

1 [Campaign consultant ordinance amendments]

2

3 **Ordinance amending Article I, Chapter 5 of the Campaign and Governmental Conduct**
4 **Code to modify registration and disclosure requirements for campaign consultants.**

5 NOTE: Additions are *single-underline italics Times New Roman*;
6 deletions are ~~*strike-through italics Times New Roman*~~.
7 Board amendment additions are double-underlined;
8 Board amendment deletions are ~~strikethrough normal~~.

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

9 Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby
10 amended to read as follows:

11 Sec. 1.500. – Findings.

12 (a) The City and County of San Francisco has a paramount interest in protecting the
13 integrity and credibility of its electoral and government institutions. Election campaigns are
14 highly competitive in San Francisco, and candidates frequently contract for the services of
15 professional campaign consultants who specialize in guiding and managing campaigns.

16 (b) Decisions by elected officials in the City and County of San Francisco should be based on
17 the best interests of the people and should be free from the influence of electoral politics. Campaign
18 consultants play an influential role in local elections, and may use that influence to affect policy
19 decisions of City officials. The regulation of campaign consultants protects the integrity of the City's
20 decision making processes by informing the public about who is managing campaigns and what role
21 those individuals have in decisions made by local elected officials.

22 (bc) It is the purpose and intent of the people of the City and County of San Francisco
23 in enacting this Chapter to impose reasonable registration and disclosure requirements on
24 campaign consultants. Required registration and disclosure of information by campaign
25

1 consultants will assist the public in making informed decisions, and protect public confidence
2 in the electoral and governmental processes.

3 (d) The important goals advanced by this Chapter will be best served if campaign consultants
4 are encouraged to comply with registration and disclosure requirements through a user-friendly filing
5 system, and interested members of the public can conveniently review those filings. The Ethics
6 Commission should have the discretion to implement an electronic filing system for registered
7 campaign consultants to achieve these ends.

8 Sec. 1.505. – Amendment or Repeal of Chapter.

9 The voters may amend or repeal this Chapter. The Board of Supervisors may amend this
10 Chapter if all of the following conditions are met:

11 (a) The amendment furthers the purposes of this Chapter;

12 (b) The Ethics Commission approves the proposed amendment in advance by at least a four-
13 fifths vote of all its members;

14 (c) The proposed amendment is available for public review at least 30 days before the
15 amendment is considered by the Board of Supervisors or any committee of the Board of Supervisors;

16 and

17 (d) The Board of Supervisors approves the proposed amendment by at least a two-thirds vote of
18 all its members.

19 Sec. ~~1.505~~1.510. – Definitions.

20 Whenever used in this Chapter, the following definitions shall apply:

21 (a) "Campaign consultant" means any ~~person~~individual or entity that receives or is
22 promised economic consideration equaling \$10,000 or more ~~in a calendar year~~within the past
23 twelve months for campaign consulting services. The term "campaign consultant" includes any
24 ~~person~~individual or entity that subcontracts with a campaign consultant to provide campaign
25 consulting services, and that receives or is promised economic consideration equaling

1 \$10,000 or more in a calendar year for providing campaign consulting services. The term
2 "campaign consultant" does not include ~~persons who are~~ employees of a campaign consultant
3 who do not perform campaign consulting services, attorneys who provide only legal services,
4 accountants who provide only accounting services, pollsters who provide only polling
5 services, and treasurers who provide only those services which are required of treasurers by
6 the Political Reform Act, California Government Code Section 81000, et seq.

7 (b) "Campaign consulting services" means participating in campaign management or
8 developing or participating in the development of campaign strategy.

9 (c) "Campaign management" means conducting, coordinating or supervising a
10 campaign to elect, defeat, retain or recall a candidate, or adopt or defeat a measure, including
11 but not limited to hiring or authorizing the hiring of campaign staff and consultants, spending
12 or authorizing the expenditure of campaign funds, directing, supervising or conducting the
13 solicitation of contributions to the campaign, and selecting or recommending vendors or
14 subvendors of goods or services for the campaign.

15 (d) "Campaign strategy" means plans for the election, defeat, retention or recall of a
16 candidate, or for the adoption or defeat of a measure, including but not limited to producing or
17 authorizing the production of campaign literature and print and broadcast advertising, seeking
18 endorsements of organizations or individuals, seeking ~~financing~~ campaign contributions, or
19 advising on public policy positions.

20 (e) "Candidate" ~~means a person who has taken affirmative action to seek nomination or~~
21 ~~election to local office, a local officeholder who has taken affirmative action to seek nomination or~~
22 ~~election to any elective office, or a local officeholder who is the subject of a recall election~~ shall be
23 defined as set forth in section 1.104 of this Code.

24 (f) "City elective office" shall be defined as set forth in section 1.104 of this Code.

1 (fg) "Economic consideration" means any payments, fees, commissions,
2 reimbursements for expenses, gifts, or anything else of value provided in exchange for campaign
3 consulting services. "Economic consideration" does not include payments made to consultants to
4 reimburse vendors.

5 (g) ~~"Lobby" means communicate with a local officeholder for the purpose of influencing local~~
6 ~~legislative or administrative action in exchange for economic consideration.~~

7 (h) ~~"Lobbyist" is defined in Article II of this Code.*~~

8 (i) ~~"Local office" means the following elective offices in the City and County of San Francisco:~~
9 ~~Mayor, Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public~~
10 ~~Defender, Board of Education of the San Francisco Unified School District, and Governing Board of~~
11 ~~the San Francisco Community College District.~~

12 (jh) ~~"Measure" means a local referendum or local ballot measure, whether or not it qualifies~~
13 ~~for the ballot shall be defined as set forth in section 1.104 of this Code.~~

14 (ki) "Vendor" means an person individual or entity whothat sells goods or services, other
15 than campaign consulting services, including but not limited to printing, catering, and
16 transportation services. ~~The term "vendor" does not include attorneys who provide only legal~~
17 ~~services, accountants who provide only accounting services, pollsters who provide only polling~~
18 ~~services, and treasurers who provide only those services which are required of treasurers by the~~
19 ~~Political Reform Act, California Government Code Section 81000 et seq.~~

20 ~~Sec. 1.510. — Prohibitions.~~

21 ~~It shall be unlawful for any campaign consultant to provide campaign consulting services, or~~
22 ~~accept any economic consideration for the provision of campaign consulting services, without first~~
23 ~~registering with the Ethics Commission and complying with the reporting requirements specified in~~
24 ~~Section 1.515.~~

1 Sec. 1.515. – Registration Requirements, Reregistration Disclosures, Reporting, and Fees,
2 and Termination.

3 (a) REGISTRATION ~~REPORTS~~REQUIREMENTS. Campaign consultants shall register with
4 the Ethics Commission and comply with the other requirements imposed by this Chapter. Such
5 registration shall occur no later than five business days of qualifying as a campaign consultant.

6 At the time of initial registration, each campaign consultant shall ~~report~~provide the
7 following information to the Ethics Commission ~~the following information:~~

8 (1) The name, business address, e-mail address, ~~and~~ business telephone number, and
9 website address, if any, of the campaign consultant;

10 (2) If the campaign consultant is an individual, the name of the campaign consultant's
11 employer and a description of the business activity engaged in by the employer;

12 (3) The names of any individuals employed by the campaign consultant to assist in
13 ~~providing~~the provision of campaign consulting services;

14 (4) A statement of whether the campaign consultant, any employee of the campaign
15 consultant, or any other employee of the campaign consultant's employer is required to register with
16 the Ethics Commission as a lobbyist pursuant to the Regulation of Lobbyists Ordinance, San
17 Francisco Campaign and Governmental Conduct Code, Article II;^{*} and

18 (5) ~~A statement of whether the campaign consultant is required to register with the Tax~~
19 ~~Collector pursuant to the Business Tax Ordinance, San Francisco Municipal Code, Part III, Section~~
20 ~~1001, et. seq.;~~ Any other information required by the Ethics Commission consistent with the purposes
21 and provisions of this Chapter.

22 (b) CAMPAIGN CONSULTANT DISCLOSURES.

23 (6) The name, and business address, e-mail address and telephone number of each
24 client to whom the campaign consultant provided campaign consulting services during the
25

1 ~~preceding three months~~ reporting period, and the date on which the client retained the campaign
2 consultant;

3 (72) For each client, the total economic consideration promised by or received from the
4 client in exchange for ~~the provision of~~ campaign consulting services during the ~~preceding three~~
5 ~~months, provided that the total is \$500 or more~~ reporting period;

6 (3) For each client, a list of the responsibilities that the campaign consultant will perform for
7 the client;

8 (4) The name of each client who terminated the services of the campaign consultant during the
9 reporting period and the date on which the client terminated the consultant's services;

10 (85) Each ~~political~~ campaign contribution of \$100 or more made or delivered by the
11 campaign consultant, or made by a client at the behest of the campaign consultant, ~~or for~~
12 ~~which the campaign consultant acted as an agent or intermediary, during the preceding three months~~
13 ~~in support of or in opposition to a candidate or measure~~ during the reporting period to a person
14 holding City elective office, a candidate for such office, a committee controlled by such officer or
15 candidate, or a committee primarily formed to support or oppose a local ballot measure;

16 The following information regarding each campaign contribution shall be submitted to the
17 Ethics Commission:

18 (A) The amount of the contribution;

19 (B) The name of the contributor;

20 (C) The date on which the contribution was made;

21 (D) The contributor's occupation;

22 (E) The contributor's employer, or if self-employed, the name of the contributor's business; and

23 (F) The committee to which the contribution was made.

24 (9) ~~The cumulative total of all political contributions made or delivered by the campaign~~
25 ~~consultant, or which is made by a client at the behest of the campaign consultant, or for which the~~

1 *campaign consultant acted as an agent or intermediary, during the preceding three months in support*
2 *of or in opposition to each individual candidate or measure, provided that the cumulative total is \$500*
3 *or more;*

4 ~~(10) Any gifts promised or made by the campaign consultant to a local officeholder during the~~
5 ~~preceding three months which in the aggregate total \$50 or more; and~~

6 (6) Any amendments to the campaign consultant's registration information as required by
7 Subsection (a); and

8 ~~(H7)~~ Any other information required by the Ethics Commission consistent with the
9 purposes and provisions of this Chapter.

10 ~~(b) REREGISTRATION REPORTS. Each campaign consultant shall reregister annually no~~
11 ~~later January 1st.~~

12 (c) INITIAL DISCLOSURE REPORT. At the time of the first disclosure report submitted
13 following the campaign consultant's registration, the reporting period for Subsections (b)(1)-(b)(4)
14 shall be the preceding twelve months.

15 ~~(e)~~ FEES. At the time of initial registration and ~~reregistration~~ each subsequent calendar
16 year on or before February 1, each campaign consultant shall pay to the Ethics Commission a
17 registration fee ~~and an additional fee for each client of the campaign consultant~~. The amount of the
18 fee shall be:

19 ~~(i1)~~ Campaign consultants earning at least \$10,000 but not more than \$50,000 ~~per~~
20 ~~calendar year~~ within the past twelve months shall pay a registration fee of \$50 ~~400~~ ~~and shall pay a~~
21 ~~client fee of \$50 per client;~~

22 ~~(i2)~~ Campaign consultants earning more than \$50,000 ~~but not more than \$20,000 per~~
23 ~~calendar year~~ within the past twelve months shall pay a registration fee of \$200 ~~500~~ ~~and a client fee~~
24 ~~of \$50 per client;~~

1 Registration shall not be complete until the Ethics Commission has received full payment of the
2 fee.

3 ~~(iii) Campaign consultants earning more than \$20,000 per calendar year shall pay a~~
4 ~~registration fee of \$400 and a client fee of \$50 per client.~~

5 ~~When a client is acquired subsequent to initial registration or reregistration, the per client fee~~
6 ~~shall be paid at the time of filing the information required by Subsection (d). The Ethics Commission~~
7 ~~shall deposit fees collected pursuant to this Section in the General Fund of the City and County of San~~
8 ~~Francisco. On or after July 1, 1999, the Ethics Commission shall evaluate the fees set by this Section~~
9 ~~and propose any amendments for approval by the Board of Supervisors no later than December 1,~~
10 ~~1999. If the Ethics Commission or the Board of Supervisors takes no action, the fees set by this Section~~
11 ~~shall remain in effect.~~

12 ~~(d) CLIENT AUTHORIZATION STATEMENTS. At the time of initial registration, the~~
13 ~~campaign consultant shall submit to the Ethics Commission a written authorization from each client~~
14 ~~that contracts with the campaign consultant for campaign consulting services.~~

15 ~~If the campaign consultant is retained by a client after the date of initial registration, the~~
16 ~~campaign consultant must file a Client Authorization Statement before providing any campaign~~
17 ~~consulting services to the client and before receiving any economic consideration from the client in~~
18 ~~exchange for campaign consulting services, and in any event no later than 15 days after being retained~~
19 ~~to provide campaign consulting services to the client.~~

20 ~~(e) QUARTERLY REPORTS. Each campaign consultant shall file with the Ethics Commission~~
21 ~~quarterly reports containing the following information:~~

22 ~~(1) For each client, the total economic consideration promised by or received from the client~~
23 ~~during the reporting period for campaign consulting services, provided that the total is \$500 or more;~~

24 ~~(2) The total economic consideration promised by or received from all clients during the~~
25 ~~reporting period for campaign consulting services;~~

1 ~~(3) Political contributions of \$100 or more made or delivered by the campaign consultant, or~~
2 ~~made by a client at the behest of the campaign consultant, or for which the campaign consultant acted~~
3 ~~as an agent or intermediary, during the reporting period in support of or in opposition to a candidate~~
4 ~~or measure;~~

5 ~~(4) The cumulative total of all political contributions made or delivered by the campaign~~
6 ~~consultant, or made by a client at the behest of the campaign consultant, or for which the campaign~~
7 ~~consultant acted as an agent or intermediary, during the reporting period in support of or in opposition~~
8 ~~to each individual candidate or measure, provided that the cumulative total is \$500 or more;~~

9 ~~(5) Any gifts promised or made by the campaign consultant to a local officeholder during the~~
10 ~~reporting period which in the aggregate total \$50 or more;~~

11 ~~(6) Economic consideration promised to or received by the campaign consultant during the~~
12 ~~reporting period from vendors and subvendors who provided campaign-related goods or services to a~~
13 ~~current client of the campaign consultant;~~

14 ~~(7) The name of each local officeholder and City employee who is employed by the campaign~~
15 ~~consultant, or by a client of the campaign consultant at the behest of the campaign consultant, during~~
16 ~~the reporting period;~~

17 ~~(8) Each City contract obtained by the campaign consultant during the reporting period,~~
18 ~~provided that the contract is approved by a local officeholder who is a client of the campaign~~
19 ~~consultant;~~

20 ~~(9) Each appointment to public office received by the campaign consultant during the reporting~~
21 ~~period, provided that the appointment is made by a local office-holder who is a client of the campaign~~
22 ~~consultant;~~

23 ~~(10) Any other information required by the Ethics Commission consistent with the purposes~~
24 ~~and provisions of this Chapter.~~

1 ~~Quarterly reports are due as follows: The report for the period starting December 1st and~~
2 ~~ending February 28th is due March 15th; the report for the period starting March 1st and ending May~~
3 ~~31st is due June 15th; the report for the period starting June 1st and ending August 31st is due~~
4 ~~September 15th; and the report for the period starting September 1st and ending November 30th is due~~
5 ~~December 15th.~~

6 ~~(f) CLIENT TERMINATION STATEMENTS. Within 30 days after a client terminates the~~
7 ~~services of a campaign consultant, the campaign consultant shall submit to the Ethics Commission a~~
8 ~~statement that the client has terminated the services of the campaign consultant. A campaign~~
9 ~~consultant may not provide campaign consulting services to a client or accept economic consideration~~
10 ~~for the provision of campaign consulting services after a client termination statement is filed, until a~~
11 ~~new client authorization statement has been filed pursuant to Section 1.515(d).~~

12 ~~(g) CAMPAIGN CONSULTANT TERMINATION STATEMENTS. A campaign consultant shall~~
13 ~~comply with all requirements of this Chapter until the campaign consultant ceases all activity as a~~
14 ~~campaign consultant and files a statement of termination with the Ethics Commission. A statement of~~
15 ~~termination must include all information required by Subsection (e) for the period since the campaign~~
16 ~~consultant's last quarterly report.~~

17 ~~(h) Each campaign consultant shall verify, under penalty of perjury, the accuracy and~~
18 ~~completeness of the information provided under Sections 1.515 and 1.520(e).~~

19 ~~(i) Each campaign consultant shall retain for a period of five years all books, papers and~~
20 ~~documents necessary to substantiate the reports and statements required under this Chapter.~~

21 (e) TERMINATION OF REGISTRATION.

22 (1) Failure to pay the annual registration fee by February 1 shall constitute termination of the
23 campaign consultant's registration with the Ethics Commission.

24 (2) The Ethics Commission may establish additional processes for the termination of a
25 campaign consultant's registration consistent with the purposes and provisions of this Chapter.

1 Sec. 1.520. – FILING UNDER PENALTY OF PERJURY; DOCUMENT RETENTION; AUDITS.

2 (a) All information required by this Chapter shall be submitted in a format designated by the
3 Ethics Commission. The campaign consultant shall verify, under penalty of perjury, the accuracy and
4 completeness of the information provided under this Chapter.

5 (b) Each campaign consultant shall retain for a period of five years all books, papers and
6 documents necessary to substantiate the information included in the registration and disclosure reports
7 required by this Chapter. This includes, but is not limited to, invoices and written contracts between
8 the campaign consultant and all clients.

9 (c) At the Executive Director’s discretion, the Ethics Commission may perform audits of
10 registration and disclosure reports filed by campaign consultants under this Chapter. The Ethics
11 Commission, including its Executive Director, may issue subpoenas in furtherance of its duties under
12 this section.

13 Sec. 1.525. – PROHIBITIONS.

14 (a) GENERAL RULE. It shall be unlawful for any campaign consultant to provide campaign
15 consulting services, or to accept any economic consideration for the provision of campaign consulting
16 services, without first registering with the Ethics Commission, paying the annual fee, and complying
17 with the reporting requirements specified in section 1.510.

18 (b) EVASION OF OBLIGATIONS. No campaign consultant shall attempt to evade the
19 obligations imposed by this Chapter through the use of agents, associates or employees.

20 Sec. 1.530. – TRAINING.

21 Each campaign consultant must complete a campaign consultant training session offered by the
22 Ethics Commission within 60 days of the campaign consultant’s initial registration. Thereafter,
23 campaign consultants shall complete additional training sessions as required by the Executive
24 Director, at his or her discretion.

25 Sec. 1.520-1.535. – POWERS AND DUTIES OF THE ETHICS COMMISSION.

1 (a) The Ethics Commission shall ~~provide forms for the reporting of~~prescribe the format for
2 the submission of all information required by this Chapter.

3 ~~(b) The Ethics Commission shall issue a registration number to each registered campaign~~
4 ~~consultant.~~

5 ~~(c) At the time of initial registration and reregistration, the Ethics Commission shall provide~~
6 ~~the campaign consultant with a copy of the City's campaign and lobbyist laws, the Code of Conduct~~
7 ~~specified in Section 1.530, and any related material which the Commission determines will serve the~~
8 ~~purposes of this Chapter. Each campaign consultant must sign a statement acknowledging receipt of~~
9 ~~these materials.~~

10 ~~(d)~~ The Ethics Commission shall compile the information provided in registration and
11 ~~quarterly~~ reports filed pursuant to this Chapter as soon as practicable ~~after the close of each~~
12 ~~quarter and shall forward a report of the compiled information to the Board of Supervisors and the~~
13 ~~Mayor~~and make such information available on its website.

14 ~~(e)~~ The Ethics Commission shall preserve all original reports, statements, and other
15 records required to be kept or filed under this Chapter for a period of five years. Such reports,
16 statements, and records shall constitute a part of the public records of the Ethics Commission
17 and shall be open to public inspection.

18 ~~(f)~~ The Ethics Commission shall provide formal and informal advice regarding the
19 duties under this Chapter of ~~an~~ person~~individual~~ or entity pursuant to the procedures specified
20 in San Francisco, Charter Section C3.699-12.

21 ~~(g)~~ The Ethics Commission shall have the power to adopt all reasonable and
22 necessary rules and regulations for the implementation of this Chapter pursuant to the
23 procedure specified in Charter Section 15.102.*

24 ~~(h)~~ At least once a year, the Ethics Commission shall provide a workshop or training session
25 concerning this Chapter.

1 Sec. ~~1.525~~1.540. - ADMINISTRATIVE AND CIVIL ENFORCEMENT, AND PENALTIES.

2 (a) LATE FINES. If any campaign consultant ~~files an original statement or report after any~~
3 ~~deadline imposed~~fails to submit any information required by this Chapter, the Ethics Commission
4 shall, in addition to any other penalties or remedies established in this Chapter, ~~fine the~~
5 ~~campaign consultant~~impose a late filing fee of \$50 per day after the deadline until the statement or
6 ~~report~~information is received by the Ethics Commission. ~~If any campaign consultant files an~~
7 ~~original statement or report after any deadline imposed by this Chapter, when the deadline is fewer~~
8 ~~than 30 days before or after an election, the Ethics Commission shall, in addition to any other penalties~~
9 ~~or remedies established in this Chapter, fine the campaign consultant \$100 per day after the deadline~~
10 ~~until the statement or report is received by the Ethics Commission.~~—The Ethics Commission may
11 reduce or waive a fine if the Ethics Commission determines that the late filing was not willful
12 and that enforcement will not further the purposes of this Chapter. ~~The Ethics Commission shall~~
13 ~~deposit funds collected under this Section in the General Fund of the City and County of San~~
14 ~~Francisco.~~

15 (b) ENFORCEMENT PROCEEDINGS. Any person who believes that ~~Section 1.510~~this
16 Chapter has been violated may file a complaint with the Ethics Commission. Upon receipt of a
17 complaint, or upon its own initiative, the Ethics Commission may investigate allegations of a
18 violation of ~~Section 1.510~~this Chapter and enforce the provisions of ~~Section 1.510~~this Chapter
19 pursuant to the procedures established in San Francisco Charter Section C3.699-13, and the
20 Ethics Commission's ~~rules and r~~Regulations for Investigations and Enforcement Proceedings
21 adopted pursuant to Charter Section 15.102.*

22 (c) ADMINISTRATIVE PENALTIES. When the Ethics Commission, pursuant to the
23 procedures specified in Charter Section C3.699-13 and the Ethics Commission's Regulations for
24 Investigations and Enforcement Proceedings, determines ~~on the basis of substantial evidence that an~~
25 ~~person~~individual or entity has intentionally or negligently violated ~~Section 1.510~~this Chapter, the

1 Commission may require the ~~person~~individual or entity to: (1) cease and desist the violation;
2 (2) ~~file any reports or statements or pay any fees~~submit any information required by this Chapter,
3 and/or (3) pay a monetary penalty of up to \$5,000 for each violation, or three times the
4 amount not properly reported, whichever is greater. ~~The Commission may cancel for up to one~~
5 ~~year the registration of any campaign consultant who has violated Section 1.510. A campaign~~
6 ~~consultant whose registration has been canceled pursuant to this Section may not provide campaign~~
7 ~~consulting services in exchange for economic consideration for the period that the registration is~~
8 ~~canceled. When the period of cancellation ends, the campaign consultant may reregister pursuant to~~
9 ~~Section 1.515(a) and (e).~~In addition to the administrative penalties set forth in this Section, the Ethics
10 Commission may issue warning letters regarding violations and potential violations of this Chapter.

11 (d) CIVIL PENALTIES. Any ~~person~~individual or entity ~~which knowingly that intentionally~~ or
12 negligently violates ~~or who causes any other person to violate Section 1.510~~this Chapter may be
13 liable in a civil action brought by the City Attorney for an amount up to \$5,000 per violation, or
14 three times the amount not properly reported, whichever is greater.

15 (e) ~~Any person or entity which intentionally or negligently violates Section 1.510 is guilty of a~~
16 ~~misdemeanor.~~

17 (e) JOINT AND SEVERAL LIABILITY. Should two or more individuals or entities be
18 responsible for any violation under this Chapter, they shall be jointly and severally liable.

19 (f) LIMITATIONS PERIOD FOR CIVIL AND ADMINISTRATIVE ENFORCEMENT. No
20 administrative, ~~or civil, or criminal~~ action shall be maintained to enforce ~~Section 1.510~~this
21 Chapter unless ~~brought~~commenced within four years after the date the cause of action accrued
22 or the date that the facts constituting the cause of action were discovered by the Ethics
23 Commission, ~~or City Attorney, or District Attorney,~~ whichever is later. For the purposes of this
24 section, an administrative action is commenced on the date on which the Ethics Commission serves a
25

1 probable cause report on the respondent pursuant to the Ethics Commission's Regulations for
2 Investigations and Enforcement Proceedings.

3 (g) LIMITATIONS PERIOD FOR COLLECTION OF FINES AND PENALTIES. A civil action
4 brought to collect fines or penalties imposed under this Chapter shall be commenced within four years
5 after the date on which the monetary penalty or fine was imposed. For purposes of this Section, a fine
6 or penalty is imposed when a court or administrative agency has issued a final decision in an
7 enforcement action imposing a fine or penalty for a violation of this Chapter or the Executive Director
8 has made a final decision regarding the amount of a late fine or penalty imposed under this Chapter.
9 The Executive Director does not make a final decision regarding the amount of a late fine imposed
10 under this Chapter until the Executive Director has made a determination to accept or not accept any
11 request to waive a late fine where such waiver is expressly authorized by this Chapter or a regulation
12 adopted thereunder.

13 (gh) In investigating any alleged violation of ~~Section 1.510~~this Chapter, the Ethics
14 Commission, including its Executive Director, and City Attorney shall have the power to inspect,
15 upon reasonable notice, all documents required to be maintained under ~~Section 1.515(i)~~this
16 Chapter. This power to inspect documents is in addition to other powers conferred on the
17 Ethics Commission and City Attorney by the Charter, or by ordinance, including the power of
18 subpoena.

19 ~~SEC. 1.540. ELECTRONIC FILING OF STATEMENTS AND REPORTS.~~

20 ~~(a) ELECTRONIC FILING REQUIRED. Whenever campaign consultants are required by~~
21 ~~this Chapter to file an original statement or report, the Ethics Commission may require the consultants~~
22 ~~to file an electronic copy of the statement or report. The electronic copy shall be due no later than the~~
23 ~~deadline imposed by this Chapter for filing the original statement or report.~~

24 ~~(b) POWERS AND DUTIES OF THE ETHICS COMMISSION.~~

1 (i) ~~Pursuant to San Francisco Charter Section 15.102, the Ethics Commission shall adopt~~
2 ~~regulations specifying the electronic filing requirements applicable to campaign consultants. The~~
3 ~~Ethics Commission shall adopt these regulations no fewer than 120 days before the electronic filing~~
4 ~~requirements are effective.~~

5 (ii) ~~The Ethics Commission shall prescribe the format for electronic copies of statements and~~
6 ~~reports no fewer than 90 days before the statements and reports are due to be filed.~~

7 (c) ~~PENALTIES. If any campaign consultant files an electronic copy of a statement or report~~
8 ~~after the deadline imposed by this Section, the Ethics Commission shall, in addition to any other~~
9 ~~penalties or remedies established in this Chapter, fine the campaign consultant \$10 per day after the~~
10 ~~deadline until the electronic copy is received by the Ethics Commission. The Ethics Commission may~~
11 ~~reduce or waive a fine if the Commission determines that the late filing was not willful and that~~
12 ~~enforcement will not further the purposes of this Chapter. The Ethics Commission shall deposit funds~~
13 ~~collected under this Section in the General Fund of the City and County of San Francisco.~~

14 SEC. 1.545. - PROVISION OF FALSE OR MISLEADING INFORMATION TO THE ETHICS
15 COMMISSION; WITHHOLDING OF INFORMATION.

16 Any individual or entity that knowingly or willfully furnishes false or fraudulent evidence,
17 documents, or information to the Ethics Commission under this Chapter, or misrepresents any material
18 fact, or conceals any evidence, documents, or information, or fails to furnish to the Ethics Commission
19 any records, documents, or other information required to be provided under this Chapter shall be
20 subject to the penalties provided in Section 1.540.

21 SEC. 1.550. - DEPOSIT OF FUNDS.

22 The Ethics Commission shall deposit all funds collected under this Chapter, including payments
23 for registration fees, late fines, and administrative penalties, in the General Fund of the City and
24 County of San Francisco.

25 SEC. ~~1.530~~1.555. - CODE OF CONDUCT.

1 At the time of initial registration and ~~reregistration~~annually thereafter no later than February
2 1, each campaign consultant must elect whether to voluntarily comply with the following Code
3 of Conduct:

4 "I am familiar with all the laws, rules and regulations applicable to local campaigns;

5 "I will not knowingly make false statements about the qualifications or positions of any
6 candidate, or about the scope and effect of any measure;

7 "I will not knowingly make false statements that any real or fictitious person supports or
8 opposes a candidate or measure;

9 "In the event that I make inadvertent false statements about the qualifications or
10 positions of any candidate or about the scope and effect of any measure, I will endeavor to
11 provide corrected information in written form to the Ethics Commission within five days;

12 "I will refrain from appealing to prejudice in the conduct of a campaign, and from
13 conducting, managing or advising a campaign, which appeals to prejudice based on race,
14 gender, ethnic background, religious affiliation or nonaffiliation, sexual orientation, age,
15 disability, or economic status;

16 "I will refrain from seeking to obtain the support of or opposition to any candidate or
17 measure by the use of financial inducements or by the use of threats or coercion;

18 "I will refrain from influencing the submission of a measure to the San Francisco voters
19 for the sole purpose of obtaining economic consideration for campaign consulting services;

20 "I will disclose through a filing at the San Francisco Ethics Commission any
21 agreements that would result in a campaign consulting contract resulting from my efforts to
22 influence the submission of a measure to the San Francisco voters at the time that I seek
23 submission of any such measure;

24 "I will refrain from seeking to evade, or participating in efforts of others to evade, the
25 legal requirements in laws pertaining to political campaigns;

1 "I will not knowingly participate in the preparation, dissemination, or broadcast of paid
2 political advertising or campaign materials that contain false information; and

3 "I will refrain from accepting clients whose interests are adverse to each other."

4 SEC. ~~1.535~~1.560. - SEVERABILITY.

5 ~~If any Section, subsection, subdivision, sentence, clause, phrase or portion of this Chapter, or~~
6 ~~the application thereof to any person or entity is for any reason held to be invalid or unconstitutional~~
7 ~~by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the~~
8 ~~remaining portions of this Chapter or its application to other persons, business entities, or~~
9 ~~organizations. The Board of Supervisors hereby declares that it would have adopted this Chapter, and~~
10 ~~each Section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the~~
11 ~~fact that any one or more Sections, subsections, subdivisions, sentences, clauses, phrases, or portions,~~
12 ~~or the application thereof to any person or entity, to be declared invalid or unconstitutional.~~

13 If any provision of this Chapter, or the application thereof to any person or circumstance, is
14 held invalid, the validity of the remainder of the Chapter and the applicability of such provisions to
15 other persons and circumstances shall not be affected thereby.

16 SEC. ~~1.545~~1.565. - CONSTRUCTION WITH OTHER LAWS.

17 Lobbying by campaign consultants and employees of campaign consultants is
18 governed by the applicable provisions of Article II, Chapter 1 of this Code, including Section
19 2.117, which ~~prohibits campaign consultants and employees of campaign consultants from~~
20 ~~communicating with current and former clients on behalf of another person or entity for the purpose of~~
21 ~~influencing local legislative or administrative action in exchange for economic~~
22 ~~considerations~~specifically regulates lobbying by campaign consultants.

23 Section 2. The operative date of this ordinance shall be January 1, 2013, unless the
24 Ethics Commission approves a resolution establishing a later operative date for the ordinance.

1 The Ethics Commission shall not establish an operative date for the ordinance less than 60
2 days from the date of the resolution's adoption.

3

4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6

7 By: _____
8 JONATHAN GIVNER
9 Deputy City Attorney

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Campaign Consultant Ordinance: Changes Between Existing and Proposed Law

Item	Current law	Proposed amendment
Findings: § 1.500	Has two findings: candidates frequently hire professional campaign consultants to guide and manage campaigns; and registration and disclosure by campaign consultants will assist the public in making informed decisions and protect public confidence.	Adds two findings: decisions by elected City officers should be based on the best interests of the people and, to the extent possible, should be free from the influence of electoral politics; and the goals of the law would be advanced by the implementation of an electronic filing system by the Ethics Commission.
Amendment or Repeal of Chapter: new § 1.505	None	Section 1.1505 provides that, in addition to any changes made by the voters, the Board of Supervisors may amend the law if the amendment furthers the purposes of the law, the Ethics Commission approves the proposed amendment by at least a 4/5 vote of its members, and the Board approves the proposed amendment by at least a 2/3 vote of its members. (This language tracks language in the CFRO and GEO, which will enable the Board to make changes without having to go to the ballot.)
Definitions: current §1.505; new §1.510	(a) “Campaign consultant” is any person or entity that receives or is promised \$1,000 in a calendar year for campaign consulting services; includes any subcontractor that provides campaign consulting services.	(a) generally retains the definition except the threshold of economic consideration is changed from \$1,000 to \$10,000 in 12 months.
	(a) “Campaign consultant” does not include persons who are employees of a campaign consultant...”	In subsection (a), the words “who do not perform campaign consulting” are added after “campaign consultant” – this change expressly excludes from the law employees of a consultant who do not perform campaign consulting
	(e) “Candidate” is a person who has taken affirmative action to seek nomination or election to local office, a local officeholder who seeks election to any office, or a local officeholder subject to a	New language references the definition of “candidate” as it appears in the definition section of the Campaign Finance Reform Ordinance (CFRO).

	recall election.	
	(i) “Local office” is defined.	“City elective office” replaces the term “local office” in new subsection (f); the definition references the definition of “City elective office” in the CFRO.
	(g) “Lobby” is defined.	This definition is deleted, as the term “Lobby” is not used in the Ordinance. The word “lobbying” appears in section 1.560, but only to inform that lobbying by campaign consultants is governed by Article II, Chapter I of the Campaign and Governmental Conduct Code (Lobbyist Ordinance).
	(h) “Lobbyist” is defined.	This definition is deleted, as the term “lobbyist” is not used in the Ordinance.
	(j) “Measure” is defined.	New language in renumbered subsection (h) references the definition of “measure” as it appears in the CFRO
	(k) “Vendor” is defined as a person or entity who sells goods or services, other than campaign consulting services, including but not limited to printing, catering, and transportation services....”	Renumbered subsection (i) changes the word “person” to “individual.” Staff has also deleted the last sentence that excludes attorneys, accountants, pollsters and treasurers from the term “vendor” – based on staff’s recommendations, the term “vendors” appears only in the definition campaign management.”
Prohibitions: current § 1.510; new § 1.525	Section 1.510 states that it is unlawful for any campaign consultant to provide campaign consultant services or accept economic consideration for providing such services unless the consultant first registers with the Ethics Commission and complies with reporting requirements.	Section 1.525 is the proposed “Prohibitions” section. Subsection (a) states the general rule, and subsection (b) adds new language regarding the evasion of obligations. Subsection (a) generally tracks existing law; subsection (b) tracks similar language that appears in the Lobbyist Ordinance that staff believes is relevant to the regulation of campaign consultants.
Registration; Disclosures; Fees; Termination: § 1.515	Section 1.515 has several subsections: (a) Registration Reports; (b) Reregistration Reports; (c) Fees; (d) Client Authorization	Staff proposes the following new or renumbered subsections in section 1.515, as set forth below: (a) Registration Requirements; (b) Campaign Consultant Disclosures; (c) Initial Disclosure Reports;

	<p>Statements; (e) Quarterly Reports; (f) Client Termination Statements; and (g) Campaign Consultant Termination Statements.</p>	<p>(d) Fees; and (e) Termination.</p>
	<p>(a) When registering, a campaign consultant must disclose name, address, phone, employer information, employee information, and whether the consultant must register as a lobbyist and/or with the Tax Collector. In addition, the consultant must disclose information about client(s), economic consideration, political contributions of \$100 or more, gifts, and other information required by Ethics.</p>	<p>Proposed subsection (a) states that campaign consultants must register within 5 business days of qualifying. It also requires campaign consultants to provide only basic and general information about the campaign consultant upon registration. Staff has deleted the requirement that the consultant state whether it is required to register with the Tax Collector. Information about clients and economic consideration will be required in the monthly reports under proposed subsection 1.515(b).</p>
	<p>Current section 1.515(a) requires much of this information.</p>	<p>Proposed subsection (b) requires each campaign consultant to disclose information no later than the 15th day of each month, which is the same deadline imposed on lobbyists for monthly reporting. Consultants must disclose information about their clients, economic consideration, their responsibilities related to their clients, the name of any client who terminated the consultant’s services, and any amendment to information that was provided under new subsection (a). They must also disclose detailed information regarding political contributions of \$100 or more.</p> <p>Consultants will no longer be required to disclose:</p> <ul style="list-style-type: none"> • economic consideration received from vendors or subvendors (this has rarely, if ever, occurred); • the name of any City officer or employee employed by the

		<p>consultant or a client (staff believes this information is not relevant); information regarding any contract obtained by the consultant that was approved by a client who is a City elective officer; and</p> <ul style="list-style-type: none"> any appointment to public office made by a client City elective officer.
	(b) Campaign consultants must annually re-register by January 1.	Staff has eliminated express provisions regarding re-registration – instead, proposed subsection 1.515(d)(1) provides that a consultant who fails to pay the annual registration fees by February 1 is deemed to have terminated his or her registration.
	(c) Fees: current law requires a consultant to pay annual registration fees and a \$50 fee for each client. Registration fees depend upon the level of the consultant’s income. Consultants earning \$1,000-\$5,000 per year pay a fee of \$50; those earning \$5,000 - \$20,000 pay \$200; those earning more than \$20,000 pay \$400.	<p>Renumbered subsection 1.515(c) sets the annual fee at \$400 for campaign consultants earning \$10,000 - \$50,000 per 12 months; and at \$500 for consultants earning more than \$50,000 per 12 months.</p> <p>There will no longer be a client fee.</p> <p>No campaign consultant is considered registered until the Ethics Commission has received full payment of the fee.</p>
	(c) Fees: provides that fees collected by the Commission shall be deposited into the General Fund.	New section 1.550 consolidates this section with current section 1.525(b).
	(d) Client Authorization Statements: this section requires consultants to submit written authorizations from their clients.	Staff does not believe that client authorization forms are necessary. It is a rare occurrence, if at all, that a consultant will claim a client who isn’t one. Consultants, who will report on their activities on a monthly basis, will continue to submit information subject to a penalty of perjury.
	(e) Quarterly Reports. Current law requires consultants to file paper reports on a quarterly basis.	New subsection (b), discussed above, requires monthly reporting of consultant activities.

	(f) Client Termination Statements. Current law requires a consultant to file a client termination form within 30 days after a client terminates the services of a consultant.	Staff does not believe that client termination forms are necessary. Consultants will report their activities on a monthly basis and will be required to disclose, under subsection (b) the names of clients who have terminated their services and the date of such termination.
		Under new subsection 1.515(c), for the first disclosure report, consultants must disclose information set forth in 1.515(b) for the reporting period of the preceding 12 months.
	(g) Campaign Consultant Termination Statement. Current law requires each consultant who terminates activities as a consultant to file a report.	Proposed subsection (d)(1), mentioned above, provides that any consultant who fails to pay fees by February 1 will be deemed to have terminated his or her registration as a consultant. Subsection (d)(2) also permits the Commission to establish other processes for a consultant to terminate registration.
Penalty of Perjury: current § 1.515(h); new § 1.520(a)	(h) Penalty of Perjury. Under current law, each consultant verifies under penalty of perjury the accuracy and completeness of information that he or she provides.	New section 1.520(a) requires consultants to submit information under penalty of perjury.
Retention of Records: current § 1.515(i); new § 1.520(b)	(i) Retention of Records. Current law requires consultants to maintain records for five years.	New section 1.520(b) requires consultants to retain records for five years, and specifies that the records include invoices and written contracts between the consultant and client(s).
Audits: new § 1.520(c)	None	New section 1.520(c) authorizes the Commission, at the Executive Director's discretion, to perform random audits of consultant documents, and provides that the Commission, including the Director, may issue subpoenas related to audits.
Prohibitions: current § 1.510; new § 1.525		See discussion above regarding new section 1.525 regarding "Prohibitions."
Training: new § 1.530	None	New section 1.530 requires consultants to complete training within

		60 days of initial registration and again as deemed necessary by the Executive Director.
Powers and Duties of Ethics Commission: current § 1.520; new § 1.535	Section 1.520 currently states that the Commission (a) shall provide forms for the reporting of all information required; (b) issue a registration number to each consultant; (c) provide a copy of CFRO and Lobbyist Ordinance to each consultant; (d) compile info provided in registration and quarterly reports; (e) keep records for five years; (f) provide advice; and (g) adopt necessary rules.	<ul style="list-style-type: none"> • New section 1.535 (a) provides that the Commission shall prescribe the format for the submission of information required. • Current sections 1.520 (b) and (c) are deleted as registration numbers are not needed and copies of CFRO and the Lobbyist Ordinance are available on the Commission’s website. • New section 1.535 (b) requires the Commission to compile consultant information and post it on the website. • New sections 1.535 (c), (d) and (e) generally track existing law regarding recordkeeping, advice-giving, and the adoption of necessary rules. • New section 1.535 (f) requires the Commission to provide an annual workshop or training session concerning laws related to campaign consulting.
Administrative and Civil Enforcement, and Penalties: current § 1.525; new § 1.540	Current section 1.525 provides: (a) a late filing fee of \$50 per day or \$100 per day if the deadline is fewer than 30 days before an election. (b) Anyone may file a complaint with the Commission. (c) The Commission may require consultant to cease and desist, file any reports, or pay up to \$5,000 per violation or three times amount not reported. The Commission may cancel the registration of a consultant for one year. (d) The City Attorney may seek \$5,000 per violation penalties.	Section 1.540 contains similar provisions, except: <ul style="list-style-type: none"> • Late fines remain at \$50 per day rather than increase to \$100 per day when the deadline for filing is fewer than 30 days before or after an election; • New subsection (e) provides for several and joint liability; • Current subsection 1.525 (e) is deleted; • Subsection 1.525(f) clarifies that an administrative action is commenced when the Ethics Commission serves a probable

	(e) Anyone who violates section 1.510 is guilty of misdemeanor. (f) Statute of limitations of 4 years (g) Commission has subpoena power in investigations.	<p>cause report on a respondent;</p> <ul style="list-style-type: none"> New subsection 1.540 (g) sets for a limitations period for the collection of fines and penalties, tracking similar language in the CFRO and Lobbyist Ordinance.
Provision of False or Misleading Information: new § 1.545	None	New section 1.545 provides that anyone who provides false information or fails to provide information to the Commission is subject to penalties. This tracks language in the CFRO.
Deposit of Funds: current 1.515(b) and 1.525(b); new § 1.550	Funds collected from registration fees, late fines and penalties must be deposited into the City's General Fund	Same requirement is consolidated into one section.
Code of Conduct: current § 1.530; new § 1.555	Section 1.530 sets forth a voluntary code of conduct	Section 1.555 contains a minor language change, replacing "reregistration" with "annually thereafter."
Severability: current § 1.535; new § 1.560		Section 1.560 contains changes that track the severability language in the CFRO.
Electronic Filing: current § 1.540; new § 1.535	Section 1.540 provides that the Commission may require electronic filing of reports.	New § 1.535 provides that the Commission shall prescribe the format for the submission of all information required from consultants. Thus, current section 1.540 is no longer necessary. Staff anticipates that the Commission, as it did with implementation of the Lobbyist Ordinance, will adopt regulations identifying the format for electronic submissions of information.
Construction with Other Laws: current § 1.545; new § 1.565	Section 1.545 references lobbying by campaign consultants, which is currently regulated under the Lobbyist Ordinance, SF Campaign and Governmental Conduct Code § 2.117.	Staff has modified the language in new § 1.560 so that it states directly that lobbying by campaign consultants is governed by the Lobbyist Ordinance.
Effective Date: new § 1.565		Staff proposes that the effective date of the amendments be January 1, 2013. The Commission may change this date by resolution.

S:\Campaign Consultants\Ordinance\possible amdts 2010\chart of draft changes 11.2010.doc