



ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

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JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: January 6, 2011
To: Members, Ethics Commission
From: John St. Croix, Executive Director
By: Mabel Ng, Deputy Executive Director
Re: Proposed Amendments to the Campaign Consultant Ordinance

At its December 13, 2010 meeting, the Ethics Commission approved several proposed amendments to the Campaign Consultant Ordinance (the "Ordinance"), San Francisco Campaign and Governmental Conduct Code ("C&GC Code") section 1.500 et seq. The Commission approved the following: adopting an electronic filing system for reporting by campaign consultants; requiring consultants to disclose information on a monthly basis; changing the economic threshold for qualification as a campaign consultant; modifying the registration fees; and eliminating the client fees. The Commission also approved a proposal that the amendments take effect on January 1, 2013, unless the Commission adopts a resolution to delay their implementation.

At the January 10, 2011 meeting, the Commission will consider five outstanding decision points: 2, 3b, 3c, 7 and 10. Staff has revised the draft legislation to reflect the Commission's actions at its last meeting. (*Italic single-underline text reflects provisions approved by the Commission; double-underline text reflects provisions approved by the Commission that differ from staff's recommendations.*) The draft legislation also identifies, in grey highlighting, the staff's proposals with respect to the outstanding decision points. Staff also proposes that the Commission consider one additional decision point to cover approval of minor edits that appear in the draft amendments but that were not set out separately for the Commission's consideration – continuing the numbering of decision points from the earlier memo, this would be Decision Point 17 in this memo.

Discussion and Decision Points

One decision point (Decision Point 2) is substantive; the remaining decision points are technical in nature.

2. Section 1.505. Amendment or Repeal of Chapter.

Staff proposes that the Ordinance be amended so that, in addition to changes made by voters, the Ethics Commission and the Board of Supervisors may make changes to the

Ordinance. The proposed language tracks language that appears in the Campaign Finance Reform Ordinance (“CFRO”), C&GC Code § 1.103, and the Government Ethics Ordinance (“GEO”), C&GC Code § 3.204. The proposal would allow the Board of Supervisors (“Board”) to amend the Ordinance, subject to certain conditions: the amendment must further the purposes of the Ordinance, 4/5 of the Ethics Commission would have to approve the amendment, the proposed amendment is available for public review for at least 30 days prior to any action by the Board, and the Board approves the amendment by at least a 2/3 vote of all its members.

Staff’s proposal mirror those that were presented to and approved by the voters in the CFRO (section 2.112 of Proposition O in the November 7, 2000 election, now C&GC Code section 1.103) and the GEO (section C9.106 of Proposition E in the November 4, 2003 election, now C&GC Code section 3.204).

At the December meeting, Commissioners expressed concern that the proposal may be looked upon as allowing the Commission and the Board to amend the law without the voters’ participation. Under staff’s proposal, the voters continue to have the authority to modify the Ordinance. For example, the voters most recently took action to amend the CFRO in the June 2008 election; Proposition H amended CFRO section 1.126 to address further campaign contributions made by prospective City contractors. In addition, members of the public continue to have the ability to make public comment when the Commission or the Board considers proposed amendments.

As you know, the Commission reviews on at least an annual basis—if not more—various provisions of the CFRO and GEO to fine tune them to carry out their public purposes. CFRO section 1.103 and GEO section 3.204 enable the Commission and the Board to make changes on a more timely basis than having to place the proposed changes on the ballot. For example, CFRO section 1.103 has allowed the Commission to move towards greater electronic filing of campaign finance statements and to streamline the City's public financing program. And GEO section 3.204 has enabled the Commission and the Board to approve changes related to gifts, officers' contracting with the City, compensated advocacy, and post-employment restrictions. By allowing for the Commission and the Board to make changes without returning to the ballot, these sections in the CFRO and GEO provide for a more efficient means of enacting changes that are necessary to respond to changing conditions. Staff’s proposal here in the Campaign Consultant Ordinance would enable the Commission and the Board to consider possible changes to the Ordinance for the same reasons.

Decision Point 2:

Shall the Commission approve new section 1.505, as set forth on page 2 lines 8-18 of the draft amendments?

3. Section 1.510. Definitions.

The following appeared in staff’s December 3, 2010 memo, which was considered by the Commission at its December 13, 2010 meeting:

b. *“Candidate,” “City elective office,” and “measure”*: Staff has revised the definitions of “candidate” and “measure” so that they refer to the definitions of the same terms in the CFRO. Staff has also added the term “City elective office” to replace the term “local office,” again referencing the definition in the CFRO. In the CFRO,

- “Candidate” is defined as set forth in the California Political Reform Act, California Government Code section 81000, et seq., but shall include only candidates for City elective office;
- “City elective office” means the offices of Mayor, Member of the Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public Defender, Member of the Board of Education of the San Francisco Unified School District and Member of the Governing Board of the San Francisco Community College District. The Board of Supervisors consists of eleven separate City elective offices, the San Francisco Community College District consists of seven separate City elective offices, and the Board of Education of the San Francisco Unified School District consists of seven separate City elective offices; and
- “Measure” means any City, San Francisco Unified School District or San Francisco Community College District referendum, recall or ballot proposition, whether or not it qualifies for the ballot.

At the December meeting, Commissioner Hansen raised an issue regarding the proposed change to the definition of “candidate.” In reviewing the existing and proposed definitions of “candidate,” staff now proposes that “candidate” remain basically unchanged from its current definition, except for clarifying language that is set forth in the draft amendment on page 3, lines 20-24. Under the proposed definition, a person or entity who manages the campaign of a current City elective officeholder running for state elective office would be required to register and submit disclosure statements as a campaign consultant. This is consistent with staff’s current application of this definition. Because of this change, Decision Point 3b now contains three subparts.

Decision Point 3b:

- (1) Shall the Commission approve the changes to the definition of “candidate” in section 1.510(e) as set forth on page 3, lines 20-24 of the draft amendments?
- (2) Shall the Commission approve adding the term “City elective office” in section 1.510(f) as set forth on page 3, line 25 of the draft amendments (and deleting “Local office” on page 4, line 8-11)?
- (3) Shall the Commission approve the changes to the definition of “measure” in section 1.510(h), as set forth on page 4, lines 12-13 of the draft amendments?

The following two paragraphs also appeared in the December 3, 2010 memo:

c. *“Economic consideration” and “vendor”*: Staff has made clarifying changes to these terms. Payment that campaign consultants receive from their clients to reimburse them for expenses incurred in providing campaign consultant services (such as parking fees, and copying and postage costs) are currently deemed economic consideration. However, money that campaign consultants pay directly to their clients’ vendors for

expenses incurred by their clients (such as funds paid to a printer by a campaign consultant that are subsequently reimbursed by the client) are not economic consideration. *See* Sutton Advice Letter dated November 5, 2001. The changes in the definition of “economic consideration” conform to the distinctions in the advice letter.

Staff has stricken language that excludes attorneys, accountants and treasurers from the definition of “vendor.” The exclusion of these categories of persons may serve a purpose under current law, which requires consultants to report economic consideration that vendors or sub-vendors provide or promise to them. However, as discussed below, staff proposes to eliminate this particular disclosure provision, so that the term “vendor” appears in the Ordinance only in the definitions of “economic consideration” under section 1.510(g) (discussed in previous paragraph) and “campaign management” under section 1.510(c). “Campaign management” includes selecting a vendor of goods or services for a campaign – staff does not believe that there is a distinction between selecting a printer and an attorney, and that an individual or entity that selects or recommends either may be deemed a consultant if the individual or entity otherwise meets the consultant qualifications.

At the December meeting, the Commission did not approve staff’s proposal to delete current section 1.515(e)(6). Accordingly, consultants must continue to report “economic consideration promised to or received by the campaign consultant during the reporting period from vendors and subvendors who provided campaign-related goods or services to a current client of the campaign consultant.” *See* § 1.515(b)(6) on page 7, lines 8-10. Because the term “vendor” appears in the Ordinance, staff recommends that it not be deleted from the definitions section. However, staff continues to recommend that the term not exclude attorneys, accountants, pollsters or treasurers, as is reflected in the strike-through text that appears on page 4, lines 16-19.

Decision Point 3c:

Shall the Commission approve the changes to the definition of “economic consideration” and “vendor in sections 1.510(g) and (i), as set forth on page 4, lines 1-4 and lines 14-19 of the draft amendments?

At its December meeting, the Commission also set aside Decision Points 7 and 10 for further discussion. These decision points are reprinted below, except that staff has added in section 10, under the first bullet, clarification that a consultant who submits a late report would remain subject to a \$50 per day late fee until the report is submitted.

7. Section 1.525. Prohibitions.

New section 1.525 restates the general rule under current section 1.510 that it is unlawful for any campaign consultant to provide campaign consultant services, or to accept any economic consideration for the provision of campaign consultant services, without first registering with the Ethics Commission and complying with reporting requirements.

Staff has also added an “evasion of obligations” subsection to state that no campaign consultant may evade the obligations imposed by the Ordinance through the use of agents, associates or employees. Such language also appears in the Lobbyist Ordinance.

Decision Point 7:

Shall the Commission approve changes related to prohibitions and evasion of obligations, as set forth in new section 1.525 on page 11 lines 12-18 of the draft amendments?

10. Section 1.540. Administrative and Civil Enforcement, and Penalties.

New section 1.540 replaces current section 1.525. Staff has included a title for each subsection. In general, the subsections track existing law, except for minor clarifications or linguistic changes, plus the following more substantive changes:

- In subsection 1.540(a), staff has deleted the \$100 per day late fine for reports that should have been submitted within 30 days of an election. Consultants would still be subject to the \$50 per day late fee for late filings;
- In subsection 1.540(c), staff has replaced “substantial evidence” with “a preponderance of the evidence,” as the latter accurately reflects the standard of proof used by the Commission in its regulations governing investigations and enforcement proceedings;
- In subsection 1.540(c), staff has added the words “intentionally or negligently,” to make clear that a violation may be intentional or negligent;
- In subsection 1.540(c), staff has deleted language that allows the Commission to cancel for up to one year the registration of any campaign consultant who has violated the registration or reporting requirements of the Ordinance;
- In subsection 1.540(c), staff has added the issuance of warning letters as a remedy for the violation or potential violation of the Ordinance;
- In subsection 1.540(e), staff has added language providing for joint and several liability;
- Staff has deleted current section 1.525(e) (“Any person or entity which intentionally or negligently violates Section 1.510 is guilty of a misdemeanor.”);
- In subsection 1.540(f), staff has added language to clarify that an administrative action is commenced on the date that the Commission serves a probable cause report on a respondent – this is consistent with section 2.150(b) of the Lobbyist Ordinance.
- Staff has added new subsection 1.540(g), which sets out a limitations period for the collection of fines and penalties – this language tracks language that appears in the CFRO section 1.168(c)(4) and the Lobbyist Ordinance section 2.150(c).

Decision Point 10:

Shall the Commission approve the language regarding administrative and civil enforcement, and penalties, as discussed above and set forth in new section 1.540 on page 13 line 1 – page 15 line 18 of the draft amendments?

17. Overall approval of the draft amendments

There were several minor changes to citations and language in the draft amendments, such as changing the term “financing” to “campaign contributions” in new section 1.510(d) on page 3, line 18; and deleting current section 1.510 on page 4, lines 20-24. To ensure that the

Commission has fully considered and approved the changes set forth in the draft amendments, staff recommends that the Commission approve all the changes set forth in the 1.4.11 version of the draft amendments, subject to changes otherwise approved by the Commission at its meeting on January 10, 2011.

Decision Point 17:

Shall the Commission approve all the changes set forth in version 2 of the draft amendments, subject to changes otherwise approved by the Commission at its meeting on January 10, 2011?

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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 \$~~15~~5,000 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 \$15,000 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~~ an individual who has taken affirmative action to seek
21 nomination or election to ~~local office~~ City elective office, ~~a local officeholder~~ an individual holding
22 City elective office who has taken affirmative action to seek nomination or election to any local,
23 state or federal elective office, or ~~a local officeholder~~ an individual holding City elective office who is
24 the subject of a recall election.

25 (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 ~~who~~ that 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, or any employee of the campaign
15 consultant, or any other employee of the campaign consultant's employer is required to
16 register with the Ethics Commission as a lobbyist pursuant to the Regulation of Lobbyists
17 Ordinance, San 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 Campaign consultants shall submit disclosures regarding their activities on a monthly basis.
24 No later than the fifteenth calendar day of each month, each campaign consultant shall submit the
25 following information for the previous month.

1 (61) The name, and business address, e-mail address and telephone number of each
2 client to whom the campaign consultant provided campaign consulting services during the
3 ~~preceding three months~~reporting period, and the date on which the client retained the campaign
4 consultant;

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

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

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

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

18 The following information regarding each campaign contribution shall be submitted to the
19 Ethics Commission:

20 (A) The amount of the contribution;

21 (B) The name of the contributor;

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

23 (D) The contributor's occupation;

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

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

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

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

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

11 (7) The name of each City employee or City elective officer who is employed by the
12 campaign consultant, or by a client of the campaign consultant at the behest of the campaign
13 consultant, during the reporting period;

14 (8) Each City contract obtained by the campaign consultant during the reporting
15 period, provided that the contract is approved by a City elective officer who is a client of the
16 campaign consultant;

17 (9) Each appointment to public office received by the campaign consultant during the
18 reporting period, provided that the appointment is made by a City elective officer who is a
19 client of the campaign consultant;

20 ~~(10) Any amendments to the campaign consultant's registration information as required by~~
21 ~~Subsection (a); and~~

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

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

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

4 ~~(e)~~ FEES. At the time of initial registration and ~~reregistration~~ each subsequent calendar
5 year on or before February 1, each campaign consultant shall pay to the Ethics Commission a
6 registration fee ~~and an additional fee for each client of the campaign consultant~~. The amount of the
7 fee shall be: ~~\$500~~. Campaign consultants earning no more than \$10,000 in a twelve-month
8 period shall pay a registration fee of \$200. Campaign consultants earning more than \$10,000
9 in a twelve-month period shall pay a registration fee of \$500. Registration shall not be complete
10 until the Ethics Commission has received full payment of the fee.

11 ~~(i) Campaign consultants earning at least \$1,000 but not more than \$5,000 per calendar year~~
12 ~~shall pay a registration fee of \$50 and shall pay a client fee of \$50 per client;~~

13 ~~(ii) Campaign consultants earning more than \$5,000 but not more than \$20,000 per calendar~~
14 ~~year shall pay a registration fee of \$200 and a client fee of \$50 per client;~~

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

17 ~~When a client is acquired subsequent to initial registration or reregistration, the per client fee~~
18 ~~shall be paid at the time of filing the information required by Subsection (d). The Ethics Commission~~
19 ~~shall deposit fees collected pursuant to this Section in the General Fund of the City and County of San~~
20 ~~Francisco. On or after July 1, 1999, the Ethics Commission shall evaluate the fees set by this Section~~
21 ~~and propose any amendments for approval by the Board of Supervisors no later than December 1,~~
22 ~~1999. If the Ethics Commission or the Board of Supervisors takes no action, the fees set by this Section~~
23 ~~shall remain in effect.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

15 ~~Quarterly reports are due as follows: The report for the period starting December 1st and~~
16 ~~ending February 28th is due March 15th; the report for the period starting March 1st and ending May~~
17 ~~31st is due June 15th; the report for the period starting June 1st and ending August 31st is due~~
18 ~~September 15th; and the report for the period starting September 1st and ending November 30th is due~~
19 ~~December 15th.~~

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

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

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

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

10 (e) TERMINATION OF REGISTRATION.

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

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

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

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

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

23 (c) At the Executive Director's discretion, the Ethics Commission may perform audits of
24 registration and disclosure reports filed by campaign consultants under this Chapter. The Ethics
25

1 Commission, including its Executive Director, may issue subpoenas in furtherance of its duties under
2 this section.

3 Sec. 1.525. – PROHIBITIONS.

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

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

10 Sec. 1.530. – TRAINING.

11 Each campaign consultant must complete a campaign consultant training session offered by the
12 Ethics Commission within 60 days of the campaign consultant's initial registration. Thereafter,
13 campaign consultants shall complete additional training sessions as required by the Executive
14 Director, at his or her discretion. The Executive Director shall report any such additional
15 training sessions to the Ethics Commission.

16 Sec. 1.5201.535. – POWERS AND DUTIES OF THE ETHICS COMMISSION.

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

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

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

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

5 (ec) The Ethics Commission shall preserve all original reports, statements, and other
6 records required to be kept or filed under this Chapter for a period of five years. Such reports,
7 statements, and records shall constitute a part of the public records of the Ethics Commission
8 and shall be open to public inspection.

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

12 (ge) The Ethics Commission shall have the power to adopt all reasonable and
13 necessary rules and regulations for the implementation of this Chapter pursuant to the
14 procedure specified in Charter Section 15.102.*

15 (f) At least once a year, the Ethics Commission shall provide a workshop or training session
16 concerning this Chapter.

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

18 (a) LATE FINES. If any campaign consultant ~~files an original statement or report after any~~
19 ~~deadline imposed~~ fails to submit any information required by this Chapter, the Ethics Commission
20 shall, in addition to any other penalties or remedies established in this Chapter, ~~fine the~~
21 ~~campaign consultant~~ impose a late filing fee of \$50 per day after the deadline until the ~~statement or~~
22 ~~report/information~~ is received by the Ethics Commission. ~~If any campaign consultant files an~~
23 ~~original statement or report after any deadline imposed by this Chapter, when the deadline is fewer~~
24 ~~than 30 days before or after an election, the Ethics Commission shall, in addition to any other penalties~~
25 ~~or remedies established in this Chapter, fine the campaign consultant \$100 per day after the deadline~~

1 ~~until the statement or report is received by the Ethics Commission.~~ The Ethics Commission may
2 reduce or waive a fine if the Ethics Commission determines that the late filing was not willful
3 and that enforcement will not further the purposes of this Chapter. ~~The Ethics Commission shall~~
4 ~~deposit funds collected under this Section in the General Fund of the City and County of San~~
5 ~~Francisco.~~

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

13 (c) ADMINISTRATIVE PENALTIES. When the Ethics Commission, pursuant to the
14 procedures specified in Charter Section C3.699-13 and the Ethics Commission's Regulations for
15 Investigations and Enforcement Proceedings, determines ~~on the basis of substantial evidence~~ that an
16 ~~person~~individual or entity has intentionally or negligently violated ~~Section 1.510~~this Chapter, the
17 Commission may require the ~~person~~individual or entity to: (1) cease and desist the violation;
18 (2) ~~file any reports or statements or pay any fees~~submit any information required by this Chapter,
19 and/or (3) pay a monetary penalty of up to \$5,000 for each violation, or three times the
20 amount not properly reported, whichever is greater. ~~The Commission may cancel for up to one~~
21 ~~year the registration of any campaign consultant who has violated Section 1.510. A campaign~~
22 ~~consultant whose registration has been canceled pursuant to this Section may not provide campaign~~
23 ~~consulting services in exchange for economic consideration for the period that the registration is~~
24 ~~canceled. When the period of cancellation ends, the campaign consultant may reregister pursuant to~~

1 ~~Section 1.515(a) and (e).~~In addition to the administrative penalties set forth in this Section, the Ethics
2 Commission may issue warning letters regarding violations and potential violations of this Chapter.

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

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

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

11 (f) LIMITATIONS PERIOD FOR CIVIL AND ADMINISTRATIVE ENFORCEMENT. No
12 administrative, ~~or civil, or criminal~~ action shall be maintained to enforce ~~Section 1.510~~this
13 Chapter unless brought commenced within four years after the date the cause of action accrued
14 or the date that the facts constituting the cause of action were discovered by the Ethics
15 Commission, ~~or City Attorney, or District Attorney,~~ whichever is later. For the purposes of this
16 section, an administrative action is commenced on the date on which the Ethics Commission serves a
17 probable cause report on the respondent pursuant to the Ethics Commission's Regulations for
18 Investigations and Enforcement Proceedings.

19 (g) LIMITATIONS PERIOD FOR COLLECTION OF FINES AND PENALTIES. A civil action
20 brought to collect fines or penalties imposed under this Chapter shall be commenced within four years
21 after the date on which the monetary penalty or fine was imposed. For purposes of this Section, a fine
22 or penalty is imposed when a court or administrative agency has issued a final decision in an
23 enforcement action imposing a fine or penalty for a violation of this Chapter or the Executive Director
24 has made a final decision regarding the amount of a late fine or penalty imposed under this Chapter.
25 The Executive Director does not make a final decision regarding the amount of a late fine imposed

1 ~~under this Chapter until the Executive Director has made a determination to accept or not accept any~~
2 ~~request to waive a late fine where such waiver is expressly authorized by this Chapter or a regulation~~
3 ~~adopted thereunder.~~

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

10 ~~SEC. 1.540.—ELECTRONIC FILING OF STATEMENTS AND REPORTS.~~

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

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

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

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

22 ~~(c) PENALTIES.—If any campaign consultant files an electronic copy of a statement or report~~
23 ~~after the deadline imposed by this Section, the Ethics Commission shall, in addition to any other~~
24 ~~penalties or remedies established in this Chapter, fine the campaign consultant \$10 per day after the~~
25 ~~deadline until the electronic copy is received by the Ethics Commission. The Ethics Commission may~~

1 ~~reduce or waive a fine if the Commission determines that the late filing was not willful and that~~
2 ~~enforcement will not further the purposes of this Chapter. The Ethics Commission shall deposit funds~~
3 ~~collected under this Section in the General Fund of the City and County of San Francisco.~~

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

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

11 SEC. 1.550. - DEPOSIT OF FUNDS.

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

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

16 At the time of initial registration and ~~reregistration~~ annually thereafter no later than February
17 1, each campaign consultant must elect whether to voluntarily comply with the following Code
18 of Conduct:

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

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

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

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

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

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

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

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

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

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

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

21 **SEC. ~~1.535~~1.560. - SEVERABILITY.**

22 *If any Section, subsection, subdivision, sentence, clause, phrase or portion of this Chapter, or*
23 *the application thereof to any person or entity is for any reason held to be invalid or unconstitutional*
24 *by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the*
25 *remaining portions of this Chapter or its application to other persons, business entities, or*

1 ~~organizations. The Board of Supervisors hereby declares that it would have adopted this Chapter, and~~
2 ~~each Section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the~~
3 ~~fact that any one or more Sections, subsections, subdivisions, sentences, clauses, phrases, or portions,~~
4 ~~or the application thereof to any person or entity, to be declared invalid or unconstitutional.~~

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

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

9 Lobbying by campaign consultants and employees of campaign consultants is
10 governed by the applicable provisions of Article II, Chapter 1 of this Code, including Section
11 2.117, which ~~prohibits campaign consultants and employees of campaign consultants from~~
12 ~~communicating with current and former clients on behalf of another person or entity for the purpose of~~
13 ~~influencing local legislative or administrative action in exchange for economic~~
14 ~~considerations~~specifically regulates lobbying by campaign consultants.

15 Section 2. The operative date of this ordinance shall be January 1, 2013, unless the
16 Ethics Commission approves a resolution establishing a later operative date for the ordinance.
17 The Ethics Commission shall not establish an operative date for the ordinance less than 60
18 days from the date of the resolution's adoption.

19
20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By: _____
23 JONATHAN GIVNER
24 Deputy City Attorney

25
ETHICS COMMISSION
BOARD OF SUPERVISORS