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Date: November 20, 2017

To: San Francisco Ethic Commission

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

Re: **AGENDA ITEM 7 - Staff Memorandum Introducing Revised Version of the 2017 San Francisco Anti-Corruption and Accountability Ordinance**

Summary: This memorandum introduces a revised version of the proposed 2017 San Francisco Anti-Corruption and Accountability Ordinance with a four-fifths majority. The memorandum explains how the Ordinance has been changed since the Commission's October meeting.

Action Requested: Staff recommends that the Commission discuss any remaining policy matters and provide its policy direction to Staff on how it would like to proceed with the current draft ordinance.

I. Introduction

At its October 23, 2017 meeting, the Commission heard Staff's presentation outlining the remaining policy decisions to be made regarding the 2017 San Francisco Anti-Corruption and Accountability Ordinance (the "Ordinance"), which would amend the Campaign Finance Reform Ordinance ("CRFO") and the Conflict of Interest Code. Commissioner Chiu brought a motion with a list of specific answers to each policy question (the "Motion"), and the Commission took public comment on the Motion. The Commission voted in favor of the Motion by a four-fifths majority.

Staff has revised the Ordinance in response to the terms of the Motion. Staff held an interested persons meeting to discuss the terms of a new set of rules requiring the disclosure of behested payments. Staff believes that the current draft Ordinance, attached to this memorandum, is fully responsive to the terms of the Motion. This memorandum outlines the changes that were made to create the current version of the Ordinance.

II. Contributions by City Contractors – Stronger Notification Provision

The Motion called for the creation of a stronger notification provision in Section 1.126, a code section that prohibits contributions by City contractors to an elective officer who approved the contractor's City contract. The Commission expressed that, in order to avoid unwitting

violations, all individuals serving an entity that qualifies as a City contractor must receive adequate notice of the prohibitions contained in Section 1.126. To achieve this goal, Staff revised the notification provisions in subsection 1.126(f).

Staff retained the requirement contained in the October draft of the Ordinance requiring any City department that accepts proposals for City contracts to notify any person submitting a proposal that the person may be subject to 1.126. Additionally, Staff added a requirement that for proposals valued at \$100,000 or more, the department must notify the Commission that the department has received the bid. This will allow the Commission to monitor whether departments are notifying bidders about 1.126 and to ensure compliance with 1.126 by bidders. Staff also created a new requirement that when a City department selects a bid and awards the bidder a City contract, the department must notify the contractor that the prohibitions in 1.126 will now apply to the contractor for one year. Staff retained the requirement that elective officers must notify the Commission any time they approve a contract.

Staff added a requirement that an entity that submits a proposal for a City contractor must notify each of its directors, officers, and 10% shareholders that such individuals are subject to 1.126. This will help ensure that people affiliated with the bidding entity will be aware that 1.126 limits their ability to make contributions.

III. Ability of Plaintiffs in Citizen Suits to Recover Fifty Percent of Civil Penalties Collected - Removed

The October version of the Ordinance contained a provision that allowed for private citizens who bring a civil action to enforce against a violation of CFRO to ask the court to impose civil penalties and, additionally, to receive fifty percent of any penalties recovered from the defendant. The Motion called for the removal of this provision in Section 1.170. Staff has removed this provision, so, under the current draft, private citizens bringing a civil action under CFRO will not be able to seek civil penalties.

IV. Board and Commission Member Fundraising Ban – Narrowed to Appointing Authority Only

The October draft of the Ordinance would have prohibited any board or commission member from raising funds for any City elective officer or candidate for such office. The Motion called for narrowing this prohibition such that it only prohibits a board or commission member from raising funds for her appointing authority. Staff changed Section 2.231 to carry this out.

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

The October draft of the Ordinance would have added Campaign and Governmental Conduct Code Section 3.207(a)(4), which would have prohibited 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 have allowed officials to make an otherwise prohibited request if a) the request was made before a group of twenty or more individuals, b) the request was made via a communication to the public, such as a television, radio, or social media message, or c) the request was made in response to a declared emergency.

The Motion called for the removal of Section 3.207(a)(4) and for the creation, instead, of local disclosure rules for behested payments that goes beyond what is required under state law. Officials must already

disclose certain behested payments under California law, however this disclosure requirement is limited to behested payments of \$5,000 or more and only applies to payments made at the behest of elected officials, not board or commission members.

In response to the Motion, Staff have deleted Section 3.207(a)(4) from the Ordinance. Staff drafted a set of local behested payment reporting rules and help an interested person meeting to discuss these rules with members of the regulated community.

A. Disclosures by Officials

The current draft of the ordinance requires officials, including elective officers and members of boards and commissions, to disclose payments made at their behest by a person who is either 1) a party or participant to a proceeding before the official, or 2) actively supports or opposes a decision by the official or a body on which the official sits. This reporting requirement would apply when the total amount of payments made by such an “interested party” at the official’s behest equals or exceeds \$1,000.

Officials will not need to file a disclosure if a payment is made in response to a “public appeal.” This term refers to requests made through mass mailings, broadcast media, speeches at public events, public social media communications, and other communications that are made to the general public.

If an official is required to disclose a behested payment, the official would need to disclose certain information about the payor, the payee, and the payment (the same as what is required under behested payment reporting under California law). These disclosures seek to identify basic information about the payment and the parties thereto.

Additionally, the official would need to disclose whether the recipient of the behested payment(s) is an organization with which the official, his relative, or his staff member is affiliated. Also, the official would need to disclose whether the recipient of the behested payment(s) has distributed communications in the last six months that feature the official. Both of these disclosures seek to identify whether the recipient of the behested payment is personally connected to the official or provides the official with publicity.

B. Disclosures by Donors

If a person makes a behested payment that triggers reporting on the part of the official (discussed in Part V.B above), this donor will also have to file a disclosure. The donor must disclose what proceeding before the official the person is involved in, as well as what decisions by the official the person is actively supporting or opposing. The donor must also disclose what outcomes he is seeking in the proceeding or decision, as well as any contacts he made with the official regarding the proceeding or decision. These disclosures seek to identify how a person who makes a behested payment may be seeking to influence the behesting official’s decision-making. This aspect of behested payments (the potential for influence over officials) is one of the major reasons for requiring disclosure of behested payments.

C. Disclosures by Major Behested Payment Recipients.

Some organizations receive substantial amounts of behested payments that are made at the behest of one official. The current draft of the Ordinance would require an organization that receives \$100,000 or

more in payments in a single year made at the behest of a single official to notify the Commission within thirty days of reaching the \$100,000 threshold.¹ One year after reaching the \$100,000 threshold, the organization must file a report disclosing how the behested payments were spent. This disclosure seeks to monitor how an organization that receives exceptional amounts of behested payments uses such funds. In particular, it is important to know whether such organizations use the funds in a way that benefits the behesting official. Also, organizations that receive this level of behested payments usually do so for the stated purpose of funding a particular event or program. It is important to know whether the organization did in fact use the behested funds to satisfy its stated funding need.

Additionally, major behested payment recipients would need to disclose whether the organization has actively supported or opposed any decisions by the behesting official in the last year. This disclosure seeks to identify whether such organizations attempt to influence the decision-making of the behesting official, with whom the organization presumably has a close tie.

¹ A review of behested payment reports (Form 803) filed with the Commission during 2015, 2016, and 2017 indicates that only five organizations received \$100,000 of payments made at the behest of a single official in one year.

[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) require additional disclosures for campaign contributions from business entities to political committees; 5) require disclosure of bundled campaign contributions; 6) extend the prohibition on campaign contributions to candidates for City elective offices and City elective officers who must approve certain City contracts; 7) 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; 8) require committees to file a third pre-election statement prior to an election; 9) remove the prohibition against distribution of campaign advertisements containing false endorsements; 10) allow members of the public to receive a portion of penalties collected in certain enforcement actions; 11) permit the Ethics Commission to recommend contract debarment as a penalty for campaign finance violations; 12) create new conflict of interest and political activity rules for elected officials and members of boards and commissions; 13) specify recusal procedures for members of boards and commissions; and 14) establish local behested payment reporting requirements for donors and City officers.

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

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

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

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

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

18 (c) ASSUMED NAME CONTRIBUTIONS.

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

22 (2) No person may make a contribution to a candidate or committee in his, her, or its
23 name when using any payment received from another person on the condition that it be contributed to a
24 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. 1.124. ADDITIONAL DISCLOSURE REQUIREMENTS FOR CONTRIBUTIONS**
8 **MADE BY BUSINESS ENTITIES.**

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

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

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

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

1 **SEC. 1.125. ADDITIONAL DISCLOSURE REQUIREMENTS FOR BUNDLED**
2 **CONTRIBUTIONS.**

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

5 "Bundle" shall mean delivering or transmitting contributions, other than one's own or one's
6 spouse's, except for campaign administrative activities and any actions by the candidate that a
7 candidate committee is supporting.

8 "Campaign administrative activity" shall mean administrative functions performed by paid or
9 volunteer campaign staff, a campaign consultant whose payment is disclosed on the committee's
10 campaign statements, or such campaign consultant's paid employees.

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

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

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

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

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

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

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

8
9 **SEC. 1.126. CONTRIBUTION ~~LIMITS~~ PROHIBITION – CONTRACTORS DOING**
10 **BUSINESS WITH THE CITY.**

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

13 “Affiliate” means any member of an entity’s board of directors or any of that entity’s principal
14 officers, including its chairperson, chief executive officer, chief financial officer, chief operating officer,
15 any person with an ownership interest of more than 10% in the entity, and any subcontractor listed in
16 the entity’s bid or contract.

17 “Board on which an individual serves” means the board to which the officer was elected and
18 any other board on which the elected officer serves.

19 “City Contractor” means any person who contracts with, or is seeking a contract with, any
20 department of the City and County of San Francisco, a state agency on whose board an appointee of a
21 City elective officer serves, the San Francisco Unified School District, or the San Francisco
22 Community College District, when the total anticipated or actual value of the contract(s) that the
23 person is party to or seeks to become party to with any such entity within a fiscal year equals or
24 exceeds \$100,000.

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

5 (1) the rendition of personal services,

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

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

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

9 (5) a development agreement.

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

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

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

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

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

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

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

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

5 (b) **Prohibition on Contributions.** No City Contractor or affiliate of a City Contractor
6 may make any contribution to: person who contracts with the City and County of San Francisco, a state
7 agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School
8 District, or the San Francisco Community College District,

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

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

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

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

15 ~~(2) Whenever the agreement or contract has a total anticipated or actual value of~~
16 ~~\$50,000.00 or more, or a combination or series of such agreements or contracts approved by that same~~
17 ~~individual or board have a value of \$50,000.00 or more in a fiscal year of the City and County~~

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

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

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

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

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

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

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

13 ~~(e)~~ (f) **Notification.**

14 (1) **~~Prospective Parties to Contracts~~ Notification by City Agencies.**

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

22 (B) Parties to Executed Contracts. After the final execution of a contract by a
23 City agency and any required approvals of a City elective officer, the agency that has entered into a
24 contract subject to subsection (b) shall inform any parties to the contract of the prohibition in
25 subsection (b) and the term of such prohibition established by subsection (c).

1 (2) Notification of Ethics Commission. The City agency seeking to enter into a
2 contract subject to subsection (b) shall notify the Ethics Commission, within 30 days of the submission
3 of a proposal, on a form or in a format adopted by the Commission, of the value of the desired contract,
4 the parties to the contract, and any subcontractor listed as part of the proposal

5 (3) Notification by Prospective Parties to Contracts. Any prospective party to a
6 contract subject to subsection (b) shall, by the submission of a proposal for such contract, inform any
7 member of that party's board of directors and any of that party's principal officers, including its
8 chairperson, chief executive officer, chief financial officer, chief operating officer, any person with an
9 ownership interest of more than 10% in the party, and any subcontractor listed in the party's bid or
10 contract of the prohibition in subsection (b).

11 ~~(2)~~ (4) **Notification by Individuals Who Hold City Elective Office.** Every
12 individual who holds a City elective office shall, within five business days of the approval of a
13 contract by the officer, a board on which the officer sits, or a board of a state agency on which
14 an appointee of the officer sits, notify the Ethics Commission, on a form or in a format adopted
15 by the Commission, of each contract approved by the individual, the board on which the
16 individual serves, or the board of a state agency on which an appointee of the officer sits. An
17 individual who holds a City elective office need not file the form required by this subsection
18 ~~(f)(4)~~ if the Clerk or Secretary of a Board on which the individual serves or a Board of a State
19 agency on which an appointee of the officer serves has filed the form on behalf of the board.
20

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

23 (a) Definitions. For purposes of this Section 1.127, the following phrases shall mean:
24 “Affiliated entities” means business entities directed and controlled by a majority of the same
25 persons, or majority-owned by the same person.

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

5 (b) **Prohibition on Contributions.** No person, or the person’s affiliated entities, with a
6 financial interest in a land use matter before the Board of Appeals, Board of Supervisors, Building
7 Inspection Commission, Commission on Community Investment and Infrastructure, Historic
8 Preservation Commission, Planning Commission, Port Commission, or the Treasure Island
9 Development Authority Board of Directors shall make any prohibited contribution at any time from a
10 request or application regarding a land use matter until 12 months have elapsed from the date that the
11 board or commission renders a final decision or ruling or any appeals from that decision or ruling
12 have been finally resolved.

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

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

20 (d) **Exceptions.** The prohibitions set forth in subsections (b) and (c) shall not apply if:
21 (1) the land use matter concerns only the person’s primary residence;
22 (2) the person with a financial interest in the land use matter is a nonprofit organization
23 with tax exempt status under 26 United States Code Section 501(c)(3), and the land use matter solely
24 concerns the provision of health care services, social welfare services, permanently affordable housing,
25

1 or other community services funded, in whole or in substantial part, by the City to serve low-income
2 San Francisco residents; or

3 **(e) Forfeiture of Prohibited Contributions.** In addition to any other penalty, each member of
4 the Board of Supervisors, candidate for member of the Board of Supervisors, the Mayor, candidate for
5 Mayor, City Attorney, candidate for City Attorney, or controlled committees of such officers and
6 candidates, who solicits or accepts any contribution prohibited by subsection (b) shall pay promptly the
7 amount received or deposited to the City and County of San Francisco by delivering the payment to the
8 Ethics Commission for deposit in the General Fund of the City and County; provided, that the
9 Commission may provide for the waiver or reduction of the forfeiture.

10 **(f) Notification.**

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

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

24 (A) the board, commission, or department considering the land use matter;

25 (B) the location of the property that is the subject of the land use matter;

1 (C) if applicable, the file number for the land use matter; and
2 (D) if applicable, the names of the individuals who serve as the person's
3 chairperson, chief executive officer, chief financial officer, and chief operating officer, or as a member
4 of the person's board of directors.

5
6 **SEC. 1.135. SUPPLEMENTAL PRE-ELECTION STATEMENTS.**

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

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

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

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

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

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

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

5 (c) **Time for Filing Supplemental Preelection Statements - Ballot Measure Committees and**
6 **Candidate Committees.** In addition to the deadlines established by the Fair Political Practices
7 Commission, ballot measure committees and candidate committees required to file preelection
8 statements with the Ethics Commission shall file a third preelection statement before any election held
9 in the City and County of San Francisco at which a candidate for City elective office or City measure is
10 on the ballot, for the period ending six days before the election, no later than four days before the
11 election.

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

13
14 **~~SEC. 1.163.5. DISTRIBUTION OF CAMPAIGN ADVERTISEMENTS CONTAINING~~**
15 **~~FALSE ENDORSEMENTS.~~**

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

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

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

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

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

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

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

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

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

24
25 **SEC. 1.168. ENFORCEMENT; ADVICE.**

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

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

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

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

23 (c) STATUTE OF LIMITATIONS.

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

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

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

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

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

1 made a determination to accept or not accept any request to waive a late fine or penalty
2 where such waiver is expressly authorized by statute, ordinance, or regulation.

3 * * * *

4 (e) DEBARMENT.

5 The Ethics Commission may, after a hearing on the merits or pursuant to a stipulation among
6 all parties, recommend that a Charging Official authorized to issue Orders of Debarment under
7 Administrative Code Chapter 28 initiate debarment proceedings against any person in conformance
8 with the procedures set forth in that Chapter.

9
10 **SEC. 1.170. PENALTIES.**

11 (a) CRIMINAL. Any person who knowingly or willfully violates any provision of this
12 Chapter 1 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by
13 a fine of not more than \$5,000 for each violation or by imprisonment in the County jail for a
14 period of not more than six months or by both such fine and imprisonment; provided, however,
15 that any willful or knowing failure to report contributions or expenditures done with intent to
16 mislead or deceive or any willful or knowing violation of the provisions of Section 1.114, 1.126,
17 or 1.127 of this Chapter shall be punishable by a fine of not less than \$5,000 for each violation
18 or three times the amount not reported or the amount received in excess of the amount
19 allowable pursuant to Section 1.114, 1.126, and 1.127 of this Chapter, or three times the
20 amount expended in excess of the amount allowable pursuant to Section 1.130 or 1.140-5,
21 whichever is greater.

22 (b) CIVIL. Any person who intentionally or negligently violates any of the provisions of
23 this Chapter 1 shall be liable in a civil action brought by the ~~civil prosecutor~~ City Attorney for an
24 amount up to \$5,000 for each violation or three times the amount not reported or the amount
25 received in excess of the amount allowable pursuant to Section 1.114, 1.126, and 1.127 or

1 three times the amount expended in excess of the amount allowable pursuant to Section
2 1.130 or 1.140-5, whichever is greater. In determining the amount of liability, the court may take
3 into account the seriousness of the violation, the degree of culpability of the defendant, and the ability
4 of the defendant to pay.

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

8 * * * *

9
10 Section 2. The Campaign and Governmental Conduct Code, Article III, Chapter 2, is
11 hereby amended by revising Section 3.203 and adding Sections 3.207, 3.209, and 3.231 to
12 read as follows:

13 **SEC. 3.203. DEFINITIONS.**

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

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

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

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

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

3 "Fundraising" shall mean:

4 (a) requesting that another person make a contribution;

5 (b) inviting a person to a fundraising event;

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

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

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

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

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

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

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

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

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

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

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

24 "Solicit" shall mean personally requesting a contribution for any candidate or committee,
25 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 **(b) Exception: public generally.** *The prohibition set forth in subsection (a)(1) shall not apply*
2 *if the resulting benefit, advantage, or privilege also affects a significant segment of the public and the*
3 *effect is not unique. For purposes of this subsection (b):*

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

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

6 *(B) all real property, commercial real property, or residential real property*
7 *within the official's jurisdiction; or*

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

9 *(2) A unique effect on a public official's financial interest includes a disproportionate*
10 *effect on:*

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

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

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

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

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

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

24
25 **SEC. 3.209. RECUSALS.**

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

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

9 (2) recuse himself or herself from discussing or acting on the matter; and

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

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

15 (1) three or more separate matters; or

16 (2) 1% or more of the matters pending before the officer's board or commission,
17 the Commission shall determine whether the official has a significant and continuing conflict of
18 interest. The Commission shall publish its written determination, including any discussion of the
19 official's factual circumstances and applicable law, on its website. Thereafter, if the Commission
20 determines that the official has a significant and continuing conflict of interest, the official shall
21 provide the Commission with written notification of subsequent recusals resulting from the same
22 conflicts of interest identified in the written determination. With respect to such officials, the
23 Commission may recommend to the official's appointing authority that the official divest or otherwise
24 remove the conflicting interest, and, if the official fails to divest or otherwise remove the conflicting
25

1 interest, the Commission may recommend to the official's appointing authority that the official should
2 be removed from office under Charter Section 15.105 or by other means.

3
4 **SEC. 3.231. PROHIBITIONS ON POLITICAL ACTIVITY FOR CITY ELECTIVE**
5 **OFFICERS AND MEMBERS OF BOARDS AND COMMISSIONS.**

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

9 (b) Fundraising for Appointing Authorities. No member of a board or commission may
10 engage in fundraising on behalf of (1) the officer's appointing authority, if the appointing authority is a
11 City elective officer; (2) any candidate for the office held by the officer's appointing authority; or (3)
12 any committee controlled by the officer's appointing authority. For the purposes of this subsection,
13 "member of a board or commission" shall not include a member of the Board of Supervisors.

14
15 Section 3. Section 1. The Campaign and Governmental Conduct Code, Article III,
16 Chapter 6, is hereby amended by revising Sections 3.600, 3.610, 3.620, and by adding
17 Sections 3.630, 3.640, 3.650, to read as follows:

18 **CHAPTER 6: BEHESTED PAYMENT REPORTING ~~FOR COMMISSIONERS~~**

19 **SEC. 3.600. DEFINITIONS.**

20 Whenever in this Chapter 6 the following words or phrases are used, they shall have
21 the following meanings:

22 "Actively support or oppose" shall mean contact, testify in person before, or otherwise act to
23 influence an official or employees of a board or commission (including the Board of Supervisors),
24 including use of an agent to do any such act.

1 “Agent” shall be defined as set forth in Title 2, Section 18438.3 of California Code of
2 Regulations, as amended from time to time.

3 “At the behest of” shall mean under the control or at the direction of, in cooperation,
4 consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior
5 consent of.

6 ~~“Auctioneer” shall mean any person who is engaged in the calling for, the recognition of, and~~
7 ~~the acceptance of, offers for the purchase of goods at an auction.~~

8 “Behested payment” shall mean a payment that is made at the behest of an officer, or an agent
9 thereof, and that is made principally for a legislative, governmental, or charitable purpose.

10 ~~“Behested Payment Report” shall mean the Fair Political Practices Commission Form 803, or~~
11 ~~any other successor form, required by the Fair Political Practices Commission to fulfill the disclosure~~
12 ~~requirements imposed by California Government Code Section 82015(b)(2)(B)(iii), as amended from~~
13 ~~time to time.~~

14 ~~“Charitable Contribution” shall mean any monetary or non-monetary contribution to a~~
15 ~~government agency, a bona fide public or private educational institution as defined in Section 203 of~~
16 ~~the California Revenue and Taxation Code, or an organization that is exempt from taxation under~~
17 ~~either Section 501(c) or Section 527 of the United States Internal Revenue Code.~~

18 ~~“Commissioner” shall mean any member of a board or commission listed in Campaign and~~
19 ~~Governmental Conduct Code Section 3.1-103(a)(1); provided, however, that “Commissioner” shall not~~
20 ~~include any member of the Board of Supervisors.~~

21 “Contact” shall be defined as set forth in Section 2.106 of this Code.

22 “Interested party” shall mean (i) any party, participant or agent of a party or participant
23 involved in a proceeding regarding administrative enforcement, a license, a permit, or other
24 entitlement for use before an officer or any board or commission (including the Board of Supervisors)

1 on which the officer sits, or (ii) any person who actively supports or opposes a governmental decision
2 by an officer or any board or commission (including the Board of Supervisors) on which the officer sits.

3 "License, permit, or other entitlement for use" shall be defined as set forth in California
4 Government Code Section 84308, as amended from time to time.

5 "Officer" shall mean the Mayor, City Attorney, District Attorney, Treasurer, Sheriff, Assessor-
6 Recorder, Public Defender, a Member of the Board of Supervisors, or any member of a board or
7 commission who is required to file a Statement of Economic Interests, including all persons holding
8 positions listed in Section 3.1-103(a)(1) of this Code.

9 "Payment" shall mean a monetary payment or the delivery of goods or services.

10 "Participant" shall be defined as set forth in California Government Code Section 84308
11 and Title 2, Section 18438.4 of California Code of Regulations, as amended from time to time.

12 "Party" shall be defined as set forth in California Government Code Section 84308, as
13 amended from time to time.

14 "Public appeal" shall mean a request for a payment when such request is made by means of
15 television, radio, billboard, a public message on an online platform, the distribution of 500 or more
16 identical pieces of printed material, or a speech to a group of 50 or more individuals.

17 "Relative" shall mean a spouse, domestic partner, parent, grandparent, child, sibling, parent-in-
18 law, aunt, uncle, niece, nephew, first cousin, and includes any similar step relationship or relationship
19 created by adoption.

21 **SEC. 3.610. REQUIRED FILING OF BEHESTED PAYMENT REPORTS.**

22 (a) **FILING REQUIREMENT.** ~~If a Commissioner directly or indirectly requests or solicits~~
23 ~~any Charitable Contribution(s), or series of Charitable Contributions, from any party, participant or~~
24 ~~agent of a party or participant involved in a proceeding regarding administrative enforcement, a~~
25 ~~license, a permit, or other entitlement for use before the Commissioner's board or commission, the~~

1 ~~Commissioner shall file a Behested Payment Report with the Ethics Commission in the following~~
2 ~~circumstances: If an officer directly or indirectly requests or solicits any behested payment(s) from an~~
3 ~~interested party, the officer shall file the behested payment report described in subsection (b) with the~~
4 ~~Ethics Commission in the following circumstances:~~

5 (1) ~~if the party, participant or agent makes any Charitable Contribution, or series of~~
6 ~~Charitable Contributions, totaling \$1,000 or more while the proceeding is pending, the Commissioner~~
7 ~~shall file a Behested Payment Report within 30 days of the date on which the Charitable Contribution~~
8 ~~was made, or if there has been a series of Charitable Contributions, within 30 days of the date on~~
9 ~~which a Charitable Contribution causes the total amount of the contributions to total \$1,000 or more;~~
10 ~~if the interested party makes any behested payment(s) totaling \$1,000 or more during the pendency of~~
11 ~~the proceeding involving the interested party or a decision that the interested party is actively~~
12 ~~supporting or opposing, the officer shall file a behested payment report within 30 days of the date on~~
13 ~~which the behested payment was made, or if there has been a series of behested payments, within 30~~
14 ~~days of the date on which the behested payment(s) total \$1,000 or more;~~

15 (2) ~~if the party, participant or agent makes any Charitable Contribution, or series of~~
16 ~~Charitable Contributions, totaling \$1,000 or more during the three months following the date a final~~
17 ~~decision is rendered in the proceeding, the Commissioner shall file a Behested Payment Report within~~
18 ~~30 days of the date on which the Charitable Contribution was made, or if there has been a series of~~
19 ~~Charitable Contributions, within 30 days of the date on which a Charitable Contribution causes the~~
20 ~~total amount of the contributions to total \$1,000 or more; and if the interested party makes any~~
21 ~~behested payment(s) totaling \$1,000 or more during the six months following the date on which a final~~
22 ~~decision is rendered in the proceeding involving the interested party or a decision that the interested~~
23 ~~party is actively supporting or opposing, the officer shall file a behested payment report within 30 days~~
24 ~~of the date on which the behested payment was made, or if there has been a series of behested~~
25 ~~payments, within 30 days of the date on which the behested payment(s) total \$1,000 or more; and~~

1 (3) ~~if the party, participant or agent made any Charitable Contribution, or series of~~
2 ~~Charitable Contributions, totaling \$1,000 or more in the 12 months prior to the commencement of a~~
3 ~~proceeding, the Commissioner shall file a Behested Payment Report within 30 days of the date the~~
4 ~~Commissioner knew or should have known that the source of the Charitable Contribution(s) became a~~
5 ~~party, participant or agent in a proceeding before the Commissioner's board or commission. if the~~
6 ~~interested party made any behested payment(s) totaling \$1,000 or more in the 12 months prior to the~~
7 ~~commencement of a proceeding involving the interested party or a decision that the interested party~~
8 ~~actively supports or opposes, the officer shall file a behested payment report within 30 days of the date~~
9 ~~the officer knew or should have known that the source of the behested payment(s) became an interested~~
10 ~~party.~~

11 **(b) BEHESTED PAYMENT REPORT.** The behested payment report shall include the
12 following:

- 13 (1) name of payor;
14 (2) address of payor;
15 (3) amount of the payment(s);
16 (4) date(s) the payment(s) were made,
17 (5) the name and address of the payee(s),
18 (6) a brief description of the goods or services provided or purchased, if any, and a
19 description of the specific purpose or event for which the payment(s) were made;
20 (7) if the officer or the officer's relative, staff member, or paid campaign staff, is an
21 officer, executive, member of the board of directors, staff member or authorized agent for the recipient
22 of the behested payment(s), such individual's name, relation to the officer, and position held with the
23 payee;
24 (8) if the payee has created or distributed 200 or more substantially similar
25 communications featuring the officer within the six months prior to the deadline for filing the behested

1 payment report, a brief description of such communication(s), the purpose of the communication(s), the
2 number of communication(s) distributed, and a copy of the communication(s); and

3 (9) if in the six months following the deadline for filing the behested payment report, the
4 payee has created or distributed 200 or more substantially similar communications featuring the
5 officer, the officer shall file an amended payment report that discloses a brief description of such
6 communication(s), the purpose of the communication(s), the number of communication(s) distributed,
7 and a copy of the communication(s).

8 (c) **AMENDMENTS.** If any of the information previously disclosed on a behested payment
9 report changes during the pendency of the proceeding involving the interested party or a decision that
10 the interested party actively supports or opposes, or within six months of the final decision in such
11 proceeding, the officer shall file an amended behested payment report.

12 (d) **PUBLIC APPEALS.** Notwithstanding subsection (a), no officer shall be required to report
13 any behested payment that is made solely in response to a public appeal.

14 (e) **NOTICE.** If an officer solicits or otherwise requests, in any manner other than a public
15 appeal, that any person make a behested payment, the official or his agent must notify that person that
16 if the person makes any behested payment in response to the solicitation or request, the person may be
17 subject to the disclosure and notice requirements in Section 3.620.

18 ~~(b) (f)~~ **WEBSITE POSTING.** The Ethics Commission shall make available through its
19 website all ~~B~~behested ~~P~~ayment ~~R~~eports it receives from ~~Commissioners~~ officers.

20 ~~(c) **PENALTIES.** A Commissioner who fails to comply with this Section 3.610 is subject to the~~
21 ~~administrative process and penalties set forth in Section 3.242(d).~~

22 ~~(d) **EXCEPTION.** A Commissioner has no obligation to file Behested Payment Reports, as~~
23 ~~required by subsection (a), if the Commissioner solicited Charitable Contributions by acting as an~~
24 ~~auctioneer at a fundraising event for a nonprofit organization that is exempt from taxation under~~
25 ~~Section 501(c)(3) of the United States Internal Revenue Code.~~

1
2 **SEC. 3.620. FILING BY DONORS.**

3 **(a) REPORT.** *Any interested party who makes a behested payment, or series of behested*
4 *payments in a calendar year, of \$1,000 or more must disclose, within 30 days following the date on*
5 *which the payment(s) totals \$1,000 or more:*

6 *(1) the proceeding the interested party is or was involved in;*

7 *(2) the decisions the interested party actively supports or opposes;*

8 *(3) the outcome(s) the interested party is or was seeking in such proceedings or*
9 *decisions; and*

10 *(4) any contact(s) the interested party made in relation to such proceedings or*
11 *decisions.*

12 **(b) NOTICE.** *Any person who makes a behested payment must notify the recipient that the*
13 *payment is a behested payment, at the time the payment is made.*

14
15 **SEC. 3.630. FILING BY RECIPIENTS OF MAJOR BEHESTED PAYMENTS.**

16 **(a) MAJOR BEHESTED PAYMENT REPORT.** *Any person who receives a behested*
17 *payment, or a series of behested payments, received during a calendar year, totaling \$100,000 or more*
18 *that was made at the behest of any officer must do the following:*

19 *(1) within 30 days following the date on which the payment(s) total \$100,000 or more,*
20 *notify the Ethics Commission that the person has received such payment(s) and specify the date on*
21 *which the payment(s) equaled or exceeded \$100,000;*

22 *(2) within 13 months following the date on which the payment(s) or payments total*
23 *\$100,000 or more, but at least 12 months following the date on which the payment(s) total \$100,000 or*
24 *more, disclose:*

1 (i) all payments made by the person that were funded in whole or in part by the
2 behested payment(s) made at the behest of the officer; and

3 (ii) if the person has actively supported or opposed any City decision(s)
4 involving the officer in the 12 months following the date on which the payment(s) were made:

5 (A) the proceeding the person is or was involved in;

6 (B) the decision(s) the person actively supported or opposed;

7 (C) the outcome(s) the person is or was seeking in such proceedings or
8 decisions; and

9 (D) any contact(s) the person made in relation to such proceedings or
10 decisions.

11 (b) **EXCEPTION.** Subsection (a) does not apply if the entity receiving the behested payment is
12 a City department.

13 (c) **NOTICE REQUIRED.** If a recipient of a behested payment does not receive the notice, as
14 required under Section 3.620, that a particular payment is a behested payment, the recipient will not be
15 subject to penalties under Section 3.650, as regards that particular payment, for failure to file pursuant
16 to subsection (a) unless it is clear from the circumstances that the recipient knew or should have known
17 that the payment was made at the behest of an officer.

18
19 **SEC. ~~3.620~~ 3.640. REGULATIONS.**

20 (a) The Ethics Commission may adopt rules, regulations, and guidelines for the
21 implementation of this Chapter 6.

22 (b) The Ethics Commission may, by regulation, require persons ~~Commissioners~~ to
23 electronically submit any ~~substantially the same~~ information ~~as required by the Behested Payment~~
24 ~~Report~~ to fulfill their obligations under ~~Section 3.610~~ this Chapter 6.

1 **SEC. 3.650. PENALTIES.**

2 Any party who fails to comply with any provision of this Chapter 6 is subject to the
3 administrative process and penalties set forth in Section 3.242(d) of this Code.

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

10
11 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
12 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
13 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
14 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
15 additions, and Board amendment deletions in accordance with the "Note" that appears under
16 the official title of the ordinance.

17
18 Section 6. Severability. If any section, subsection, sentence, clause, phrase, or word
19 of this ordinance, or any application thereof to any person or circumstance, is held to be
20 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
21 shall not affect the validity of the remaining portions or applications of the ordinance. The
22 Board of Supervisors hereby declares that it would have passed this ordinance and each and
23 every section, subsection, sentence, clause, phrase, and word not declared invalid or
24 unconstitutional without regard to whether any other portion of this ordinance or application
25 thereof would be subsequently declared invalid or unconstitutional.

1
2 APPROVED AS TO FORM:
3 DENNIS J. HERRERA, City Attorney

4 By: _____
5 ANDREW SHEN
6 Deputy City Attorney

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To: San Francisco Ethics Commission and Director LeeAnn Pelham
From: Working Group for SF Charities
Date: November 17, 2017
Re: Behested payments disclosure reporting

The Working Group for SF Charities is comprised of community-based organizations and coalitions, including the San Francisco Human Services Network, Council of Community Housing Organizations and other nonprofits seeking to advance policies that support principled and productive partnerships between charities, city government, and the private sector. We respectfully submit these comments on the November 3 "Draft Language for Amended Behested Payments Disclosure Reporting."

A) General principles and potential impacts

First, the members of our nonprofit community are thankful to the Ethics Commission and staff for replacing the previous proposal for a ban on behested donations with a focus on disclosure requirements. We believe that strong disclosure and transparency is the better path to exposing real corruption, while mitigating potential harm to the City's ability to create public-private partnerships and to charitable organizations' ability to identify funding sources for vital community services.

However, we are deeply concerned that this new draft ordinance goes far beyond the envisioned disclosure regime related to potential conflicts of interest with behested donations, which was the stated objective, and thus creates a new set of consequences for the City, nonprofit service and arts organizations, and residents that rely on those programs.

Currently, the available records on behested donations arise from the State requirements that elected officials disclose solicitations at the \$5,000 level. However, beginning in January 2018, members of City boards and Commissions will become subject to a new disclosure Ordinance carried by Supervisor Aaron Peskin and approved by the Board of Supervisors in January 2017. **This new law will require appointed public officials to report behested donations of \$1,000 or more where the donor is involved in proceedings before that official's board or Commission.**

In June and July of 2016, the Ethics Commission held hearings on Sup. Peskin's proposed legislation. In developing its recommendations around this legislation, Ethics staff urged the Commission to balance three key principles – an approach that the Commission supported unanimously. We believe that the current disclosure proposal is inconsistent with those worthy goals¹.

¹ <https://sfethics.org/wp-content/uploads/2016/07/item-5-memo-attachments-commissioner-behested-donations-reporting-final.pdf>, p.7.

Principle 1: To promote and uphold the desirability and value of volunteering in service to the public.

The new proposal imposes a sweeping new obligation on volunteer members of commissions and fails to consider the practical challenges that such a new obligation will have on commissioners who are also active in fundraising or volunteer recruitment for arts, human services, and social justice organizations. It was stated at the recent IP meeting that the purpose of the legislation is to “expose the relationship between politicians and money.” However, this assertion is precisely the problem with the disclosure requirement. Not only does it falsely assume that most commissioners are existing or nascent politicians but it also imbues every reported contribution that a commissioner solicits with a taint of politics.

The result will make the already difficult task of charitable fundraising even more challenging – particularly for controversial initiatives and marginalized communities where public disclosure can result in reprisals and harassment. In short, the proposal imposes a new burden on volunteer commissioners without providing them with the staff or support to comply and with potentially severe impacts on their ability to continue their charitable work completely unrelated to their service as commissioners.

Principle 2: To provide meaningful transparency with a clear nexus to that government service.

A key distinction between the recent legislation introduced by Supervisor Peskin and the present proposal is there no required nexus between a contribution that must be reported and some government action. The donor may never have a matter before the commissioner and yet must report their contribution. We do not see the purpose or meaning to such a requirement.

Principle 3: To ensure a sufficient operational foundation to enable the law’s effectiveness in practice.

As noted above, the proposal imposes a significant and unresourced compliance burden on volunteer commissioners. Outside of the Ethics Commission, most commissioners are not lawyers. Unlike elected officials, few if any have staff to support their individual work as commissioners and probably fewer have compliance attorneys. Yet there is no proposal to provide any support for commissioners to fulfill the obligations imposed upon them by this proposal.

In supporting the application of Peskin's legislation only to behesting with a government nexus, the Commission also sought to ensure that the disclosure law would be enforceable, and took into account its own capacity to add broad new responsibilities. These concerns led the Ethics Commission to recommend that Commissioners report behested charitable donations only where there is a nexus to the governmental duties of those volunteer officials, and to delay the effective date until January 1, 2018 due to the lack of funding for compliance.

Finally, to the above principles, we suggest one additional goal that is an appropriate measure of all good public policy:

Principle 4: The policy should seek to ensure that the benefits to the public outweigh the harms and burdens it will impose.

In the absence of an analysis of the proposal, we do not understand the public benefit of requiring the disclosure of relatively small contributions to charities and public programs given the likely burden it will impose. As noted above, the disclosure requirements will certainly result in a decline in contributions to charities – contributions without even an arguable association with any matters before a governmental agency. The proposal also imposes additional compliance costs on donors and charitable organizations. For individuals and organizations without compliance counsel or staff, such costs will likely be considerable relative to the size of the contributions. As noted below, we understand the logic for the existing behesting reporting requirements at the \$5000 level for elected officials who are provided with staff or at the \$100,000 level in the proposed Section 3.613. The arguments presented at previous hearings and meetings regarding large corporate behests may justify additional scrutiny. But that logic does not translate to smaller contributions. Nor is there any existing pro bono program to assist small donors or nonprofit organizations with the additional burden of complying with the proposed new laws.

The Peskin legislation, supported by the Ethics Commission, is about to take effect in less than two months, and already, the Commission is considering a dramatic expansion of the behested donations disclosure regime that appears to reject the cautioned principles the Commission supported 16 months ago. Ethics staff now proposes legislation that would apply to all behested donations of \$1000 or more, for any vague "matter pending" before that public body. Staff also suggests a complicated – and in places, inappropriate and overly onerous – set of disclosures by not only public officials, but also by donors and recipients. Moreover, staff is now proposing that charitable organizations as recipients be required to report all behested donations whether or not the donor had any decision or other matter before the official who made the behest. This proposed requirement on recipients of donations casts a net far beyond the original intent to bring transparency to potential conflicts of interest around the donor/official relationship.

We therefore urge the Commission to refrain from imposing additional requirements on either elected officials or members of City boards and Commissioners that go beyond the Peskin legislation that will take effect in January 2018. We also express concern about specific expanded disclosure requirements for donors and recipients.

B) Specific provisions

- Maintain the language in the Peskin legislation that limits the disclosure requirement to charitable fundraising with a nexus to a proceeding before that public official, rather than all behests. The requirement should not apply where the official's fundraising is completely unrelated to a matter before the public body on which they serve. This more precise and tailored requirement is consistent with the legislation's stated purpose to address quid pro quo.
 - This revision to the staff's draft proposal will minimize the potential impacts on charitable giving and volunteerism.
 - Without this more tailored language, nonprofit representatives (staff and Boards of Directors) who donate their expertise by volunteering on City Commissions would not be able to maintain the donor privacy required by their organizations as part of their fundraising responsibilities. They would have to choose between their organization and their public service role.
- Maintain the language in the Peskin legislation that limits the disclosure requirement to proceedings where that nexus is defined by a clear financial stake.
 - The staff's proposed language, which applies to any "matter pending" before that official, is vague and overly broad. One could construe this provision to apply when a member of the public has any general concern with a proposed law or administrative rule.
- For smaller contributions below \$100,000, impose reporting requirements on public officials, not donors or recipients.
 - Requiring donors to report will have a chilling impact on charitable giving by creating a disincentive for donations. Instead, public officials should report whether they are aware of any pending matters involving the donor. State law already requires disclosure by public officials for behested donations of \$5,000 and greater.
 - The requirement that recipients disclose any relationship with the public official is unrealistic. Only the public official is in the position to know whether any such relationship exists, while large organizations will not be aware of such information for all of their staff, directors, etc. Any such reporting requirement should therefore fall on the public official.
 - The requirement that recipients disclose events or literature featuring the public official implies some nexus or conflict of interest with the recipient. Publicly thanking an official who assists a worthy organization is both appropriate and conducive to garnering needed support from the broader public. Federal law

already restricts 501(c)(3) nonprofits from engaging in activities that feature officials and candidates when it's close to an election.

- Reporting requirements expose donors and recipients to the risk of civil or criminal penalties for the act of charity. Any requirements on these parties should include a safe harbor exempting them from any penalties where they do not receive proper notice about the behest.
- We support some additional reporting requirements for donors of major behested contributions (\$100,000+), but have concerns about specific requirements.
 - Because contributions of this magnitude are rare, it is reasonable and less onerous to require donors to report any pending business before the public official and provide notice of requirements to the recipient. Similarly, it is reasonable to ask recipients to provide information about events and literature featuring the public official, and about the purpose of the donation.
 - However, some of the information requested of recipients is irrelevant to the donation or inappropriate.
 - The draft requires disclosure of expenditures within a mere 30 days of receipt of the payment, while the funds may not actually be spent for months or even years (e.g. in a capital campaign to purchase a building). A more helpful disclosure would be a description of the specific purpose for which the donor provided the funds or for which the recipient intends to use the funds.
 - The draft legislation requires disclosure of the recipient organization's five largest contributors. This provision violates the legitimate right of donors to protect their confidentiality, and forces the recipient organization to jeopardize such contributions. Donors frequently ask nonprofits to maintain their privacy for many reasons (e.g. humility, avoiding inundation by requests from similar organizations, religious tithing traditions, fear of harassment by opponents, and HIPPA-related issues or other personal privacy concerns). Even Administrative Code 12L (referred to as the nonprofit sunshine law) recognizes the need for donor confidentiality and protects organizations from disclosing donor identities.
 - The nexus that gives rise to the disclosure requirement is between the public official and the donor – not the recipient. Therefore, the City should not require recipient organizations to report their specific lobbying activities unless they reach the threshold that requires them to register under the City's lobbying ordinances.