

12-18-07

**Section 5**

**Public Records**

**5.1 Public Information That Must Be Disclosed**

**5.1.1 Law Enforcement Information**

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**5.1.2 Other Public Information**

**5.1.2.010 Advice from the City Attorney's Office**

Upon request, the City Attorney will release any written interpretation of Article I, Section 3(b) of the California Constitution, the Public Records Act, the Brown Act, the Political Reform Act and any City of San Jose Sunshine or Ethics ordinance, code or rule. This provision does not require the disclosure of the actual advice given to any client.

**5.1.2.020 Drafts and Memoranda**

Once a document is in final form, preliminary drafts, notes or memoranda, whether in printed or electronic form, will be subject to disclosure if they have been retained as of the time the request is made. This subsection does not require the retention of preliminary drafts, notes or memoranda that would not otherwise be retained in the ordinary course of business or pursuant to a policy, procedure or practice.

**5.1.2.030 Litigation Material**

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

- A. A pre-litigation claim against the City;
- B. A record previously received or created by a department in the ordinary course of business that was not protected by the attorney-client privilege when it was received or created; and
- C. When a lawsuit is finally adjudicated or otherwise settled, records of all communications between the department and the adverse party including the text and terms of any settlement.

#### **5.1.2.040 Personnel Information**

- A. None of the following will be exempt from disclosure under Government Code Section 6254(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:
    - (a) Years of graduate and undergraduate study, degree(s) and major or discipline;
    - (b) Years of employment in the private and/or public sector;
    - (c) Whether currently employed in the same position for another public agency;
    - (d) 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, personal email address, social security number, age and marital status of the employee must be redacted.
  3. The job description of every employment classification.
  4. The total compensation paid to an employee, including salary and City-paid benefits.
  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 bonus, awarded to any employee.

#### **5.1.2.050 Contracts, Bids and Proposals**

To be drafted for review by the Subcommittee

**5.1.2.060 Budget and Other Financial Information**

To be decided by the Subcommittee

**5.1.2.070 Balancing Test**

To be decided by the Task Force