



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

PETER KEANE
CHAIRPERSON

DAINA CHIU
VICE-CHAIRPERSON

PAUL A. RENNE
COMMISSIONER

QUENTIN L. KOPP
COMMISSIONER

YVONNE LEE
COMMISSIONER

LEEANN PELHAM
EXECUTIVE DIRECTOR

Date: October 19, 2017

To: San Francisco Ethic Commission

From: Kyle Kundert, Senior Policy Analyst
Pat Ford, Policy Analyst

Re: **AGENDA ITEM 6 - Staff Memorandum Summarizing Outstanding Policy Matters Relating to the 2017 San Francisco Anti-Corruption and Accountability Ordinance**

Summary: This memorandum outlines the set of outstanding decision points that may need to be resolved by the Commission should it wish to move forward on the proposed 2017 San Francisco Anti-Corruption and Accountability Ordinance with a four-fifths majority. The memorandum explains each outstanding item and offers policy analysis of the options before the commission.

Action Requested: Staff recommends that the Commission discuss each remaining policy matter and provide its policy direction to Staff on how to proceed with any potential revisions to the current draft ordinance.

I. Introduction

At its September 25, 2017, meeting, the Commission heard Staff's presentation outlining a revisions to the Campaign Finance Reform Ordinance ("CRFO") and the Conflict of Interest Code, entitled the 2017 San Francisco Anti-Corruption and Accountability Ordinance (the "Ordinance") and took public comment. The Commission voted in favor of the overall Ordinance by a three-fifths majority. However, to submit to the Board of Supervisors (the "Board") a draft ordinance proposing amendments to the Campaign and Governmental Conduct Code, the Commission must vote in favor of the ordinance by a four-fifths majority.

For the Commission to vote in favor of the Ordinance by a four-fifths vote, certain provisions of the Ordinance may need to be revised. During the Commission's September meeting, the Commission was unable to reach a consensus on certain provisions of the Ordinance. This memorandum outlines the debate regarding those provisions to enable the Commission's discussion at its October 23rd meeting to focus on those outstanding policy questions.

II. Contributions by City Contractors

As currently drafted, the Ordinance would amend Campaign and Governmental Conduct Code Section 1.126, which limits the ability of City contractors (including an entity's directors, primary officers, and large shareholders) to make contributions to City elective officers or candidates. The Ordinance would expand the period of time during which City contractors may not make contributions from six months after the approval of the contract to twelve months after the approval of the contract. The Ordinance would also narrow the class of City contractors who are subject to the rule from all contractors who have a contract valued at \$50,000 or more to only those contractors with contracts valued at \$100,000 or more. Concern has been raised that there is not sufficient evidence supporting these changes to the existing limits on contributions by City contractors.

Policy Questions

- A. *Should the Commission reject extending the term of the City contractor contribution ban from six months following approval of a City contract to twelve months following approval of a City contract?*

With certain qualifications, Staff would not be opposed to this change. As a policy matter Staff believes a twelve-month ban would be an improvement over current law. However, Staff would not oppose deleting the time-period extension, so long as no other changes are made to Section 1.126 to narrow the effectiveness of the City contractor contribution ban.

- B. *Should the Commission reject the increasing from \$50,000 to \$100,000 the threshold amount for contracts that trigger the City contractor contribution ban?*

Staff would support raising the threshold to \$100,000. Staff have presented data showing that, if the threshold were changed to \$100,000, 78% of all contracts currently captured by the rule would still be captured. Likewise, the top 100 grantees (representing 80% of the grant money currently captured) would still be captured. Currently, there are just over two-hundred grantees captured by the rule, most of which are non-profits. As a policy matter, this change would exempt contracts and grants that present a lesser threat of corruption due to their smaller size, and would focus on those with a potentially greater threat of corruption or the appearance of corruption due to their more significant dollar value.

- C. *Should the Commission exempt all unpaid directors of nonprofits from the rule against contributions by City contractors and their directors, officers, and large shareholders?*

Staff would not support this concept. This would change *existing law* that prohibits certain officers and directors of a City contractor from making contributions under the circumstances defined in the law. This change would result in a *narrowing* of that existing provision to exempt individuals who are already subject to the terms of Section 1.126. Such a change has not been contemplated during the discussion of the Ordinance, and, by weakening existing contribution limitations, it would be antithetical to the goals of the Ordinance.

III. Contributions by Parties with a Financial Interest in a Land Use Matter

As currently drafted, the Ordinance would add Section 1.127 to the Campaign and Governmental Conduct Code, which would prohibit parties with a financial interest in a land use matter pending before a City department from making a contribution to the Mayor, the City Attorney, a member of the Board of Supervisors, or a candidate for any of these offices. An exception would allow such persons to make an otherwise prohibited contribution if the person with a financial interest in a land use matter is a 501(c)(3) organization that is wholly or substantially funded by the City and the land use matter concerns the provision of housing, healthcare, or other social welfare services to low-income City residents. Concern has been raised that Section 1.127 is not sufficiently supported by evidence showing that contributions by parties with a financial interest in a land use matter raise the risk or appearance of corruption.

Policy Questions

A. Should the Commission remove Section 1.127 from the Ordinance?

Staff would not oppose this change. On the one hand, Staff believes that the legal burden necessary to go forward with this provision has been met. While data may be imperfect, from a policy perspective this provision is warranted due to the volatility surrounding land use decisions in the City and the influence that persons with land use decisions have or appear to have over City decision making. However, from a logistical standpoint, the systems necessary to track these decisions effectively are not currently available. The decentralized nature of the City's discretionary land use processes makes auditing and enforcing this provision logistically challenging. Staff believes compliance and enforcement of the provision will be challenging until a City-wide vendor system is adopted, which is not likely to occur in the near-term. On balance, this provision seems to provide limited benefit, given existence of contribution limits that are already relatively low, while presenting significant enforcement challenges.

IV. Allowing Civil Penalties in Citizen Suits

Current law allows citizens to bring a civil action to stop a violation of Article I, Chapter I of the Campaign and Governmental Conduct Code, also known as the Campaign Finance Reform Ordinance ("CFRO"). As drafted, the Ordinance would amend Campaign and Governmental Conduct Code Section 1.170 to allow private plaintiffs in a civil action to ask the court to impose a civil penalty on the defendant. The plaintiff would also be entitled to collect fifty percent of any civil penalties collected from the defendant. Critics of this approach have expressed concern that providing a financial incentive for private parties to enforce provisions of CFRO will lead to frivolous or politically motivated lawsuits.

Policy Questions

A. Should the Commission remove the provision allowing private plaintiffs to receive fifty percent of civil penalties collected in a citizen suit?

Staff would not oppose this change. Though it is largely speculative that allowing private party plaintiffs to receive a portion of civil penalties will lead to frivolous or politically motivated lawsuits, Staff believes that existing law provides a sufficiently robust avenue for citizens to seek enforcement of the terms of CFRO.

Current law already provides a private right of action, but this has not resulted in significant numbers of politically motivated lawsuits. There is no indication that the ability of a private party plaintiff to receive a portion of any penalties collected will increase the occurrence of such suits, since such suits would not be brought primarily for financial gain. Nonetheless, Staff believes that the Ordinance could be revised to eliminate penalties in citizen suits and that this change would not significantly impair the ability of citizens to seek enforcement of CFRO in the courts.

V. Board and Commission Member Fundraising Ban

As drafted, the Ordinance would add Section 3.231 to the Campaign and Governmental Conduct Code to prohibit any board or commission member from raising funds for any City elective officer or candidate for such office. The version of the Ordinance presented at the Commission's August 2017 meeting only prohibited a board or commission member from raising funds for her appointing authority. Following a request from the Commission, the version of the Ordinance presented to the Commission at its September meeting expanded this rule to prohibit fundraising for *any* City elective officer. Concern has been raised that this expansion of the rule is not supported by evidence.

Policy Questions

- A. *Should the Commission reduce the scope of the proposed rule so that it only prohibits fundraising by board and commission members for the benefit of their appointing authorities, as opposed to prohibiting them from raising funds for any City elected official?*

Staff would not support this change. Prohibiting government officials from raising funds for other government officials is a well settled matter at the federal level, embodied in the Pendleton and Hatch Acts. This principle has received significant positive judicial treatment, including as recently as 2015.¹ As a policy matter, eliminating any real or perceived link between appointments to city office and an appointee's fundraising prowess would serve two key goals: 1) promoting broad participation in public service, including by individuals who lack the ability to raise significant political money, and 2) promoting merit-based governmental decision making. This approach helps de-link political fundraising from the process of selecting qualified individuals to make decisions on the public's behalf.

VI. Prohibition on Solicitations of Persons with Matters Pending Before the Soliciting Official

As drafted, the Ordinance would add Campaign and Governmental Conduct Code Section 3.207(a)(4), which would prohibit City elective officers and members of boards and commissions from requesting a person to give something of value to a third party if that person has a matter pending before the official who is making the request. Exceptions to this rule would allow officials to make an otherwise prohibited request if a) the request is made before a group of twenty or more individuals, b) the request is made via a communication to the public, such as a television, radio, or social media message, or c) the request is made in response to a declared emergency. Critics have argued that this provision will have a negative impact on nonprofit charity organizations.

¹ *Wagner v. Federal Election Commission*, 793 F.3d 1 (D.C. Cir. 2015).

Policy Questions

- A. *Should the Commission limit the definition of “anything of value” so that it does not include volunteer services?*

Staff would not be opposed to this change. Such an exception would allow an official to make an otherwise prohibited behest if she only asks the person to perform volunteer work. The intent of Section 3.207(a)(4) is not to limit the volunteer services of individuals. There is a lessened risk of corruption when an official asks someone with business before her to personally do volunteer work (as opposed to make a donation).

- B. *Should the Commission add an exception for any behest that is made through a public entity during a public-private partnership?*

Staff would support this change. Requests that are made formally through public bodies, such as the Committee on Information Technology (COIT), will be subject to open meeting laws. Thus, such requests will be made in the open, similar to requests that fall under the existing exemptions to 3.207(a)(4) for public gatherings and mass communications.

- C. *Should the Commission reduce the timeframe of the rule from twelve months after the person had a matter pending before the official to six months after the matter was pending?*

Staff would not be opposed to this change. As a policy matter Staff believes a twelve-month time window would create a more robust restriction. However, Staff would not oppose changing the window to six months after the matter was pending, so long as no other changes are made to 3.207(a)(4) to narrow the effectiveness of the provision.

- D. *Should the Commission add an exemption that allows officials to ask a person with business before them to make a behested payment, as long as the payment goes to a 501(c)(3) organization that provides “direct services.”*

Staff would not support this change. The proposed exemption would defeat the anti-corruption purpose of the rule, since the *recipient* of the behested payment is largely irrelevant. Rather, it is the relationship between the *official asking* and the *person making* the behested payment that can result in corruption or the appearance of corruption. Also, it would be difficult or impossible to effectively categorize groups that provide “direct services,” making Section 3.207(a)(4) unworkable. Staff believes removing 3.207(a)(4) in its entirety would be better than passing it with this exemption.

- E. *Should the Commission limit the definition of “anything of value” so that it only includes cash payments?*

Staff would not support this change. Such an exception would allow an official to make an otherwise prohibited behest, as long as she only asked the person to give goods or services. It would likely result in cash payments being redirected into “in-kind behested payments,” such as the donation of computers, food and drinks, or other goods. In-kind behested payments must be reported on the FPPC Form 803, indicating that the FPPC considers behested goods and services to be equivalent to behested cash

payments. Excluding in-kind behested payments from 3.207(a)(4) still allows for the corrupt conduct that 3.207(a)(4) aims to prohibit.

F. Should the Commission remove Section 3.207(a)(4) from the Ordinance?

Staff would not support this change. Section 3.207(a)(4) has already been significantly narrowed and, as now proposed, focuses on conduct where the strongest factors or appearance of pay-to-play can arise. It exempts much of the normal fundraising activities expressed as concerns by nonprofit organizations. Also, charity groups do not currently appear in large numbers on current behested payment disclosure reports. The exemptions currently provided and the small amount of reported behested payments that have gone to charity groups both indicate a modest impact of Section 3.207(a)(4) on charities. On balance, Staff believes the countervailing interest in prohibiting conduct that strongly indicates pay-to-play outweighs any negative impact of the proposed rule.

G. Should the Commission remove Section 3.207(a)(4) from the Ordinance and replace it with a new section to the Ordinance that creates a stronger set of disclosure rules for behested payments?

Overall, Staff would not support this change. However, Staff would support this change if the Commission is unable to form a four-fifths majority on the prohibition set forth in 3.207(a)(4). Rather than changing 3.207(a)(4) in such a way that deprives it of having any significant positive effect, as Staff believes changes D-F produce, Staff would recommend replacing 3.207(a)(4) with a stepped-up regime of disclosure for behested payments. This disclosure could cover payments, including in-kind payments, made at the behest of any City elective officer or board or commission member and would likely have a lower threshold than the \$5,000 threshold set by state law.

VII. Proposed Procedure

If the Commission is able to resolve the policy matters outlined in Sections II—VI of this memorandum through a four-fifths majority, Staff would prepare a revised version of the Ordinance reflecting its policy direction and present to the Commission at the Commission's November meeting.

If the Commission decides to pursue a strengthened disclosure regime for behested payments (as described in Subsection VI.G above), Staff would plan to conduct meetings with interested persons to discuss the contents of such new rules. While that would mean draft language would not return to the Commission until its December meeting, enlisting public comment in developing behested payment disclosure framework will be essential for ensuring it is strong and effective.

VIII. Timing Considerations

The Commission has expressed an interest in the Board of Supervisors reviewing and potentially voting on a final version of the any Ordinance proposed by the Commission. However, Commissioners have also stated an interest in the Ordinance going to the voters at the June 2018 election should the Board not pass the legislation. The Commission should be aware that a resolution submitting the Ordinance to the Elections Commission would be due no later than March 2, 2018. This would likely mean that the Commission, if it chooses to put the Ordinance on the ballot, would have to vote to approve the ordinance for submittal to the Elections Commission by the January or, at the very latest, the February Commission meeting.

FILE NO.

ORDINANCE NO.

[Campaign and Governmental Conduct Code - Campaign Finance and Conflict of Interest]

Ordinance amending the Campaign and Governmental Conduct Code to 1) prohibit earmarking of contributions and false identification of contributors; 2) modify contributor card requirements; 3) require disclosure of contributions solicited by City elective officers for ballot measure and independent expenditure committees; 4) establish local behested payment reporting requirements; 5) require additional disclosures for campaign contributions from business entities to political committees; 6) require disclosure of bundled campaign contributions; 7) extend the prohibition on campaign contributions to candidates for City elective offices and City elective officers who must approve certain City contracts; 8) prohibit campaign contributions to members of the Board of Supervisors, candidates for the Board, the Mayor, candidates for Mayor, City Attorney, candidates for City Attorney, and their controlled committees, from any person with pending or recently resolved land use matters; 9) require committees to file a third pre-election statement prior to an election; 10) remove the prohibition against distribution of campaign advertisements containing false endorsements; 11) allow members of the public to receive a portion of penalties collected in certain enforcement actions; 12) permit the Ethics Commission to recommend contract debarment as a penalty for campaign finance violations; 13) create new conflict of interest and political activity rules for elected officials and members of boards and commissions; and 14) specify recusal procedures for members of boards and commissions.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in **double-underlined Arial font**.

Board amendment deletions are in ~~strikethrough~~ Arial font.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. The Campaign and Governmental Conduct Code, Article I, Chapter 1, is hereby amended by revising Sections 1.104, 1.114, 1.126, 1.135, 1.168, 1.170, adding Sections 1.114.5, 1.123, 1.124, 1.125, 1.127, and deleting Section 1.163.5, to read as follows:

SEC. 1.104. DEFINITIONS.

Whenever in this Chapter 1 the following words or phrases are used, they shall mean:

* * * *

"Business entity" shall mean a limited liability company (LLC), corporation, limited partnership, or limited liability partnership.

* * * *

"Developer" shall mean the individual or entity that is the project sponsor responsible for filing a completed Environmental Evaluation Application with the Planning Department (or other lead agency) under the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) for a project. For any project sponsor that is an entity, "developer" shall include all of its constituent individuals or entities that have decision-making authority regarding any of the entity's major decisions or actions. By way of example and without limitation, if the project sponsor is a limited liability company, each of its members is considered a developer for purposes of the requirements of this Chapter, and similarly if the project sponsor is a partnership, each of its general partners is considered a developer for purposes of the requirements of this Chapter. If the owner or agent that signs and submits the Environmental Evaluation Application will not be responsible for obtaining the entitlements or developing the project, then for purposes of the requirements of this Chapter 1 the developer shall be instead the individual or entity that is responsible for obtaining the entitlements for the project.

1 * * * *

2 “Financial interest” shall mean (a) an ownership interest of at least 10% or \$1,000,000 in the
 3 project or property that is the subject of the land use matter; (b) holding the position of director or
 4 principal officer, including President, Vice-President, Chief Executive Officer, Chief Financial Officer,
 5 Chief Operating Officer, Executive Director, Deputy Director, or member of Board of Directors, in an
 6 entity with at least 10% ownership interest in that project or property; or (c) being the developer of
 7 that project or property.

8 * * * *

9 “Land use matter” shall mean (a) any request to a City elective officer for a Planning Code or
 10 Zoning Map amendment, or (b) any application for an entitlement that requires a discretionary
 11 determination at a public hearing before a board or commission under the San Francisco Building
 12 Code, the Planning Code, or the California Environmental Quality Act (California Public Resources
 13 Code Section 21000 et seq.). “Land use matter” shall not include discretionary review hearings before
 14 the Planning Commission.

15 * * * *

16 “Prohibited source contribution” shall mean a contribution made (a) in violation of Section
 17 1.114, (b) in an assumed name as defined in Section 1.114.5(c), (c) from a person prohibited from
 18 contributing under Section 1.126, (d) from a person prohibited from contributing under Section 1.127,
 19 or (e) from a lobbyist prohibited from contributing under Section 2.115(e).

20 * * * *

21 “Resident” shall mean a resident of the City and County of San Francisco.

22 “Solicit” shall mean personally request a contribution to any candidate or committee, either
 23 orally or in writing.

24 * * * *

1 **SEC. 1.114. CONTRIBUTIONS - LIMITS AND PROHIBITIONS.**

2 (a) LIMITS ON CONTRIBUTIONS TO CANDIDATES. No person other than a
3 candidate shall make, and no campaign treasurer for a candidate committee shall solicit or
4 accept, any contribution which will cause the total amount contributed by such person to such
5 candidate committee in an election to exceed \$500.

6 (b) ~~LIMITS~~ PROHIBITION ON CONTRIBUTIONS FROM CORPORATIONS. No
7 corporation organized pursuant to the laws of the State of California, the United States, or any
8 other state, territory, or foreign country, whether for profit or not, shall make a contribution to a
9 candidate committee, provided that nothing in this subsection (b) shall prohibit such a
10 corporation from establishing, administering, and soliciting contributions to a separate
11 segregated fund to be utilized for political purposes by the corporation, provided that the
12 separate segregated fund complies with the requirements of Federal law including Sections
13 432(e) and 441b of Title 2 of the United States Code and any subsequent amendments to
14 those Sections.

15 (c) EARMARKING. No person may make a contribution to a committee on the condition or
16 with the agreement that it will be contributed to any particular candidate or committee to circumvent
17 the limits established by subsections (a) and (b).

18 (d) PROHIBITION ON CONTRIBUTIONS FOR OFFICIAL ACTION. No candidate may,
19 directly or by means of an agent, give, offer, promise to give, withhold, or offer or promise to withhold
20 his or her vote or influence, or promise to take or refrain from taking official action with respect to any
21 proposed or pending matter in consideration of, or upon condition that, any other person make or
22 refrain from making a contribution.

23 ~~(e)~~ (e) AGGREGATION OF AFFILIATED ENTITY CONTRIBUTIONS.

24 (1) General Rule. For purposes of the contribution limits imposed by this
25 Section 1.114 and Section 1.120, the contributions of an entity whose contributions are

1 directed and controlled by any individual shall be aggregated with contributions made by that
2 individual and any other entity whose contributions are directed and controlled by the same
3 individual.

4 (2) Multiple Entity Contributions Controlled by the Same Persons. If two or
5 more entities make contributions that are directed and controlled by a majority of the same
6 persons, the contributions of those entities shall be aggregated.

7 (3) Majority-Owned Entities. Contributions made by entities that are majority-
8 owned by any person shall be aggregated with the contributions of the majority owner and all
9 other entities majority-owned by that person, unless those entities act independently in their
10 decisions to make contributions.

11 (4) Definition. For purposes of this Section 1.114, the term "entity" means any
12 person other than an individual and "majority-owned" means a direct or indirect ownership of
13 more than 50% ~~percent~~.

14 ~~(d) CONTRIBUTOR INFORMATION REQUIRED. If the cumulative amount of contributions~~
15 ~~received from a contributor is \$100 or more, the committee shall not deposit any contribution that~~
16 ~~causes the total amount contributed by a person to equal or exceed \$100 unless the committee has the~~
17 ~~following information: the contributor's full name; the contributor's street address; the contributor's~~
18 ~~occupation; and the name of the contributor's employer or, if the contributor is self-employed, the name~~
19 ~~of the contributor's business. A committee will be deemed not to have had the required contributor~~
20 ~~information at the time the contribution was deposited if the required contributor information is not~~
21 ~~reported on the first campaign statement on which the contribution is required to be reported.~~

22 ~~(e) (f)~~ FORFEITURE OF UNLAWFUL CONTRIBUTIONS. In addition to any other
23 penalty, each committee that receives a contribution which exceeds the limits imposed by this
24 Section 1.114 or which does not comply with the requirements of this Section shall pay
25 promptly the amount received or deposited in excess of the permitted amount ~~permitted by this~~

1 ~~Section~~ to the City and County of San Francisco ~~and~~ by delivering the payment to the Ethics
 2 Commission for deposit in the General Fund of the City and County; provided that the Ethics
 3 Commission may provide for the waiver or reduction of the forfeiture.

4 ~~(f)~~ (g) RECEIPT OF CONTRIBUTIONS. A contribution to a candidate committee or
 5 committee making expenditures to support or oppose a candidate shall not be considered
 6 received if it is not cashed, negotiated, or deposited, and in addition ~~#~~ is returned to the donor
 7 before the closing date of the campaign statement on which the contribution would otherwise
 8 be reported, except that a contribution to a candidate committee or committee making
 9 expenditures to support or oppose a candidate made before an election at which the
 10 candidate is to be voted on but after the closing date of the last campaign statement required
 11 to be filed before the election shall not be considered to be deemed received if it is not
 12 cashed, negotiated, or deposited, and is returned to the contributor within 48 hours of receipt.
 13 For all committees not addressed by this Section 1.114, the determination of when
 14 contributions are considered to be received shall be made in accordance with the California
 15 Political Reform Act, ~~California Government Code Section 81000, et seq.~~

16
 17 **SEC. 1.114.5. CONTRIBUTIONS - DISCLOSURES.**

18 (a) CONTRIBUTOR INFORMATION REQUIRED. If the cumulative amount of contributions
 19 received from a contributor is \$100 or more, the committee shall not deposit any contribution that
 20 causes the total amount contributed by a person to equal or exceed \$100 unless the committee has the
 21 following information: the contributor's full name; the contributor's street address; the contributor's
 22 occupation; the name of the contributor's employer or, if the contributor is self-employed, the name of
 23 the contributor's business; and a signed attestation from the contributor that the contribution does not
 24 constitute a prohibited source contribution.

(1) A committee will be deemed not to have had the required contributor information at the time the contribution was deposited if the required contributor information is not reported on the first campaign statement on which the contribution is required to be reported.

(2) If a committee that collects the information required under this subsection (a) and collects a signed attestation, or its electronic equivalent, that the contributor has not made a prohibited source contribution, there shall be a rebuttable presumption that the committee has not accepted a prohibited source contribution.

(b) DISCLOSURE REQUIREMENTS FOR CONTRIBUTIONS TO BALLOT MEASURE COMMITTEES AND COMMITTEES MAKING INDEPENDENT EXPENDITURES.

(1) In addition to the requirements in subsection (a), any person making contributions that total \$5,000 or more in a single calendar year, to a ballot measure committee or committee making independent expenditures at the behest of a City elective officer must disclose the name of the City elective officer who requested the contribution.

(2) Committees receiving contributions subject to subsection (b)(1) must report the names of the City elective officers who requested those contributions at the same time that the committees are required to file campaign statements with the Ethics Commission disclosing the contributions.

(c) ASSUMED NAME CONTRIBUTIONS.

(1) No contribution may be made, directly or indirectly, by any person or combination of persons, in a name other than the name by which they are identified for legal purposes, or in the name of another person or combination of persons.

(2) No person may make a contribution to a candidate or committee in his, her, or its name when using any payment received from another person on the condition that it be contributed to a specific candidate or committee.

1 (d) FORFEITURE OF UNLAWFUL CONTRIBUTIONS. In addition to any other penalty, each
 2 committee that receives a contribution which does not comply with the requirements of this Section
 3 1.114.5 shall pay promptly the amount received or deposited to the City and County of San Francisco
 4 by delivering the payment to the Ethics Commission for deposit in the General Fund of the City and
 5 County; provided that the Ethics Commission may provide for the waiver or reduction of the forfeiture.

6
 7 **SEC. 1.123. REPORTING OF BEHESTED PAYMENTS.** In addition to the disclosure
 8 requirements imposed by the California Political Reform Act, City elective officers required to disclose
 9 behested payments of \$5,000 or more from a single source shall file their disclosure statements with the
 10 Ethics Commission within 30 days of the date on which the payment(s) total \$5,000 or more.

11
 12 **SEC. 1.124. ADDITIONAL DISCLOSURE REQUIREMENTS FOR CONTRIBUTIONS**
 13 **MADE BY BUSINESS ENTITIES.**

14 (a) Additional Disclosures. In addition to the campaign disclosure requirements imposed by
 15 the California Political Reform Act and other provisions of this Chapter 1, any committee required to
 16 file campaign statements with the Ethics Commission must disclose the following information for
 17 contribution(s) that, in aggregate, total \$10,000 or more that it receives in a single election cycle from
 18 a single business entity:

19 (1) the business entity's principal officers, including, but not limited to, the Chairperson
 20 of the Board of Directors, President, Vice-President, Chief Executive Officer, Chief Financial Officer,
 21 Chief Operating Officer, Executive Director, Deputy Director, or equivalent positions; and

22 (2) whether the business entity has received funds through a contract or grant from any
 23 City agency within the last 24 months for a project within the jurisdiction of the City and County of San
 24 Francisco, and if so, the name of the agency that provided the funding, and the value of the contract or
 25 grant.

(b) Filing Requirements. Committees shall provide this information for contributions received from business entities at the same time that they are required to file semiannual or preelection campaign statements with the Ethics Commission.

SEC. 1.125. ADDITIONAL DISCLOSURE REQUIREMENTS FOR BUNDLED CONTRIBUTIONS.

(a) Definition. For purposes of this Section 1.125, the following words and phrases shall mean:

“Bundle” shall mean delivering or transmitting contributions, other than one’s own or one’s spouse’s, except for campaign administrative activities and any actions by the candidate that a candidate committee is supporting.

“Campaign administrative activity” shall mean administrative functions performed by paid or volunteer campaign staff, a campaign consultant whose payment is disclosed on the committee’s campaign statements, or such campaign consultant’s paid employees.

(b) Additional Disclosure Requirements. Any committee controlled by a City elective officer or candidate for City elective office that receives contributions totaling \$5,000 or more that have been bundled by a single individual shall disclose the following information:

(1) the name, occupation, employer, and mailing address of the person who bundled the contributions;

(2) a list of the contributions bundled by that person (including the name of the contributor and the date the contribution was made);

(3) if the individual who bundled the contributions is a member of a City board or commission, the name of the board or commission on which that person serves, and the names of any City officers who appointed or nominated that person to the board or commission; and

(4) whether, during the 12 months prior to the date of the final contribution that makes the cumulative amount of contributions bundled by a single individual total \$5,000 or more, the person who bundled the contributions attempted to influence the City elective officer who controls the committee in any legislative or administrative action and if so, the legislative or administrative action that the contributor sought to influence and the outcome sought.

(c) **Filing Requirements.** Committees shall provide the information for bundled contributions required by subsection (b) at the same time that they are required to file semiannual or preelection campaign statements with the Ethics Commission. Committees shall be required to provide this information following the receipt of the final contribution that makes the cumulative amount of contributions bundled by a single individual total \$5,000 or more.

(d) **Website Posting.** The Ethics Commission shall make all information that is submitted in accordance with subsection (b) publicly available through its website.

SEC. 1.126. CONTRIBUTION ~~LIMITS~~ PROHIBITION – CONTRACTORS DOING BUSINESS WITH THE CITY.

(a) Definitions. For purposes of this Section 1.126, the following words and phrases shall mean:

"Board on which an individual serves" means the board to which the officer was elected and any other board on which the elected officer serves.

"City Contractor" means any person who contracts with the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District or the San Francisco Community College District, including any party or prospective party to a contract, as well as any member of that party's board of directors or any of that party's principal officers, including its chairperson, chief executive officer, chief financial officer, chief

operating officer, any person with an ownership interest of more than 10% in the party, and any subcontractor listed in the party's bid or contract.

"Contract" means any agreement or contract, including any amendment or modification to an agreement or contract, with the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District, or the San Francisco Community College District for:

(1) the rendition of personal services,

(2) the furnishing of any material, supplies or equipment,

(3) the sale or lease of any land or building,

(4) a grant, loan, or loan guarantee, or

(5) a development agreement.

"Contract" shall not mean a collective bargaining agreement or memorandum of understanding between the City and a labor union representing City employees regarding the terms and conditions of those employees' City employment.

~~(1) "Person who contracts with" includes any party or prospective party to a contract, as well any member of that party's board of directors, its chairperson, chief executive officer, chief financial officer, chief operating officer, any person with an ownership interest of more than 20 percent in the party, any subcontractor listed in a bid or contract, and any committee, as defined by this Chapter that is sponsored or controlled by the party, provided that the provisions of Section 1.114 of this Chapter governing aggregation of affiliated entity contributions shall apply only to the party or prospective party to the contract.~~

~~(2) "Contract" means any agreement or contract, including any amendment or modification to an agreement or contract, with the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District, or the San Francisco Community College District for:~~

~~(A) the rendition of personal services,~~

~~(B) the furnishing of any material, supplies or equipment,~~

~~(C) the sale or lease of any land or building, or~~

~~(D) a grant, loan or loan guarantee.~~

~~(3) "Board on which an individual serves" means the board to which the officer was elected and any other board on which the elected officer serves.~~

(b) **Prohibition on Contributions.** No City Contractor who is party to or is seeking a contract that has a total anticipated or actual value of \$100,000 or more, or a combination or series of contracts with a value of \$100,000 or more from a single City agency, may make any contribution to:
~~person who contracts with the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District, or the San Francisco Community College District,~~

~~(1) Shall make any contribution to:~~

(A) (1) An individual holding a City elective office if the contract or contracts must be approved by such individual, the board on which that individual serves, or a state agency on whose board an appointee of that individual serves;

~~(B) (2)~~ A candidate for the office held by such individual; or

~~(C) (3)~~ A committee controlled by such individual or candidate.

~~(2) Whenever the agreement or contract has a total anticipated or actual value of \$50,000.00 or more, or a combination or series of such agreements or contracts approved by that same individual or board have a value of \$50,000.00 or more in a fiscal year of the City and County~~

~~(3) (c) **Term of Prohibitions.** The prohibitions set forth in subsection (b) shall apply from the submission of a proposal for a contract until: At any time from the commencement of negotiations for such contract until.;~~

(A) (1) The termination of negotiations for such contract; or

(B) (2) Six 12 months ~~have elapsed~~ from the date the contract is approved.

(e) (d) **Prohibition on ~~Receipt of Contribution~~ Soliciting or Accepting Contributions.** No individual holding City elective office, candidate for such office, or committee controlled by such an individual shall: ~~solicit or~~

(1) accept any contribution prohibited by subsection (b); or

(2) solicit any contribution prohibited by subsection (b) from a person who the individual knows or has reason to know to be a City Contractor.

~~at any time from the formal submission of the contract to the individual until the termination of negotiations for the contract or six months have elapsed from the date the contract is approved. For the purpose of this subsection, a contract is formally submitted to the Board of Supervisors at the time of the introduction of a resolution to approve the contract.~~

(d) (e) **Forfeiture of ~~Dontribution~~ Contribution.** In addition to any other penalty, each committee that ~~receives~~ accepts a contribution prohibited by subsection (e) (b)(1) shall pay promptly the amount received or deposited to the City and County of San Francisco and deliver the payment to the Ethics Commission for deposit in the General Fund of the City and County; provided that the Commission may provide for the waiver or reduction of the forfeiture.

(e) (f) **Notification.**

(1) **Prospective Parties to Contracts.** The agency responsible for the initial review of any contract proposal subject to subsection (b) shall inform ~~Any~~ any prospective party to ~~a~~ the contract ~~with the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District, or the San Francisco Community College District shall inform each person described in Subsection (a)(1) of the prohibition in §~~ subsection (b) and of the duty to notify the Ethics Commission, as described in subsection (f)(2), by the ~~commencement of negotiations~~ submission of a proposal for such contract.

(2) **Notification of Ethics Commission.** Every prospective party to a contract subject to subsection (b) must notify the Ethics Commission, within 30 days of the submission of a proposal, on a form or in a format adopted by the Commission, of the value of the desired contract, the parties to the contract, and any subcontractor listed as part of the proposal

~~(2)~~ (3) **Individuals Who Hold City Elective Office.** Every individual who holds a City elective office shall, within five business days of the approval of a contract by the officer, a board on which the officer sits, or a board of a state agency on which an appointee of the officer sits, notify the Ethics Commission, on a form or in a format adopted by the Commission, of each contract approved by the individual, the board on which the individual serves, or the board of a state agency on which an appointee of the officer sits. An individual who holds a City elective office need not file the form required by this subsection (f)(3) if the Clerk or Secretary of a Board on which the individual serves or a Board of a State agency on which an appointee of the officer serves has filed the form on behalf of the board.

SEC. 1.127. CONTRIBUTION LIMITS – PERSONS WITH LAND USE MATTERS
BEFORE A DECISION-MAKING BODY.

(a) **Definitions.** For purposes of this Section 1.127, the following phrases shall mean:

“Affiliated entities” means business entities directed and controlled by a majority of the same persons, or majority-owned by the same person.

“Prohibited contribution” is a contribution to (1) a member of the Board of Supervisors, (2) a candidate for member of the Board of Supervisors, (3) the Mayor, (4) a candidate for Mayor, (5) the City Attorney, (6) a candidate for City Attorney, or (7) a controlled committee of a member of the Board of Supervisors, the Mayor, the City Attorney, or a candidate for any of these offices.

(b) **Prohibition on Contributions.** No person, or the person’s affiliated entities, with a financial interest in a land use matter before the Board of Appeals, Board of Supervisors, Building

Inspection Commission, Commission on Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission, Port Commission, or the Treasure Island Development Authority Board of Directors shall make any prohibited contribution at any time from a request or application regarding a land use matter until 12 months have elapsed from the date that the board or commission renders a final decision or ruling or any appeals from that decision or ruling have been finally resolved.

(c) Prohibition on Soliciting or Accepting Contributions. No member of the Board of Supervisors, candidate for member of the Board of Supervisors, the Mayor, candidate for Mayor, the City Attorney, candidate for City Attorney, or controlled committees of such officers and candidates shall:

(1) accept any contribution prohibited by subsection (b); or

(2) solicit any contribution prohibited by subsection (b) from a person who the individual knows or has reason to know has a financial interest in land use matter.

(d) Exceptions. The prohibitions set forth in subsections (b) and (c) shall not apply if:

(1) the land use matter concerns only the person's primary residence;

(2) the person with a financial interest in the land use matter is a nonprofit organization with tax exempt status under 26 United States Code Section 501(c)(3), and the land use matter solely concerns the provision of health care services, social welfare services, permanently affordable housing, or other community services funded, in whole or in substantial part, by the City to serve low-income San Francisco residents; or

(e) Forfeiture of Prohibited Contributions. In addition to any other penalty, each member of the Board of Supervisors, candidate for member of the Board of Supervisors, the Mayor, candidate for Mayor, City Attorney, candidate for City Attorney, or controlled committees of such officers and candidates, who solicits or accepts any contribution prohibited by subsection (b) shall pay promptly the amount received or deposited to the City and County of San Francisco by delivering the payment to the

Ethics Commission for deposit in the General Fund of the City and County; provided, that the Commission may provide for the waiver or reduction of the forfeiture.

(f) Notification.

(1) Prospective Parties to Land Use Matters. The agency responsible for the initial review of any land use matter shall inform any person with a financial interest in a land use matter before the Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission, Port Commission, or the Treasure Island Development Authority Board of Directors, of the prohibition in subsection (b) and of the duty to notify the Ethics Commission, described in subsection (f)(2), upon the submission of a request or application regarding a land use matter.

(2) Persons with a Financial Interest in a Land Use Matter. Any person with a financial interest in a land use matter before the Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission, Port Commission, or the Treasure Island Development Authority Board of Directors, within 30 days of submitting a request or application, shall file with the Ethics Commission a report including the following information:

- (A) the board, commission, or department considering the land use matter;
- (B) the location of the property that is the subject of the land use matter;
- (C) if applicable, the file number for the land use matter; and
- (D) if applicable, the names of the individuals who serve as the person's chairperson, chief executive officer, chief financial officer, and chief operating officer, or as a member of the person's board of directors.

SEC. 1.135. SUPPLEMENTAL PRE-ELECTION STATEMENTS.

(a) **Supplemental Preelection Statements - General Purpose Committees**. In addition to the campaign disclosure requirements imposed by the California Political Reform Act and other provisions of this Chapter 1, a San Francisco general purpose committee that makes contributions or expenditures totaling \$500 or more during the period covered by the preelection statement, other than expenditures for the establishment and administration of that committee, shall file a preelection statement before any election held in the City and County of San Francisco at which a candidate for City elective office or City measure is on the ballot.

(b) **Time for Filing Supplemental Preelection Statements - General Purpose Committees**.

(1) Even-Numbered Years. In even-numbered years, preelection statements required by ~~this Section~~ subsection (a) shall be filed pursuant to the preelection statement filing schedule established by the Fair Political Practices Commission for county general purpose recipient committees. In addition to these deadlines, preelection statements shall also be filed, for the period ending six days before the election, no later than four days before the election.

(2) Odd-Numbered Years. In odd-numbered years, the filing schedule for preelection statements is as follows:

~~(1)~~ (A) For the period ending 45 days before the election, the statement shall be filed no later than 40 days before the election;

~~(2)~~ (B) For the period ending 17 days before the election, the statement shall be filed no later than 12 days before the election; and

(C) For the period ending six days before the election, the statement shall be filed no later than four days before the election.

(c) Time for Filing Supplemental Preelection Statements - Ballot Measure Committees and Candidate Committees. In addition to the deadlines established by the Fair Political Practices

Commission, ballot measure committees and candidate committees required to file preelection statements with the Ethics Commission shall file a third preelection statement before any election held in the City and County of San Francisco at which a candidate for City elective office or City measure is on the ballot, for the period ending six days before the election, no later than four days before the election.

~~(e)~~ (d) The Ethics Commission may require that these statements be filed electronically.

~~SEC. 1.163.5. DISTRIBUTION OF CAMPAIGN ADVERTISEMENTS CONTAINING FALSE ENDORSEMENTS.~~

~~(a) **Prohibition.** No person may sponsor any campaign advertisement that is distributed within 90 days prior to an election and that contains a false endorsement, where the person acts with knowledge of the falsity of the endorsement or with reckless disregard for the truth or falsity of the endorsement. A false endorsement is a statement, signature, photograph, or image representing that a person expressly endorses or conveys support for or opposition to a candidate or measure when in fact the person does not expressly endorse or convey support for or opposition to the candidate or measure as stated or implied in the campaign communication.~~

~~(b) **Definitions.** Whenever in this Section the following words or phrases are used, they shall mean:~~

~~(1) "Campaign Advertisement" is any mailing, flyer, door hanger, pamphlet, brochure, card, sign, billboard, facsimile, printed advertisement, broadcast, cable, satellite, radio, internet, or recorded telephone advertisement that refers to one or more clearly identified candidates or ballot measures. The term "campaign advertisement" does not include:~~

~~(A) bumper stickers, pins, stickers, hat bands, badges, ribbons and other similar campaign memorabilia;~~

~~(B) news stories, commentaries or editorials distributed through any newspaper, radio, station, television station or other recognized news medium unless such news medium is owned or controlled by any political party, political committee or candidate; or~~

~~(C) material distributed to all members, employees and shareholders of an organization, other than a political party;~~

~~(2) "Internet Advertisement" includes paid internet advertisements such as "banner" and "popup" advertisements, paid emails, or emails sent to addresses purchased from another person, and similar types of internet advertisements as defined by the Ethics Commission by regulation, but shall not include web blogs, listserves sent to persons who have contacted the sender, discussion forums, or general postings on web pages.~~

~~(3) "Sponsor" means to pay for, direct, supervise or authorize the production of campaign advertisement.~~

~~(c) **Enforcement and Penalties.** The penalties under Section 1.170(a) of this Chapter do not apply to violations of this Section. Notwithstanding the 60-day waiting period in Section 1.168 of this Chapter, a voter may bring an action to enjoin a violation of this Section immediately upon providing written notice to the City Attorney. A court may enjoin a violation of this section only upon a showing of clear and convincing evidence of a violation.~~

SEC. 1.168. ENFORCEMENT; ADVICE.

(a) **ENFORCEMENT – GENERAL PROVISIONS.** Any person who believes that a violation of this Chapter 1 has occurred may file a complaint with the Ethics Commission, City Attorney, or District Attorney. The Ethics Commission shall investigate such complaints pursuant to Charter Section C3.699-13 and its implementing regulations. The City Attorney and District Attorney shall investigate, and shall have such investigative powers as are necessary for the performance of their duties under this Chapter.

(b) ENFORCEMENT – CIVIL ACTIONS. The City Attorney, or any ~~voter~~ resident, may bring a civil action to enjoin violations of or compel compliance with the provisions of this Chapter 1.

(1) No ~~voter~~ resident may commence an action under this ~~§~~ subsection (b) without first providing written notice to the City Attorney of intent to commence an action. The notice shall include a statement of the grounds for believing a cause of action exists. The ~~voter~~ resident shall deliver the notice to the City Attorney and the Ethics Commission at least 60 days in advance of filing an action. No ~~voter~~ resident may commence an action under this ~~§~~ subsection if the Ethics Commission has issued a finding of probable cause that the defendant violated the provisions of this Chapter, or if the City Attorney or District Attorney has commenced a civil or criminal action against the defendant, or if another ~~voter~~ resident has filed a civil action against the defendant under this ~~§~~ subsection.

(2) A Court may award reasonable attorney's fees and costs to any ~~voter~~ resident who obtains injunctive relief under this ~~§~~ subsection (b). If the Court finds that an action brought by a ~~voter~~ resident under this ~~§~~ subsection is frivolous, the Court may award the defendant reasonable attorney's fees and costs.

(c) STATUTE OF LIMITATIONS.

(1) **Criminal.** Prosecution for violation of this Chapter must be commenced within four years after the date on which the violation occurred.

(2) **Civil.** No civil action alleging a violation in connection with a campaign statement required under this Chapter shall be filed more than four years after an audit could begin, or more than one year after the Executive Director submits to the Commission any report of any audit conducted of the alleged violator, whichever period is less. Any other civil action alleging a violation of any provision of this Chapter shall be filed no more than four years after the date on which the violation occurred.

(3) **Administrative.** No administrative action alleging a violation of this Chapter and brought under Charter Section C3.699-13 shall be commenced more than four years after the date on which the violation occurred. The date on which the Commission forwards a complaint or information in its possession regarding an alleged violation to the District Attorney and City Attorney as required by Charter Section C3.699-13 shall constitute the commencement of the administrative action.

(A) **Fraudulent Concealment.** If the person alleged to have violated this Chapter engages in the fraudulent concealment of his or her acts or identity, this four-year statute of limitations shall be tolled for the period of concealment. For purposes of this subsection, “fraudulent concealment” means the person knows of material facts related to his or her duties under this Chapter and knowingly conceals them in performing or omitting to perform those duties.

(4) **Collection of Fines and Penalties.** A civil action brought to collect fines or penalties imposed under this Chapter shall be commenced within four years after the date on which the monetary penalty or fine was imposed. For purposes of this Section, a fine or penalty is imposed when a court or administrative agency has issued a final decision in an enforcement action imposing a fine or penalty for a violation of this Chapter or the Executive Director has made a final decision regarding the amount of a late fine or penalty imposed under this Chapter. The Executive Director does not make a final decision regarding the amount of a late fine or penalty imposed under this Chapter until the Executive Director has made a determination to accept or not accept any request to waive a late fine or penalty where such waiver is expressly authorized by statute, ordinance, or regulation.

* * * *

(e) **DEBARMENT.**

The Ethics Commission may, after a hearing on the merits or pursuant to a stipulation among all parties, recommend that a Charging Official authorized to issue Orders of Debarment under

Administrative Code Chapter 28 initiate debarment proceedings against any person in conformance with the procedures set forth in that Chapter.

SEC. 1.170. PENALTIES.

(a) CRIMINAL. Any person who knowingly or willfully violates any provision of this Chapter 1 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$5,000 for each violation or by imprisonment in the County jail for a period of not more than six months or by both such fine and imprisonment; provided, however, that any willful or knowing failure to report contributions or expenditures done with intent to mislead or deceive or any willful or knowing violation of the provisions of Sections 1.114, 1.126, or 1.127 of this Chapter shall be punishable by a fine of not less than \$5,000 for each violation or three times the amount not reported or the amount received in excess of the amount allowable pursuant to Sections 1.114, 1.126, and 1.127 of this Chapter, or three times the amount expended in excess of the amount allowable pursuant to Section 1.130 or 1.140.5, whichever is greater.

(b) CIVIL. Any person who intentionally or negligently violates any of the provisions of this Chapter 1 shall be liable in a civil action brought by the ~~civil prosecutor~~ City Attorney, or a resident who has filed suit in compliance with Section 1.168(b), for an amount up to \$5,000 for each violation or three times the amount not reported or the amount received in excess of the amount allowable pursuant to Sections 1.114, 1.126, and 1.127 or three times the amount expended in excess of the amount allowable pursuant to Section 1.130 or 1.140.5, whichever is greater. In determining the amount of liability, the court may take into account the seriousness of the violation, the degree of culpability of the defendant, and the ability of the defendant to pay. In an action brought by a resident, if a court enters judgment against the defendant(s), the resident shall receive 50 percent of the amount recovered and the remaining 50 percent shall be deposited into the

City's General Fund. In an action brought by the City Attorney, the entire amount recovered from the defendant(s) shall be deposited into the City's General Fund.

(c) ADMINISTRATIVE. Any person who ~~intentionally or negligently~~ violates any of the provisions of this Chapter 1 shall be liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter for any penalties authorized therein.

* * * *

Section 2. The Campaign and Governmental Conduct Code, Article III, Chapter 2, is hereby amended by revising Section 3.203 and adding Sections 3.207, 3.209, and 3.231 to read as follows:

SEC. 3.203. DEFINITIONS.

Whenever in this Chapter 2 the following words or phrases are used, they shall mean:

"Anything of value" shall mean any money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment, but does not include compensation and expenses paid by the City, contributions as defined herein, or gifts that qualify for gift exceptions established by State or local law.

"Associated," when used in reference to an organization, shall mean any organization in which an individual or a member of his or her immediate family is a director, officer, or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the equity, or of which an individual or a member of his or her immediate family is an authorized representative or agent.

"City elective officer" shall mean a person who holds the office of Mayor, Member of the Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor and Public Defender.

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

~~(b) "City elective office" shall mean the offices of Mayor, Member of the Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor and Public Defender.~~

"Fundraising" shall mean:

(a) requesting that another person make a contribution;

(b) inviting a person to a fundraising event;

(c) supplying names to be used for invitations to a fundraiser;

(d) permitting one's name or signature to appear on a solicitation for contributions or an invitation to a fundraising event;

(e) permitting one's official title to be used on a solicitation for contributions or an invitation to a fundraising event;

(f) providing the use of one's home or business for a fundraising event;

(g) paying for at least 20% of the costs of a fundraising event;

(h) hiring another person to conduct a fundraising event;

(i) delivering a contribution, other than one's own, by whatever means to a City elective officer, a candidate for City elective office, or a candidate-controlled committee; or

(j) acting as an agent or intermediary in connection with the making of a contribution.

"Immediate family" shall mean spouse, registered domestic partner, and dependent children.

~~(a)~~ "Officer" shall mean any person holding City elective office; any member of a board or commission required by Article III, Chapter 1 of this Code to file a statements of economic interests; any person appointed as the chief executive officer under any such board or commission; the head of each City department; the Controller; and the City Administrator.

"Solicit" shall mean personally requesting a contribution from any candidate or committee, either orally or in writing.

1 “Subordinate employee” shall mean an employee of any person whose official City
 2 responsibilities include directing or evaluating the performance of the employee or any of the
 3 employee’s supervisors.

4
 5 **SEC. 3.207. ADDITIONAL CONFLICTS OF INTEREST FOR CITY ELECTIVE**
 6 **OFFICERS AND MEMBERS OF BOARDS AND COMMISSIONS.**

7 (a) **Prohibitions.** In addition to the restrictions set forth in Section 3.206 and other provisions
 8 of this Chapter 2, the following shall also constitute conflicts of interest for City elective officers and
 9 members of boards and commissions:

10 (1) No City elective officer or member of a board or commission may use his or her
 11 public position or office to seek or obtain anything of value for the private or professional benefit of
 12 himself or herself, his or her immediate family, or for an organization with which he or she is
 13 associated.

14 (2) No City elective officer or member of a board or commission may, directly or by
 15 means of an agent, give, offer, promise to give, withhold, or offer or promise to withhold his or her vote
 16 or influence, or promise to take or refrain from taking official action with respect to any proposed or
 17 pending matter in consideration of, or upon condition that, any other person make or refrain from
 18 making a contribution.

19 (3) No person may offer or give to an officer, directly or indirectly, and no City elective
 20 officer or member of a board or commission may solicit or accept from any person, directly or
 21 indirectly, anything of value if it could reasonably be expected to influence the officer’s vote, official
 22 actions, or judgment, or could reasonably be considered as a reward for any official action or inaction
 23 on the part of the officer. This subsection (a)(3) does not prohibit a City elective officer or member of a
 24 board or commission from engaging in outside employment.

1 (4) No City elective officer or member of a board or commission may, directly or by
 2 means of an agent, solicit or otherwise request that a person give anything of value to a third party if:

3 (A) the person who is the subject of the request has a matter pending before the
 4 official, his or her agency, or the official has final approval authority over the matter, or

5 (B) the person who is the subject of the request had a matter before the official
 6 or his or her agency within the last 12 months.

7 (5) notwithstanding the prohibitions contained in subsection (a)(4), a City elective
 8 officer or member of a board or commission may solicit or otherwise request that a person give
 9 anything of value to a third party if:

10 (A) The solicitation is made in a communication to the public.

11 (B) The solicitation is made at an event where 20 or more persons are in
 12 attendance.

13 (C) The solicitation is made to respond to an emergency, as defined in San
 14 Francisco Administrative Code Section 7.1.

15 (b) **Exception: public generally.** The prohibition set forth in subsection (a)(1) shall not
 16 apply if the resulting benefit, advantage, or privilege also affects a significant segment of the public
 17 and the effect is not unique. For purposes of this subsection (b):

18 (1) A significant segment of the public is at least 25% of:

19 (A) all businesses or non-profit entities within the official's jurisdiction;

20 (B) all real property, commercial real property, or residential real property
 21 within the official's jurisdiction; or

22 (C) all individuals within the official's jurisdiction.

23 (2) A unique effect on a public official's financial interest includes a disproportionate
 24 effect on:

1 (A) the development potential or use of the official's real property or on the
 2 income producing potential of the official's real property or business entity;

3 (B) an official's business entity or real property resulting from the proximity of
 4 a project that is the subject of a decision;

5 (C) an official's interests in business entities or real properties resulting from
 6 the cumulative effect of the official's multiple interests in similar entities or properties that is
 7 substantially greater than the effect on a single interest;

8 (D) an official's interest in a business entity or real property resulting from the
 9 official's substantially greater business volume or larger real property size when a decision affects all
 10 interests by the same or similar rate or percentage;

11 (E) a person's income, investments, assets or liabilities, or real property if the
 12 person is a source of income or gifts to the official; or

13 (F) an official's personal finances or those of his or her immediate family.

14 **SEC. 3.209. RECUSALS.**

15 (a) **Recusal Procedures.** Any member of a City board or commission, including a member of
 16 the Board of Supervisors, who has a conflict of interest under Sections 3.206 or 3.207, or who must
 17 recuse himself or herself from a proceeding under California Government Code Section 84308, shall,
 18 in the public meeting of the board or commission, upon identifying a conflict of interest immediately
 19 prior to the consideration of the matter, do all of the following:

20 (1) publicly identify the circumstances that give rise to the conflict of interest in detail
 21 sufficient to be understood by the public, provided that disclosure of the exact street address of a
 22 residence is not required;

23 (2) recuse himself or herself from discussing or acting on the matter; and
 24
 25

1 (3) leave the room until after the discussion, vote, and any other disposition of the
 2 matter is concluded, unless the matter has been placed on and remains on the consent calendar.

3 **(b) Repeated Recusals.** If a member of a City board or commission, including a member of the
 4 Board of Supervisors, recuses himself or herself, as required by subsection (a), in any 12-month period
 5 from discussing or acting on:

6 (1) three or more separate matters; or

7 (2) 1% or more of the matters pending before the officer's board or commission,
 8 the Commission shall determine whether the official has a significant and continuing conflict of
 9 interest. The Commission shall publish its written determination, including any discussion of the
 10 official's factual circumstances and applicable law, on its website. Thereafter, if the Commission
 11 determines that the official has a significant and continuing conflict of interest, the official shall
 12 provide the Commission with written notification of subsequent recusals resulting from the same
 13 conflicts of interest identified in the written determination. With respect to such officials, the
 14 Commission may recommend to the official's appointing authority that the official divest or otherwise
 15 remove the conflicting interest, and, if the official fails to divest or otherwise remove the conflicting
 16 interest, the Commission may recommend to the official's appointing authority that the official should
 17 be removed from office under Charter Section 15.105 or by other means.

18
 19 **SEC. 3.231. PROHIBITIONS ON POLITICAL ACTIVITY FOR CITY ELECTIVE**
 20 **OFFICERS AND MEMBERS OF BOARDS AND COMMISSIONS.**

21 **(a) Solicitation of Campaign Volunteers.** No City elective officer or member of a board or
 22 commission shall solicit uncompensated volunteer services from any subordinate employee for a
 23 campaign for or against any ballot measure or candidate.

24 **(b) Fundraising Prohibition.** No member of a board or commission may engage in
 25 fundraising on behalf of any City elective officer, candidate for such office, or committee controlled by

1 such individual. For the purposes of this subsection, “member of a board or commission” shall not
2 include a member of the Board of Supervisors.

3
4 Section 3. Effective and Operative Dates. This ordinance shall become effective 30
5 days after enactment. This ordinance shall become operative on January 1, 2019.
6 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance
7 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of
8 Supervisors overrides the Mayor’s veto of the ordinance.

9
10 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
11 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
12 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
13 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
14 additions, and Board amendment deletions in accordance with the “Note” that appears under
15 the official title of the ordinance.

16
17 Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word
18 of this ordinance, or any application thereof to any person or circumstance, is held to be
19 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
20 shall not affect the validity of the remaining portions or applications of the ordinance. The
21 Board of Supervisors hereby declares that it would have passed this ordinance and each and
22 every section, subsection, sentence, clause, phrase, and word not declared invalid or
23 unconstitutional without regard to whether any other portion of this ordinance or application
24 thereof would be subsequently declared invalid or unconstitutional.