RESOLUTION NO. 75292

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE (1) APPROVING THE SUNSHINE REFORM TASK FORCE PHASE I REPORT AND RECOMMENDATIONS ON NON-GOVERNMENTAL BODIES, AS AMENDED BY THE RULES AND OPEN GOVERNMENT COMMITTEE; (2) APPROVING THE SUNSHINE REFORM TASK FORCE PHASE II REPORT AND RECOMMENDATIONS ON INDEPENDENT POLICE AUDITOR STATISTICAL REPORTS, AS AMENDED BY THE RULES AND OPEN GOVERNMENT COMMITTEE; AND (3) IMPLEMENTING THE APPROVED RECOMMENDATIONS ON A PILOT BASIS

WHEREAS, in May 2007, the Sunshine Reform Task Force (SRTF) issued its Phase I Report and Recommendations on: (1) Public Meetings; (2) Closed Sessions; and (3) Public Information and Outreach; and

WHEREAS, the Rules and Open Government Committee (Rules Committee) reviewed and discussed the SRTF's Phase I recommendations, staff's preliminary response and the Mayor's recommendations in May and June 2007, and directed staff to seek additional input from entities impacted by the Public Meetings recommendations; and

WHEREAS, staff solicited additional input on the Public Meetings provisions from the many boards, committees and commissions and outside organizations that would be impacted by the recommendations; and

WHEREAS, from October 2007 through April 2008, the Rules Committee reviewed the remaining SRTF Phase I recommendations on, among other things, Non-Governmental Bodies, considered current practices and heard testimony from Task Force members, other members of the public and City staff; and

WHEREAS, the Rules Committee made recommendations to the City Council on the SRTF Phase I report, except on Non-Governmental Bodies, and the City Council adopted Resolution Nos. 74312 and 74414; and

WHEREAS, the City Council directed staff to consider the recommendations on Non-Governmental Bodies as part of the work of the Non-profit Strategic Engagement Platform, which was developed to enhance the oversight and impact of City funding provided to non-profit, community based organizations (CBOs); and

WHEREAS, the Platform represents a significant change in how the City approaches its contractual relationships with non-profits by providing a systematic and proactive operating framework to be used within and across all City Departments when contracting with, evaluating and supporting a CBO through grants or other funding; and

WHEREAS, the goal of the Platform's effort has been to enhance accountability and provide greater uniformity in the policies and procedures governing contract preparation, administration and monitoring by establishing an "early warning system" to detect any non-profit that is experiencing a level of fiscal distress that could potentially jeopardize the City's investment of funds; and

WHEREAS, a key element of the early warning system is an annual financial scan by the City based on the information contained in the NGBs' annual financial statements; and

WHEREAS, the Rules Committee has now made recommendations to the City Council on the SRTF Phase I report on Non-Governmental Bodies; and

WHEREAS, in August 2008, the SRTF issued its Phase II Report and Recommendations on: (1) Ethics and Conduct; (2) Public Records; (3) Technology; and (4) Administration and Accountability; and

WHEREAS, from August 2008 through July 2009, the Rules Committee reviewed and discussed the SRTF's Phase II recommendations and staff's response, considered current practices and heard testimony from Task Force members, other members of the public and City staff; and

WHEREAS, as needed, the Rules Committee reviewed and considered additional analysis of a number of SRTF's Phase II recommendations; and

WHEREAS, the Rules Committee made recommendations on the SRTF Phase II Report, except on Independent Police Auditor statistical reports, and the City Council adopted Resolution Nos. 75091 and 75140; and

WHEREAS, the Rules Committee has now made recommendations on the SRTF Phase II report on Independent Police Auditor statistical reports;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

1. The Sunshine Reform Task Force's Phase I Report and Recommendations on the topic of Non-Governmental Bodies, as amended by the Rules and Open Government Committee, and as set forth in Attachment 1, are hereby approved.

2. The Sunshine Reform Task Force's Phase II Report and Recommendations on the topic of Independent Police Auditor statistical reports, as amended by the Rules and Open Government Committee, and as set forth in Attachment 2, are hereby approved.

3. The recommendations in Attachments 1 and 2 are to be implemented on a pilot basis for one (1) year.

ADOPTED this 2nd day of March, 2010, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA, KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE, REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.

Chuck Reed

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

1.13 Non-governmental body

A "non-governmental body" is a non-profit entity that:

A. Operates or maintains a City facility for City purposes with a value of over $5 million; or

B. Receives annually at least the amount of the City Manager's contracting authority in financial assistance from the City.

2.4 Requirements for non-governmental bodies

A. Each non-governmental body will be assigned to a "lead" City Department.

B. For a non-governmental body that receives annually financial assistance from the City of at least the amount of the City Manager's contracting authority:

1. Post financial reports on the NGB's web site.

2. Submit information and cooperate with the City, which will conduct an annual financial scan that reviews the NGB's financial condition based on its audited financial statements.

3. If the annual financial scan identifies the need for corrective action, submit information and cooperate with the City and the lead department in preparing additional reports to the Public Safety, Finance & Strategic Support Committee with updates on the corrective actions being taken.

4. If the financial scan identifies any issues of concern, the same report will also be forwarded to the Council Committee most appropriate for oversight of the activities for which the non-profit is providing services.

5. In addition, the Non-profit Strategic Engagement Committee will meet regularly to review contract issues and develop processes to address any concerns associated with a Non-Governmental Body that receives annually at least the amount of the City Manager's contracting authority.

C. For a non-governmental body that operates or maintains a City facility for City purposes with a value over $5 million, the lead City Department will:

1. Post reports at least annually, detailing compliance with contractual requirements for facility maintenance.

2. Report to the Public Safety, Finance & Strategic Support Committee any facility maintenance deficiency that would impede the public's use of or jeopardize the physical integrity of the facility.

6.1.1.050 Statistical Reports on Complaints Prepared by the Independent Police Auditor

The Independent Police Auditor must maintain a report, kept separate from the personnel records of the Police Department, which reports the number and type of citizen-initiated complaints against Police Department officers, the number and types of cases in which discipline is imposed, and the nature of the discipline imposed. This report must be maintained in a format which assures that the names and other identifying information of individual officers are not disclosed directly or indirectly. The report will disclose the number and type of citizen-initiated complaints and how many complaints were received about any one officer so that the public can determine whether multiple complaints have been directed at a single officer within a calendar year as well as in a cumulative, five-year period.

6.1.1.055 Statistical Reports on Complaints Prepared by the Police Department

The Police Department must report the number and type of department-initiated complaints against Police Department officers, the number and types of cases in which discipline is imposed, and the nature of the discipline imposed. This report must be maintained in a format which assures that the names and other identifying information of individual officers are not disclosed directly or indirectly. The report will disclose the number and type of department-initiated complaints and how many complaints were received about any one officer so that the public can determine whether multiple complaints have been directed at a single officer within a calendar year as well as in a cumulative, five-year period.