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CITY AND COUNTY OF SAN FRANCISCO

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LEEANN PELHAM
EXECUTIVE DIRECTOR

Date: July 21, 2016

To: Members of the Ethics Commission

From: LeeAnn Pelham, Executive Director

Re: **AGENDA ITEM 4 – SUPPLEMENTAL MEMO AND REVISED LANGUAGE:
Proposals for November 2016 Ballot Measure to Restrict Lobbyist Gifts,
Campaign Contributions and Bundled Contributions**

Summary This supplemental memo for Item 4 on the Ethics Commission’s July 25th agenda attaches revised alternatives of the initiative ordinances released on July 15, 2016 for the Commission’s consideration.

Action Requested That the Ethics Commission finalize and adopt the initiative ordinance labeled “*Revised July Alternative*” to submit for the November 2016 ballot pursuant to its authority under Charter Sec. 15.102

Background

San Francisco Charter Section 15.102 provides authority for the Ethics Commission to place measures on the ballot by a four-fifths vote of all its members:

“Any ordinance which the Supervisors are empowered to pass relating to conflicts of interest, campaign finance, lobbying, campaign consultants or governmental ethics may be submitted to the electors at the next succeeding general election by the Ethics Commission by a four-fifths vote of all its members.”

Pursuant to that authority, the Commission is considering a proposed ballot measure that would restrict lobbyist gifts, campaign contributions, and bundled contributions. The deadline for the Ethics Commission to submit November 2016 ballot is August 5, 2016. The Commission’s July 25 meeting is the last scheduled prior to that deadline.

To help maximize the opportunity for public comment on the two pending approaches for a November ballot measure, staff posted the Commission’s July meeting agenda notice and related materials on July 15, 2016. Following that, the Commission received additional public comment.¹ In part, those comments sought to further clarify the approaches and terms used in the two drafts. Following further review of the draft language, and after reviewing and considering public comments received, staff has further modified the language contained in each draft, with key changes highlighted below. The attached revised initiative ordinances appear at Attachment 2 (“revised June approach”) and Attachment 3 (“revised July alternative”). Staff recommends these revised versions as the focus for the Commission’s discussion and possible action on July 25.

¹ See Attachment 1.

Revisions Contained in Both Draft Initiative Ordinances

Aggregation of Gifts. To help prevent circumvention of the proposed lobbyist gift restrictions, both revised versions have included an aggregation provision that would clarify when separate gifts from two or more sources are aggregated as being from a single source. The language applies the gift aggregation provision of state law, 2 California Code of Regulations section 18954.1.² This approach would result, for example, in the aggregation of gifts from a lobbyist who also directs and controls the gifts of his or her lobbying firm, or would presume that gifts from a lobbyist and an entity in which the lobbyist has an ownership interest of more than 50 percent should be aggregated.

Revisions Specific to the "July Alternative" Initiative Ordinance

Lobbyist Contribution Ban. Language proposed in Sec. 2.115(e)(1) has been modified to clarify that the ban also applies to contributions to committees controlled by the elective City officers and candidates for elective City office. The July alternative issued on July 15 referenced only receipt by officers and candidates and inadvertently omitted referring to their controlled committees.

In addition, the revised July alternative includes new language in Sec. 2.115(e)(1) to support the effectiveness of the tailored lobbyist contribution ban. With a proposed ban tied directly to a lobbyist's registration, a question arose about the potential that a lobbyist might *de*-register simply to enable a contribution, and then *re*-register to continue lobbying. To help avoid that potential circumvention of the ban and its policy goals, Sec. 2.115(e)(1) would prohibit lobbyists from making a contribution to an elected official if the lobbyist had been registered to lobby the official's agency within the previous 90 days.

Other Considerations

Controlled Committees. Some public comment received addressed the definition of a "controlled committee," specifically seeking clarity about which committees controlled by an elective City officer or candidate would be included in the scope of the proposed new lobbyist contribution and bundling restrictions. In both versions of the initiative ordinance, "candidate," "committee," "controlled committee," use existing definitions of City and state law. "State committee" would be newly added to mean a committee formed to support or oppose candidates for state office or state ballot measures.

Table 1 below illustrates how these definitions, taken together, would apply to various recipient committees formed by elective City officers or candidates for elective City office for purposes of the lobbyist contribution and bundling restrictions:

² See Attachment 4.

Table 1: How lobbyist and contribution restrictions would apply to committees controlled by elective City officers and candidates

Restrictions would apply to:	Restrictions would not apply to:
<ul style="list-style-type: none"> ▪ A committee formed by a candidate seeking elective City office ▪ A committee formed to support or oppose a local ballot measure ▪ A legal defense fund established by an elective City officer or candidate for elective City office 	<ul style="list-style-type: none"> ▪ A committee formed by an elective city officer to seek a state office ▪ A committee formed to support or oppose a state ballot measure ▪ A committee that makes independent expenditures to support or oppose a candidate³

Operational Date of the July Alternative. As noted in the July 15 memo, the July alternative will require the development of significant modifications to the existing lobbyist online filing system. Those modifications, however, are outside of the scope of the Commission’s existing contracts and will require the staff to initiate a lengthy procurement process to secure a new contract for these modifications. After a new contract is secured, staff would then need to work with the contractor to implement the modifications. The proposed January 1, 2018 operational date is aggressive but we believe it is a reasonable goal.

Appropriation. The appropriation figure cited in the July 15 reflected likely costs for systems design and implementation of more robust registration and registration amendment tools. It did not reflect likely costs associated with level of compliance guidance, systems support, and auditing anticipated with this approach. The revised July alternative includes both systems and personnel costs, estimated to total \$115,000.

Lastly, the revised July alternative would help ensure steps to implement the new law could begin shortly following the measure’s enactment, should the voters approve it. As referenced in the July 15 staff memo but inadvertently not included in the accompanying ordinance language, the revised July alternative provides that funds would be appropriated and made available 30 days after the Board of Supervisors declares the results of the November 8, 2016 election, with the annual appropriation following depletion of that initial funding.

³ A court would likely find that prohibiting contributions to an independent expenditure committee would be unconstitutional. See *Committee on Jobs Candidate Advocacy Fund et al v. Herrera et al*, 2007 WL 2790351 (N.D. Cal. Sept. 20, 2007), in which the U.S. District Court for the Northern District of California granted a preliminary injunction enjoining the City from enforcing a local provision that sought to limit contributions to independent expenditure committees.

Item 4 -- Supplemental Memo, Attachment 1

From: [Alex Kaplan](#)
To: [Pelham, LeeAnn \(ETH\)](#); [Ethics Commission, \(ETH\)](#)
Subject: Brief follow-up to Friday's memo on proposed lobbyist restriction measure
Date: Monday, July 18, 2016 4:31:58 PM

LeeAnn,

You and your staff did a wonderful job on Friday's memo, and the comparative charts are very useful. I want thank you and the staff for all your hard work on this measure.

1. As you know, Larry Bush has asked whether the measure's restrictions on lobbyist contributions and bundling are meant to cover recipient "committee[s] primarily formed to support or oppose such a candidate" (as the state tailored lobbyist ban on contributions does via 2 CCR Sec. 18572). He also asks if various recipient committees, such as "Recall Committees, Legal Defense Committees, Inaugural Committees, . . . or 'Draft committees' that in effect serve to oppose existing filed candidates," are also covered - perhaps as committees that are "primary formed to support . . . such a candidate." While Larry knows more about San Francisco's campaign finance loopholes than I do, I share his concern that a contribution to a committee supporting a candidate is in most circumstances just as useful to the candidate as a contribution directly to their candidate committee, and ask that staff clarify its intention to include or not include "committees primarily formed to support . . . such a candidate," as well as how that would affect the various types of committees Larry has listed. Represent.Us supports the inclusion of such recipient committees if staff agrees that contributions made to them are similarly valuable to a candidate.

2. I want to echo Larry's suggestion that the January 1, 2018, start date for the July alternative be moved earlier by at least a few months, if possible, in order to apply to recipient committees active prior to the January 1 date relative to the November 2018 election.

3. I'd like to direct attention to my concern about the scenario of "pre-contribution de-registration" that I articulated in my last letter to the Commission. Without adding a "buffer" amount of time during which the contribution and bundling bans apply after a lobbyist "de-registers" from targeting an agency, lobbyists will be able to de-register from that target agency and swiftly make a contribution or bundle large aggregate contributions. Alternatively, given that lobbyist bundling in many ways presents a greater risk of corruption or perceived corruption than do lobbyist contributions, and to effectively address the partner scenario of "post-contribution registration," I suggested that the staff forego setting a buffer and instead apply the bundling ban without target agency tailoring. I hope these concerns have been taken into account.

4. Finally, the language relating to lobbyist registration of targeted agencies on page 6 line 7 (contact) and page 7 line 6 (expenditure) uses the phrase "will attempt." I suggest using "will *or may* attempt" instead. Because a lobbyist may not know who they plan to attempt to influence, the addition of the word "may" is in line with the purpose of the registration provision.

Thank you very much for your time.
Alex Kaplan

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Alex Kaplan

Policy Director, Represent.Us



Time zone: Pacific

From: [Alex Kaplan](#)
To: [Pelham, LeeAnn \(ETH\)](#); [Ethics Commission, \(ETH\)](#)
Subject: One additional consideration for lobbyist restriction measure
Date: Tuesday, July 19, 2016 6:38:02 AM

Dear LeeAnn,

For the gift prohibition section only, I believe it would be in line with the intent of the Commissioners to extend the prohibition to lobbying firms. As we've seen, it is sometimes the lobbying firm in which the lobbyist works, and not the lobbyist himself, who makes large gifts of travel (directly or through a third party).

It would be simple to effectuate this change. Using the July alternative as an example, I would recommend:

1. Add on Page 5 Line 7 the following: "*Lobbying firm shall be defined as set forth in the Political Reform Act, Government Code Section 81000 et seq., and the regulations adopted thereunder.*" Note that "lobbying firm" is defined at Cal.Gov.Code § 82038.5 to cover business entities that employ a lobbyist and receive payment for that lobbyist's actions (and that it differs from "lobbyist employer" at Cal.Gov.Code § 82039.5).
2. Add "*or lobbying firm*" after "lobbyist" in the following lines
 1. Page 11, lines 19 and 23
 2. Page 12, lines 4 and 8

I hope you will consider building this recommendation into your final memo for release tomorrow.

Thank you,
Alex

--

Alex Kaplan

Policy Director, Represent.Us



Time zone: Pacific

From: [LARRY BUSH](#)
To: [Pelham, LeeAnn \(ETH\)](#)
Subject: Staff lobbyist draft -- questions
Date: Monday, July 18, 2016 8:21:40 AM

Good Morning, Ms. Pelham:

Thank you for providing the staff draft of the proposed lobbyist amendments for the November ballot.

I am seeking clarification on a few points.

The draft states, under “Purpose of the Act” that “*governmental decisions are not, and do not appear to be, influenced by the giving of personal benefits to City officers by lobbyists, or by lobbyists’ financial support of City officers’ political interests.*” (underline not in original)

I need a clarification on whether this purpose is implemented in the proposed draft when it comes to Recall Committees, Legal Defense Committees, Inaugural Committees, contributions to third party committees that support or oppose a candidate or officeholder, or “Draft committees” that in effect serve to oppose existing filed candidates?

With regard to committees that support or oppose a candidate or officeholder, that language is in state law, which the staff was requested to use in drafting this new proposal for the July meeting. In addition, that language is in existing lobbyist law under lobbyist required disclosures.

Would it be correct to state that this draft continues requiring lobbyists to disclose those contributions to third party committees, while banning all other lobbyist contributions to candidate committees? Does Ethics believe this presents a double standard for lobbyists and the public, allowing one form of contributions but not other forms?

The prohibition on contributions to nonprofits seems to be limited to those involving travel expenses. Has the staff had an opportunity to review other nonprofits such as Friends of San Francisco City Planning, the Parks Alliance, and Foundation and Friends of the San Francisco Public Library that have registered lobbyists on their boards and spend their money to advance hiring, supplies and staff for those departments?

Also, I hope for some clarification on why the implementation date would be set for January 1, 2018.

Our review of past practices suggests that this date comes after committees have formed, filed and begun collecting contributions for the June 2018 and November 2018 elections

Using the 2016 June and November elections as examples, we found that several dozen ballot measure committees and candidates had launched committees and begun collecting contributions as early as June 2015. Might a July 1 implementation date still provide sufficient time for Ethics to have training and forms available, and avoid the confusion of an implementation date that comes in mid-election cycle?

I look forward to learning more, and working with you and the commission.

Larry Bush for Friends of Ethics

From: [Ethics Commission. \(ETH\)](#)
To: [Pelham, LeeAnn \(ETH\)](#)
Subject: FW: In Support of proposed changes to Section 2.115 of Article II, Chapter 1 of the Campaign and Governmental Conduct Code
Date: Monday, July 18, 2016 11:35:54 AM
Attachments: [foe-and-rusf-proposal-for-san-francisco-ethics-commission.pdf](#)

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415-252-3100
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<http://www.sfethics.org>

PLEASE NOTE THAT NOTHING IN THIS E-MAIL IS INTENDED TO CONSTITUTE A WRITTEN FORMAL OPINION OF THE SAN FRANCISCO ETHICS COMMISSION, AND THE RECIPIENT MAY NOT RELY ON THIS E-MAIL AS A DEFENSE IN ANY ENFORCEMENT PROCEEDING.

From: Jessica Wilbur [mailto:jessicamwilbur@gmail.com]
Sent: Monday, July 18, 2016 10:52 AM
To: Ethics Commission, (ETH) <ethics.commission@sfgov.org>
Subject: In Support of proposed changes to Section 2.115 of Article II, Chapter 1 of the Campaign and Governmental Conduct Code

To whom it may concern,

I am not sure if I will be able to attend next Monday's Ethics Commission meeting; but would like to express my support of the proposed changes both below and attached:

We write to ask you to vote to place on the November 2016 ballot the below proposed changes to Section 2.115 of Article II, Chapter 1 of the Campaign and Governmental Conduct Code, amending section (a) and adding new sections (e), (f), and (g):

(a) GIFT LIMIT. No lobbyist shall make gifts to an officer or parent, spouse, or child of an officer of the City and County. This prohibition shall include gifts of travel and that have a fair market value of more than \$25, except for those gifts that would otherwise qualify for one of the exemptions under Section 3.216

(b) of this Code and its implementing regulations. * * * *

(e) LIMIT ON CAMPAIGN CONTRIBUTIONS. No lobbyist shall make political campaign contributions exceeding \$50 in the aggregate in an election to any officer of the City and County, a candidate for such office, or a committee controlled by such officer or candidate.

(f) BUNDLING PROHIBITION: No lobbyist shall deliver, bundle, arrange, or otherwise transmit political campaign contributions, other than contributions made by the lobbyist, to any officer of the City and County, a candidate for such office, or a committee controlled by

such officer or candidate.

(g) REGULATIONS TO PREVENT CIRCUMVENTION. The Ethics Commission may adopt regulations to prevent circumvention of the provisions of this Section.

I sincerely hope to see these measure on the ballot this November.

Best,

Jessica M. Wilbur



LinkedIn: www.linkedin.com/pub/jessica-wilbur/44/396/908/

April 19, 2016

San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220, San Francisco, CA 94102
Via email to: ethics.commission@sfgov.org

Dear Commissioners:

We are a group of San Francisco voters concerned about the improper role of lobbyists in city campaign financing as well as the ability of lobbyists to make gifts to our elected officials. These are demonstrated problems in San Francisco that rightfully anger voters and reduce their confidence in our city's system of electoral politics. We write to ask you to vote to place on the November 2016 ballot the below proposed changes to Section 2.115 of Article II, Chapter 1 of the Campaign and Governmental Conduct Code, amending section (a) and adding new sections (e), (f), and (g):

(a) GIFT LIMIT. No lobbyist shall make gifts to an officer *or parent, spouse, or child of an officer* of the City and County. *This prohibition shall include gifts of travel and ~~that have a fair market value of more than \$25, except for~~ those gifts that would otherwise qualify for one of the exemptions under Section 3.216(b) of this Code and its implementing regulations.*

* * * *

(e) LIMIT ON CAMPAIGN CONTRIBUTIONS. No lobbyist shall make political campaign contributions exceeding \$50 in the aggregate in an election to any officer of the City and County, a candidate for such office, or a committee controlled by such officer or candidate.

(f) BUNDLING PROHIBITION: No lobbyist shall deliver, bundle, arrange, or otherwise transmit political campaign contributions, other than contributions made by the lobbyist, to any officer of the City and County, a candidate for such office, or a committee controlled by such officer or candidate.

(g) REGULATIONS TO PREVENT CIRCUMVENTION. The Ethics Commission may adopt regulations to prevent circumvention of the provisions of this Section.

Discussion

In 2000, California Proposition 34 created a prohibition on lobbyist contributions to state officers and candidates.¹ This prohibition was upheld in court,² and similar prohibitions have more recently been upheld or viewed favorably by federal circuit courts.³ However, no prohibition exists in San Francisco.

While San Francisco's \$500 contribution limit does much to diffuse the direct monetary influence any one individual may have in our elections, SF OpenData shows that registered lobbyists do routinely make maximum contributions to elected officials and candidates.⁴ But what is more concerning is that these lobbyists bundle maximum contributions in such numbers that city residents may reasonably assume that

¹ Cal. Govt. Code § 85702.

² *Inst. of Governmental Advocates v. Fair Political Practices Comm'n*, 164 F. Supp. 2d 1183 (E.D. Cal. 2001).

³ *Preston v. Leake*, 660 F.3d 726 (4th Cir. 2011); *Green Party of Connecticut v. Garfield*, 616 F.3d 189, 207 (2d Cir. 2010).

⁴ "Lobbyist Activity - Political Contributions." SF OpenData. Accessed April 4, 2016. <https://data.sfgov.org/City-Management-and-Ethics/Lobbyist-Activity-Political-Contributions/sa8r-purn>.

there exists a quid pro quo arrangement between some candidates and lobbyists seeking specific outcomes. When this appearance arises, confidence in our city's governmental process withers. And where an actual such relationship exists, the process is materially harmed.

Our research shows that lobbyist bundling is a significant problem.⁵ In total, candidates for city office have taken well over \$250,000 in bundled contributions from lobbyists over the last 5 years. Moreover, just four lobbyists – bundling an average of \$32,500 each – transmitted \$130,000 to a 2015 mayoral campaign. And one lobbyist alone bundled \$80,000 for just two recipients in the 2015 election.

Limiting the amount lobbyists can contribute to \$50 per candidate per election preserves the associational freedoms at the core of political contributions, but subjects the class to a lower limit than the general public because of the corruption risk inherent to their profession. And prohibiting lobbyist bundling does nothing to limit the key contribution rights of those persons whose contributions are being bundled by the lobbyist. Instead, it simply requires that contributors send their checks directly to candidates instead of allowing lobbyists to peddle such contributions for influence and outcomes.

In addition, we believe that lobbyists should not be able to give gifts to officers of the City. While the current gift prohibition stands at \$25 for non-exempted gifts, the notion that lobbyists may give gifts to those they are lobbying is harmful to the public's conception of the integrity of our governmental process. Changing this already low limit to a prohibition will not significantly alter the value of non-exempted gifts currently allowed, and a prohibition instills far more confidence in the electorate than does a limit. Moreover, that lobbyists may currently give unlimited gifts to public officials – including gifts of travel – is an affront to a clean governmental process. The gift limit or ban should apply to all types of gifts.

The reasonable and narrowly tailored restrictions suggested above burden only lobbyists, and not significantly. Lobbying is an important and valuable part of our policymaking process, but San Francisco voters should be able to feel confident that such persons employed to influence the decisions of our elected officials and City officers are not mixing the business of information expertise with large campaign contributions and gifts. As you so commendably did with Proposition C in 2015, we urge you to vote to place the proposed language on the November 2016 ballot so voters may have their say.

Respectfully,

Friends of Ethics members

Larry Bush
Bob Dockendorff
Hulda Garfolo
Joe Kelley
Charles Marsteller
Bob Planthold
Marc Saloman
Sharyn Saslafsky
Elena Schmid
Robert VanRavenswaay

Represent.Us San Francisco members

Morgan Aitken-Young
Kevin Baker
Tyler Disney
Zach Goldfine
Charlotte Hill
Carol Lena
Ben Liyanage
David Mihai
Mathew Sommers

CC: LeeAnn Pelham, Executive Director, San Francisco Ethics Commission

⁵ You can view our research spreadsheet on lobbyist contributions and bundling at: bit.ly/1SI0xpi

**Item 4 -- Supplemental Memo,
Attachment 2**

1 [Initiative Ordinance - Campaign and Governmental Conduct Code - Restricting Gifts and
2 Contributions from Lobbyists]

3

4 **Motion ordering submitted to the voters, at an election to be held November 8, 2016, an**
5 **ordinance amending the Campaign and Governmental Conduct Code to restrict gifts**
6 **and campaign contributions from lobbyists.**

7

8 MOVED, That pursuant to Charter Section 15.102, the Ethics Commission hereby
9 submits the following ordinance to the voters of the City and County of San Francisco, at an
10 election to be held on November 8, 2016.

11

12 **Ordinance amending the Campaign and Governmental Conduct Code to restrict gifts**
13 **and campaign contributions from lobbyists.**

14 NOTE: **Unchanged Code text and uncodified text** are in plain font.
15 **Additions to Codes** are in *single-underline italics Times New Roman font*.
16 **Deletions to Codes** are in ~~strikethrough italics Times New Roman font~~.
17 **Asterisks (* * * *)** indicate the omission of unchanged Code subsections or
18 parts of tables.

17

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

19 Section 1. Article II, Chapter 1 of the Campaign and Governmental Conduct Code is
20 hereby amended by revising Sections 2.100, 2.103, 2.105, and 2.115, to read as follows:

21 **SEC. 2.100. FINDINGS.**

22 (a) The Board of Supervisors finds that public disclosure of the identity and extent of
23 efforts of lobbyists to influence decision-making regarding local legislative and administrative
24 matters is essential to protect public confidence in the responsiveness and representative
25 nature of government officials and institutions. It is the purpose and intent of the Board of

1 Supervisors to impose reasonable registration and disclosure requirements to reveal
2 information about lobbyists' efforts to influence decision-making regarding local legislative and
3 administrative matters.

4 (b) To increase public confidence in the fairness and responsiveness of governmental decision
5 making, it is the further purpose and intent of the people of the City and County of San Francisco to
6 restrict gifts, campaign contributions, and bundled campaign contributions from lobbyists to City
7 officers so that governmental decisions are not, and do not appear to be, influenced by the giving of
8 personal benefits to City officers by lobbyists, or by lobbyists' financial support of City officers'
9 political interests.

10 ~~(b)(c)~~ Corruption and the appearance of corruption in the form of campaign consultants
11 exploiting their influence with City officials on behalf of private interests may erode public
12 confidence in the fairness and impartiality of City governmental decisions. The City and
13 County of San Francisco has a compelling interest in preventing corruption or the appearance
14 of corruption which could result in such erosion of public confidence. Prohibitions on
15 campaign consultants lobbying current and former clients will protect public confidence in the
16 electoral and governmental processes. It is the purpose and intent of the people of the City
17 and County of San Francisco in enacting this Chapter to prohibit campaign consultants from
18 exploiting or appearing to exploit their influence with City officials on behalf of private
19 interests.

20 **SEC. 2.103. AMENDMENT OR REPEAL.**

21 With respect to any provisions of this Chapter regarding regulation of expenditure
22 lobbyists, or restrictions on gifts, campaign contributions, or bundled campaign contributions from
23 lobbyists, approved by the voters, the Board of Supervisors may amend those provisions if all
24 of the following conditions are met:

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

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

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

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

8 **SEC. 2.105. DEFINITIONS.**

9 Whenever used in this Chapter 1, the following words and phrases shall be defined as
10 provided in this Section 2.105:

11 * * * *

12 "Candidate" shall have the same meaning as set forth in Section 1.104 of this Code.

13 * * * *

14 "Committee" shall be defined as set forth in the California Political Reform Act, California
15 Government Code section 81000, et seq.

16 "Contact lobbyist" means any individual who (1) makes five or more contacts in a
17 calendar month with officers of the City and County on behalf of the individual's employer; or
18 (2) makes one or more contacts in a calendar month with an officer of the City and County on
19 behalf of any person who pays or who becomes obligated to pay the individual or the
20 individual's employer for lobbyist services. An individual is not a contact lobbyist if that
21 individual is lobbying on behalf of a business of which the individual owns a 20% or greater
22 share.

23 "Contribution" shall have the same meaning as set forth in the California Political Reform Act,
24 California Government Code Section 81000, et seq.

1 “Controlled committee” shall have the same meaning as set forth in Section 1.104 of this Code,
2 but shall not include any state committees.

3 “Dependent child” shall mean a child or stepchild of a public official, who is under 18 years
4 old and whom the official is entitled to claim as a dependent on his or her federal tax return.

5 * * * *

6 “Election cycle” shall mean the period beginning when a candidate forms a committee for
7 election to City elective office and concluding (a) if the candidate was elected, either at the end of the
8 candidate’s term in office or on the date on which the candidate forms a committee for election to
9 another City elective office, whichever is earlier, or (b) if the candidate was not elected, the date of the
10 election.

11 * * * *

12 "Expenditure lobbyist" means any person, other than any government entity, or officer
13 or employee of a government entity acting in an official capacity, who, directly or indirectly,
14 makes payments totaling \$2,500 or more in a calendar month to solicit, request, or urge other
15 persons to communicate directly with an officer of the City and County in order to influence
16 local legislative or administrative action. Examples of the types of activities the payment for
17 which can count toward the \$2,500 threshold referred to in the previous sentence include but
18 are not limited to public relations, media relations, advertising, public outreach, research,
19 investigation, reports, analyses, and studies to the extent those activities are used to further
20 efforts to solicit, request or urge other persons to communicate directly with an officer of the
21 City and County. The following types of payments shall not be considered for the purpose of
22 determining whether a person is an expenditure lobbyist: payments made to a registered
23 contact lobbyist or the registered contact lobbyist's employer for lobbyist services; payments
24 made to an organization for membership dues; payments made by an organization to
25 distribute communications to its members; payments made by a news media organization to

1 develop and distribute its publications; and payments made by a client to a representative to
2 appear in an adjudicatory proceeding before a City agency or department.

3 "Gift" shall be defined as set forth in the Political Reform Act, Government Code
4 Section 81000 et seq., and the regulations adopted thereunder.

5 "Gift of travel" shall mean payment, advance, or reimbursement for travel, including
6 transportation, lodging, and food and refreshment connected with the travel.

7 "Lobbyist" means a contact lobbyist or expenditure lobbyist.

8 * * * *

9 "Public event" shall mean an event or gathering that any member of the public may attend, has
10 been publicly announced and publicized in advance, and for which there is no admission cost or fee.

11 * * * *

12 "State committee" shall mean a committee formed to support or oppose candidates for state
13 office or state ballot measures.

14 * * * *

15 **SEC. 2.115. LIMITS AND PROHIBITIONS.**

16 **(a) GIFT ~~LIMIT~~ PROHIBITION.**

17 (1) No lobbyist shall make any gifts, including any gift of travel, to an officer of the
18 City and County, or to a parent, spouse, domestic partner registered under state law, or dependent
19 child of an officer of the City and County that have a fair market value of more than \$25, except for
20 those gifts that would qualify for one of the exemptions under Section 3.216(b) of this Code and its
21 implementing regulations. No contact lobbyist shall make any payment to a third-party for the purpose
22 of paying for a gift or any part of a gift, including any gift of travel, to an officer of the City and
23 County, or to a parent, spouse, domestic partner registered under state law, or dependent child of an
24 officer of the City and County.

1 (2) No officer of the City and County may accept or solicit any gift, including any gift of
2 travel, from any lobbyist for the officer's personal benefit or for the personal benefit of the officer's
3 parent, spouse, domestic partner registered under state law, or dependent child. No officer of the City
4 and County may accept or solicit any gift, including any gift of travel, from a third-party if the officer
5 knows or has reason to know that the third-party is providing the gift or gift of travel on behalf of a
6 lobbyist.

7 (3) Exception for gifts of food or refreshment provided by 501(c)(3) nonprofit
8 organizations. Notwithstanding the prohibitions set forth in subsections (1) and (2), lobbyists may offer
9 gifts of food or refreshment worth less \$25 or less per occasion, and officers of the City and County
10 may accept such gifts, if the lobbyist is a 501(c)(3) nonprofit organization, the gift of food or
11 refreshment is offered in connection with a public event held by the 501(c)(3) nonprofit organization,
12 and the same gift of food or refreshment is made available to all attendees of the public event.

13 (4) Aggregation of gifts. For purposes of the gift limits imposed by subsections (1)-(3),
14 gifts shall be aggregated set forth in California Code of Regulations, Title 2, Section 18945.1, as it may
15 hereafter be amended.

16 **(b) FUTURE EMPLOYMENT.** No lobbyist shall cause or influence the introduction or
17 initiation of any local legislative or administrative action for the purpose of thereafter being
18 employed or retained to secure its granting, denial, confirmation, rejection, passage, or defeat.

19 **(c) FICTITIOUS PERSONS.** No contact lobbyist shall contact any officer of the City
20 and County in the name of any fictitious person or in the name of any real person, except with
21 the consent of such real person.

22 **(d) EVASION OF OBLIGATIONS.** No lobbyist shall attempt to evade the obligations
23 imposed by this Chapter through indirect efforts or through the use of agents, associates, or
24 employees.

25 **(e) CAMPAIGN CONTRIBUTION - LIMITS.**

1 (1) No lobbyist shall make any contribution which will cause the total amount
2 contributed by that lobbyist to any candidate, including the candidate's controlled committees, to
3 exceed \$100 in an election cycle.

4 (2) No candidate may accept or solicit any contribution from a lobbyist which will
5 cause the total amount contributed by that lobbyist to the candidate, including the candidate's
6 controlled committees, to exceed \$100 in an election cycle.

7 (f) **BUNDLING OF CAMPAIGN CONTRIBUTIONS - LIMITS.** No lobbyist shall deliver or
8 transmit, or deliver or transmit through a third party, any contribution made by another person to any
9 candidate, or the candidate's controlled committees, if the total combined amount of the contributions
10 delivered or transmitted by the lobbyist and contributions made by the lobbyist to the candidate exceeds
11 the amount of the contribution limit established in subsection 2.115(e).

12 (g) **AGGREGATION OF AFFILIATED ENTITY CONTRIBUTIONS.** For purposes of the
13 contribution limits imposed by subsections (e) and (f), the contributions of an entity whose
14 contributions are directed and controlled by any lobbyist shall be aggregated with contributions made
15 by that lobbyist as set forth in Section 1.114(c).

16 (h) **REGULATIONS.** The Ethics Commission may adopt regulations implementing this
17 Section 2.115, but such regulations may not establish any exceptions from the limits and prohibitions
18 set forth therein.

19
20 Section 2. Scope of Ordinance. In enacting this ordinance, the People of the City and
21 County of San Francisco intend to amend only those words, phrases, paragraphs,
22 subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other
23 constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions
24 or deletions, in accordance with the "Note" that appears under the official title of the
25 ordinance.

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Section 3. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The voters hereby declare that they would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

Section 4. Effective and Operative Dates. This ordinance shall become effective 10 days after the Board of Supervisors declares the results of the November 8, 2016 election. This ordinance shall become operative on January 1, 2017.

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

By: _____
ANDREW SHEN
Deputy City Attorney

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**Item 4 -- Supplemental Memo,
Attachment 3**

1 [Initiative Ordinance - Campaign and Governmental Conduct Code - Restricting Gifts and
2 Contributions from Lobbyists]

3

4 **Motion ordering submitted to the voters, at an election to be held November 8, 2016, an**
5 **ordinance amending the Campaign and Governmental Conduct Code to restrict gifts**
6 **and campaign contributions from lobbyists.**

7

8 MOVED, That pursuant to Charter Section 15.102, the Ethics Commission hereby
9 submits the following ordinance to the voters of the City and County of San Francisco, at an
10 election to be held on November 8, 2016.

11

12 **Ordinance amending the Campaign and Governmental Conduct Code to restrict gifts**
13 **and campaign contributions from lobbyists.**

14 NOTE: **Unchanged Code text and uncodified text** are in plain font.
15 **Additions to Codes** are in *single-underline italics Times New Roman font*.
16 **Deletions to Codes** are in ~~strikethrough italics Times New Roman font~~.
17 **Asterisks (* * * *)** indicate the omission of unchanged Code subsections or
18 parts of tables.

17

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

19 Section 1. Article II, Chapter 1 of the Campaign and Governmental Conduct Code is
20 hereby amended by revising Sections 2.100, 2.103, 2.105, 2.110, and 2.115, to read as
21 follows:

22 **SEC. 2.100. FINDINGS.**

23 (a) The Board of Supervisors finds that public disclosure of the identity and extent of
24 efforts of lobbyists to influence decision-making regarding local legislative and administrative
25 matters is essential to protect public confidence in the responsiveness and representative

1 nature of government officials and institutions. It is the purpose and intent of the Board of
2 Supervisors to impose reasonable registration and disclosure requirements to reveal
3 information about lobbyists' efforts to influence decision-making regarding local legislative and
4 administrative matters.

5 (b) To increase public confidence in the fairness and responsiveness of governmental decision
6 making, it is the further purpose and intent of the people of the City and County of San Francisco to
7 restrict gifts, campaign contributions, and bundled campaign contributions from lobbyists to City
8 officers so that governmental decisions are not, and do not appear to be, influenced by the giving of
9 personal benefits to City officers by lobbyists, or by lobbyists' financial support of City officers'
10 political interests.

11 ~~(b)~~(c) Corruption and the appearance of corruption in the form of campaign consultants
12 exploiting their influence with City officials on behalf of private interests may erode public
13 confidence in the fairness and impartiality of City governmental decisions. The City and
14 County of San Francisco has a compelling interest in preventing corruption or the appearance
15 of corruption which could result in such erosion of public confidence. Prohibitions on
16 campaign consultants lobbying current and former clients will protect public confidence in the
17 electoral and governmental processes. It is the purpose and intent of the people of the City
18 and County of San Francisco in enacting this Chapter to prohibit campaign consultants from
19 exploiting or appearing to exploit their influence with City officials on behalf of private
20 interests.

21 **SEC. 2.103. AMENDMENT OR REPEAL.**

22 With respect to any provisions of this Chapter regarding regulation of expenditure
23 lobbyists, registration requirements, amendment of registration information and monthly disclosures,
24 or restrictions on gifts, campaign contributions, or bundled campaign contributions from lobbyists,
25

1 approved by the voters, the Board of Supervisors may amend those provisions if all of the
2 following conditions are met:

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

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

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

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

11 **SEC. 2.105. DEFINITIONS.**

12 Whenever used in this Chapter 1, the following words and phrases shall be defined as
13 provided in this Section 2.105:

14 * * * *

15 "Agency" shall mean a unit of City government that submits its own budget to the Mayor and
16 Board of Supervisors pursuant to Article IX of the City Charter.

17 * * * *

18 "Candidate" shall have the same meaning as set forth in Section 1.104 of this Code.

19 * * * *

20 "Committee" shall be defined as set forth in the California Political Reform Act, California
21 Government Code section 81000, et seq.

22 "Contact lobbyist" means any individual who (1) makes five or more contacts in a
23 calendar month with officers of the City and County on behalf of the individual's employer; or
24 (2) makes one or more contacts in a calendar month with an officer of the City and County on
25 behalf of any person who pays or who becomes obligated to pay the individual or the

1 individual's employer for lobbyist services. An individual is not a contact lobbyist if that
2 individual is lobbying on behalf of a business of which the individual owns a 20% or greater
3 share.

4 "Contribution" shall have the same meaning as set forth in the California Political Reform Act,
5 California Government Code Section 81000, et seq.

6 "Controlled committee" shall have the same meaning as set forth in Section 1.104 of this Code,
7 but shall not include any state committees.

8 "Dependent child" shall mean a child or stepchild of a public official, who is under 18 years
9 old and whom the official is entitled to claim as a dependent on his or her federal tax return.

10 * * * *

11 "Expenditure lobbyist" means any person, other than any government entity, or officer
12 or employee of a government entity acting in an official capacity, who, directly or indirectly,
13 makes payments totaling \$2,500 or more in a calendar month to solicit, request, or urge other
14 persons to communicate directly with an officer of the City and County in order to influence
15 local legislative or administrative action. Examples of the types of activities the payment for
16 which can count toward the \$2,500 threshold referred to in the previous sentence include but
17 are not limited to public relations, media relations, advertising, public outreach, research,
18 investigation, reports, analyses, and studies to the extent those activities are used to further
19 efforts to solicit, request or urge other persons to communicate directly with an officer of the
20 City and County. The following types of payments shall not be considered for the purpose of
21 determining whether a person is an expenditure lobbyist: payments made to a registered
22 contact lobbyist or the registered contact lobbyist's employer for lobbyist services; payments
23 made to an organization for membership dues; payments made by an organization to
24 distribute communications to its members; payments made by a news media organization to

25

1 develop and distribute its publications; and payments made by a client to a representative to
2 appear in an adjudicatory proceeding before a City agency or department.

3 "Gift" shall be defined as set forth in the Political Reform Act, Government Code
4 Section 81000 et seq., and the regulations adopted thereunder.

5 "Gift of travel" shall mean payment, advance, or reimbursement for travel, including
6 transportation, lodging, and food and refreshment connected with the travel.

7 "Lobbyist" means a contact lobbyist or expenditure lobbyist.

8 * * * *

9 "Public event" shall mean an event or gathering that any member of the public may attend, has
10 been publicly announced and publicized in advance, and for which there is no admission cost or fee.

11 * * * *

12 "State committee" shall mean a committee formed to support or oppose candidates for state
13 office or state ballot measures.

14 * * * *

15 **SEC. 2.110. REGISTRATION AND DISCLOSURES; FEES; TERMINATION OF**
16 **REGISTRATION.**

17 (a) **REGISTRATION OF LOBBYISTS REQUIRED.** Lobbyists shall register with the
18 Ethics Commission and comply with the disclosure requirements imposed by this Chapter 1.
19 Such registration shall occur no later than five business days of qualifying as a lobbyist.
20 Contact lobbyists shall register prior to making any additional contacts with an officer of the
21 City and County of San Francisco and expenditure lobbyists shall register prior to making any
22 additional payments to influence local legislative or administrative action.

23 (b) **REGISTRATION.**

24 (1) **Contact lobbyists.** At the time of initial registration each contact lobbyist
25 shall report to the Ethics Commission the following information:

1 (A) The name, business address, e-mail address, and business
2 telephone number of the lobbyist;

3 (B) The name, business address, and business telephone number of
4 each client for whom the lobbyist is performing lobbyist services;

5 (C) The name, business address, and business telephone number of the
6 lobbyist's employer, firm or business affiliation; ~~and~~

7 (D) Each agency that the contact lobbyist has attempted, will attempt, or may
8 attempt to influence on behalf of any client; and

9 ~~(D)~~(E) Any other information required by the Ethics Commission through
10 regulation, consistent with the purposes and provisions of this Chapter.

11 (2) **Expenditure lobbyists.** At the time of initial registration each expenditure
12 lobbyist shall report to the Ethics Commission the following information:

13 (A) The name, mailing address, e-mail address, and telephone number
14 of the lobbyist;

15 (B) Expenditure lobbyists that are entities shall provide:

16 (i) a description of their nature and purpose(s);

17 (ii) if the expenditure lobbyist is a corporation, the names of the
18 corporation's chief executive officer, chief financial officer, and secretary, any officer who
19 authorized payments to influence local legislative and administrative action, and any person
20 who owns more than 20 percent of the corporation;

21 (iii) if the expenditure lobbyist is a partnership, the name of each
22 partner if the entity has fewer than 10, or the name of the partner with the greatest ownership
23 interest if the entity has 10 or more partners;

1 (iv) for any other type of business entity, the name of each person
2 with an ownership interest if the entity has fewer than 10 owners, or the name of the person
3 with the greatest ownership interest in the entity, if the entity has 10 or more owners;

4 (C) Expenditure lobbyists that are individuals shall provide a description
5 of their business activities; ~~and~~

6 (D) Each agency that the expenditure lobbyist has made, will make, or may
7 make payments to influence; and

8 ~~(D)~~(E) Any other information required by the Ethics Commission through
9 regulation, consistent with the purposes and provisions of this Chapter.

10 (c) **LOBBYIST DISCLOSURES.** For each calendar month, each lobbyist shall submit
11 the following information no later than the fifteenth calendar day following the end of the
12 month:

13 (1) **Contact lobbyists.** Each contact lobbyist shall report to the Ethics
14 Commission the following information:

15 (A) The name, business address and business telephone number of
16 each person from whom the lobbyist or the lobbyist's employer received or expected to
17 receive economic consideration to influence local legislative or administrative action during
18 the reporting period.

19 (B) The name of each officer of the City and County of San Francisco
20 with whom the lobbyist made a contact during the reporting period.

21 (C) The date on which each contact was made.

22 (D) The local legislative or administrative action that the lobbyist sought
23 to influence, including, if any, the title and file number of any resolution, motion, appeal,
24 application, petition, nomination, ordinance, amendment, approval, referral, permit, license,
25 entitlement, or contract, and the outcome sought by the client.

1 (E) The client on whose behalf each contact was made.

2 (F) The amount of economic consideration received or expected by the
3 lobbyist or the lobbyist's employer from each client during the reporting period.

4 (G) All activity expenses incurred by the lobbyist during the reporting
5 period, including the following information:

6 (i) The date and amount of each activity expense;

7 (ii) The full name and official position, if any, of the beneficiary of
8 each activity expense, a description of the benefit, and the amount of the benefit;

9 (iii) The full name of the payee of each activity expense if other
10 than the beneficiary;

11 (iv) Whenever a lobbyist is required to report a salary of an
12 individual pursuant to this subsection (c)(1), the lobbyist need only disclose whether the total
13 salary payments made to the individual during the reporting period was less than or equal to
14 \$250, greater than \$250 but less than or equal to \$1,000, greater than \$1,000 but less than or
15 equal to \$10,000, or greater than \$10,000.

16 (H) All campaign contributions of \$100 or more made or delivered by the
17 lobbyist or the lobbyist's employer, or made by a client at the behest of the lobbyist or the
18 lobbyist's employer during the reporting period to an officer of the City and County, a
19 candidate for such office, a committee controlled by such officer or candidate, or a committee
20 primarily formed to support or oppose such officer or candidate, or any committee primarily
21 formed to support or oppose a measure to be voted on only in San Francisco. This report
22 shall include such campaign contributions arranged by the lobbyist, or for which the lobbyist
23 acted as an agent or intermediary.

24 The following information regarding each campaign contribution shall be
25 submitted to the Ethics Commission:

- 1 (i) The amount of the contribution;
- 2 (ii) The name of the contributor;
- 3 (iii) The date on which the contribution was made;
- 4 (iv) The contributor's occupation;
- 5 (v) The contributor's employer, or if self-employed, the name of
- 6 the contributor's business; and
- 7 (vi) The committee to which the contribution was made.

8 (l) For each contact at which a person providing purely technical data,
9 analysis, or expertise was present, as described in Section 2.106(b)(10), the name, address,
10 employer and area of expertise of the person providing the data, analysis or expertise.

11 ~~(J) Any amendments to the lobbyist's registration information required by~~
12 ~~Subsection (b).~~

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

15 (2) **Expenditure lobbyists.** Each expenditure lobbyist shall report to the Ethics
16 Commission the following information:

17 (A) The local legislative or administrative action that the lobbyist sought
18 to influence, including, if any, the title and file number of any resolution, motion, appeal,
19 application, petition, nomination, ordinance, amendment, approval, referral, permit, license,
20 entitlement, or contract.

21 (B) The total amount of payments made during the reporting period to
22 influence local legislative or administrative action.

23 (C) Each payment of \$1,000 or more made during the reporting period,
24 including the date of payment, the name and address of each person receiving the payment, a
25

1 description of the payment, and a description of the consideration for which the payment was
2 made.

3 (D) All campaign contributions of \$100 or more made or delivered by the
4 lobbyist or made at the behest of the lobbyist during the reporting period to an officer of the
5 City and County, a candidate for such office, a committee controlled by such officer or
6 candidate, or a committee primarily formed to support or oppose such officer or candidate, or
7 any committee primarily formed to support or oppose a measure to be voted on only in San
8 Francisco. This report shall include such campaign contributions arranged by the lobbyist, or
9 for which the lobbyist acted as an agent or intermediary.

10 The following information regarding each campaign contribution shall be
11 submitted to the Ethics Commission:

- 12 (i) The amount of the contribution;
- 13 (ii) The name of the contributor;
- 14 (iii) The date on which the contribution was made;
- 15 (iv) The contributor's occupation;
- 16 (v) The contributor's employer, or if self-employed, the name of
17 the contributor's business; and
- 18 (vi) The committee to which the contribution was made.

19 ~~(E) Any amendments to the lobbyist's registration information required by~~
20 ~~Subsection (b).~~

21 ~~(F)~~(E) Any other information required by the Ethics Commission through
22 regulation, consistent with the purposes and provisions of this Chapter 1.

23 (d) DUTY TO UPDATE INFORMATION. Lobbyists shall amend any information submitted
24 to the Ethics Commission through registration and monthly disclosures within five days of the changed
25 circumstances that require correction or updating of such information.

1 ~~(d)~~(e) **REGISTRATION AND FILING OF DISCLOSURES BY ORGANIZATIONS.** The
2 Ethics Commission is authorized to establish procedures to permit the registration and filing of
3 contact lobbyist disclosures by a business, firm, or organization on behalf of the individual
4 contact lobbyists employed by those businesses, firms, or organizations.

5 ~~(e)~~(f) **FEES; TERMINATION OF REGISTRATION.**

6 (1) At the time of registration each lobbyist shall pay a fee of \$500. On or
7 before every subsequent February 1, each registered lobbyist shall pay an additional fee of
8 \$500.

9 (2) Failure to pay the annual fee by February 1 shall constitute a termination of
10 a lobbyist's registration with the Ethics Commission. The Ethics Commission is also
11 authorized to establish additional processes for the termination of a lobbyist's registration.

12 (3) The Ethics Commission shall waive all registration fees for any full-time
13 employee of a tax-exempt organization presenting proof of the organization's tax-exempt
14 status under 26 U.S.C. Section 501(c)(3) or 501(c)(4).

15 (4) The Ethics Commission shall deposit all fees collected pursuant to this
16 Section in the General Fund of the City and County of San Francisco.

17 **SEC. 2.115. LIMITS AND PROHIBITIONS.**

18 (a) **GIFT ~~LIMIT~~ PROHIBITION.**

19 (1) No lobbyist shall make any gifts, including any gift of travel, to an officer of the
20 City and County, or to a parent, spouse, domestic partner registered under state law, or dependent
21 child of an officer of the City and County that have a fair market value of more than \$25, except for
22 those gifts that would qualify for one of the exemptions under Section 3.216(b) of this Code and its
23 implementing regulations. No contact lobbyist shall make any payment to a third-party for the purpose
24 of paying for a gift or any part of a gift, including any gift of travel, to an officer of the City and
25

1 County, or to a parent, spouse, domestic partner registered under state law, or dependent child of an
2 officer of the City and County.

3 (2) No officer of the City and County may accept or solicit any gift, including any gift of
4 travel, from any lobbyist for the officer's personal benefit or for the personal benefit of the officer's
5 parent, spouse, domestic partner registered under state law, or dependent child. No officer of the City
6 and County may accept or solicit any gift, including any gift of travel, from a third-party if the officer
7 knows or has reason to know that the third-party is providing the gift or gift of travel on behalf of a
8 lobbyist.

9 (3) Exception for gifts of food or refreshment provided by 501(c)(3) nonprofit
10 organizations. Notwithstanding the prohibitions set forth in subsections (1) and (2), lobbyists may offer
11 gifts of food or refreshment worth less \$25 or less per occasion, and officers of the City and County
12 may accept such gifts, if the lobbyist is a 501(c)(3) nonprofit organization, the gift of food or
13 refreshment is offered in connection with a public event held by the 501(c)(3) nonprofit organization,
14 and the same gift of food or refreshment is made available to all attendees of the public event.

15 (4) Aggregation of gifts. For purposes of the gift limits imposed by subsections (1)-(3),
16 gifts shall be aggregated set forth in California Code of Regulations, Title 2, Section 18945.1, as it may
17 hereafter be amended.

18 (b) **FUTURE EMPLOYMENT.** No lobbyist shall cause or influence the introduction or
19 initiation of any local legislative or administrative action for the purpose of thereafter being
20 employed or retained to secure its granting, denial, confirmation, rejection, passage, or defeat.

21 (c) **FICTITIOUS PERSONS.** No contact lobbyist shall contact any officer of the City
22 and County in the name of any fictitious person or in the name of any real person, except with
23 the consent of such real person.

1 (d) **EVASION OF OBLIGATIONS.** No lobbyist shall attempt to evade the obligations
2 imposed by this Chapter through indirect efforts or through the use of agents, associates, or
3 employees.

4 **(e) CAMPAIGN CONTRIBUTIONS - PROHIBITIONS.**

5 (1) No lobbyist shall make any contribution to a City elective officer or candidate for
6 City elective office, including the City elective officer's or candidate's controlled committees, if that
7 lobbyist (A) is registered to lobby the agency of the City elective officer or the agency for which the
8 candidate is seeking election or (B) has been registered to lobby that agency in the previous 90 days.

9 (2) If a lobbyist has failed to disclose which agencies the lobbyist attempts to influence,
10 as required by Section 2.110(b), the lobbyist may not make a contribution to any City elective officer or
11 candidate for City elective office, or any City elective officer's or candidate's controlled committees.

12 **(f) BUNDLING OF CAMPAIGN CONTRIBUTIONS - PROHIBITIONS.**

13 (1) No lobbyist shall deliver or transmit, or deliver or transmit through a third party,
14 any contribution made by another person to any City elective officer or candidate for City elective
15 office, or any City elective officer's or candidate's controlled committees, if that lobbyist (A) is
16 registered to lobby the agency for which the candidate is seeking election or the agency of the City
17 elective officer or (B) has been registered to lobby that agency in the previous 90 days.

18 (2) If a lobbyist has failed to disclose which agencies the lobbyist attempts to influence,
19 as required by Section 2.110(b), the lobbyist may not deliver or transmit, or deliver or transmit through
20 a third party, any contribution made by another person to any City elective officer or candidate for City
21 elective office, or any City elective officer's or candidate's controlled committees.

22 **(g) AGGREGATION OF AFFILIATED ENTITY CONTRIBUTIONS.** For purposes of the
23 contribution limits imposed by subsections (e) and (f), the contributions of an entity whose
24 contributions are directed and controlled by any lobbyist shall be aggregated with contributions made
25 by that lobbyist as set forth in Section 1.114(c).

1 (h) **REGULATIONS.** *The Ethics Commission may adopt regulations implementing this*
2 *Section 2.115, but such regulations may not establish any exceptions from the limits and prohibitions*
3 *set forth therein.*

4
5 Section 2. Scope of Ordinance. In enacting this ordinance, the People of the City and
6 County of San Francisco intend to amend only those words, phrases, paragraphs,
7 subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other
8 constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions
9 or deletions, in accordance with the “Note” that appears under the official title of the
10 ordinance.

11
12 Section 3. Appropriation. There is hereby appropriated \$115,000 from the General
13 Reserve to fund administrative and enforcement costs required to implement this ordinance,
14 which shall be appropriated and made available 30 days after the Board of Supervisors
15 declares the results of the November 8, 2016 election. Any portion of this appropriation that
16 remains unspent at the end of Fiscal Year 2016-17 shall be carried forward and spent in
17 subsequent years for the same purpose. Additionally, it shall be City policy in all fiscal years
18 following depletion of this original appropriation that the Board of Supervisors shall annually
19 appropriate \$5,000 for this purpose, to be adjusted annually to reflect changes in the
20 California Consumer Price Index and rounded off to the nearest \$100.

21
22 Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word
23 of this ordinance, or any application thereof to any person or circumstance, is held to be
24 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
25 shall not affect the validity of the remaining portions or applications of the ordinance. The

1 voters hereby declare that they would have passed this ordinance and each and every
2 section, subsection, sentence, clause, phrase, and word not declared invalid or
3 unconstitutional without regard to whether any other portion of this ordinance or application
4 thereof would be subsequently declared invalid or unconstitutional.

5
6 Section 5. Effective and Operative Dates. This ordinance shall become effective 10
7 days after the Board of Supervisors declares the results of the November 8, 2016 election.
8 Except as provided in Section 3, this ordinance shall become operative on January 1, 2018.

9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: _____
13 ANDREW SHEN
14 Deputy City Attorney

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(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

§ 18945.1. Aggregation of Gifts; “Single” Source.

For purposes of the gift limits in Sections 86203 and 89503, and the Act's reporting requirements, separate gifts from two or more sources are aggregated as being from a single source in any of the following circumstances:

(a) The separate gifts are from an individual and an entity in which the individual has an ownership interest of more than 50 percent unless the individual did not direct and control the gift from the entity. An individual who has an ownership interest of more than 50 percent is presumed to direct and control the gift from the entity. This presumption may be rebutted if the payment is made by another individual who, in fact, directed and controlled the payment.

(b) The separate gifts are from an individual and an entity and the individual in fact directed and controlled the decision of the entity to make the gift.

(c) The gifts are from two or more entities and the same person or a majority of the same persons directed and controlled the decisions of the entities to make the gifts to the official.

(d) Business entities in a parent-subsidary relationship, or business entities with the same controlling (more than 50 percent) owner, shall be considered a single source unless the business entities acted independently in their decisions to make the gifts. For purposes of this regulation, a parent-subsidary relationship exists when one business entity owns more than 50 percent of another business entity.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 89501 through 89506, Government Code.

HISTORY

1. New section filed 1-25-93; operative 1-25-93 (Register 93, No. 5).
2. Change without regulatory effect relocating section filed 11-17-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).
3. Amendment of first paragraph, subsections (c)-(d) and Note filed 7-25-95; operative 7-25-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
4. Amendment of section heading and section filed 1-23-2012. Pursuant to California Code of Regulations, title 2, section 18313(e), FPPC has designated an effective date of 1-1-2012. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2012, No. 4).