

1 RESOLUTION ADOPTING A SUNSHINE POLICY WHICH INSURES THAT THE
2 AUTHORITY SERVES THE PUBLIC WITH OPEN PUBLIC DECISION MAKING AS
3 REQUIRED IN THE RALPH M. BROWN ACT AND THE PUBLIC RECORDS ACT.
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6 WHEREAS, The San Francisco Board of Supervisors, by Resolution No. 937-94,
7 urged the San Francisco County Transportation Authority to follow the City and County of
8 San Francisco Sunshine Ordinance in conducting its business; and
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10 WHEREAS, In response thereto, the Chair of the Authority directed staff to review
11 the Ordinance for applicability to the Authority; and

12 WHEREAS, A draft Sunshine Policy which incorporates the key provisions of the
13 Ordinance that are relevant to the scope and process of the Authority was circulated for
14 comment by the Citizens Advisory Committee (CAC); and
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16 WHEREAS, On April 6, 1995, the Finance Committee recommended that the Board
17 approve the draft Sunshine Policy; now therefore, be it

18 RESOLVED, That the Authority adopts the attached Sunshine Policy which insures
19 that the Authority serves the public with open public decision making as required in the
20 Ralph M. Brown Act and the Public Records Act.
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22
23 Attachment

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1 The foregoing Resolution was passed and adopted by the San Francisco County
2 Transportation Authority at a regularly scheduled meeting thereof, this 17th day of April
3 1995 by the following vote:
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6 Ayes: Commissioners Hsieh (Chair), Kaufman (Vice Chair), Alioto, Ammiano,
7 Bierman, Hallinan, Kennedy, Leal, Shelley and Teng - 10

8 Absent: Commissioner Migden - 1

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10 
Chairperson

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12
13 ATTEST:


Executive Director

SAN FRANCISCO COUNTY TRANSPORTATION AUTHORITY

SUNSHINE POLICY

STATEMENT OF PURPOSE: It is the Authority's duty to serve the public, reaching its decisions in full view of the public. Committees and the full Board of Commissioners exist to conduct the people's business. This Policy will assure that their deliberations are conducted before the people and that Authority operations are open to the people's review. Although access to the government decision making process is also the intent of California's Ralph M. Brown Act and Public Records Act, the Authority's Sunshine Policy was enacted to strengthen the requirements for open public decision making. The Authority adopts this Policy to assure that, in general intent as well as in administrative procedure, the people of this City remain in control of the government they created.

A. DEFINITIONS

The terms as used herein shall be as defined in the Ralph M. Brown Act, Government Code Sections 54950, et seq., and whenever in this Policy the following words or phrases are used, they shall mean:

1. "Authority" shall mean the members of the Board of Commissioners of the San Francisco County Transportation Authority and staff.
2. "Meeting" shall mean any of the following:
 - a. a congregation of a majority of the members of a policy body at the same time and place;
 - b. 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 respective policy body, if the cumulative result is that a majority of members have become involved in such gatherings; or
 - c. 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.
 - d. "Meeting" shall not include any of the following:
 - I. individual contacts or conversations between a member of a policy body and a public constituent or the staff or employees of the Authority which 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 refrain from using the occasion to collectively discuss the topic of the conference or meeting, or any other business within the subject matter jurisdiction of the respective policy body; or
- 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 refrain from using the occasion to discuss any business within the subject matter jurisdiction of the respective policy body. A meal gathering of a policy body before, during or after a business meeting of the policy 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 making some other payment of value.

3. "Policy Body" shall mean:

- a. the Board of Commissioners of the San Francisco County Transportation Authority; or
- b. any advisory commission, committee or body of the Authority, created by the initiative of a policy body; or
- c. any standing committee of a policy body irrespective of its composition. A policy body shall not include a committee which consists solely of employees of the Authority or solely of employees of the Authority and/or employees of other Local Agencies.

B. PUBLIC ACCESS TO MEETINGS

- 1. 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 and of this Policy. In case of inconsistent requirements under the Brown Act and this Policy, the requirement which would result in greater or more expedited public access shall apply.

2. **Passive Meetings.** Gatherings subject to this subsection, which shall be known as "passive meetings" are the following: advisory committees created in writing by the initiative of a member of the Authority or the Executive Director of the Authority at the request of an Authority member and social, recreational or ceremonial occasions sponsored or organized by or for a policy body to which a majority of such policy body members have been invited. This subsection shall not apply to a committee which consists solely of employees of the Authority and/or employees of other Local Agencies.
 - a. Gatherings, as defined above, shall be accessible to individuals upon inquiry, and to the extent possible, consistent with the facilities in which such meetings occur.
 - b. Such gatherings need not be formally noticed, although the time, place and nature of the gathering shall be disclosed upon inquiry by a constituent of the public, and any agenda actually prepared for the gathering shall be accessible to such public constituents as a public record.
 - c. Such gatherings need not be conducted in any particular space for the accommodation of spectators, although spectators shall be permitted to observe on a space available basis consistent with legal and practical restrictions on occupancy.
 - d. Such gatherings of a business nature need not provide opportunities for comment by spectators, 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.
 - e. Gatherings may hold closed sessions under any circumstances allowed by this Policy or the Ralph M. Brown Act.
3. **Conduct Of Business; Time And Place For Meetings.**
 - a. The Authority has established the time and place for holding its regular meetings in its Administrative Code.
 - b. If a regular scheduled meeting of a policy body would otherwise fall on a holiday, it shall instead be held on the next business day.
 - c. If, because of fire, flood, earthquake or other emergency, it would be unsafe to meet in the customary location, the 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 notice of special meetings, in writing, pursuant to Government Code Section 54956.

- d. Meetings of advisory policy bodies shall be preceded by notice delivered personally or by mail at least 24 hours before the time of such meeting to each person who has requested, in writing, notice of such meeting. If the advisory policy body elects to hold regular meetings, it shall provide by bylaws, or whatever other rule is utilized by the respective advisory policy 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 in the place used by the policy body or executive officer which it advises, is required.
- e. Special meetings of any policy body, including advisory policy 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 policy body and to each local newspaper, radio or television station that has requested notice of such meeting in writing. Such notice must be delivered personally or by mail at least 24 hours before the time of such special 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 by the policy body. Such written notice may be dispensed with as to any member of the policy body who at or prior to the time the meeting convenes files with the secretary of the policy body 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.

4. 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.
- 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 non-technical. It may refer to explanatory documents, such as correspondence or reports, posted adjacent to the agenda or, if such documents are of more than one page in length, available for public inspection and copying at a stated location 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 or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights. In addition, on their own initiative, or in response to questions posed by the public, a member of a policy body or its staff may ask a question for clarification, make a brief announcement, may provide a reference to staff for other resources for factual information, request staff to report back to the respective policy body at a subsequent meeting concerning any matter or take action to direct staff to place a matter of business on a future agenda.
- e. Notwithstanding subdivision (d) of this Section 4, the policy body may take action on items of business not appearing on the posted agenda under any of the following conditions:
 - I. Upon a determination by a majority vote of the policy body that an accident, natural disaster or work force disruption severely impair public health and safety.
 - ii. Upon a good faith, reasonable determination by a two-thirds vote of the policy 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 policy body subsequent to the agenda being posted as specified in subdivision (a) of this Section 4.
 - iii. The item was posted pursuant to subdivision (a) of this Section 4 for a prior meeting of the policy body occurring not more than five calendar days prior to the date of the subsequent meeting at which action is to be taken on the item, and at the prior meeting the item was continued to the subsequent meeting at which action is being taken.

5. 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 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:
 - I. 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, unless the identification would jeopardize the policy body'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 policy body'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 © of Section 54956.9, the appropriate space shall be checked under "Anticipated litigation" to indicate the policy body'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.

- ii. 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: _____

6. 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. However, this disclosure need not include any material exempt from public disclosure under Government Code Sections 6253.5, 6254, or 6254.7.
- b. Records which are subject to disclosure under subdivision (a) and which are intended for distribution to the 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 policy 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 discussion on the records, shall be made available for public inspection prior to commencement of, and during, discussion of the records.
- d. Records which are subject to disclosure under subdivision a. of this Section, 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. 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.

7. Closed Sessions: A policy body may hold closed sessions as follows:

- 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 policy body 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. As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an

open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void. The legislative policy body also may exclude from the public or closed meeting during examination of a witness, any or all other witnesses in the matter being investigated by the policy body. The term "employee" shall not include any elected official, member of a policy body or applicant for such a position, or person providing services to the policy body as an independent contractor or the employee thereof, other than an independent contractor or employee thereof who functions as an officer or employee of the policy body, including but not limited to independent attorneys or law firms providing legal services to the policy body for a fee rather than a salary.

- c. A policy body, 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 prejudice the position of the policy body in the litigation. Litigation shall be considered pending when any of the following circumstances exist:

- I. An adjudicatory proceeding before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator, to which the policy body is a party, has been initiated formally.
- ii. 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 policy body, or the policy body is meeting only to decide whether a closed session is authorized pursuant to that advice or, based on those facts and circumstances, the policy body has decided to initiate or is deciding whether to initiate litigation.

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. Prior to any closed session, a policy body shall state the general reason or reasons for the closed session, and may 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 5 of this Policy. In the case of adjourned and continued meetings, the statement shall be made with the same disclosures and specifications required by Section 5 of this Policy, as part of the notice provided for the original 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 4 of this Policy. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

8. 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 is not confidential under federal or state law, or non-waiveable privilege. The policy body shall, by motion and vote in open session, elect either to disclose only such information as may be required by statute or other law or to disclose the information which a majority deems to be in the public interest. The disclosure shall be made through the presiding officer of the policy 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:
 - I. 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 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 policy bodies' intentions would be contrary to the public interest. The report shall identify the adverse party or parties, any co-parties with the policy body, any existing claim or order to be defended against or any factual circumstances or contractual dispute giving rise to the policy bodies' complaint, petition or other litigation initiative.
 - ii. 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. Where the disclosure of documents in a litigation matter that has been settled could affect litigation on a closely related case, the documents required to be disclosed by subdivision (b) of this

Section need not be disclosed until the closely related case is settled or otherwise finally concluded.

- iii. Employee Actions: Action taken to appoint, employ, dismiss, transfer or accept the resignation of a public employee in closed session 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 policy body, the reason for dismissal. The foregoing notwithstanding, the report of a dismissal or nonrenewal of any employment contract shall be deferred until the first meeting following the exhaustion of administrative remedies. "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 policy body, and its final terms shall be immediately disclosed upon approval by the policy body.
- 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, provided to any person who requested such copies in a written request submitted within 24 hours of the posting of the agenda, or who has made a standing request for all such documentation as part of a request for notice of meeting.
- 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 policy body are posted.

9. 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 policy body members anticipate 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 offices adjacent to the meeting site.
- b. The policy body shall ensure that accessible seating for persons with disabilities,

including those using wheelchairs, is made available for each regular and special meeting.

10. 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. The policy body shall tape record each regular and special meeting. Each such tape 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, and shall not be erased or destroyed for at least 30 days, provided that if during that 30 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 made available by the policy body.

11. 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 B.4.e. of this Policy.
- 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 policy 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) of this Section 11 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 policy body at a regular or special meeting shall be permitted to be heard once for up to three minutes.
- d. A policy body shall not abridge or prohibit public criticism of the policy, procedures,

programs or services of the policy body, or of any other aspect of its proposals or activities, or of the acts or omissions of the policy 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 © of this Section.

12. Minutes. A clerk of the policy body shall record the minutes for each regular and special meeting of the policy body. 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 policy body began and ended 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 and the time the meeting was adjourned. The draft minutes of each meeting shall be available for inspection and copying upon request no later than three days before the next meeting of the policy body. 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.

C. PUBLIC INFORMATION

1. "Public Information" shall mean the content of "public records" as defined in the California Public Records Act, whether provided in documentary form or in an oral communication.
2. Release of Documentary Public Information.
 - a. 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 in any particulars not addressed by this Policy.
 - b. 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 the policy body, its members 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 intertwined with information not subject to disclosure under the California Public Records Act and this Policy. Nothing in this section shall require the policy body 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.

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

- a. The Executive Director of the policy body, or a designee, shall provide information, including oral information, to the public about the policy body's operations, plans, policies and positions.
- 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 employees of the policy body, and not disruptive of his or her respective 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 policy body and does not misrepresent the policy body 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 policy body 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 policy body 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.

4. Public Review File -- Policy Body Communications.

- a. A clerk of the policy body 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 members of the policy body concerning a matter calendared by the policy 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 and not deemed disclosable under this Policy.

- 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 policy body. After documents have been on file for two full days, they may be removed, and, in the discretion of the Executive Director of the policy body, 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.
5. Non-Exempt Public Information. Notwithstanding the policy body's legal discretion to withhold certain information under the California Public Records Act, the following policies shall govern specific types of documents and information:
- a. Litigation Material.
 - I. No pre-litigation claim against the policy body, or any other record previously received or created in the ordinary course of business, shall be exempt from disclosure.
 - ii. 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 disclosure, including the text and terms of any settlement.
 - b. Personnel Information. None of the following shall be exempt from disclosure:
 - I. 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:
 - 1. Sex, age and ethnic group;
 - 2. Years of graduate and undergraduate study, degree(s) and major or discipline;
 - 3. Years of employment in the private and/or public sector;
 - 4. Whether currently employed in the same position for another public agency;
 - 5. 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.

- ii. 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.
 - iii. The job description of every employment classification.
 - iv. The exact gross salary and policy body-paid benefits available to every employee.
 - c. **Contracts, Bids and Proposals.** Contracts, contractors' bids, responses to requests for proposals and all other records of communications between the policy body 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.
 - d. **Budgets and Other Financial Information.** Budgets, whether tentative, proposed or adopted, for the policy body 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.
6. **Withholding Information. Process and Justification.** 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 this Policy. 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 employee. Staff time used to locate or collect records for review or copying shall not be included as chargeable. Any withholding of information shall be justified, in writing, as follows:
- a. A withholding under a permissive exemption in the California Public Records Act or elsewhere 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 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 statutory or case law, or any other public agency's litigation experience, supporting that position.

7. 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 © hereof, 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, a fee not to exceed 10 cents per page may be charged, plus any postage.

8. Index to Records. The policy body staff will maintain 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 index shall be for the use of policy body 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.