supervisor Amos C. Brown*  
*Mabel Teng*

The true source of funds used for the printing of this argument is Staton & Hughes.

### Vote NO on Proposition G

**We need to end corruption in city government. This "Sunshine Ordinance" will not help.**

It's hard for anyone to be against "sunshine." Most people associate it with the Freedom of Information Act and protection against censorship. But Proposition G is less about open government than it is a grab bag of attacks against city departments and private citizens. This poorly-written law will not give us what it promises and will hurt the city.

Prop G would **violate the privacy of citizens**. Names and personal information of people who report crimes and victims of crimes will be made public.

Prop G **targets certain non-profit organizations** which advise the city and hampers the effectiveness of groups such as Friends of the Library or Friends of Recreation and Parks by setting up unnecessary bureaucratic rules.

Prop G would **prevent city employees from getting legal counsel** about sunshine issues from the City Attorney. It would create an atmosphere of fear and uncertainty for San Francisco public servants.

Prop G would **weaken the city's bargaining position** during negotiations with labor as well as private contractors, potentially costing taxpayers millions by requiring the city (but not the other party) to disclose confidential strategy documents during the negotiating process.

Prop G would **open the city to nuisance public records requests**, and, regardless of the quantity or time spent on fulfilling records requests, the city would be prohibited from seeking reimbursement for its costs.

Prop G **requires a huge and costly bureaucracy** to administer.

There's plenty of room for improvement in San Francisco's sunshine, but as San Francisco's good government watchdog, we urge you to vote **NO** on G.

*San Francisco Planning and Urban Research Association (SPUR)*

The true source of funds used for the printing of this argument is SPUR Urban Issues Committee.

The three largest contributors to the true source recipient committee are: 1. Peter Mezey 2. Anne Halsted 3. Doris Bebb.

# TEXT OF PROPOSED ORDINANCE

## PROPOSITION G

**Note:** Within Section 2, deletions are indicated by ~~strike through~~; additions are underlined.

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

### SECTION 1. TITLE

This initiative may be cited as the Sunshine Ordinance of 1999.

### SECTION 2.

Part I of the San Francisco Municipal Code (Administrative Code) is hereby amended in Chapter 67 to read as follows:

## ARTICLE I: IN GENERAL

### SEC. 67.1 Findings and Purpose.

The Board of Supervisors ~~and the People of the City and County of San Francisco~~ find and ~~declare declares~~:

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

~~(b) Commissions Elected officials, commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance will assure that their deliberations are conducted before the people and that City. The people do not cede to these entities the right to decide what the people should know about the operations are open to the people's review of local government.~~

(c) ~~Although that is the intent also of California's Ralph M. Brown Act and Public Records Act, the people of California have learned from costly experience that California has a long tradition of laws designed to protect the public's access to the workings of government, every generation of governmental leaders includes officials who feel more comfortable conducting public business away from the scrutiny of those who elect and employ them. New approaches to government constantly offer public officials additional ways to hide the making of public policy from the public, civic issues and new governmental procedures also can erode the public's fundamental rights. Violations of open government principles occur at all levels, from local advisory boards to the highest reaches of the state hierarchy.~~

~~(d) It is time for San Francisco to reaffirm the plain purpose of the state's open government laws and to apply their underlying principles to local circumstances. No law is self-enforcing. Continued vigilance is essential. As government evolves, so must the laws designed to assure ensure that the process remains visible.~~

~~(e) The right of the people to know what their government and those acting on behalf of their government are doing is fundamental to~~

~~democracy and with very few exceptions, that right supersedes any other policy interest government officials may use to prevent public access to information. Only in rare and unusual circumstances does the public benefit from allowing the business of government to be conducted in secret, and those circumstances should be carefully and narrowly defined to prevent public officials from abusing their authority.~~

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

~~(f) The people of San Francisco enact these amendments want an open society. They do not give their public servants the right to decide what they should know. The public's right to know is as fundamental as its right to vote. To act on truth, the people must be free to learn the truth. (f) The sun must shine on all the workings of government so the people may put their institutions right when they go wrong. San Francisco enacts this ordinance to assure that, in general intent as well as in administrative procedure, the people of this City the city remain in control of the government they have created.~~

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

SEC. 67.2 Citation. This Chapter may be cited as the San Francisco Sunshine Ordinance.

## ARTICLE II: PUBLIC ACCESS TO MEETINGS

SEC. 67.3 Definitions. Whenever in this Article the following words or phrases are used, they shall mean have the following meanings:

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

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

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

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

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

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

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

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

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

~~(D) the proceedings of any committee having responsibility for the evaluation and improvement of the quality of medical care, mental services, or any other type of health services provided by the City or City-funded providers, including but not limited to committees described in Evidence Code sections 1156 et seq.~~

~~(E) proceedings of the Department of Social Services Child Welfare Placement and Review Committee or similar committees which exist to consider confidential information and make decisions regarding Department of Social Services clients.~~

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

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

~~(2) Any group that meets to discuss with or~~

## LEGAL TEXT OF PROPOSITION G (CONTINUED)

advise the Mayor or any Department Head on fiscal, economic, or policy issues.

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

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

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

(d) "Policy Body" shall mean:

(1) the Board of Supervisors;

(2) any other board or commission established by enumerated in the charter or;

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

or (3) (4) any advisory board, commission, committee or body of the City, created by the initiative of a policy body;

(4) (5) any standing committee of a policy body irrespective of its composition.

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

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

### SEC. 67.4. Passive Meetings.

(a) Gatherings as defined in subdivision (5), which shall be known as "passive meetings." All gatherings of passive meeting bodies shall be accessible to individuals upon inquiry and to the extent possible consistent with the facilities in which they occur.

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

(2) Such gatherings need not be conducted in any particular space for the accommodation of spectators; members of the public, although spectators, members of the public shall be permitted to observe on a space avail-

able basis consistent with legal and practical restrictions on occupancy.

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

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

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

(6) Gatherings defined in subdivision (5) may hold closed sessions under any circumstances allowed by this Article or the Ralph M. Brown Act.

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

### SEC. 67.5. Meetings To Be Open And Public; Application Of Brown Act.

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

### SEC. 67.6 Conduct Of Business; Time And Place For Meetings.

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

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

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

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

(e) Meetings of advisory passive meeting bodies as specified in section ~~67.3(e)(3) 67.6(d)(4)~~ of this article shall be preceded by notice delivered personally or by mail, e-mail, or facsimile as reasonably requested at least ~~24~~ 72 hours before the time of such meeting to each person who has requested, in writing, notice of such meeting. If the advisory body elects to hold regular meetings, it shall provide by bylaws, or whatever other rule is utilized by that advisory body for the conduct of its business, for the time and place for holding such regular meetings. In such case, no notice of regular meetings, other than the posting of an agenda pursuant to Section 67.7 of this article in the place used by the policy body or executive officer which it advises, is required.

(f) Special meetings of any policy body, including advisory bodies that choose to establish regular meeting times, may be called at any time by the presiding officer thereof or by a majority of the members thereof, by delivering personally or by mail written notice to each member of ~~the board or commission and to each local newspaper, radio or television station requesting notice~~ such policy body and the local media who have requested written

## LEGAL TEXT OF PROPOSITION G (CONTINUED)

~~notice of special meetings~~ in writing. Such notice ~~must of a special meeting shall be delivered personally or by mail as described in (e)~~ at least ~~24~~ 72 hours before the time of such meeting as specified in the notice. The ~~call and~~ notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings ~~by the board or commission~~. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the ~~presiding officer or secretary of the board body~~ or commission a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Each special meeting shall be held at the regular meeting place of the policy body except that the policy body may designate an alternate meeting place provided that such alternate location is specified in the ~~call and~~ notice of the special meeting; further provided that the ~~call and~~ notice of the special meeting shall be given at least 15 days prior to said special meeting being held at an alternate location. This provision shall not apply where the alternative meeting location is located within the same building as the regular meeting place.

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

### SEC. 67.7 Agenda Requirements; Regular Meetings.

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

(b) A description is meaningful if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item. The description should be brief, concise and written in plain, easily understood English. It may shall refer to any explanatory documents that have been provided to the policy body in connection with an agenda item, such as correspondence or reports, and such documents shall be posted adjacent to the agenda or, if such documents

are of more than one page in length, made available for public inspection and copying at a ~~stated~~ location ~~indicated on the agenda~~ during normal office hours.

(c) The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.

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

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

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

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

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

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

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

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE.

(Chapter 67 of the San Francisco Administrative Code)

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

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE.

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

### SEC. 67.7-1. Public Notice Requirements.

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

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

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

### SEC. 67.8. Agenda Disclosures: Closed Sessions.

(a) In addition to the brief general description of items to be discussed or acted upon in open and public session, the agenda posted pursuant to Government Code Section 54954.2, any mailed notice given pursuant to

(Continued on next page)

# LEGAL TEXT OF PROPOSITION G (CONTINUED)

Government Code Section 54954.1, and any call and notice delivered to the local media and posted pursuant to Government Code Section 54956 shall specify and disclose the nature of any closed sessions by providing all of the following information :

(1) With respect to a closed session held pursuant to Government Code Section 54956.7:

## LICENSE/PERMIT DETERMINATION: applicant(s)

The space shall be used to specify the number of persons whose applications are to be reviewed.

(2) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54956.8:

## CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property:

Person(s) negotiating:

Under negotiation: Price

Terms of payment Both

The space under "Property" shall be used to list an address, including cross streets where applicable, or other description or name which permits a reasonably ready identification of each parcel or structure subject to negotiation. The space under "Person(s) negotiating" shall be used to identify the person or persons with whom negotiations concerning that property are in progress. The spaces under "Under negotiation" shall be checked off as applicable to indicate which issues are to be discussed.

(3) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54956.9, either:

## CONFERENCE WITH LEGAL COUNSEL Existing litigation:

Unspecified to protect service of process

Unspecified to protect settlement posture

or:

## CONFERENCE WITH LEGAL COUNSEL Anticipated litigation:

As defendant As plaintiff

The space under "Existing litigation" shall be used to specifically identify a case under discussion pursuant to subdivision (a) of Government Code Section 54956.9, including the case name, court, and case number, unless the identification would jeopardize the City's ability to effectuate service of process upon one or more unserved parties, in which instance the space in the next succeeding line shall be checked, or unless the identification would jeopardize the City's ability to conclude existing settlement negotiations to its advantage, in which instance the space in the next succeeding line shall be checked. If the closed session is called pursuant to subdivision (b) or

(c) of Section 54956.9, the appropriate space shall be checked under "Anticipated litigation" to indicate the City's anticipated position as defendant or plaintiff respectively. If more than one instance of anticipated litigation is to be reviewed, space may be saved by entering the number of separate instances in the "As defendant" or "As plaintiff" spaces or both as appropriate. ~~The disclosure required by this section for anticipated litigation shall not apply to boards and commissions whose closed sessions are governed by charter section 3.500(f), except for the Board of Supervisors, unless and until a charter amendment is adopted repealing the provisions of that section relating to closed sessions.~~

(4) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54957, either:

## THREAT TO PUBLIC SERVICES OR FACILITIES

Name, title and agency of law enforcement officer(s) to be conferred with:

or:

## PUBLIC EMPLOYEE APPOINTMENT/HIRING

Title/description of position(s) to be filled:

## PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Position and, in the case of a routine evaluation, name of employee(s) being evaluated:

or:

## PUBLIC EMPLOYEE DISMISSAL

Number of employees affected:

or:

(5) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54957.6, either:

## CONFERENCE WITH NEGOTIATOR — COLLECTIVE BARGAINING

Name and title of City's negotiator:

Organization(s) representing:

Police officers, firefighters and airport police

Transit Workers

Nurses

Miscellaneous Employees

Anticipated issue(s) under negotiation:

Wages

Hours

Benefits

Working Conditions

Other (specify if known)

All

Where renegotiating a memorandum of understanding or negotiating a successor memorandum of understanding, the name of the memorandum of understanding:

In case of multiple items of business under the same category, lines may be added and the location of information may be reformatted to eliminate unnecessary duplication and space,

so long as the relationship of information concerning the same item is reasonably clear to the reader. As an alternative to the inclusion of lengthy lists of names or other information in the agenda, or as a means of adding items to an earlier completed agenda, the agenda may incorporate by reference separately prepared documents containing the required information, so long as copies of those documents are posted adjacent to the agenda within the time periods required by Government Code Sections 54954.2 and 54956 and provided with any mailed or delivered notices required by Sections 54954.1 or 54956.

## Section 67.8-1 Additional Requirements for Closed Sessions

(a) All closed sessions of any policy body covered by this Ordinance shall be either audio recorded or audio and video recorded in their entirety and all such recordings shall be retained for at least TEN years, or permanently where technologically and economically feasible. Closed session recordings shall be made available whenever all rationales for closing the session are no longer applicable. Recordings of closed sessions of a policy body covered by this Ordinance, wherein the justification for the closed session is due to "anticipated litigation" shall be released to the public in accordance with any of the following provisions: TWO years after the meeting if no litigation is filed; UPON EXPIRATION of the statute of limitations for the anticipated litigation if no litigation is filed; as soon as the controversy leading to anticipated litigation is settled or concluded.

(b) Each agenda item for a policy body covered by this ordinance that involve existing litigation shall identify the court, case number, and date the case was filed on the written agenda. For each agenda item for a group covered by this ordinance that involves anticipated litigation, the City Attorney's Office or the policy body shall disclose at any time requested and to any member of the public whether such anticipated litigation developed into litigation and shall identify the court, case number, and date the case was filed.

## SEC. 67.9. Agendas And Related Materials: Public Records.

(a) Agendas of meetings and any other documents on file with the clerk of the policy body, when intended for distribution to all, or a majority of all, of the members of a policy body in connection with a matter anticipated for discussion or consideration at a public meeting shall be made available to the public. To the extent possible, such documents shall

(Continued on next page)

# LEGAL TEXT OF PROPOSITION G (CONTINUED)

also be made available through the policy body's Internet site. However, this disclosure need not include any material exempt from public disclosure under ~~Government Code Sections 6253.5, 6254, or 6254.7~~ this ordinance.

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

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

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

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

**SEC. 67.10 Closed Sessions: ~~Public Facilities And Employees~~ PERMITTED TOPICS.** A policy body may, ~~but is not required to,~~ hold closed sessions:

(a) With the Attorney General, district attorney, sheriff, or chief of police, or their respective deputies, on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities.

(b) To consider the appointment, employment, evaluation of performance, or dismissal of a City employee, if the policy body has the authority to appoint, employ, or dismiss the employee, or to hear complaints or charges brought against the employee by another person or employee unless the employee complained of requests a public hearing. The body may exclude from any such public meeting, and shall exclude from any such closed meeting, during the comments of a complainant, any or all other complainants in the matter. The term "employee" as used in this section shall not include any elected official, member of a

policy body or applicant for such a position, or person providing services to the City as an independent contractor or the employee thereof, including but not limited to independent attorneys or law firms providing legal services to the City for a fee rather than a salary.

(c) Notwithstanding section (b), an Executive Compensation Committee established ~~under pursuant to a~~ Memorandum of Understanding with the Municipal Executives Association may meet in closed session when evaluating the performance of an individual officer or employee subject to that Memorandum of Understanding or when establishing performance goals for such an officer or employee where the setting of such goals requires discussion of that individual's performance.

~~(d) This section shall not apply to boards and commissions whose closed sessions are governed by charter section 3.500(f), except for the Board of Supervisors, unless and until a charter amendment is adopted repealing the provisions of that section relating to closed sessions.~~

**SEC. 67.11. Closed Sessions: Pending Litigation.**

(a) A policy body, based

(d) Based on advice of its legal counsel, and on a motion and vote in open session to assert the attorney-client privilege, ~~may hold a closed session~~ to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would likely and unavoidably prejudice the position of the City in that litigation. ~~(b)~~ Litigation shall be considered pending when any of the following circumstances exist:

(1) An adjudicatory proceeding before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator, to which the City is a party, has been initiated formally; or —

(2) A point has been reached where, in the opinion of the policy body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the City, or the body is meeting only to decide whether a closed session is authorized pursuant to that advice or, based on those facts and circumstances, the body has decided to initiate or is deciding whether to initiate litigation.

~~(e)~~ (3) A closed session may not be held under this section to consider the qualifications or engagement of an independent contract attorney or law firm, for litigation services or otherwise.

~~(d) Prior to holding a closed session pursuant to this section, the policy body shall disclose the justification for its closure either by entries in the appropriate categories on the~~

agenda or, in the case of an item added to the agenda based on a finding of necessity and urgency, by an oral announcement specifying the same information.

~~(e) This section shall not apply to boards and commissions whose closed sessions are governed by charter section 3.500(f), except for the Board of Supervisors, unless and until a charter amendment is adopted repealing the provisions of that section relating to closed sessions.~~

**SEC. 67.12. Closed Sessions: Employee Salaries And Benefits.**

~~(a) A policy body with authority over~~ (e) With the City's designated representatives regarding matters within the scope of collective bargaining or meeting and conferring with public employee organizations may hold closed sessions when a policy body has authority over such matters.

~~with the City's designated representatives regarding such matters~~ Closed (1) Such closed sessions shall be for the purpose of reviewing the City's position and instructing its designated representatives and may take place solely prior to and during active consultations and discussions between the City's designated representatives and the representatives of employee organizations or the unrepresented employees. A policy body shall not discuss compensation or other contractual matters in closed session with one or more employees directly interested in the outcome of the negotiations.

~~(b)~~ (2) In addition to the closed sessions authorized by ~~subdivision (a)~~ subsection 67.10(c)(1), a policy body subject to Government Code Section 3501 may hold closed sessions with its designated representatives on mandatory subjects within the scope of representation of its represented employees, as determined pursuant to Section 3504.

**SEC. 67.13 67.11. Statement Of Reasons For Closed Sessions.**

Prior to any closed session, a policy body shall state the general reason or reasons for the closed session, and ~~may cite~~ shall cite the statutory authority, including the specific section and subdivision, or other legal authority under which the session is being held. In the closed session, the policy body may consider only those matters covered in its statement. In the case of regular and special meetings, the statement shall be made in the form of the agenda disclosures and specifications required by Section 67.8 of this article. In the case of adjourned and continued meetings, the statement shall be made with the same disclosures and specifications required by Section 67.8 of this article, as part of the notice provided for

(Continued on next page)

## LEGAL TEXT OF PROPOSITION G (CONTINUED)

the meeting.

In the case of an item added to the agenda as a matter of urgent necessity, the statement shall be made prior to the determination of urgency and with the same disclosures and specifications as if the item had been included in the agenda pursuant to Section 67.8 of this article. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

### SEC. 67.14 67.12. Disclosure Of Closed Session Discussions and Actions.

(a) After every closed session, a policy body may in its discretion and in the public interest, disclose to the public any portion of its discussion ~~which that~~ is not confidential under federal or state law, the Charter, or non-waivable privilege. The body shall, by motion and vote in open session, elect either to disclose no information or to disclose the information ~~which that~~ a majority deems to be in the public interest. The disclosure shall be made through the presiding officer of the body or such other person, present in the closed session, whom he or she designates to convey the information.

(b) A policy body shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(1) Real Property Negotiations: Approval given to ~~the~~ a policy body's negotiator concerning real estate negotiations pursuant to Government Code Section 54956.8 shall be reported as soon as the agreement is final. If its own approval renders the agreement final, the policy body shall report that approval, the substance of the agreement and the vote thereon in open session immediately. If final approval rests with ~~the~~ another party to the negotiations, the body shall disclose the fact of that approval, the substance of the agreement and the body's vote or votes thereon upon inquiry by any person, as soon as the other party or its agent has informed the body of its approval. If notwithstanding the final approval there are conditions precedent to the final consummation of the transaction, or there are multiple contiguous or closely located properties that are being considered for acquisition, the document referred to in subdivision (b) of this section need not be disclosed until the condition has been satisfied or the agreement has been reached with respect to all the properties, or both.

(2) Litigation: Direction or approval given to the body's legal counsel to prosecute, defend or seek or refrain from seeking appellate review or relief, or to otherwise enter as a party, intervenor or amicus curiae in any form of litigation as the result of a consultation ~~under~~ pursuant to Government Code Section 54956.9 shall be reported in open session as

soon as given, or at the first meeting after an adverse party has been served in the matter if immediate disclosure of the City's intentions would be contrary to the public interest. The report shall identify the adverse party or parties, any co-parties with the City, any existing claim or order to be defended against or any factual circumstances or contractual dispute giving rise to the City's complaint, petition or other litigation initiative. ~~This section shall not apply to boards and commissions whose closed sessions are governed by charter section 3.500(f), except for the Board of Supervisors, unless and until a charter amendment is adopted repealing the provisions of that section relating to closed sessions.~~

(3) Settlement: A policy body shall neither solicit nor agree to any term in a settlement which would preclude the release ~~, upon request by the public,~~ of the text of the settlement itself and any related documentation communicated to or received from the adverse party or parties. ~~At~~ Any written settlement agreement and any documents attached to or referenced in the settlement agreement shall be made publicly available at least 10 calendar days before the meeting of the policy body at which the settlement is to be approved to the extent that the settlement would commit the City or a department thereof to adopting, modifying, or discontinuing an existing policy, practice or program or otherwise acting other than to pay an amount of money less than \$50,000. The agenda for any meeting in which a settlement subject to this section is discussed shall identify the names of the parties, the case number, the court, and the material terms of the settlement. Where the disclosure of documents in a litigation matter that has been settled could ~~effect be detrimental to the city's interest in pending litigation on a closely related case arising from the same facts or incident and involving a party not a party to or otherwise aware of the settlement,~~ the documents required to be disclosed by subdivision (b) of this section need not be disclosed until the ~~closely related~~ other case is settled or otherwise finally concluded. ~~This section shall not be applicable to the Airports Commission, the Port Commission or the Public Utilities Commission.~~

(4) Employee Actions: Action taken to appoint, employ, dismiss, transfer or accept the resignation of a public employee in closed session pursuant to Government Code Section 54957 shall be reported immediately in a manner that names the employee, the action taken and position affected and, in the case of dismissal for a violation of law or of the policy of the City, the reason for dismissal. "Dismissal" within the meaning of this ordinance includes any termination of employment at the will of

the employer rather than of the employee, however characterized. The proposed terms of any separation agreement shall be immediately disclosed as soon as presented to the body, and its final terms shall be immediately disclosed upon approval by the body. ~~Except for information required to be disclosed by the Ralph M. Brown Act, this section shall not apply to boards and commissions whose closed sessions are governed by charter section 3.500(f), except for the Board of Supervisors, unless and until a charter amendment is adopted repealing the provisions of that section relating to closed sessions.~~

(5) Collective Bargaining: Any collectively bargained agreement shall be made publicly available at least 15 calendar days before the meeting of the policy body to which the agreement is to be reported.

(c) Reports required to be made immediately may be made orally or in writing, but shall be supported by copies of any contracts, settlement agreements, or other documents related to the transaction that were finally approved or adopted in the closed session and that embody the information required to be disclosed by immediate report; immediately shall be provided to any person who ~~requested such copies in~~ has made a written request ~~submitted within 24 hours of~~ regarding that item following the posting of the agenda, or who has made a standing request for all such documentation as part of a request for notice of meetings pursuant to Government Code Sections 54954.1 or 54956.

(d) A written summary of the information required to be immediately reported pursuant to this section, or documents embodying that information, shall be posted by the close of business on the next business day following the meeting, in the place where the meeting agendas of the body are posted.

### SEC. 67.15 67.13. Barriers To Attendance Prohibited.

(a) No policy body shall conduct any meeting, conference or other function in any facility that excludes persons on the basis of actual or presumed class identity or characteristics, or which is inaccessible to persons with physical disabilities, or where members of the public may not be present without making a payment or purchase. Whenever the Board of Supervisors, ~~or~~ a board or commission enumerated in the charter, or a permanent sub-quorum ~~any~~ committee of the governing board or commission ~~thereof~~ anticipates that the number of persons attending the meeting will exceed the legal capacity of the meeting room, any public address system used to amplify sound in the meeting room shall be

(Continued on next page)

## LEGAL TEXT OF PROPOSITION G (CONTINUED)

extended by supplementary speakers to permit the overflow audience to listen to the proceedings in an adjacent room or passageway, unless such supplementary speakers would disrupt the operation of a City office.

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

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

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

(e) The Board of Supervisors shall seek to provide translators at each of its regular meeting of the full Board of Supervisors and Board Committees meetings and all meetings of its committees for each language requested, where the translation is necessary to enable San Francisco residents with limited English proficiency to participate in the proceedings. ~~However, it is projected that the use of provided that a request for such translation services will most likely be required at the Board of Supervisors and Board Committee meetings held in the community where community members have limited English proficiency. The request for translation services shall be~~ is communicated to the Clerk of the Board of Supervisors at least 48 hours before the meeting. ~~When the Board or Committee meets for meetings on a Monday or a Tuesday, the request must be made by noon of the last business day of the preceding week. The Clerk of the Board of Supervisors shall first solicit volunteers from the ranks of City employees and/or from the community to serve as translators. If volunteers are not available the Clerk of the Board of Supervisors may next solicit translators from non-profit agencies, which may be compensated. If these options do not provide the necessary translation services, the Clerk may employ professional translators. The unavailability of a translator shall not affect the ability of the Board of Supervisors or its committees to deliberate or vote upon any~~

matter presented to them. In any calendar year in which the costs to the City for providing translator services under ~~Subsection (e) this subsection~~ exceeds \$20,000, the Board of Supervisors shall, as soon as possible thereafter, review the provisions of ~~Subsection (e). The provisions of Subsection (e) shall expire on December 31, 1998. this subsection,~~

### ~~SEC. 67.16~~ SEC. 67.14. Tape Recording, Filming And Still Photography.

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

(b) Each board and commission enumerated in the charter shall ~~tape~~ audio record each regular and special meeting. Each such ~~tape~~ audio recording, and any audio or video ~~tape~~ recording of a meeting of any other policy body made at the direction of the policy body shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code Section 6250 et seq.), and shall not be erased or destroyed ~~for at least seven calendar days, provided that if during that seven day period a written request for inspection or copying of that record is made, the tape shall not be destroyed or erased until the requested inspection or copying has been accomplished.~~ Inspection of any such ~~video or tape~~ recording shall be provided without charge on ~~a tape recorder~~ an appropriate ~~play back device~~ made available by the City.

### ~~SEC. 67.17- 67.15.~~ Public Testimony ~~At Regular And Certain Special Meetings.~~

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

heard the item, as determined by the Board.

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

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

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

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

### ~~SEC 67.16~~ SEC 67.18. Minutes.

The clerk ~~of the Board of Supervisors and the clerk or secretary~~ of each board and commission enumerated in the charter shall record the minutes for each regular and special meeting of the board or commission. The minutes shall state the time the meeting was called to order, the names of the members attending the meeting, the roll call vote on each matter considered at the meeting, the time the board or commission began and ended any closed session, the names of the members and the names, and titles where applicable, of any other persons attending any closed session, a list of those members of the public who spoke on each matter if the speakers identified themselves, whether such speakers supported or opposed the matter, a brief summary of each person's statement during the public comment period for each agenda item, and the time the meeting was adjourned. Any person speaking during a public comment period may supply a brief written summary of their comments

(Continued on next page)

## LEGAL TEXT OF PROPOSITION G (CONTINUED)

which shall, if no more than 150 words, be included in the minutes.

The draft minutes of each meeting shall be available for inspection and copying upon request no later than ten working days after the meeting. The officially adopted minutes shall be available for inspection and copying upon request no later than ten working days after the meeting at which the minutes are adopted. Upon request, minutes required to be produced by this section shall be made available in Braille or increased type size.

### SEC. ~~67.19~~ 67.17. Public Comment By Members Of Policy Bodies.

Every member of a policy body retains the full constitutional rights of a citizen to comment publicly on the wisdom or propriety of government actions, including those of the policy body of which he or she is a member. Policy bodies shall not sanction, reprove or deprive members of their rights as elected or appointed officials for expressing their judgments or opinions, including those which deal with the perceived inconsistency of non-public discussions, communications or actions with the requirements of state or federal law or of this ordinance. The release of specific factual information made confidential by state or federal law including, but not limited to, the privilege for confidential attorney-client communications, may be the basis for a request for injunctive or declaratory relief, of a complaint to the Mayor seeking an accusation of misconduct, or both.

### ARTICLE III: PUBLIC INFORMATION AND PUBLIC RECORDS

SEC. 67.20. Definitions. Whenever in this article the following words or phrases are used, they shall mean:

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

(b) "Public Information" shall mean the content of "public records" as defined in the California Public Records Act (Government Code Section 6252), whether provided in documentary form or in an oral communication. "Public Information" shall not include "computer software" developed by the City and County of San Francisco as defined in the California Public Records Act (Government Code Section 6254.9).

(c) "Supervisor of Records" shall mean the City Attorney.

### SEC. 67.21. Release Of Documentary Public Information. (a)

### SEC. 67.21. Process For Gaining Access to Public Records: Administrative Appeals

(a) Every person having custody of any public record or public information, as defined

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

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

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

(d) If the custodian refuses, fails to comply, or incompletely complies with a request described in (b), the person making the request may petition the supervisor of records for a determination whether the record requested is public. The supervisor of records shall inform the petitioner, as soon as possible and within 10 days of its determination whether the record requested, or any part of the record requested, is public. Where requested by the petition, and where otherwise desirable, this determination shall be in writing. Upon the determination by the supervisor of records that the record is public, the supervisor of records shall immediately order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order within 5 days, the supervisor of records shall notify the district attorney or the attorney general who shall take

whatever measures she or he deems necessary and appropriate to insure compliance with the provisions of this ordinance.

(e) If the custodian refuses, fails to comply, or incompletely complies with a request described in (b) above or if a petition is denied or not acted on by the supervisor of public records, the person making the request may petition the Sunshine Task Force for a determination whether the record requested is public. The Sunshine Task Force shall inform the petitioner, as soon as possible and within 2 days after its next meeting but in no case later than 45 days from when a petition in writing is received, of its determination whether the record requested, or any part of the record requested, is public. Where requested by the petition, and where otherwise desirable, this determination shall be in writing. Upon the determination that the record is public, the Sunshine Task Force shall immediately order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order within 5 days, the Sunshine Task Force shall notify the district attorney or the attorney general who may take whatever measures she or he deems necessary to insure compliance with the provisions of this ordinance. The Board of Supervisors and the City Attorney's office shall provide sufficient staff and resources to allow the Sunshine Task Force to fulfill its duties under this provision. Where requested by the petition, the Sunshine Task Force may conduct a public hearing concerning the records request denial. An authorized representative of the custodian of the public records requested shall attend any hearing and explain the basis for its decision to withhold the records requested.

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

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

(h) On at least an annual basis, and as other-

(Continued on next page)

## LEGAL TEXT OF PROPOSITION G (CONTINUED)

~~wise requested by the Sunshine Ordinance Task Force, the supervisor of public records shall prepare a tally and report of every petition brought before it for access to records since the time of its last tally and report. The report shall at least identify for each petition the record or records sought, the custodian of those records, the ruling of the supervisor of public records, whether any ruling was overturned by a court and whether orders given to custodians of public records were followed. The report shall also summarize any court actions during that period regarding petitions the Supervisor has decided. At the request of the Sunshine Ordinance Task Force, the report shall also include copies of all rulings made by the supervisor of public records and all opinions issued.~~

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

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

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

~~(i) Inspection and copying of documentary public information stored in electronic form shall be made available to the person requesting the information in any form requested which is available to or easily generated by the department, its officers or employees, including disk, tape, printout or monitor at a charge no greater than the cost of the media on which it is duplicated ~~plus the direct costs of equipment, supplies and labor costs associated with duplicating the electronic file which is requested.~~ Inspection of documentary public information on a computer monitor need not be allowed where the information sought is necessarily and unseparably intertwined with information not subject to disclosure under the California Public Records Act and this ordi-~~

nance. Nothing in this section shall require a department to program or reprogram a computer to respond to a request for information or to release information where the release of that information would violate a licensing agreement or copyright law.

### SEC. 67.21-1. Policy Regarding Use and Purchase of Computer Systems

~~(a) (e)~~ It is the policy of the City and County of San Francisco to utilize computer technology in order to reduce the cost of public records management, including the costs of collecting, maintaining, and disclosing records subject to disclosure to members of the public under this section. To the extent that it is technologically and economically feasible, departments that use computer systems to collect and store public records shall program and design these systems to ensure convenient, efficient, and economical public access to records and shall make public records easily accessible over public networks such as the Internet.

~~(b) (e)~~ Departments purchasing new computer systems shall attempt to reach the following goals as a means to achieve lower costs to the public in connection with the public disclosure of records:

(1) Implementing a computer system in which exempt information is segregated or filed separately from otherwise disclosable information.

(2) Implementing a system that permits reproduction of electronic copies of records in a format that is generally recognized as an industry standard format.

(3) Implementing a system that permits making records available through the largest non-profit, non-proprietary public computer network, consistent with the requirement for security of information.

**SEC. 67.22. Release Of Oral Public Information.** Release of oral public information shall be accomplished as follows:

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

(b) The role of the person or persons so designated shall be to provide information on as timely and responsive a basis as possible to

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

(c) No employee shall be required to respond to an inquiry or inquiries from an individual if it would take the employee more than fifteen minutes to obtain the information responsive to the inquiry or inquiries.

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

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

**SEC. 67.23. Public Review File — Policy Body Communications.**

(a) The clerk of the Board of Supervisors and the clerk of each board and commission enumerated in the charter shall maintain a file, accessible to any person during normal office hours, containing a copy of any letter, memorandum or other communication which the clerk has distributed to or received from a quorum of the policy body concerning a matter calendared by the body within the previous 30

(Continued on next page)

## LEGAL TEXT OF PROPOSITION G (CONTINUED)

days or likely to be calendared within the next 30 days, irrespective of subject matter, origin or recipient, except commercial solicitations, periodical publications or communications exempt from disclosure under the California Public Records Act (Government Code Section 6250 et seq.) and not deemed disclosable under Section 67.24 of this article.

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

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

### SEC. 67.24. ~~Non-exempt~~ Public Information That Must be Disclosed.

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

#### (a) Drafts and Memoranda.

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

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

not in fact make their proposals public, the policy body may postpone public access to the final draft agreement until it is presented to it for approval. ~~Earlier versions and/or drafts of agreements shall not be subject to disclosure if the public interest in withholding such records clearly outweighs the public interest in disclosure as provided by California Government Code section 6254(a).~~

#### (b) Litigation Material.

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

(i) A pre-litigation ~~(1) No prelitigation~~ claim against the City ~~or any other~~ ;

(ii) A record previously received or created by a department in the ordinary course of business ~~shall be exempt from disclosure under Government Code section 6254, subdivision (b) that was not attorney/client privileged when it was previously received or created;~~

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

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

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

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

- (i) Sex, age and ethnic group;
- (ii) Years of graduate and undergraduate study, degree(s) and major or discipline;
- (iii) Years of employment in the private and/or public sector;
- (iv) Whether currently employed in the same position for another public agency.

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

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

(3) The job description of every employment

classification.

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

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

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

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

(d) Law Enforcement Information. ~~No records pertaining to any investigation, arrest or other law enforcement activity shall be exempt from disclosure under Government Code Section 6254, subdivision (f) beyond the point where the prospect of an enforcement action has been terminated by either a court or a prosecutor. When such a point has been reached, related records of law enforcement activity shall be accessible, except that individual items of information in the following categories may be withheld: the names of witnesses (whose distinct identities may be indicated by substituting an alphabetical letter for each individual interviewed); personal and otherwise private information unrelated to the reasons for which the law enforcement action was commenced or terminated; the identity of a confidential source; secret investigative techniques or procedures; or information whose disclosure would endanger law enforcement personnel.~~

The District Attorney, Chief of Police, and Sheriff are encouraged to cooperate with the press and other members of the public in allowing access to local records pertaining to investigations, arrests, and other law enforcement activity. However, no provision of this ordinance is intended to abrogate or interfere with the constitutional and statutory power and duties of the District Attorney and Sheriff as interpreted under Government Code section 25303, or other applicable state law or judicial decision. Records pertaining to any investigation, arrest or other law enforcement activity shall be disclosed to the public once the District Attorney or court determines that a prosecution will not be sought against the subject involved, or once the statute of limitations for filing charges has expired, whichever occurs first. Notwithstanding the occurrence

(Continued on next page)

## LEGAL TEXT OF PROPOSITION G (CONTINUED)

of any such event, individual items of information in the following categories may be segregated and withheld if, on the particular facts, the public interest in nondisclosure clearly and substantially outweighs the public interest in disclosure:

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

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

(3) the identity of a confidential source;

(4) secret investigative techniques or procedures;

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

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

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

(c) Contracts, Bids and Proposals

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

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

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

(3) During the course of negotiations for:

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

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

(iii) any franchise agreements.

all documents exchanged and related to the position of the parties, including draft contracts, shall be made available for public inspection and copying upon request. In the event that no records are prepared or exchanged during negotiations in the above-mentioned categories, or the records exchanged do not provide a meaningful representation of the respective positions, the city attorney or city representative familiar with the negotiations shall, upon a written request by a member of the public, prepare written summaries of the respective positions within five working days following the final day of negotiation of any given week. The summaries will be available for public inspection and copying. Upon completion of negotiations, the executed contract, including the dollar amount of said contract, shall be made available for inspection and copying. At the end of each fiscal year, each City department shall provide to the Board of Supervisors a list of all sole source contracts entered into during the past fiscal year. This list shall be made available for inspection and copying as provided for elsewhere in this Article.

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

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

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

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

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

### SEC. 67.25. Immediacy Of Response.

(a) Notwithstanding the 10-day period for response to a request permitted in Government Code Section 6256 and in this Article, a written request for information described in any category of non-exempt public information ~~in Section 67.24 of this Article~~ which shall be satisfied no later than the close of business on the day following the day of the request. This deadline shall apply only if the words "Immediate Disclosure Request" are ~~written~~ placed across the top of the request and on the envelope, subject line, or cover sheet in which the request is transmitted. ~~These~~ Maximum deadlines provided in this article are appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling a simple, routine or otherwise readily answerable request.

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

(c) The person seeking the information need not state his or her reason for making the

(Continued on next page)

## LEGAL TEXT OF PROPOSITION G (CONTINUED)

request or the use to which the information will be put, and requesters shall not be routinely asked to make such a disclosure. Where a record being requested contains information most of which is exempt from disclosure under the California Public Records Act and this article, however, the City Attorney or custodian of the record may inform the requester of the nature and extent of the non-exempt information and inquire as to the requester's purpose for seeking it, in order to suggest alternative sources for the information which may involve less redaction or to otherwise prepare a response to the request.

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

### SEC. 67.26. Minimum Withholding Kept to a Minimum.

No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure under express provisions of the California Public Records Act or of some other statute. Information that is exempt from disclosure shall be masked, deleted or otherwise segregated in order that the nonexempt portion of a requested record may be released, and keyed by footnote or other clear reference to the appropriate justification for withholding required by section 67.27 of this article. This work shall be done personally by the attorney or other staff member conducting the exemption review. ~~If that employee's work in redaction and footnoting exceeds one hour, the requester may be required to pay that extra increment of time at the pro rata hourly salary rate of the~~ The work of responding to a public records request and preparing documents for disclosure shall be considered part of the regular work duties of any city employee. ~~Staff time used to locate or collect, and no fee shall be charged to the requester to cover the personnel costs of responding to a records for review or copying shall not be included as chargeable request.~~

### SEC. 67.27. Justification Of Withholding.

Any withholding of information shall be justified, in writing, as follows:

(a) A withholding under a specific permissive exemption in the California Public Records Act, or elsewhere, which permissive exemption is not forbidden to be asserted by this ordinance, shall cite that authority and explain in factual terms how the public interest would be harmed by disclosure.

(b) A withholding on the basis that disclosure is prohibited by law shall cite the specific statutory authority in the Public Records Act or elsewhere.

(c) A withholding on the basis that disclosure would incur civil or criminal liability shall cite any specific statutory or case law, or any other public agency's litigation experience, supporting that position.

(d) When a record being requested contains information, most of which is exempt from disclosure under the California Public Records Act and this Article, the custodian shall inform the requester of the nature and extent of the nonexempt information and suggest alternative sources for the information requested, if available.

### SEC. 67.28. Fees For Duplication.

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

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

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

(d) A department may establish and charge a higher fee than the one cent presumptive fee in subdivision (b) and the 10 cent presumptive fee in subdivision (c) if it prepares and posts an itemized cost analysis establishing that its cost per page impression exceeds 10 cents or one cent, as the case may be. The cost per page impression shall include the following costs: one sheet of paper; one duplication cycle of the copying machine in terms of toner and other specifically identified operation or maintenance factors, excluding electrical power and one unit of operator labor calculated as the average hourly pay, excluding benefits, of the employee classification normally assigned to copy records, divided by 60, divided by the average number of copies per minute produced by the machines used in the department. Any such cost analysis shall identify the employee classification used for the labor component and the manufacturer, model, vendor and maintenance contractor, if any, of the copying machine or machines referred to.

(e) Video copies of video recorded meetings shall be provided to the public upon request for \$10.00 or less per meeting.

### SEC. 67.29. Index To Records.

Each department may cooperate with any voluntary effort by an interested and competent individual or organization to compile a master index to the types of records it maintains, including those it creates and those it receives in the ordinary course of business. The City and County shall prepare a public records index that identifies the types of information and documents maintained by City and County departments, agencies, boards, commissions, and elected officers. The index shall be for the use of City officials, staff and the general public, and shall be organized to permit a general understanding of the types of information maintained, by which officials and departments, for which purposes and for what periods of retention, and under what manner of organization for accessing, e.g. by reference to a name, a date, a proceeding or project, or some other referencing system. The index need not be in such detail as to identify files or records concerning a specific person, transaction or other event, but shall clearly indicate where and how records of that type are kept. Any such master index shall be reviewed by appropriate staff for accuracy and presented for formal adoption to the administrative official or policy body responsible for the indexed records. The City Administrator shall be responsible for the preparation of this records index. The City Administrator shall report on the progress of the index to the Sunshine Ordinance Task Force on at least a semi-annual basis until the index is completed. Each department, agency, commission and public official shall cooperate with the City Administrator to identify the types of records it maintains, including those documents created by the entity and those documents received in the ordinary course of business and the types of requests that are regularly received. Each department, agency, commission and public official is encouraged to solicit and encourage public participation to develop a meaningful records index. The index shall clearly and meaningfully describe, with as much specificity as practicable, the individual types of records that are prepared or maintained by each department, agency, commission or public official of the City and County. The index shall be sufficient to aid the public in making an inquiry or a request to inspect. Any changes in the department, agency, commission or public official's practices or procedures affecting the accuracy of the information provided to the

(Continued on next page)

## LEGAL TEXT OF PROPOSITION G (CONTINUED)

City Administrator shall be recorded by the City Administrator on a periodic basis so as to maintain the integrity and accuracy of the ~~Any changes in the department's practices or procedures that would affect the accuracy of the index shall thereafter be reported by the responsible staff to the board, commission, or elective officer, as the case may be, as the basis for a corresponding revision of the index. The index shall be continuously maintained on the City's World Wide Website and made available at public libraries within the City and County of San Francisco.~~

### **SEC. 67.29-1. Records Survive Transition of Officials.**

All documents prepared, received, or maintained by the Office of the Mayor, by any elected city and county official, and by the head of any City or County Department are the property of the City and County of San Francisco. The originals of these documents shall be maintained consistent with the records retention policies of the City and County of San Francisco.

### **SEC. 67.29-2. Internet Access/World Wide Web Minimum Standards**

Each department of the City and County of San Francisco shall maintain on a World Wide Web site, or on a comparable, readily accessible location on the Internet, information that it is required to make publicly available. Each department is encouraged to make publicly available through its World Wide Web site, as much information and as many documents as possible concerning its activities. At a minimum, within six months after enactment of this provision, each department shall post on its World Wide Web site all meeting notices required under this ordinance, agendas and the minutes of all previous meetings of its policy bodies for the last three years. Notices and agendas shall be posted no later than the time that the department otherwise distributes this information to the public, allowing reasonable time for posting. Minutes of meetings shall be posted as soon as possible, but in any event within 48 hours after they have been approved. Each department shall make reasonable efforts to ensure that its World Wide Web site is regularly reviewed for timeliness and updated on at least a weekly basis. The City and County shall also make available on its World Wide Web site, or on a comparable, readily accessible location on the Internet, a current copy of the City Charter and all City Codes.

### **Section 67.29-3**

Any future agreements between the city and an advertising space provider shall be public records and shall include as a basis for the termination of the contract any action by, or per-

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

### **SEC. 67.29-4 Lobbyist On Behalf of the City.**

(a) Any lobbyist who contracts for economic consideration with the City and County of San Francisco to represent the City and County in matters before any local, regional, state, or federal administrative or legislative body shall file a public records report of their activities on a quarterly basis with the San Francisco Ethics Commission. This report shall be maintained by the Ethics Commission and not be exempt from disclosure. Each quarterly report shall identify all financial expenditures by the lobbyist, the individual or entity to whom each expenditure was made, the date the expenditure was made, and specifically identify the local, state, regional or national legislative or administrative action the lobbyist supported or opposed in making the expenditure. The failure to file a quarterly report with the required disclosures shall be a violation of this Ordinance.

(b) No person shall be deemed a lobbyist under section (a), unless that person receives or becomes entitled to receive at least \$300 total compensation in any month for influencing legislative or administrative action on behalf of the City and County of San Francisco or has at least 25 separate contacts with local, state, regional or national officials for the purpose of influencing legislative or administrative action within any two consecutive months. No business or organization shall be deemed as a lobbyist under section (a) unless it compensates its employees or members for their lobbying activities on behalf of the City and County of San Francisco, and the compensated employees or members have at least 25 separate contacts with local, state, regional or national officials for the purpose of influencing legislative or administrative action within any two consecutive months. "Total compensation" shall be calculated by combining all compensation received from the City and County of San Francisco during the month for lobbying activities on matters at the local, state, regional or national level. "Total number of contacts" shall be calculated by combining all contacts made during the two-month period on behalf of the City and County of San Francisco for all lobbying activities on matters at the local, state, regional or national level.

(c) Funds of the City and County of San Francisco, including organizational dues, shall not be used to support any lobbying efforts to restrict public access to records, information, or meetings, except where such effort is solely for the purpose of protecting the identity and privacy rights of private citizens.

### **SEC. 67.29-5 Calendars of Certain Officials**

The Mayor, The City Attorney, and every Department Head shall keep or cause to be kept a daily calendar wherein is recorded the time and place of each meeting or event attended by that official, with the exclusion of purely personal or social events at which no city business is discussed and that do not take place at City Offices or at the offices or residences of people who do substantial business with or are otherwise substantially financially affected by actions of the city. For meetings not otherwise publicly recorded, the calendar shall include a general statement of issues discussed. Such calendars shall be public records and shall be available to any requester three business days subsequent to the calendar entry date.

### **SEC. 67.29-6 Sources of Outside Funding**

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

### **SEC. 67.29-7 Correspondence And Records Shall Be Maintained**

(a) The Mayor and all Department Heads shall maintain and preserve in a professional and businesslike manner all documents and correspondence, including but not limited to letters, e-mails, drafts, memorandum, invoices, reports and proposals and shall disclose all such records in accordance with this ordinance.

(b) The Department of Elections shall keep and preserve all records and invoices relating to the design and printing of ballots and other election materials and shall keep and preserve records documenting who had custody of bal-

(Continued on next page)

## LEGAL TEXT OF PROPOSITION G (CONTINUED)

lots from the time ballots are cast until ballots are received and certified by the Department of Elections.

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

### ARTICLE IV: POLICY IMPLEMENTATION

**SEC. 67.30.** The Sunshine Ordinance Task Force.

(a) There is hereby established a task force to be known as the Sunshine Ordinance Task Force consisting of ~~eleven~~ ~~thirteen~~ voting members appointed by the Board of Supervisors. All members must have experience and/or demonstrated interest in the issues of citizen access and participation in local government. Two members shall be appointed from individuals whose names have been submitted by the local chapter of the Society of Professional Journalists, one of whom shall be an attorney and one of whom shall be a local journalist. One member shall be appointed from the press or electronic media ~~who has an interest in the issues of citizen access and participation in local government~~. One member shall be appointed from individuals whose names have been submitted by the local chapter of the League of Women Voters. ~~Four~~ ~~Five~~ members shall be members of the public who have demonstrated interest in or have experience in the issues of citizen access and participation in local government. Two members shall be members of the public experienced in consumer advocacy. One member shall be a journalist from a racial/ethnic-minority-owned news organization and shall be appointed from individuals whose names have been submitted by New California Media. At all times the task force shall include at least one member who shall be a member of the public who is ~~disabled~~ physically handicapped and who has demonstrated interest in citizen access and participation in local government. The Mayor or

his or her designee, and the Clerk of the Board of Supervisors ~~and~~ or his or her designee, shall serve as non-voting members of the task force. The City Attorney shall serve as legal advisor to the task force. The Sunshine Ordinance Task Force shall, at its request, have assigned to it an attorney from within the City Attorney's Office or other appropriate City Office, who is experienced in public-access law matters. This attorney shall serve solely as a legal advisor and advocate to the Task Force and an ethical wall will be maintained between the work of this attorney on behalf of the Task Force and any person or Office that the Task Force determines may have a conflict of interest with regard to the matters being handled by the attorney.

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

(c) The task force shall advise the Board of Supervisors and provide information to other City departments on appropriate ways in which to implement this chapter. The task force shall develop appropriate goals to ensure practical and timely implementation of this chapter. The task force shall propose to the Board of Supervisors amendments to this chapter. The task force shall report to the Board of Supervisors at least once annually on any practical or policy problems encountered in the administration of this chapter. The Task Force shall receive and review the annual report of the Supervisor of Public Records and may request additional reports or information as it deems necessary. The Task Force shall make referrals to a municipal office with enforcement power under this ordinance or under the California Public Records Act and the Brown Act whenever it concludes that any person has violated any provisions of this ordinance or the Acts. The Task Force shall, from time to time as it sees fit, issue public reports evaluating compliance with this ordinance and related California laws by the City or any Department, Office, or Official thereof.

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

(e) The Task Force Commission shall approve by-laws specifying a general schedule

for meetings, requirements for attendance by Task Force members, and procedures and criteria for removing members for non-attendance.

**SEC. 67.31.** Responsibility for Administration.

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

**SEC. 67.32.** Provision of Services to other Agencies: Sunshine Required

It is the policy of the City and County of San Francisco to ensure opportunities for informed civic participation embodied in this Ordinance to all local, state, regional and federal agencies and institutions with which it maintains continuing legal and political relationships. Officers, agents and other representatives of the City shall continually, consistently and assertively work to seek commitments to enact open meetings, public information and citizen comment policies by these agencies and institutions, including but not limited to the Presidio Trust, the San Francisco Unified School District, the San Francisco Community College District, the San Francisco Transportation Authority, the San Francisco Housing Authority, the Treasure Island Development Authority, the San Francisco Redevelopment Authority and the University of California. To the extent not expressly prohibited by law, copies of all written communications with the above identified entities and any City employee, officer, agent, or and representative, shall be accessible as public records. To the extent not expressly prohibited by law, any meeting of the governing body of any such agency and institution at which City officers, agents or representatives are present in their official capacities shall be open to the public, and this provision cannot be waived by any City officer, agent or representative. The city shall give no subsidy in money, tax abatements, land, or services to any

(Continued on next page)

## LEGAL TEXT OF PROPOSITION G (CONTINUED)

private entity unless that private entity agrees in writing to provide the city with financial projections (including profit and loss figures), and annual audited financial statements for the project thereafter, for the project upon which the subsidy is based and all such projections and financial statements shall be public records that must be disclosed.

### SEC. 67.33. Department Head Declaration.

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

### SEC. 67.34. Willful Failure Shall be Official Misconduct.

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

### SEC. 67.35. Enforcement Provisions

(a) Any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or to receive a copy of any public record or class of public records under this Ordinance or to enforce his or her right to attend any meeting required under this Ordinance to be open, or to compel such meeting to be open.

(b) A court shall award costs and reasonable attorneys' fees to the plaintiff who is the prevailing party in an action brought to enforce this Ordinance.

(c) If a court finds that an action filed pursuant to this section is frivolous, the City and County may assert its rights to be paid its reasonable attorneys' fees and costs.

(d) Any person may institute proceedings for enforcement and penalties under this act in any court of competent jurisdiction or before the Ethics Commission if enforcement action is

not taken by a city or state official 40 days after a complaint is filed.

### SEC. 67.36. Sunshine Ordinance Supersedes other local laws

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

### SEC. 67.37. ~~SEC. 67.32~~ Severability.

The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances.

-end of Chapter 67-

## **SECTION. 3. SEVERABILITY.**

The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances.

## **SECTION. 4. EFFECTIVE DATE**

This ordinance shall become effective on January 1, 2000.

# EXHIBIT B

December 22, 2025

**VIA HAND-DELIVERY AND E-MAIL**

Ms. Lena Shumway  
Office of the City Clerk  
P.O. Box 1768  
Newport Beach, CA 92658  
lshumway@newportbeachca.gov

RE: Sunshine and Governmental Transparency Initiative

Dear Ms. Shumway,

On behalf of the Newport Beach Stewardship Association “NBSA” and its undersigned member, attached please find a “Notice of Intention to Circulate Petition” pursuant to California Elections Code section 9202(a), the text for a proposed initiative ordinance in the City of Newport Beach titled the Sunshine and Governmental Transparency Initiative, and the applicable filing fee.

Pursuant to California Elections Code section 9203(a), we request that you immediately forward a copy of the proposed initiative ordinance to the City Attorney for preparation of a Title and Summary. As soon as the Title and Summary are prepared, please e-mail a copy to our counsel, Mr. Navi Dhillon, navidhillon@paulhastings.com.

Also, attached please find a copy of the proponent’s signed statement required by California Elections Code section 9608.

Thank you for your assistance in this matter. Please direct all correspondence and questions regarding this proposed initiative ordinance to Mr. Dhillon.

Sincerely,



Marshall “Duffy” Duffield  
Proponent  
Address: 2505 W. Coast Hwy, Unit 204  
Newport Beach, CA 92663

Cc:

Office of the City Clerk, [cityclerk@newportbeachca.gov](mailto:cityclerk@newportbeachca.gov)

City of Newport Beach, City Council, [citycouncil@newportbeachca.gov](mailto:citycouncil@newportbeachca.gov)

Aaron Harp, Esq., City of Beach Newport, City Attorney, [aharp@newportbeachca.gov](mailto:aharp@newportbeachca.gov)

Navi Dhillon, Esq., Paul Hastings LLP, [navidhillon@paulhastings.com](mailto:navidhillon@paulhastings.com)

## **Notice of Intention to Circulate Petition**

Pursuant to California Elections Code section 9202, notice is hereby given by the person whose name appears hereon of his intention to circulate the petition within the City of Newport Beach for the purpose of amending the Charter of the City of Newport Beach to provide greater information to the public concerning the administration of public business, and to increase transparency and accountability of the City of Newport Beach government.

A brief statement of the reasons of the proposed action as contemplated in the petition is as follows:

The City of Newport Beach has failed to keep the public adequately informed on a wide range of topics, including consequential decisions that may shape the character of Newport Beach.

Under California law and the California Constitution, the People are generally entitled to access government records and attend government meetings. The City of Newport Beach is failing to conduct its activities and manage its operations in ways that promote sufficient public access to matters of public concern. The City and its various departments, committees and other bodies also lack standardized procedures for meetings and public access to information. The Sunshine and Governmental Transparency Initiative addresses many of these deficiencies, promotes greater access to public records consistent with the California Constitution and California law, and brings sunshine to the City. Increasing transparency will increase accountability and trust.

### **Expand Access to Public Meetings:**

The Sunshine and Governmental Transparency Initiative requires meetings of various City policy bodies to be open and accessible to the public. To keep the public informed, the Sunshine and Governmental Transparency Initiative requires that a wide range of City bodies publish agendas before meetings and minutes after meetings. The Sunshine and Governmental Transparency Initiative also requires more detail in these postings.

For “Closed Sessions” (City meetings regarding sensitive or confidential topics that are closed to the public), this Sunshine and Governmental Transparency Initiative requires the City to provide more general information to the public regarding the reason for the Closed Session. The Sunshine and Governmental Transparency Initiative also limits the City’s ability to hold closed (private) sessions for some topics.

The Sunshine and Governmental Transparency Initiative includes other provisions to increase the public’s ability to attend and access City meetings, including video and audio recording requirements and expanded rights for the public to speak at these meetings.

### **Expand Access to Public Records:**

Under the California Constitution and the California Public Records Act, the public has a right to government records. The Sunshine and Governmental Transparency Initiative ensures these rights to public records are respected in the City of Newport Beach.

This Sunshine and Governmental Transparency Initiative broadens and clarifies the range of files that the City must treat as public records accessible to the public, and requires the City to minimize the withholding of public records consistent with State and local law. The Sunshine and Governmental Transparency Initiative also requires the City to provide to an individual that has requested records written justification for any withholding of records by the City.

The Sunshine and Governmental Transparency Initiative carefully balances privacy rights and the rights of the public to access governmental information. It also preserves the right of law enforcement to withhold sensitive information from public disclosure.

**Establish a Sunshine Task Force.** This Sunshine and Governmental Transparency Initiative creates a Sunshine Task Force to ensure that the City complies with meetings and records requirements, and other requirements related to transparency and accountability. The Sunshine Task Force will be empowered to investigate and report potential misconduct. The Sunshine Task Force, along with other provisions of the Sunshine and Governmental Transparency Initiative, will hold the government accountable when it tries to keep the public's business a secret.

The Sunshine and Governmental Transparency Initiative adapts best practices and longstanding laws from many other cities in California. While California law provides a baseline right to public records and access to public meetings, the Sunshine and Governmental Transparency Initiative provides necessary procedures and requirements tailored for the City of Newport Beach so the People can access the information that it is entitled to.

[PROPONENT'S SIGNATURE APPEARS ON THE FOLLOWING PAGE]

**Proponent's Signed Statement Pursuant to Elections Code Section 9608**

Pursuant to California Elections Code section 9608, I, as the proponent, hereby submit this signed statement with regard to the Sunshine and Governmental Transparency Initiative as follows:

I, Marshall "Duffy" Duffield, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

Dated this day of 22 December, 2025

A handwritten signature in black ink, appearing to read "Marshall Duffield", written over a horizontal line.

Marshall "Duffy" Duffield  
Proponent  
Address: 2505 W. Coast Hwy, Unit 204  
Newport Beach, CA 92663

[SUNSHINE AND GOVERNMENTAL TRANSPARENCY INITIATIVE]

## INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The People of the City of Newport Beach do hereby ordain as follows:

### **Section 1. Title**

This initiative measure shall be known as the “**Sunshine and Governmental Transparency Initiative**”.

### **Section 2. Purpose and Findings.**

A. Purpose. This Initiative seeks to provide more transparency and accountability to City of Newport Beach (“**City**”) leadership and governance by amending and adding various provisions to the Charter of the City of Newport Beach (“**City Charter**”).

B. Findings. The People of the City of Newport Beach find:

(1) Government’s duty is to serve the public, reaching its decisions in full view of the public.

(2) Elected officials, departments, commissions, boards, councils and other bodies of the City exist to conduct the People’s business. The People do not cede to these entities the right to decide what the People should know about the operations of their local government.

(3) Although California has a long tradition of laws designed to protect the public’s access to the workings of government, every generation of governmental leaders includes officials who feel comfortable conducting the People’s business away from the scrutiny of those who elect and employ them. Technology offers public officials additional ways to hide the making of public policy from the public. As government evolves, so too must the laws designed to ensure that process remains visible.

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

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

(6) Public officials who attempt to conduct the public’s business in secret should be held accountable for their actions. Only a strong open government and Sunshine Ordinance, enforced by a strong Sunshine Task Force, can protect the public’s interest in open government.

(7) The People of Newport Beach enact these amendments to assure that the People of the City remain in control of the government they have created.

**Section 3. Amendments and Additions to the *Newport Beach City Charter*.**

Sections 409.1 through 409.17, Sections 409.50 through 409.63, and Sections 409.70 through Section 409.76 collectively are the “**Sunshine Ordinance**”.

The voters hereby adopt Section 409.1 (“Definitions”) of the City Charter:

“Definitions”: Whenever any provision of the Sunshine Ordinance uses the following words or phrases, those words or phrases shall have the following meanings:

- (1) “City” shall mean the City of Newport Beach.
- (2) “Department” shall mean any department or division of the City of Newport Beach.
- (3) “Meeting” shall mean any of the following:
  - (i) A congregation of a majority of the members of a Policy Body at the same time and place; and
  - (ii) A series of gatherings, each of which involves less than a majority of a Policy Body, to hear, discuss or deliberate upon any item that is within the subject matter jurisdiction of the City, if the cumulative result is that a majority of members has become involved in such gatherings; or any other use of personal intermediaries or communications media that could permit a majority of the members of a Policy Body to become aware of an item of business and of the views or positions of other members with respect thereto, and to negotiate consensus thereupon.
- (4) “Meeting” shall not include any of the following:
  - (i) Individual contacts or conversations between a member of a Policy Body and another person that do not convey to the member the views or positions of other members upon the subject matter of the contact or conversation and in which the member does not solicit or encourage the restatement of the views of the other members.
  - (ii) The attendance of a majority of the members of a Policy Body at a regional, statewide or national conference, or at a meeting organized to address a topic of local community concern and open to the public, provided

that a majority of the members refrains from using the occasion to collectively discuss the topic of the gathering or any other business within the subject matter jurisdiction of the City.

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

(iv) The attendance of a majority of the members of a Policy Body at an open and noticed meeting of a standing committee of that body, provided that the members of the Policy Body who are not members of the standing committee attend only as observers.

(5) “Passive Meeting Body” shall mean:

(i) Advisory committees created by the initiative of a member of a Policy Body, the Mayor, or a Department head;

(ii) Any group that meets to discuss with or advise the Mayor, City Council, or any Department head on fiscal, economic, or policy issues; and

(iii) Social, recreational or ceremonial occasions sponsored or organized by or for a Policy Body to which a majority of the body has been invited.

(iv) “Passive Meeting Body” shall not include a committee that consists solely of employees of the City of Newport Beach created by the initiative of a member of a Policy Body, the Mayor, or a Department head.

(6) “Policy Body” shall mean:

(i) The City Council;

(ii) Any Department, board or commission enumerated in the Charter;

(iii) Any Department, board, commission, committee, or other body created by ordinance or resolution of the City Council;

(iv) Any advisory board, commission, committee or body, created by the initiative of a Policy Body;

(v) Any standing committee of a Policy Body irrespective of its composition;

(vi) “Policy Body” shall not include a committee which consists solely of employees of the City of Newport Beach, unless such committee was established by City Charter or by ordinance or resolution of the City Council; and

(vii) Any advisory board, commission, committee, or council created by a federal, State, or local grant whose members are appointed by City officials, employees or agents.

(7) “Public Information” shall mean the content of “public records” as defined in the California Public Records Act (Government Code Section 7920.530), whether provided in documentary form or in an oral communication.

(8) “Supervisor of Records” shall mean the City Attorney.

The voters hereby adopt Section 409.2 (“Passive Meetings”) of the City Charter:

- a. All gatherings of Passive Meeting Bodies shall be accessible to members of the public upon inquiry and to the extent possible consistent with the facilities in which they occur.
  - (1) Such gatherings need not be formally noticed, except on the City’s website whenever possible, although the time, place and nature of the gathering shall be disclosed upon inquiry by a member of the public, and any agenda actually prepared for the gathering shall be accessible to such inquirers as a public record.
  - (2) Such gatherings need not be conducted in any particular space for the accommodation of members of the public, although members of the public shall be permitted to observe on a space available basis consistent with legal and practical restrictions on occupancy.
  - (3) Such gatherings of a business nature need not provide opportunities for comment by members of the public, although the person presiding may, in his or her discretion, entertain such questions or comments from spectators as may be relevant to the business of the gathering.
- b. To the extent not inconsistent with State or federal law, a Policy Body shall include in any contract with an entity that owns, operates or manages any property in which the City has or will have an ownership interest, including a mortgage, and on which the entity performs a government function related to the furtherance of health, safety or welfare, a requirement that any meeting of the governing board of the entity to address any matter relating to the property or its government related activities on the property, or performance under the contract or grant, be conducted as provided in Subdivision (a) of this Section. Records made available to the governing board relating to such matters shall be likewise available to the public.

The voters hereby adopt Section 409.3 (“Application of Brown Act”) of the City Charter:

All meetings of any Policy Body shall be open and public, and governed by the provisions of the Ralph M. Brown Act (Government Code Sections 54950 *et. seq.*) and of the Sunshine Ordinance. In the case of inconsistent requirements under the Brown Act and the Sunshine Ordinance, the requirement which would result in greater or more expedited public access shall apply.

The voters hereby adopt Section 409.4 (“Conduct of Business; Time and Place for Meetings”) of the City Charter:

- a. Each Policy Body, except for advisory bodies, shall establish by resolution or motion the time and place for holding regular meetings.
- b. All meetings of a Policy body shall be held within the City of Newport Beach unless a different location is required by state or federal law or is necessary to inspect real property or personal property which cannot be conveniently brought within the territory of the City of Newport Beach, to meet with residents residing on property owned by the City, or to meet with residents of another jurisdiction to discuss actions of the Policy Body that affect those residents.
- c. If a regular meeting would otherwise fall on a holiday, it shall instead be held on the previous or next business day, unless otherwise rescheduled in advance.
- d. If, because of fire, flood, earthquake or other emergency, it would be unsafe to meet at the regular meeting place, meetings may be held for the duration of the emergency at some other place specified by the Policy Body. The change of meeting site shall be announced, by the most rapid means of communication available at the time, in a notice to the local media who have requested written notice of special meetings pursuant to Government Code Section 54956. Reasonable attempts shall be made to contact others regarding the change in meeting location.
- e. Meetings of Passive Meeting Bodies shall be preceded by notice delivered personally or by mail, e-mail, or facsimile as reasonably requested at least 72 hours before the time of such meeting to each person who has requested, in writing, notice of such meeting. If the advisory body elects to hold regular meetings, it shall provide by bylaws, or whatever other rule is utilized by that advisory body for the conduct of its business, for the time and place for holding such regular meetings. In such case, no notice of regular meetings, other than the posting of an agenda pursuant to Section 409.5 of this Section in the place used by the Policy Body which it advises, is required.
- f. Special meetings of any Policy Body, including advisory bodies that choose to establish regular meeting times, may be called at any time by the presiding officer thereof or by a majority of the members thereof, by delivering personally or by mail written notice to each member of such Policy Body and the local media who have requested written notice of special meetings in writing. Such notice of a special meeting shall be delivered as described in subsection (e) at least 72 hours before the time of such meeting as

specified in the notice. The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the presiding officer or secretary of the body or commission a written waiver of notice. Such written notice may be dispensed with as to any member who is actually present at the meeting at the time it convenes. Each special meeting shall be held at the regular meeting place of the Policy Body except that the Policy Body may designate an alternate meeting place provided that such alternate location is specified in the notice of the special meeting; further provided that the notice of the special meeting shall be given at least 15 days prior to said special meeting being held at an alternate location. This provision shall not apply where the alternative meeting location is located within the same building as the regular meeting place.

- g. If a meeting must be canceled, continued or rescheduled for any reason, notice of such change shall be provided to the public as soon as is reasonably possible, including posting of a cancellation notice in the same manner as described in Section 409.4 and mailed notice if sufficient time permits.

The voters hereby adopt Section 409.5 (“Agenda Requirements”) of the City Charter:

- a. At least 72 hours before a regular meeting, a Policy Body shall post an agenda containing a meaningful description of each item of business to be transacted or discussed at the meeting. Agendas shall specify for each item of business the proposed action or a statement the item is for discussion only. In addition, a Policy Body shall post a current agenda on its Internet site at least 72 hours before a regular meeting.
- b. A description is meaningful if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item. The description should be brief, concise and written in plain, easily understood English. It shall refer to any explanatory documents that have been provided to the Policy Body in connection with an agenda item, such as correspondence or reports, and copies or links to such documents shall be included in the agenda or, if such documents are of more than one hundred pages in length, made available for public inspection and copying at a location indicated on the agenda during normal business hours.
- c. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.
- d. No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a Policy Body may respond to statements made or questions posed by persons exercising their public testimony rights, to the extent of asking a question for clarification, providing a reference to staff or other resources for factual information, or requesting staff to report back to the body at a subsequent meeting concerning the matter raised by such testimony.

- e. Notwithstanding Subdivision (d), the Policy Body may take action on items of business not appearing on the posted agenda under any of the following conditions:
  - (1) Upon a determination by a majority vote of the body that an accident, natural disaster or work force disruption poses a threat to public health and safety.
  - (2) Upon a good faith, reasonable determination by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that (A) the need to take immediate action on the item is so imperative as to threaten serious injury to the public interest if action were deferred to a subsequent special or regular meeting, or relates to a purely commendatory action, and (B) that the need for such action came to the attention of the body subsequent to the agenda being posted as specified in Subdivision (a).
  - (3) The item was on an agenda posted pursuant to Subdivision (a) for a prior meeting of the body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.
- f. Each board and commission enumerated in the City Charter shall ensure that agendas for regular and special meetings are made available to speech and hearing impaired persons through telecommunications devices for the deaf, telecommunications relay services or equivalent systems, and, upon request, to sight impaired persons through Braille or enlarged type.
- g. Each Policy Body shall ensure that notices and agendas for regular and special meetings shall include the following notice:

KNOW YOUR RIGHTS UNDER THE SUNSHINE  
ORDINANCE (Sections 409.1 through 409.76 of the Charter of  
the City of Newport Beach)

Government's duty is to serve the public, reaching its decisions in  
full view of the public.

Commissions, boards, councils and other agencies of the City of  
Newport Beach exist to conduct the people's business. The  
Sunshine Ordinance assures that deliberations are conducted  
before the people and that City operations are open to the people's  
review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE  
SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF  
THE ORDINANCE, CONTACT THE SUNSHINE TASK FORCE.

- h. Each agenda of a Policy Body covered by this Sunshine Ordinance shall include the address, area code and phone number, e-mail address, and a contact person's name for

the Sunshine Task Force (as defined below). Information on how to obtain a free copy of the Sunshine Ordinance shall be included on each agenda.

The voters hereby adopt Section 409.6 (“Public Notice Requirements”) of the City Charter:

- a. Any public notice that is mailed, posted or published by a Policy Body to residents residing within a specific area to inform those residents of a matter that may impact their property or that neighborhood area, shall be brief, concise and written in plain, easily understood English. Any such public notice must be provided at least seven days prior to the public meeting on the matter.
- b. The notice should inform the residents of the proposal or planned activity, the length of time planned for the activity, the effect of the proposal or activity, and a telephone contact for residents who have questions.
- c. If the notice informs the public of a public meeting or hearing, then the notice shall state that persons who are unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing, that these comments will be made a part of the official public record, and that the comments will be brought to the attention of the person or persons conducting the public meeting or hearing. The notice should also state the name and address of the person or persons to whom those written comments should be submitted.

The voters hereby adopt Section 409.7 (“Agenda Disclosures: Closed Sessions”) of the City Charter:

- a. In addition to the brief general description of items to be discussed or acted upon in open and public session, the agenda posted pursuant to Government Code Section 54954.2, any mailed notice given pursuant to Government Code Section 54954.1, and any call and notice delivered to the local media and posted pursuant to Government Code Section 54956 shall specify and disclose the nature of any closed sessions by providing all of the following information:

- (1) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54956.7:

LICENSE/PERMIT DETERMINATION:

\_\_\_\_\_ applicant(s)

The space shall be used to specify the number of persons whose applications are to be reviewed.

- (2) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property:

Person(s) negotiating:

Under negotiation:

Price: \_\_\_\_\_ Terms of payment: \_\_\_\_\_ Both: \_\_\_\_\_

The space under "Property" shall be used to list an address, including cross streets where applicable, or other description or name which permits a reasonably ready identification of each parcel or structure subject to negotiation. The space following "Person(s) negotiating" shall be used to identify the person or persons with whom negotiations concerning that property are in progress. The space following "Under negotiation" shall be checked off as applicable to indicate which issues are to be discussed.

- (3) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54956.9, either:

CONFERENCE WITH LEGAL COUNSEL

Existing litigation:

\_\_\_\_\_ Unspecified to protect service of process

\_\_\_\_\_ Unspecified to protect settlement posture or:

CONFERENCE WITH LEGAL COUNSEL

Anticipated litigation: \_\_\_\_\_ As defendant \_\_\_\_\_ As plaintiff \_\_\_\_\_

The space under "Existing litigation" shall be used to specifically identify a case under discussion pursuant to subdivision (a) of Government Code Section 54956.9, including the case name, court, and case number, unless the identification would jeopardize the City's ability to effectuate service of process upon one or more unserved parties, in which instance the space in the next succeeding line shall be checked, or unless the identification would jeopardize the City's ability to conclude existing settlement negotiations to its advantage, in which instance the space in the next succeeding line shall be checked. If the closed session is called pursuant to Section 54956.9 and applicable litigation has not yet been filed, the appropriate space shall be checked under "Anticipated litigation" to indicate the City's anticipated position as defendant or plaintiff respectively. If more than one instance of anticipated litigation is to be reviewed, space may be saved by entering the number of separate instances in the "As defendant" or "As plaintiff" spaces or both as appropriate.

(4) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54957, either:

THREAT TO PUBLIC SERVICES OR FACILITIES

Name, title and agency of law enforcement officer(s) to be conferred with:  
or:

PUBLIC EMPLOYEE APPOINTMENT/HIRING

Title/description of position(s) to be filled:

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Position and, in the case of a routine evaluation, name of employee(s) being evaluated:

or:

PUBLIC EMPLOYEE DISMISSAL

Number of employees affected:

or:

(5) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54957.6, either:

CONFERENCE WITH NEGOTIATOR ON COLLECTIVE BARGAINING

Name and title of City's negotiator:

Organization(s) representing:

\_\_\_\_\_ Police officers, firefighters and airport police

\_\_\_\_\_ Transit Workers

\_\_\_\_\_ Nurses

\_\_\_\_\_ Miscellaneous Employees

Anticipated issue(s) under negotiation:

\_\_\_\_\_ Wages

\_\_\_\_\_ Hours

- \_\_\_\_\_ Benefits
- \_\_\_\_\_ Working Conditions
- \_\_\_\_\_ Other (specify if known)
- \_\_\_\_\_ All

If renegotiating a memorandum of understanding or negotiating a successor memorandum of understanding, the name of the memorandum of understanding:

(6) In case of multiple items of business under the same category, lines may be added and the location of information may be reformatted to eliminate unnecessary duplication and space, so long as the relationship of information concerning the same item is reasonably clear to the reader. As an alternative to the inclusion of lengthy lists of names or other information in the agenda, or as a means of adding items to an earlier completed agenda, the agenda may incorporate by reference separately prepared documents containing the required information, so long as copies of those documents are posted adjacent to the agenda within the time periods required by Government Code Sections 54954.2 and 54956 and provided with any mailed or delivered notices required by Sections 54954.1 or 54956 as applicable.

The voters hereby adopt Section 409.8 (“Additional Requirements for Closed Sessions”) of the City Charter:

- a. All closed sessions of any Policy Body covered by this Sunshine Ordinance shall be either audio recorded or audio and video recorded in their entirety and all such recordings shall be retained permanently unless the Policy Body determines, at a noticed public meeting, that permanent retention of such records is infeasible. Closed session recordings shall be made available immediately after all rationales for closing the session are no longer applicable. For closed sessions of a Policy Body where the justification for the closed session is due to “anticipated litigation”, recordings shall be released to the public in accordance with the following provisions: (i) if no litigation is filed, either (a) as soon as the controversy leading to the anticipated litigation is settled or concluded, or (b) two years after the meeting or upon expiration of the statute of limitations for the anticipated litigation, whichever occurs later; and (ii) if litigation is filed, as soon as the litigation is settled or a judgment becomes final.
- b. Each agenda item covered by this Sunshine Ordinance that involves existing litigation shall identify the court, case number, and date the case was filed on the written agenda. For each agenda item covered by this Sunshine Ordinance that involves anticipated litigation, the City Attorney’s Office or the Policy Body shall, upon request from any member of the public, disclose whether such anticipated litigation developed into litigation and shall identify the court, case number, and date the case was filed.

The voters hereby adopt Section 409.9 (“Agendas and Related Materials”) of the City Charter:

- a. Agendas of meetings and any other documents on file with the clerk of the Policy Body, when intended for distribution to all, or a majority of all, of the members of a Policy Body in connection with a matter anticipated for discussion or consideration at a public meeting, shall be made available to the public on the Policy Body's website. However, this disclosure need not include any material exempt from public disclosure under this Sunshine Ordinance or the California Public Records Act (Government Code sections 7920.000, *et seq.*).
- b. Records which are subject to disclosure under Subdivision (a) and which are intended for distribution to a Policy Body prior to commencement of a public meeting shall be made available for public inspection and copying upon request prior to commencement of such meeting, whether or not actually distributed to or received by the body at the time of the request.
- c. Records which are subject to disclosure under Subdivision (a) and which are distributed during a public meeting but prior to commencement of their discussion shall be made available for public inspection prior to commencement of, and during, their discussion.
- d. Records which are subject to disclosure under Subdivision (a) and which are distributed during their discussion at a public meeting shall be made available for public inspection immediately or as soon thereafter as is practicable.

The voters hereby adopt Section 409.10 ("Closed Sessions; Permitted Topics") of the City Charter:

A Policy Body may, but is not required to, hold closed sessions:

- a. With the Attorney General, District Attorney, or Chief of Police, or their respective deputies, on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities.
- b. To consider the appointment, employment, evaluation of performance, or dismissal of a City employee, if the Policy Body has the authority to appoint, employ, or dismiss the employee, or to hear complaints or charges brought against the employee by another person or employee unless the employee complained of requests a public hearing. The body may exclude from any such public meeting, and shall exclude from any such closed meeting, during the comments of a complainant, any or all other complainants in the matter. The term "employee" as used in this section shall not include any elected official, member of a Policy Body or applicant for such a position, or person providing services to the City as an independent contractor or the employee thereof, including but not limited to independent attorneys or law firms providing legal services to the City for a fee rather than a salary.
- c. Based on advice of its legal counsel, and on a motion and vote in open session to assert the attorney-client privilege, to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would likely and unavoidably prejudice the position of the City in that litigation. Litigation shall be considered pending when any of the following circumstances exist:

- (1) An adjudicatory proceeding before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator, to which the City is a party, has been initiated formally; or,
  - (2) A point has been reached where, in the opinion of the Policy Body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the City, or the body is meeting only to decide whether a closed session is authorized pursuant to that advice or, based on those facts and circumstances, the body has decided to initiate or is deciding whether to initiate litigation.
  - (3) A closed session may not be held under this Section to consider the qualifications or engagement of an independent contract attorney or law firm, for litigation services or otherwise.
- d. With the City's designated representatives regarding matters within the scope of collective bargaining or meeting and conferring with public employee organizations when a Policy Body has authority over such matters.
- (1) Such closed sessions shall be for the purpose of reviewing the City's position and instructing its designated representatives and may take place solely prior to and during active consultations and discussions between the City's designated representatives and the representatives of employee organizations or the unrepresented employees. A Policy Body shall not discuss compensation or other contractual matters in closed session with one or more employees directly interested in the outcome of the negotiations.
  - (2) In addition to the closed sessions authorized by subsection 409.10, a Policy Body subject to Government Code Section 3501 may hold closed sessions with its designated representatives on mandatory subjects within the scope of representation of its represented employees, as determined pursuant to Government Code Section 3504.

The voters hereby adopt Section 409.11 ("Statement of Reasons for Closed Sessions") of the City Charter:

- a. Prior to any closed session, a Policy Body shall state the general reason or reasons for the closed session, and shall cite the statutory authority, including the specific section and subdivision, or other legal authority under which the session is being held. In the closed session, the Policy Body may consider only those matters covered in its statement. In the case of regular and special meetings, the statement shall be made in the form of the agenda disclosures and specifications required by Section 409.7. In the case of adjourned and continued meetings, the statement shall be made with the same disclosures and specifications required by Section 409.7, as part of the notice provided for the meeting.

- b. In the case of an item added to the agenda as a matter of urgent necessity, the statement shall be made prior to the determination of urgency and with the same disclosures and specifications as if the item had been included in the agenda pursuant to Section 409.7 of this Section. Nothing in this Section shall require or authorize a disclosure of information prohibited by state or federal law.

The voters hereby adopt Section 409.12 (“Disclosure of Closed Session Discussions and Actions”) of the City Charter:

- a. After every closed session, a Policy Body must disclose to the public any portion of its discussion that is not confidential under federal or State law, the Charter, or non-waivable privilege. The Policy Body shall, by motion and vote in open session, elect either to disclose no information or to disclose the information that a majority deems to be in the public interest. The disclosure shall be made through the presiding officer of the body or such other person, present in the closed session, whom he or she designates to convey the information.
- b. A Policy Body shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

- (1) Real Property Negotiations: Approval given to a Policy Body’s negotiator concerning real estate negotiations pursuant to Government Code Section 54956.8 shall be reported as soon as the agreement is final. If its own approval renders the agreement final, the Policy Body shall report that approval, the substance of the agreement and the vote thereon in open session immediately. If final approval rests with another party to the negotiations, the Policy Body shall, at its next meeting and immediately upon inquiry by any person, disclose the fact of that approval, the substance of the agreement and the Policy Body’s vote or votes thereon as soon as the other party or its agent has informed the body of its approval. If notwithstanding the final approval there are conditions precedent to the final consummation of the transaction, or there are multiple contiguous or closely located properties that are being considered for acquisition, the document referred to need not be disclosed until the condition has been satisfied or the agreement has been reached with respect to all the properties, or both.

- (2) Litigation: Direction or approval given to the Policy Body’s legal counsel to prosecute, defend or seek or refrain from seeking appellate review or relief, or to otherwise enter as a party, intervenor or amicus curiae in any form of litigation as the result of a consultation pursuant to Government Code Section 54956.9 shall be reported in open session as soon as given, or at the first meeting after an adverse party has been served in the matter if immediate disclosure of the City’s intentions would be contrary to the public interest. The report shall identify the adverse party or parties, any co-parties with the City, any existing claim or order to be defended against or any factual circumstances or contractual dispute giving rise to the City’s complaint, petition or other litigation initiative.

(3) Settlement: A Policy Body shall neither solicit nor agree to any term in a settlement which would preclude the release of the text of the settlement itself and any related documentation communicated to or received from the adverse party or parties. Any written settlement agreement and any documents attached to or referenced in the settlement agreement shall be made publicly available at least 10 calendar days before the meeting of the Policy Body at which the settlement is to be approved to the extent that the settlement would commit the City (including any Department) to adopting, modifying, or discontinuing an existing policy, practice or program or otherwise acting other than to pay an amount of money less than fifty thousand dollars (\$50,000). The agenda for any meeting in which a settlement subject to this Section is discussed shall identify the names of the parties, the case number, the court, and the material terms of the settlement. Where the disclosure of documents in a litigation matter that has been or may be settled could be detrimental to the City's interest in pending litigation arising from the same facts or incident and involving a party not a party to or otherwise aware of the settlement, the documents required to be disclosed by Subdivision (b) of this Section need not be disclosed until the other case is settled or otherwise finally concluded.

(4) Employee Actions: Action taken to appoint, employ, dismiss, transfer or accept the resignation of a public employee in closed session pursuant to Government Code Section 54957 shall be reported immediately in a manner that names the employee, the action taken and position affected and, in the case of dismissal for a violation of law or of the policy of the City, the reason for dismissal. "Dismissal" within the meaning of this Sunshine Ordinance includes any termination of employment at the will of the employer rather than of the employee, however characterized. The proposed terms of any separation agreement shall be immediately disclosed as soon as presented to the body, and its final terms shall be immediately disclosed upon approval by the body.

(5) Collective Bargaining: Any collectively bargained agreement shall be made publicly available at least 15 calendar days before the meeting of the Policy Body to which the agreement is to be reported.

- c. Reports required to be made immediately may be made orally or in writing, but shall be supported by copies of any contracts, settlement agreements, or other documents related to the transaction that were finally approved or adopted in the closed session and that embody the information required to be disclosed immediately shall be provided to any person who has made a written request regarding that item following the posting of the agenda, or who has made a standing request for all such documentation as part of a request for notice of meetings pursuant to Government Code Sections 54954.1 or 54956.
- d. A written summary of the information required to be immediately reported pursuant to this Section, or documents embodying that information, shall be posted by the close of business on the next business day following the meeting, in the place where the meeting agendas of the body are posted.

The voters hereby adopt Section 409.13 (“Barriers to Attendance Prohibited”) of the City Charter:

- a. No Policy Body shall conduct any meeting, conference or other function in any facility that excludes persons on the basis of actual or presumed class identity or characteristics, or which is inaccessible to persons with physical disabilities, or where members of the public may not be present without making a payment or purchase. Whenever the City Council, or a Policy Body anticipates that the number of persons attending the meeting will exceed the legal capacity of the meeting room, any public address system used to amplify sound in the meeting room shall be extended by supplementary speakers to permit the overflow audience to listen to the proceedings in an adjacent room or passageway, unless such supplementary speakers would disrupt the operation of a City office.
- b. Each Policy Body shall provide sign language interpreters or note-takers at each regular meeting, provided that a request for such services is communicated to the secretary or clerk of the Policy Body at least 48 hours before the meeting, except for Monday meetings, for which the deadline shall be 4 p.m. of the last business day of the preceding week.
- c. Each Policy Body shall ensure that accessible seating for persons with disabilities, including those using wheelchairs, is made available for each regular and special meeting.

The voters hereby adopt Section 409.14 (“Video and Audio Recording”) of the City Charter:

- a. Any person attending an open and public meeting of a Policy Body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera, or to broadcast the proceedings, in the absence of a reasonable finding of the Policy Body that the recording or broadcast cannot continue without such noise, illumination or obstruction of view as to constitute a persistent disruption of the proceedings.
- b. Each Policy Body shall audio record each regular and special meeting. Each such audio recording, and any audio or video recording of a meeting of any other Policy Body made at the direction of the Policy Body shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code sections 7920.000 *et seq.*), and shall not be erased or destroyed. Inspection of any such recording shall be provided without charge on an appropriate play back device made available by the City.
- c. Every Policy Body shall audio or video every noticed regular meeting, special meeting, or hearing open to the public held in a Newport City Civic Center hearing room that is equipped with audio or video recording facilities, except to the extent that such facilities may not be available for technical or other reasons. Each such audio or video recording shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code sections 7920.000 *et seq.*), and shall not be erased or destroyed. The City shall make such audio or video recording available in digital form at a centralized location on the City’s website ([www.newportbeachca.gov](http://www.newportbeachca.gov)) within 72

hours of the date of the meeting or hearing and for a period of at least two years after the date of the meeting or hearing. Inspection of any such recording shall also be provided without charge on an appropriate play back device made available by the City. This subsection (C) shall not be construed to limit or in any way modify the duties created by any other provision of this Section, including but not limited to the requirements for recording closed sessions as stated in Section 409.8 and for recording meetings of boards and commissions enumerated in the Charter as stated in subsection (b) above.

The voters hereby adopt Section 409.15 (“Public Testimony”) of the City Charter:

- a. Every agenda for regular meetings shall provide an opportunity for members of the public to directly address a Policy Body on items of interest to the public that are within Policy Body’s subject matter jurisdiction, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Section 409.5.
- b. Every agenda for special meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item prior to action thereupon.
- c. A Policy Body may adopt reasonable regulations to ensure that the intent of Subdivisions (a) and (b) are carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Each Policy Body shall adopt a rule providing that each person wishing to speak on an item before the body at a regular or special meeting shall be permitted to be heard once for no less than three minutes. Time limits shall be applied uniformly to members of the public wishing to testify.
- d. A Policy Body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated, or on any basis other than reasonable time constraints adopted in regulations pursuant to Subdivision (c) of this Section.
- e. To facilitate public input, any agenda changes or continuances shall be announced by the presiding officer of a Policy Body at the beginning of a meeting, or as soon thereafter as the change or continuance becomes known to such presiding officer.

The voters hereby adopt Section 409.16 (“Minutes”) of the City Charter:

- a. The clerk or secretary of the City Council, and the clerk, secretary or other representative of all Policy Bodies and commissions shall record the minutes for each regular and special meeting of such bodies. The minutes shall state the time the meeting was called to order, the names of the members attending the meeting, the roll call vote on each matter considered at the meeting, the time the meeting began and ended any closed session, the names of the members and the names, and titles where applicable,

of any other persons attending any closed session, a list of those members of the public who spoke on each matter if the speakers identified themselves, whether such speakers supported or opposed the matter, a brief summary of each person's statement during the public comment period for each agenda item, and the time the meeting was adjourned. Any person speaking during a public comment period may supply a brief written summary of their comments which shall, if no more than 150 words, be included in the minutes.

- b. The draft minutes of each meeting shall be made available on the City's website, and at a designated location for inspection and copying upon request, no later than five working days after the meeting. The officially adopted minutes shall be available for inspection and copying upon request no later than 10 working days after the meeting at which the minutes are adopted. Upon request, minutes required to be produced by this Section shall be made available in Braille or increased type size.

The voters hereby adopt Section 409.17 ("Public Comments by Members of Policy Bodies") of the City Charter:

Every member of a Policy Body retains the full constitutional rights of a citizen to comment publicly on the wisdom or propriety of government actions, including those of the Policy Body of which he or she is a member. Policy Bodies shall not sanction, reprove or deprive members of their rights as elected or appointed officials for expressing their judgments or opinions, including those which deal with the perceived inconsistency of non-public discussions, communications or actions with the requirements of State or Federal law or of this Sunshine Ordinance. The release of specific factual information made confidential by State or Federal law including, but not limited to, the privilege for confidential attorney-client communications, may be the basis for a request for injunctive or declaratory relief, of a complaint to the City Council seeking an accusation of misconduct, or both.

The voters hereby adopt Section 409.50 ("Process for Gaining Access to Public Records; Administrative Appeals") of the City Charter:

- a. Every person having custody of any public record or public information, as defined in this Sunshine Ordinance, (hereinafter referred to as a custodian of a public record) shall, at normal times and during normal and reasonable hours of operation, without unreasonable delay, and without requiring an appointment, permit the public record, or any segregable portion of a record, to be inspected and examined by any person and shall furnish one copy thereof upon payment of a reasonable copying charge, not to exceed the lesser of the actual cost or 10 cents (\$0.10) per page.
- b. A custodian of a public record shall, as soon as possible and within 10 days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered to the office of the custodian by the requester orally or in writing by fax, postal delivery, or e-mail. If the custodian believes the record or information requested is not a public record or is exempt, the custodian shall justify withholding any record by demonstrating, in writing as soon as possible and within 10

days following receipt of a request, that the record in question is exempt under express provisions of this Sunshine Ordinance.

- c. A custodian of a public record shall assist a requester in identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within seven days following receipt of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request. A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person.
- d. If the custodian refuses, fails to comply, or incompletely complies with a request for records under this Section, the person making the request may petition the Supervisor of Records for a determination whether the record requested is public. The Supervisor of Records shall inform the petitioner, as soon as possible and within 10 days, of its determination whether the record requested, or any part of the record requested, is public. Where requested by the petition, and where otherwise desirable, this determination shall be in writing. Upon the determination by the Supervisor of Records that the record is public, the Supervisor of Records shall immediately order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order within five days, the Supervisor of Records shall notify the Sunshine Task Force, and district attorney or the attorney general who shall take whatever measures she or he deems necessary and appropriate to insure compliance with the provisions of this Sunshine Ordinance. The Supervisor of Records shall also have the right to investigate any failure to comply with the Sunshine Ordinance. The Supervisor of Records may implement disciplinary and/or remedial action against City officials and staff.
- e. If the custodian refuses, fails to comply, or incompletely complies with a request for records under this Section, or if a petition is denied or not acted on by the Supervisor of Records, the person making the request may petition the Sunshine Task Force for a determination whether the record requested is public. The Sunshine Task Force shall inform the petitioner, as soon as possible and within 2 days after its next meeting but in no case later than 45 days from when a petition in writing is received, of its determination whether the record requested, or any part of the record requested, is public. Where requested by the petition, and where otherwise desirable, this determination shall be in writing. Upon the determination that the record is public, the Sunshine Task Force shall immediately order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order within 5 days, the Sunshine Task Force shall notify the district attorney or the attorney general who may take whatever measures she or he deems necessary to insure compliance with the provisions of this Sunshine Ordinance. The City Council and the City Attorney's office shall provide sufficient staff and resources to allow the Sunshine Task Force to fulfill its duties under this provision. Where requested by the petition, the Sunshine Task Force may conduct a public hearing concerning the records

- request denial. An authorized representative of the custodian of the public records requested shall attend any hearing and explain the basis for its decision to withhold the records requested.
- f. The administrative remedy provided under this Section shall in no way limit the availability of other administrative remedies provided to any person with respect to any officer or employee of any executive office, or Policy Body; nor shall the administrative remedy provided by this section in any way limit the availability of judicial remedies otherwise available to any person requesting a public record. If a custodian of a public record refuses or fails to comply with the request of any person for inspection or copy of a public record or with an administrative order under this Section, the superior court shall have jurisdiction to order compliance.
  - g. In any court proceeding pursuant to this article there shall be a presumption that the record sought is public, and the burden shall be upon the custodian to prove with specificity the exemption which applies.
  - h. On at least an annual basis, and as otherwise requested by the Sunshine Task Force, the Supervisor of Records shall prepare a tally and report of every petition brought before it for access to records since the time of its last tally and report. The report shall at least identify for each petition the record or records sought, the custodian of those records, the ruling of the Supervisor of Records, whether any ruling was overturned by a court and whether orders given to custodians of public records were followed. The report shall also summarize any court actions during that period regarding petitions the Supervisor of Records has decided. At the request of the Sunshine Task Force, the report shall also include copies of all rulings made by the Supervisor of Records and all opinions issued. All annual tallies and reports shall be made available on the City's website within ten days.
  - i. The City Attorney Department shall act to protect and secure the rights of the people of Newport Beach to access public information and public meetings and shall not act as legal counsel for any city employee or any person having custody of any public record for purposes of denying access to the public. The City Attorney may publish legal opinions in response to a request from any person as to whether a record or information is public. All communications with the City Attorney's Office with regard to this Sunshine Ordinance, including petitions, requests for opinion, and opinions shall be public records, regardless of whether such communications include City employees or officials.
  - j. Notwithstanding the provisions of this Section, the City Attorney may defend the City or a City employee in litigation under the Sunshine Ordinance that is actually filed in court to any extent required by the City Charter or California Law.
  - k. Release of documentary public information, whether for inspection of the original or by providing a copy, shall be governed by the California Public Records Act (Government Code sections 7920.000 *et seq.*) in particulars not addressed by the

Sunshine Ordinance and in accordance with the enhanced disclosure requirements provided in this Sunshine Ordinance.

1. Inspection and copying of documentary public information stored in electronic form shall be made available to the person requesting the information in any form requested which is available to or easily generated by the City, its officers or employees, including disk, tape, printout or monitor at a charge no greater than the cost of the media on which it is duplicated. Inspection of documentary public information on a computer monitor need not be allowed where the information sought is necessarily and inseparably intertwined with information not subject to disclosure under this Sunshine Ordinance. Nothing in this Section shall require a Department to program or reprogram a computer to respond to a request for information or to release information where the release of that information would violate a licensing agreement or copyright law.

The voters hereby adopt Section 409.51 (“Release of Oral Public Information”) of the City Charter:

Release of oral public information shall be accomplished as follows:

- a. Every Department head shall designate a person or persons knowledgeable about the affairs of the Department, to provide information, including oral information, to the public about the Department’s operations, plans, policies and positions. The Department head may designate himself or herself for this assignment, but in any event shall arrange that an alternate be available for this function during the absence of the person assigned primary responsibility. If a Department has multiple bureaus or divisions, the Department may designate a person or persons for each bureau or division to provide this information.
- b. The role of the person or persons so designated shall be to provide information on as timely and responsive a basis as possible to those members of the public who are not requesting information from a specific person. This Section shall not be interpreted to curtail existing informal contacts between employees and members of the public when these contacts are occasional, acceptable to the employee and the Department, not disruptive of his or her operational duties and confined to accurate information not confidential by law.
- c. No employee shall be required to respond to an inquiry or inquiries from an individual if it would take the employee more than two hours to obtain the information responsive to the inquiry or inquiries.
- d. Public employees shall not be discouraged from or disciplined for the expression of their personal opinions on any matter of public concern while not on duty, so long as the opinion (1) is not represented as that of the Department and does not misrepresent the Department position; and (2) does not disrupt coworker relations, impair discipline or control by superiors, erode a close working relationship premised on personal loyalty and confidentiality, interfere with the employee’s performance of his or her duties or obstruct the routine operation of the office in a manner that outweighs the employee’s interests in expressing that opinion. In adopting this Subdivision, the City intends

merely to restate and affirm court decisions recognizing the First Amendment rights enjoyed by public employees. Nothing in this Section shall be construed to provide rights to City employees beyond those recognized by courts, now or in the future, under the First Amendment, or to create any new private cause of action or defense to disciplinary action.

- e. Notwithstanding any other provisions of the Sunshine Ordinance, public employees shall not be discouraged from or disciplined for disclosing any information that is public information or a public record to any journalist or any member of the public. Any public employee who is disciplined for disclosing public information or a public record shall have a cause of action against the City and the supervisor imposing the discipline.

The voters hereby adopt Section 409.52 (“Public Review File – Policy Body Communications”) of the City Charter:

- a. The City Clerk and the clerk of each Department and commission shall maintain a file, accessible to any person during normal office hours, containing a copy of any letter, memorandum or other communication which the clerk has distributed to or received from a quorum of the Policy Body concerning a matter calendared by the body within the previous 30 days or likely to be calendared within the next 30 days, irrespective of subject matter, origin or recipient, except commercial solicitations, periodical publications or communications exempt from disclosure under the California Public Records Act (Government Code sections 7920.000, *et seq.*) and not deemed disclosable under Section 409.53 of the Sunshine Ordinance.
- b. Communications, as described in subsection (a), sent or received in the last three business days shall be maintained in chronological order in the office of the Department head or at a place nearby, clearly designated to the public. After documents have been on file for three full days, they may be removed, and, in the discretion of the board or commission, placed in a monthly chronological file.
- c. Multiple-page reports, studies or analyses which are accompanied by a letter or memorandum of transmittal need not be included in the file so long as the letter or memorandum of transmittal is included.

The voters hereby adopt Section 409.53 (“Public Information That Must Be Disclosed”) of the City Charter:

Notwithstanding the City Council’s and Department’s legal discretion to withhold certain information under the California Public Records Act, the following policies shall govern specific types of documents and information and shall provide enhanced rights of public access to information and records:

- a. Neither the City nor any office, official, employee, or agent thereof may assert as the basis for withholding any documents or information requested under the Sunshine Ordinance, or the California Public Records Act (Gov. Code section 7922.000 *et. seq.*) or

any similar provision authorizing the withholding of any document or information based on a finding or showing that the public interest in withholding the information outweighs the public interest in disclosure.

- b. Neither the City nor any office, employee, or agent thereof may assert an exemption for withholding for any document or information based on a “deliberative process” exemption, either as provided by California Public Records Act Section 7922.000 or any other provision of law that does not prohibit disclosure.
- c. All withholdings of documents or information must be based on an express provision of this Sunshine Ordinance providing for withholding of the specific type of information in question or on an express and specific exemption provided by California Public Records Act that is not forbidden by this Sunshine Ordinance.
- d. Drafts and Memoranda.

(1) Except as provided in subparagraph (2) below, no preliminary draft or Policy Body memorandum, whether in printed or electronic form, shall be exempt from disclosure under Government Code Section 7927.500 or any other provision of the California Public Records Act. If such a document is not normally kept on file and would otherwise be disposed of, its factual content is not exempt under Government Code Section 7927.500. Only the recommendation of the author may, in such circumstances, be withheld as exempt.

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

- e. Litigation Material.

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

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

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

(iii) Advice on compliance with, analysis of, an opinion concerning liability under, or any communication otherwise concerning the California Public Records Act, the Ralph M. Brown Act, the Political Reform Act, the City Charter, the City of Newport Beach Municipal Code, or this Sunshine Ordinance.

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

f. Personnel Information.

None of the following shall be exempt from disclosure under Government Code Section 7927.400 to Government Code Section 7927.430, or any other provision of California Law where disclosure is not forbidden:

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

(i) Sex, age and ethnic group;

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

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

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

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

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

(3) The job description of every employment classification.

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

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

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

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

g. Law Enforcement Information.

The Chief of Police and City Attorney are encouraged to cooperate with the press and other members of the public in allowing access to local records pertaining to investigations, arrests, and other law enforcement activity. However, no provision of the Sunshine Ordinance is intended to abrogate or interfere with the constitutional and statutory power and duties of any district attorney, sheriff, police officer or other applicable State law or judicial decision. Records pertaining to any investigation, arrest or other law enforcement activity shall be disclosed to the public once the district attorney or court determines that a prosecution will not be sought against the subject involved, or once the statute of limitations for filing charges has expired, whichever occurs first. Notwithstanding the occurrence of any such event, individual items of information in the following categories may be segregated and withheld if, on the particular facts, the public interest in nondisclosure clearly and substantially outweighs the public interest in disclosure:

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

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

(3) The identity of a confidential source;

(4) Secret investigative techniques or procedures;

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

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

This Subdivision shall not exempt from disclosure any portion of any record of a concluded inspection or enforcement action by an officer or Policy Body responsible for regulatory protection of the public health, safety, or welfare.

h. Contracts, Bids and Proposals.

(1) Contracts, contractors' bids, responses to requests for proposals and all other records of communications between a Policy Body and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded and for no less than two years after the contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. All bidders and contractors shall be advised that information provided which is covered by this Subdivision will be made available to the public upon request. Immediately after any review or evaluation or rating of responses to a Request for Proposal ("RFP") has been completed, evaluation forms and score sheets and any other documents used by persons in the RFP evaluation or contractor selection process shall be available for public inspection and for no less than two years. The names of scorers, graders or evaluators, along with their individual ratings, comments, and score sheets or comments on related documents, shall be made immediately available after the review or evaluation of a RFP has been completed and for no less than two years.

(2) All documents exchanged and related to the position of the parties, including draft contracts, shall be made available for public inspection and copying upon request for no less than two years if they relate to negotiations for:

- (i) personal, professional, or other contractual services not subject to a competitive process or where such a process has arrived at a stage where there is only one qualified or responsive bidder;
- (ii) leases or permits having total anticipated revenue or expense to the City of Newport of five hundred thousand dollars (\$500,000) or more or having a term of 10 years or more; or
- (iii) any franchise agreements.

In the event that no records are prepared or exchanged during negotiations in the above-mentioned categories, or the records exchanged do not provide a meaningful representation of the respective positions, the City Attorney or City representative familiar with the negotiations shall, upon a written request by a member of the public, prepare written summaries of the respective positions within five working days following the final day of negotiation of any given week. The summaries will be available for public inspection and copying. Upon completion of negotiations, the executed contract, including the dollar amount of said contract, shall be made available for inspection and copying. At the end of

each fiscal year, each Department shall provide to the City Attorney a list of all sole source contracts entered into during the past fiscal year. This list shall be made available for inspection and copying as provided for elsewhere in the City Charter.

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

The voters hereby adopt Section 409.54 (“Immediacy of Response”) of the City Charter:

- a. Notwithstanding the 10 day period for response to a request permitted in Government Code Section 7922.535 and in this Section, a written request for information described in any category of non-exempt public information shall be satisfied no later than the five business days following the day of the request. This deadline shall apply only if the words “Immediate Disclosure Request” are placed across the top of the request and on the envelope, subject line, or cover sheet in which the request is transmitted. Maximum deadlines provided in this article are appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling a simple, routine or otherwise readily answerable request.
- b. If the voluminous nature of the information requested, its location in a remote storage facility or the need to consult with another interested Department warrants an extension of 10 days as provided in Government Code Section 7922.535, the requester shall be notified as required by the close of business on the business day following the request. Any such notification shall identify with specificity the steps taken to identify the volume of responsive records, including any search parameters used to identify the volume of records and the record custodians who performed any such search, and briefly explain why it would not be possible to review the identified records without an extension. For the purposes of this Section, unusual circumstances shall not include consider any ordinary business activities of the City or any Department or division holding responsive records.
- c. The person seeking the information need not state his or her reason for making the request or the use to which the information will be put, and requesters shall not be asked to make such a disclosure. Where a record being requested contains information which is exempt from disclosure under the California Public Records Act and this Section, however, the City Attorney or custodian of the record may inform the requester of the nature and extent of the non-exempt information and inquire as to the requester’s purpose for seeking it, in order to suggest alternative sources for the information which may involve less redaction or to otherwise prepare a response to the request.

- d. Notwithstanding any provisions of California Law or the Sunshine Ordinance, in response to a request for information describing any category of non-exempt public information, when so requested, the City of Newport Beach shall produce any and all responsive public records as soon as reasonably possible on an incremental or “rolling” basis such that responsive records are produced as soon as possible by the end of the same business day that they are reviewed and collected. This Section is intended to prohibit the withholding of public records that are responsive to a records request until all potentially responsive documents have been reviewed and collected. Failure to comply with this provision is a violation of the Sunshine Ordinance.

The voters hereby adopt Section 409.55 (“Withholding Kept to a Minimum”) of the City Charter:

No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure under express provisions of this Sunshine Ordinance, the California Public Records Act, or of some other statute. Information that is exempt from disclosure shall be masked, deleted or otherwise segregated in order that the nonexempt portion of a requested record may be released, and keyed by footnote or other clear reference to the appropriate justification for withholding required by Section 409.56. This work shall be done personally by the attorney or other staff member conducting the exemption review. The work of responding to a public-records request and preparing documents for disclosure shall be considered part of the regular work duties of any City of Newport Beach employee, and no fee shall be charged to the requester to cover the personnel costs of responding to a records request.

The voters hereby adopt Section 409.56 (“Justification of Withholding”) of the City Charter:

Any withholding of information shall be justified, on a document-by-document basis, in writing and memorialized in a log to facilitate review by a requester, as follows:

- a. A withholding under a specific permissive exemption in the California Public Records Act or elsewhere, which permissive exemption is not forbidden to be asserted under the Sunshine Ordinance, shall cite that authority.
- b. A withholding on the basis that disclosure is prohibited by law shall cite the specific statutory authority in the Public Records Act or elsewhere.
- c. A withholding on the basis that disclosure would incur civil or criminal liability shall cite any specific statutory or case law, or any other public agency’s litigation experience, supporting that position.
- d. When a record being requested contains information, most of which is exempt from disclosure under the California Public Records Act and the Sunshine Ordinance, the custodian shall inform the requester of the nature and extent of the nonexempt information and suggest alternative sources for the information requested, if available.

The voters hereby adopt Section 409.57 (“Index to Records”) of the City Charter:

The City of Newport Beach shall prepare a public records index that identifies the types of information and documents maintained by the City Council, Departments, and elected officials. The index shall be for the use of City officials, staff and the general public, and shall be organized to permit a general understanding of the types of information maintained, by which officials and Departments, for which purposes and for what periods of retention, and under what manner of organization for accessing, *e.g.*, by reference to a name, a date, a proceeding or project, or some other referencing system. The index need not be in such detail as to identify files or records concerning a specific person, transaction or other event, but shall clearly indicate where and how records of that type are kept. Any such master index shall be reviewed by appropriate staff for accuracy and presented for formal adoption to the administrative official or Policy Body responsible for the indexed records. The City Manager shall be responsible for the preparation of this records index. The City Manager shall report on the progress of the index to the Sunshine Task Force on at least a semi-annual basis until the index is completed. Each Department and public official shall cooperate with the City Manager to identify the types of records it maintains, including those documents created by the entity and those documents received in the ordinary course of business and the types of requests that are regularly received. Each Department and elected official is encouraged to solicit and encourage public participation to develop a meaningful records index. The index shall clearly and meaningfully describe, with as much specificity as practicable, the individual types of records that are prepared or maintained by each Department or public official of the City of Newport Beach. The index shall be sufficient to aid the public in making an inquiry or a request to inspect. Any changes in the Departments or elected officials practices or procedures affecting the accuracy of the information provided to the City Manager shall be recorded by the City Manager on no less than an annual basis so as to maintain the integrity and accuracy of the index. The index shall be continuously maintained on the City of Newport Beach's website and made available at a public library within the City of Newport Beach.

The voters hereby adopt Section 409.58 ("Records Survive Transition of Officials") of the City Charter:

All documents prepared, received, or maintained by the City Council, by any elected City official, and by the head of any Department are the property of the City of Newport Beach. The originals of these documents shall be maintained consistent with the records retention policies of the City.

The voters hereby adopt Section 409.59 ("Internet Access, Minimum Standards") of the City Charter:

Each Department shall make publicly available through its website or the City's website, as much information and as many documents as possible concerning its activities. At a minimum, within six months after enactment of this Section, each Department shall post on its website all meeting notices required under the Sunshine Ordinance, agendas and the minutes of all previous meetings of any of their Policy Bodies for the last three years. Notices and agendas shall be posted no later than the time that the Department otherwise distributes this information to the public, allowing reasonable time for posting. Minutes of meetings shall be posted as soon as possible, but in any event within 10 days after they

have been approved. Each Department shall make reasonable efforts to ensure that its website or any portion of the City's website that it uses to post materials is regularly reviewed for timeliness and updated on at least a weekly basis.

The voters hereby adopt Section 409.60 ("Lobbyist on Behalf of the City") of the City Charter:

- a. Any lobbyist who contracts for economic consideration with the City of Newport Beach to represent the City of Newport Beach in matters before any local, regional, State, or federal administrative or legislative body shall file a public records report of their activities on a quarterly basis with the Sunshine Task Force. This report shall be maintained by the Sunshine Task Force and not be exempt from disclosure. Each quarterly report shall identify all financial expenditures exceeding two hundred dollars (\$200) by the lobbyist, the individual or entity to whom each expenditure was made, the date the expenditure was made, and specifically identify the local, State, regional or national legislative or administrative action the lobbyist supported or opposed in making the expenditure. The failure to file a quarterly report with the required disclosures shall be a violation of this Sunshine Ordinance. The City shall promptly terminate any lobbyist who fails to timely file two consecutive quarterly reports.
- b. No person shall be deemed a lobbyist under section (a), unless that person receives or becomes entitled to receive at least two thousand dollars (\$2,000) total compensation in any month for influencing legislative or administrative action on behalf of the City of Newport Beach, or within two consecutive months has at least 25 separate contacts with local, State, regional or national officials for the purpose of influencing legislative or administrative action on behalf of the City of Newport Beach. No business or organization shall be deemed as a lobbyist under Section (a) unless it compensates its employees or members for their lobbying activities on behalf of the City of Newport Beach, and the compensated employees or members have at least 25 separate contacts with local, State, regional or national officials for the purpose of influencing legislative or administrative action within any two consecutive months. "Total compensation" shall be calculated by combining all compensation received from the City of Newport Beach during the month for lobbying activities on matters at the local, State, regional or national level. "Total number of contacts" shall be calculated by combining all contacts made during the two-month period on behalf of the City of Newport Beach for all lobbying activities on matters at the local, state, regional or national level.
- c. Funds of the City of Newport Beach, including organizational dues, shall not be used to support any lobbying efforts to restrict public access to records, information, or meetings, except where such effort is solely for the purpose of protecting the identity and privacy rights of private citizens.

The voters hereby adopt Section 409.61 ("Calendars of Certain Officials") of the City Charter:

- a. The Mayor, City Attorney, the City Council, and every chief executive or head of every Department shall keep or cause to be kept a daily calendar wherein is recorded the time and place of each meeting or event attended by that official, either in person or by teleconference or other electronic means, with the exclusion of purely personal or social

events at which no City business is discussed and that do not take place at City of Newport Beach offices or at the offices or residences of people who do business with or are otherwise substantially financially affected by actions of the City of Newport Beach. For meetings not otherwise publicly recorded, the calendar shall include a general statement of issues discussed. Such calendars shall be public records and shall be available to any requester three business days subsequent to the calendar entry date.

- b. For meetings or events with ten or fewer attendees, the calendar shall also identify the individual(s) present and organization(s) represented at the meeting or event if known by the official, unless the official is aware that the information would reveal the identity of a confidential whistleblower, would disclose the attendance of members or representatives of a labor organization at a meeting to discuss matters within the scope of representation, as that term is defined in California Government Code Section 3504, would reveal personnel information not subject to disclosure, or is otherwise exempt from disclosure under State and local law. For the purpose of calculating the total number of attendees at a meeting or event an official shall not include himself or herself.
- c. The obligations imposed under subsection (b), and the obligations imposed upon under subsection (a), shall not apply to meetings or events where City of Newport Beach business is discussed only incidentally; to unplanned, casual conversations with residents; to campaign-related meetings, events, and appearances; or to meetings or events where all attendees are employees or officers in the official's Department, which for members of the City Council shall mean that all attendees are members of the City Council, legislative aides, or employees of the City Clerk. Officials are not in violation of subsections (b), and members of the City Council are not in violation of subsection (b), if they can demonstrate a good faith effort to comply with their obligations thereunder.

The voters hereby adopt Section 409.62 ("Sources of Outside Funding") of the City Charter:

No official or employee or agent of the City of Newport Beach shall accept, allow to be collected, or direct or influence the spending of, any money, or any goods or services worth more than two thousand dollars (\$2,000) in aggregate, for the purpose of carrying out or assisting any City of Newport Beach function unless the amount and source of all such funds is disclosed as a public record and made available on the website for the Department to which the funds are directed or the City's website. When such funds are provided or managed by an entity, and not an individual, that entity must agree in writing to abide by the Sunshine Ordinance before providing or managing such funds. The disclosure shall include the names of all individuals or organizations contributing such money and a statement as to any financial interest the contributor has involving the City of Newport Beach.

The voters hereby adopt Section 409.63 ("Correspondence and Records Shall Be Maintained") of the City Charter:

- a. The Mayor and all heads of every Department shall maintain and preserve in a professional and businesslike manner all documents and correspondence, including but not limited to letters, e-mails, drafts, memorandum, invoices, reports and proposals, and shall disclose all such records in accordance with this Sunshine Ordinance.
- b. The City Clerk (or the Orange County Registrar of Voters, if accessible to the City Clerk) shall keep and preserve all records and invoices relating to the design and printing of ballots and other election materials and shall keep and preserve records documenting who had custody of ballots from the time ballots are cast until ballots are received and certified by the City Clerk or Orange County Registrar of Voters.
- c. In any contract, agreement or permit between the City of Newport Beach and any outside entity that authorizes that entity to demand any funds or fees from citizens, the City of Newport Beach shall ensure that accurate records of each transaction are maintained in a professional and businesslike manner and are available to the public as public records under the provisions of this Sunshine Ordinance. Failure of an entity to comply with these provisions shall be grounds for terminating the contract or for imposing a financial penalty equal to one-half of the fees derived under the agreement or permit during the period of time when the failure was in effect. Failure of any Department under this provision shall be a violation of this Sunshine Ordinance. This paragraph shall apply to any agreement allowing an entity to tow or impound vehicles in Newport Beach and shall apply to any agreement allowing an entity to collect any fee from any persons in any pretrial diversion program.

The voters hereby adopt Section 409.70 (“Sunshine Task Force”) of the City Charter:

- a. There is hereby established a task force to be known as the Sunshine Task Force consisting of five voting members appointed by the City Attorney (“**Sunshine Task Force**”). All members must have experience and/or demonstrated interest in the issues of citizen access and participation in local government. One member must be an attorney who has graduated from a law school accredited by the American Bar Association and who is, or was, licensed to practice to law in the State of California. One member shall be a member of the public experienced in consumer advocacy and/or civil liberties. The Sunshine Task Force may have no more than one City Council member as a member, but shall not be required to have any City Council member as a member.
- b. The City Attorney shall serve as legal advisor to the Sunshine Task Force. The Sunshine Task Force shall, at its request, have assigned to it an attorney from within the City Attorney’s Office, who is experienced in public access law matters. This attorney shall serve solely as a legal advisor and advocate to the Sunshine Task Force and an ethical wall will be maintained between the work of this attorney on behalf of the Sunshine Task Force and any person or City office that the Sunshine Task Force determines may have a conflict of interest with regard to the matters being handled by the attorney.

- c. The term of each appointive member shall be three years unless earlier removed by the City Attorney. In the event of such removal or in the event a vacancy otherwise occurs during the term of office of any appointive member, a successor shall be appointed for the unexpired term of the office vacated in a manner similar to that described herein for the initial members. The Sunshine Task Force shall elect a chair from among its appointive members. The term of office as chair of the Sunshine Task Force shall be two years. Members of the Sunshine Task Force shall serve without compensation.
- d. The Sunshine Task Force shall advise the City Council and provide information to other Departments on appropriate ways in which to implement this chapter. The Sunshine Task Force shall develop appropriate goals to ensure practical and timely implementation of this Section. The Sunshine Task Force may propose to the City Council amendments to this Section. The Sunshine Task Force shall report to the City Council at least once annually on any practical or policy problems encountered in the administration of this Section. The Sunshine Task Force shall receive and review the annual report of the Supervisor of Records and may request additional reports or information as it deems necessary. The Sunshine Task Force shall make referrals to the City Attorney or any other governmental office with enforcement power under the Sunshine Ordinance, the California Public Records Act, or the Brown Act, whenever it concludes that any person has violated any provisions of the Sunshine Ordinance or the Acts. The Sunshine Task Force shall, from time to time as it sees fit, issue public reports evaluating compliance with this ordinance and related California laws by the City or any Policy Body.
- e. In addition to the powers specified above, the Sunshine Task Force shall possess such powers as City Council may confer upon it by ordinance or as the People of Newport Beach shall confer upon it by initiative.
- f. The Sunshine Task Force shall approve by-laws specifying a general schedule for meetings, requirements for attendance by Sunshine Task Force members, and procedures and criteria for removing members for non-attendance.

The voters hereby adopt Section 409.71 (“Responsibility for Administration”) of the City Charter:

The City Attorney, with advice of the City Council, shall administer and coordinate the implementation of all provisions for the Sunshine Ordinance for all Policy Bodies and any other bodies under its control. Elected officers or, in the absence of any elected officers, the most senior appointive officer, shall administer and coordinate the implementation of the provisions of this chapter for Policy Bodies and any other bodies under their respective control.

The voters hereby adopt Section 409.72 (“Provisions of Services to Other Agencies; Sunshine Required”) of the City Charter:

It is the policy of the City of Newport Beach to ensure opportunities for informed civic participation embodied in the Sunshine Ordinance to all local, state, regional and federal agencies and institutions with which it maintains continuing legal and political

relationships. Officers, agents and other representatives of the City of Newport Beach shall continually, consistently and assertively work to seek commitments to enact open meetings, public information and citizen comment policies by these agencies and institutions.

The City of Newport Beach shall give no subsidy in money, tax abatements, land, or services to any private entity unless that private entity agrees in writing to provide the City with financial projections (including profit and loss figures), and annual audited financial statements for the project thereafter, for the project upon which the subsidy is based and all such projections and financial statements shall be public records that must be disclosed.

The voters hereby adopt Section 409.73 (“Department Head Declaration”) of the City Charter:

All Department heads shall sign an annual affidavit or declaration stating under penalty of perjury that they have read the Sunshine Ordinance and have attended or will attend when next offered, a training session on the Sunshine Ordinance, to be held at least once annually. The affidavit or declarations shall be maintained by the City Manager and shall be available as a public record. Annual training shall be provided by the City Attorney’s Office with the assistance of the Sunshine Task Force.

The voters hereby adopt Section 409.74 (“Willful Failure Shall Be Official Misconduct”) of the City Charter:

The willful failure of any elected official, Policy Body head, or other managerial City employee to discharge any duties imposed by the Sunshine Ordinance, the Brown Act or the Public Records Act shall be deemed official misconduct. Complaints involving allegations of willful violations of this Sunshine Ordinance, the Brown Act or the Public Records Act by elected officials or any Policy Body heads of the City of Newport Beach shall be reported both to the Sunshine Task Force and the City Attorney. To the extent permitted by State law, the City Attorney shall have the right to establish processes for investigation and disciplinary processes to address potential and actual violations of the Sunshine Ordinance, California Public Records Act, the Ralph M. Brown Act, and/or Political Reform Act.

The voters hereby adopt Section 409.75 (“Enforcement Provisions”) of the City Charter:

- a. Any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or to receive a copy of any public record or class of public records under this Sunshine Ordinance or to enforce his or her right to attend any meeting required under this Sunshine Ordinance to be open, or to compel such meeting to be open.
- b. A court shall award costs and reasonable attorneys’ fees to the plaintiff who is the prevailing party in an action brought to enforce this Sunshine Ordinance.
- c. If a court finds that an action filed pursuant to this Section is frivolous, the City Attorney may assert its rights to be paid its reasonable attorneys’ fees and costs.

- d. Any person or entity may institute proceedings for enforcement and penalties under this act in any court of competent jurisdiction.

The voters hereby adopt Section 409.76 (“Enforcement Provisions”) of the City Charter:

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

**Section 4. Implementation of this Initiative.**

**A.** This Initiative is considered adopted and effective upon the earliest date legally possible after the elections official certifies the vote on the Initiative by the voters of the City (the “**Effective Date**”). Upon the Effective Date of this Initiative, the City is directed to promptly take all appropriate actions needed to implement this Initiative, including but not limited to taking any administrative steps necessary to update any and all City ordinances, codes, maps, figures, and any other documents maintained by the City so they conform to the legislative policies set forth in this Initiative.

**B.** Upon the Effective Date of this Initiative, the provisions of Section 3 of this Initiative are hereby inserted into the City Charter as set forth above. The City may reorganize, renumber, and/or reformat the City Charter and City of Newport Beach Municipal Code to incorporate Section 3 of this Initiative, provided that the full text of each provision is inserted into the City Charter without alteration.

**C.** The City Charter and City of Newport Beach Municipal Code in effect on the date of filing of the Notice of Intention to Circulate Petition (“**Filing Date**”), and the City Charter and City of Newport Beach Municipal Code as amended by this Initiative, comprise an integrated, internally consistent and compatible statement of policies for the City. To ensure that the City Charter and City of Newport Beach Municipal Code and other City policies and plans remain an integrated, internally consistent, and compatible statement of policies for the City, any provision of the City Charter or City of Newport Beach Municipal Code that is adopted between the Filing Date and the Effective Date of the City Charter amendment adopted by this Initiative shall, to the extent that such interim-enacted provision is inconsistent with or would diminish, render invalid, defeat, or impair the City Charter amendment adopted by this Initiative, be amended as soon as possible and in the manner and time required by applicable law to ensure consistency with this Initiative.

**Section 5. Effect of Other Measures on the Same Ballot.**

If this Initiative and another measure on the same subject matter appear on the same ballot, and a majority of the voters vote in favor of both measures but this Initiative receives more votes than the other measure, this Initiative alone shall become valid, binding and adopted in its entirety, and the other measure shall be null and void in its entirety. If a majority of the voters

vote in favor of both measures but this Initiative receives less votes than the other measure, only those provisions of the other measure that are in direct and irreconcilable conflict with the provisions of this Initiative shall control, and all other provisions of this Initiative shall become valid, binding and adopted. The voters expressly declare this to be their intent, regardless of any contrary language in any other ballot measure.

**Section 6. Interpretation, Severability, and Legal Defense.**

**A.** This Initiative must be interpreted so as to be consistent with all federal and State laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this Initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this Initiative. The voters declare that this Initiative, and each section, sub-section, sentence, clause, phrase, part, or portion thereof, would have been adopted or passed irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, phrases, parts, or portions are found to be invalid. If any provision of this Initiative is held invalid as applied to any person or circumstance, such invalidity does not affect any application of this Initiative that can be given effect without the invalid application. If there is any conflict between this Initiative and other applicable law, this Initiative shall control, to the extent consistent with applicable law.

**B.** If any portion of this Initiative is held by a court of competent jurisdiction to be invalid, we the People of the City of Newport Beach indicate our strong desire that: (i) the Newport Beach City Council use its best efforts to sustain and re-enact that portion, and (ii) the Newport Beach City Council implement this Initiative by taking all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Initiative, including adopting or reenacting any such portion in a manner consistent with this Initiative.

**C.** This Initiative must be broadly construed in order to achieve the purposes stated above. It is the intent of the voters that the provisions of this Initiative be interpreted or implemented by the City and others in a manner that facilitates the purpose set forth in this Initiative.

**D.** The People of the City of Newport Beach desire that this amendment to the City Charter, if approved by the voters and thereafter challenged in court, be defended by the City. The People, by approving this City Charter amendment, hereby declare that the proponent(s) of this City Charter amendment have a direct and personal stake in defending it from constitutional or statutory challenges to its validity or implementation. In the event the City fails to defend this City Charter amendment, or the City fails to appeal an adverse judgment against its constitutionality, statutory permissibility or implementation, in whole or in part, in any court of law, the proponents shall be entitled to assert their direct personal stake by defending its validity and implementation in any court of law, shall be empowered by the People through this measure to act as agents of the People, and shall be entitled to recover reasonable attorney's fees from

the City of Newport Beach.

**Section 7. Amendment or Repeal.**

The City Charter as amended and adopted by Section 3 of this Initiative can be amended or repealed only by a majority of the voters of the City voting in an election held in accordance with applicable State and City law. For the avoidance of doubt, this Section only limits the power to amend the City Charter provisions as amended and adopted by Section 3 and does not limit the power of the City to amend or repeal other portions of the City Charter or City of Newport Beach Municipal Code in a manner that is consistent with this Initiative and other applicable law.

**Section 8. Judicial Enforcement.**

Any aggrieved person shall have the right to bring an action to enjoin any violation of this Initiative or to enforce the duties imposed on the City by this Initiative. The proponents of this Initiative may defend the provisions of this Initiative in any litigation brought to challenge the Initiative. Any member of the public who prevails in a lawsuit to enforce any portion of this Initiative shall be entitled to recover reasonably incurred legal fees and costs.