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November 10, 2021

City and County of San Francisco  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Re: Request to Allow Religious Exemptions

To the leaders of City and County of San Francisco:

The City of San Francisco employs several Tuolumne County residents to operate the Hetch Hetchy system which provides water to 2.7 million customers of 26 water agencies in San Francisco, Alameda, Santa Clara and San Mateo counties.

In 2020, during COVID, these employees were touted as “heroes” providing essential and critical services to your constituents. On September 9<sup>th</sup>, 2021, President Biden signed an executive order requiring COVID-19 vaccination for all federal employees subject to medical or religious exemption as required by law.

“San Francisco announced the mandate On June 23<sup>rd</sup>, 2021 becoming the first large city in the country to require all of its employees to be vaccinated against the coronavirus, unless they have a valid religious or medical exemption.”

<https://www.nbcbayarea.com/news/local/san-francisco-approved-no-waivers-for-vaccine-mandate-on-city-employees/2681777/>

On October 29, 2021 Mayor London N. Breed noted there were “currently, 836 employees out of our workforce of 35,000 have reported that they are not vaccinated.” <https://sfmayor.org/article/san-francisco-city-employee-vaccination-rate-nearly-98>

As of November 3, 2021, “The city has granted only 22 exemption requests to this point.” “The human resources department said that at this time, they do not keep a record of how many of the 22 exemptions were religious or medical.” <https://www.sfgate.com/coronavirus/article/San-Francisco-vaccine-mandate-exemptions-16588676.php>

Discussions with employees revealed granted exceptions are only temporary. Furthermore, local recruiting has commenced to supplant these positions before SKELLY hearings and due process. It appears pre-determined decisions have been made not to approve religious exceptions.

On November 1<sup>st</sup>, 2021, several of your hero’s in Tuolumne County were notified not to return to work and were given until November 5<sup>th</sup> to get vaccinated or “you will be subject to separation from City employment.” With a workforce of 35,000 employees of which 836 (2.4%) are asking for medical and religious exceptions, San Francisco has a 97.6% vaccination rate among its employees which is well above the percentage needed for herd immunity within an organization.

The Equal Employment Opportunity Commission prohibits “treating a person (an applicant or employee) unfavorably because of his or her religious beliefs.” “The law requires an employer or other covered entity to reasonably accommodate an employee's religious beliefs or practices, unless doing so would cause more than a minimal burden on the operations of the employer's business. This means an employer may be required to make reasonable adjustments to the work environment that will allow an employee to practice his or her religion.” <https://www.eeoc.gov/religious-discrimination>

Many political leaders like to compare COVID with other virus mandates such as was adjudicated in the 1905 case of Jacobson v. Massachusetts for Smallpox. But the differences are stark. Smallpox had a 30% mortality rate versus COVID with a less than 1% mortality rate. The mandate was a state law created by the legislature, not by executive fiat.

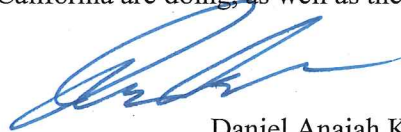
The EEOC's guidance notes "An employer does not have to accommodate an employee's religious beliefs or practices if doing so would cause undue hardship to the employer. An accommodation may cause undue hardship if it is costly, compromises workplace safety, decreases workplace efficiency, infringes on the rights of other employees, or requires other employees to do more than their share of potentially hazardous or burdensome work." Again, with a workforce with a 97.6% vaccination rate, which is well above herd immunity within your organization, it is apparent that workforce safety within the organization is not in jeopardy.

As previously noted, smallpox has a 30% mortality rate while COVID is 1%. Many political leaders also believe the vaccine will be effective like the smallpox vaccine (for example) and that it will provide that "workplace safety" noted under EEOC's guidance, but they are partially misinformed. The COVID vaccine is a non-sterilizing vaccine unlike most other vaccines the media compares it to such as smallpox and polio. One can still get and spread COVID-19 with the vaccination. It is of such great concern that CDC Director Rochelle P. Walensky, MD, MPH, announced on Friday, July 30<sup>th</sup>, 2021 "recommending that everyone wear a mask in indoor public settings in areas of substantial and high transmission, regardless of vaccination status" noting "vaccinated people infected with Delta can transmit the virus. This finding is concerning and was a pivotal discovery leading to CDC's updated mask recommendation. The masking recommendation was updated to ensure the vaccinated public would not unknowingly transmit virus to others, including their unvaccinated or immunocompromised loved ones." <https://www.cdc.gov/media/releases/2021/s0730-mmwr-covid-19.html>

Vaccinated people contract and spread COVID-19. While the unvaccinated chance getting sicker, ending up in ICU or dying at a higher rate, they do not pose an undue risk on the general public alone. As noted by the CDC Director, both unvaccinated and vaccinated carry the risk of transmission in the workplace. Meanwhile there is no evidence that those with natural immunity contract or spread COVID-19. So why discriminate and segregate in the workforce and most importantly, why not provide accommodations like the Federal Government and other State and Local governing bodies are allowing?

San Francisco politicians pride themselves for their all-inclusive rights. Why exclude those whom have deeply held religious beliefs regardless of what religion they practice? We can get through this moment in history without further injuring our fellow man. Other preventative measures work. Natural immunity from previous infection, monoclonal treatments, masking, enhanced hygiene, weekly testing and others are all part of the success of combating this virus along with the vaccine.

As elected representatives of these constituents, we ask you to allow for religious exemptions for those who have deeply held religious, moral or ethical beliefs and reconsider all religious exemptions which are claimed by your employees as many of the governing bodies in California are doing, as well as the Federal Government.



Daniel Anaiah Kirk  
District 3 Supervisor, County of Tuolumne Board of Supervisors

Cc: California State Governor's Office  
San Francisco Public Utility Commission  
Equal Employment Opportunity Commission (EEOC)  
26 Water Agencies of the Hetch Hetchy Regional Water System