Date: April 11, 2018

To: Members, San Francisco Ethics Commission

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

Re: Agenda Item 4 – Staff Memorandum providing an overview of the Anti-Corruption and Accountability Ordinance (“ACAO”) as amended at the April 3, 2018 Special Joint Meeting.

Summary: This memorandum provides an overview of the proposed Anti-Corruption and Accountability Ordinance as amended at the Special Joint Meeting of the Ethics Commission and the Board of Supervisors on April 3, 2018.

Action Requested: Staff recommends that the Commission adopt the revised ACAO in substantially the form approved by the Board and forward it to the Board for final enactment.

Section I of this memorandum provides an update on the procedural history of the Ordinance since its approval by the Commission at its regular meeting on February 16, 2018. Section II highlights items to be considered on April 18. Section III summarizes the amendments made to the Ordinance by the Board of Supervisors (the “Board”) during the April 3, 2018 special joint meeting. Section IV explains several technical clean up items recommended by Staff. A version of Ordinance reflecting the Commission’s action at the special joint meeting and the Board’s amendments appears as Attachment 1.

I. Update on the Progress of the Ordinance since February 16, 2018

On April 3, 2018, the Commission convened a joint special meeting with the Board of Supervisors to consider the ACAO and vote on any amendments with the goal of jointly approving a final version of the Ordinance. During the special joint meeting, the Commission voted unanimously to approve three amendments to the Ordinance. Subsequently, the Board of Supervisors voted to make several additional amendments to the Ordinance. Rather than taking a vote on the Board’s amendments at that time, the Commission voted to continue the ACAO to a subsequent special meeting of the Ethics Commission to consider the Board’s amendments. The Commission called a special meeting on April 18 to consider these amendments.
II. Items to Be Considered on April 18

The most recent version of the Ordinance is attached here as Attachment 1 and is color-coded for ease of reference, the amendments approved by the Commission at the April 3rd joint meeting are not highlighted in Attachment 1. These amendments require no further action by the Commission because they have already been approved by the Commission.

**Board Amendments (Blue highlighting).** The amendments made by the Board at the April 3rd joint meeting are indicated with blue highlighting. The Commission has not yet taken any action on these amendments. Before the Board may formally approve this version of the Ordinance, the Commission would need to approve the Board’s proposed amendments by at least a four-fifths vote. Section II below briefly summarizes the Board’s amendments.

**Minor Technical Amendments (Yellow highlighting).** Attachment 1 also contains minor “clean up” amendments recommended by Staff. These amendments are highlighted in yellow. Section III explains these items. Because the Commission has not yet taken any action on these changes, they require at least of four-fifths vote by the Commission before the Board may adopt them in a final Ordinance.

Also color-coded in yellow highlighting is a clean-up amendment requested after the April 3 joint meeting in a letter from Supervisors Tang and Peskin. That letter appears at Attachment 2. The supervisors intended to raise this proposed change at the joint meeting but did not. This amendment, which would affect section 3.600, is also recommended by Staff as a technical amendment for the Commission’s adoption and would exactly mirror what the Board amended into the reporting requirements for political behests in section 1.114.5.

III. Amendments Approved by the Board of Supervisors at the April 3rd Joint Meeting

This section briefly summarizes the amendments made by the Board at the April 3 joint meeting. Each is identified by topic and by reference to the code sections affected.

A. **Disclosure of Political Behests – Sections 1.114.5(b), 1.104**

Section 1.114.5(b) of the Ordinance would require ballot measure committees and independent expenditure committees to report any instance in which they receive a contribution of $5,000 or more that was made at the behest of a City elective officer.

A Board amendment on April 3 created an exception for contributions made as the result of a *public appeal* by an elected official. This change would create uniformity with other existing law (Chap. III, Art. 6). Under the amendment, a contribution would not be reportable if made in response to a request by an elected official via “television, radio, billboard, a public message on an online platform, the distribution of 200 or more identical pieces of printed material, the distribution of a single email to 200 or more recipients, or a speech to a group of 20 or more individuals.” This definition of public appeal was amended into section 1.104.
B. **Disclosures by Business Entities – Section 1.124**

The Ordinance would require new disclosures by any committee that receives contributions totaling $10,000 or more in a single election cycle from one *business entity*. The version last approved by the Commission would require such a committee to disclose all its “principle officers, including Chairperson of the Board of Directors, President, Vice-President, Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Executive Director, Deputy Director, or equivalent positions.”

A Board amendment on April 3 modified this to require committees to disclose one of the principle officers of a business entity that contributes $10,000 to the committee, rather than all the principle officers. This change was based on the rationale that discovering and disclosing the names of all a contributor’s principle officers would be an excessive burden on committees.

C. **City Contractor Contribution Prohibition – Section 1.126(f)(2)**

The Ordinance would make certain changes to the City contractor contribution prohibition in existing City law. For one, the Ordinance would require more notifications to be issued to City contractors (and potential contractors) so that they may be on notice of the contribution prohibition. The Ordinance would also require that City departments notify the Ethics Commission when they receive contract proposals that meet the $100,000 threshold and therefore trigger the contractor contribution prohibition.

A Board amendment on April 3 modified the notification requirement to no longer require City departments to identify a specific value for a proposed contract when this notification provision is triggered.

D. **Obsolete Language: Public Financing Program in the 2012 Election – Section 1.142(h)**

The Code currently contains a provision stating that the Commission could not certify a supervisorial candidate in the 2012 election for public financing until after the 2012 supervisorial district redistricting was competed. This provision is now obsolete.

A Board amendment on April 3 deletes this obsolete language.

E. **Major Donor Financial Disclosures – Section 1.158**

Following a motion by Supervisor Peskin to remove from the ACAO the Major Donor provision of Sec. 1.158 that he had authored, the Board approved a deletion of section 1.158 from the Ordinance in its entirety. Supervisor Peskin expressed his interest in continuing to work on the proposal and agreed that it was not yet in its final form, therefore not appropriate to include in the Ordinance, and could be more appropriately approached through a separate legislative vehicle.

F. **Advertisement Disclaimers – Sections 1.161(a)(5), 1.162(a)(3)**

The Code currently requires committees to include disclaimers on *campaign advertisements* and *electioneering communications*. At its February meeting, the Commission voted to include new
disclaimer formatting requirements proposed by Supervisor Peskin. These new rules would require disclaimers in audio and video advertisements to be placed at the beginning of such advertisements.

A Board amendment on April 3 changes the new disclaimer format rules to instead require disclaimers at the end of audio and video advertisements.

G. Repeated Recusals Review Procedure - Section 3.209(c)

The Ordinance proposed new rules regarding recusals by members of boards and commissions. Section 3.209 would require a notification to the Ethics Commission each time board or commissioners recused themselves from a matter before their respective board or commission. It also provided for a public review process by the Ethics Commission to assess whether a commissioner’s repeated recusals constituted a significant and continuing conflict of interest.

A Board amendment on April 3 deleted a provision formalizing a review procedure for recusal notifications but left in the requirement that recusing officials file the notifications with the Commission. This would allow the recusals to be reviewed in one place by the public but would not establish a formal requirement that the Commission review them.

H. Behested Payment Reporting – Sections 3.600, 3.620, 3.630

The Ordinance would change the local requirements for reporting Behested payments that currently exist in the Code. Specifically, under current City law, a member of a board or commission is required to file a report when he solicits a behested payment from a party or participant to a proceeding before his board or commission. The Ordinance would expand this requirement by (i) extending it to elected officials, and (ii) requiring reporting when a behested payment is made by a person who is actively supporting or opposing a decision by the behesting official and has a financial interest in that decision.

A Board amendment on April 3 deleted language requiring behested payment reporting when the payor is actively supporting or opposing a decision by the behesting official (and has a financial interest in that decision). This would largely return the scope of the reporting requirement to what currently exists in the Code.1

Another Board amendment modified this section to require reporting by persons making behested payments of $10,000 or more rather than $1,000 or more.

Even with these amendments, the Ordinance expands the current Code’s behested payment reporting requirements. Interested parties that make behested payments totaling $10,000 or more would be required to file a report disclosing their interest in a City proceeding involving the behesting official.

1 The reporting requirement would no longer be explicitly limited to board and commission members, but it would be limited to situations in which the payor is a party or participant to a proceeding involving an administrative enforcement, license, permit, or other entitlement for use. Such proceedings are largely conducted by City boards and commissions.
I. References to Electronic Communications - Electronic Media Technologies – Sections 1.104, 1.110, 1.162(b)

A Board amendment on April 3 also added references to electronic communications in various sections of the Code. Sections 1.104, 1.110, and 1.162(b) were amended to refer to and include a definition of electronic media technologies. Electronic media technologies is defined as “technologies that distribute communications, commonly user-generated content, within virtual communities. ‘Electronic media technologies’ includes, but is not limited to, Facebook, Instagram, LinkedIn, Pinterest, Reddit, Snapchat, Tumblr, Twitter, WhatsApp, and YouTube.”

We understand that use of the phrase “electronic media technologies” may be designed to provide further clarification for persons attempting to comply with the disclosure and disclaimer requirements in City law. At the same time, however, current City law already applies disclosure and disclaimer requirements to “electronic” media.

IV. Technical “Clean Up” Amendments Recommended by Staff

The following technical amendments are recommended by Staff to achieve consistency and clarity in the Code. These amendments do not represent any substantive changes. As noted earlier, they are indicated with yellow highlighting in Attachment 1.

A. Advertisement Disclaimers – Section 1.161(a)(4)

Disclaimers on campaign advertisements must follow format requirements set forth in state law. However, City law imposes additional, stricter formatting requirements that would be increased under the Ordinance as amended by the Board (see above subsection II.F). To properly reference the increased formatting requirements, a section cross-reference should be added to section 1.161(a)(4).

B. Delete Reference to Section 1.127 – Section 1.170

Section 1.170 of the Ordinance, which pertains to penalties for violations of the Code, still contains a reference to section 1.127. The Commission previously removed section 1.127 from the Ordinance, so this section cross-reference should be removed from section 1.170.

C. Clean Up Amendment Proposed by Supervisors Tang and Peskin—Behested Payment Reporting—Section 3.600

On April 5th, Staff received a letter from Supervisors Tang and Peskin (see Attachment 2) requesting that the Commission approve an amendment that the supervisors has intended to raise at the April 3rd but did not. The amendment would mirror in Sec. 3.600 an expanded public appeals exception the Board adopted in Sec. 1.114.5 by lowering the threshold for printed materials from 500 to 200, lowering the threshold for public speeches from a group of 50 people to a group of 20 people, and including “the distribution of a single email to 200 or more recipients.” This language would exactly mirror what the Board amended into the reporting requirements for political behests in section 1.114.5 (see above Section III.A).
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) require committees to file a third pre-election statement prior to an election; 8) remove the prohibition against distribution of campaign advertisements containing false endorsements; 9) allow members of the public to receive a portion of penalties collected in certain enforcement actions; 10) require financial disclosures from certain major donors to local political committees; 11) impose additional disclaimer requirements; 12) permit the Ethics Commission to recommend contract debarment as a penalty for campaign finance violations; 13) create new conflict of interest and political activity rules for elected officials and members of boards and commissions; 14) specify recusal procedures for members of boards and commissions; and 15) 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, 1.110, 1.114, 1.126, 1.135, 1.161, 1.142, 1.162, 1.168, 1.170, adding Sections 1.114.5, 1.124, 1.125, 1.158, 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:

* * * *

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

* * * *

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

* * * *

“Electronic media technologies” shall mean technologies that distribute communications, commonly user-generated content, within virtual communities. “Electronic media technologies” includes, but is not limited to, Facebook, Instagram, LinkedIn, Pinterest, Reddit, Snapchat, Tumblr, Twitter, WhatsApp, and YouTube.

* * * *

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

“Public appeal” shall mean a request for a payment when such request is made by means of television, radio, billboard, a public message on an online platform, the distribution
of 200 or more identical pieces of printed material, the distribution of a single email to 200 or more recipients, or a speech to a group of 20 or more individuals.

* * * *

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

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

* * * *

SEC. 1.110. CAMPAIGN STATEMENTS.

(a) INSPECTION AND COPYMAKING. Campaign statements are to be open for public inspection and reproduction at the Office of the Ethics Commission during regular business hours and such additional hours as the Ethics Commission determines appropriate. The Commission shall provide public notice of the hours that the office is open for inspection and reproduction. The Ethics Commission shall also make campaign statements available through its website.

* * * *

(c) ELECTRONIC MEDIA TECHNOLOGIES. Campaign statements shall disclose, as required by the Political Reform Act, expenditures on electronic media technologies. Without limitation, campaigns shall disclose expenditures on the promotion of electronic media accounts, methods to increase popularity of electronic media posts, written communications, or any audio or video distributed through electronic media technologies.

SEC. 1.114. CONTRIBUTIONS - LIMITS AND PROHIBITIONS.

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

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

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

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

(e) **AGGREGATION OF AFFILIATED ENTITY CONTRIBUTIONS.**

   (1) General Rule. For purposes of the contribution limits imposed by this
Section 1.114 and Section 1.120, the contributions of an entity whose contributions are
directed and controlled by any individual shall be aggregated with contributions made by that
individual and any other entity whose contributions are directed and controlled by the same
individual.
Multiple Entity Contributions Controlled by the Same Persons. If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

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

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

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

FORFEITURE OF UNLAWFUL CONTRIBUTIONS. In addition to any other penalty, each committee that receives a contribution which exceeds the limits imposed by this Section 1.114 or which does not comply with the requirements of this Section shall pay promptly the amount received or deposited in excess of the permitted amount permitted by this Section to the City and County of San Francisco and by delivering the payment to the Ethics Commission for deposit in the General Fund of the City and County; provided that the Ethics Commission may provide for the waiver or reduction of the forfeiture.
(f)(g) RECEIPT OF CONTRIBUTIONS. A contribution to a candidate committee or committee making expenditures to support or oppose a candidate shall not be considered received if it is not cashed, negotiated, or deposited, and in addition it is returned to the donor before the closing date of the campaign statement on which the contribution would otherwise be reported, except that a contribution to a candidate committee or committee making expenditures to support or oppose a candidate made before an election at which the candidate is to be voted on but after the closing date of the last campaign statement required to be filed before the election shall not be considered to be deemed received if it is not cashed, negotiated, or deposited, and is returned to the contributor within 48 hours of receipt.

For all committees not addressed by this Section 1.114, the determination of when contributions are considered to be received shall be made in accordance with the California Political Reform Act, California Government Code Section 81000, et seq.

SEC. 1.114. CONTRIBUTIONS - DISCLOSURES.

(a) CONTRIBUTOR INFORMATION REQUIRED. If the cumulative amount of contributions received from a contributor is $100 or more, the committee shall not deposit any contribution that causes the total amount contributed by a person to equal or exceed $100 unless the committee has the following information: the contributor’s full name; the contributor’s street address; the contributor’s occupation; and the name of the contributor’s employer or, if the contributor is self-employed, the name of the contributor’s business.

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

(2) If a committee collects the information required under this subsection (a) on a form signed by the contributor stating that the contributor has not made a prohibited source contribution,
there shall be a rebuttable presumption that the committee has not accepted a prohibited source contribution.

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

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

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

(3) Notwithstanding the provisions of this subsection (b), no committee shall be required to make the disclosure required in subsection (b)(2) for any contribution that constitutes a contribution to the City elective officer at whose behest the contribution was made.

(4) Exception for public appeals. No person or committee shall be required to make any disclosures required under this subsection (b) for any contribution, if the contribution was made solely in response to a public appeal.

(c) ASSUMED NAME CONTRIBUTIONS.

(1) No contribution may be made, directly or indirectly, by any person or combination of persons, in a name other than the name by which they are identified for legal purposes, or in the name of another person or combination of persons.
(2) No person may make a contribution to a candidate or committee in his, her, or its name when using any payment received from another person on the condition that it be contributed to a specific candidate or committee.

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

SEC. 1.124. ADDITIONAL DISCLOSURE REQUIREMENTS FOR CONTRIBUTIONS MADE BY BUSINESS ENTITIES.

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

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

(2) whether the business entity has received funds through a contract or grant from any City agency within the last 24 months for a project within the jurisdiction of the City and County of San Francisco, and if so, the name of the agency that provided the funding, and the value of the contract or grant.
(b) **Filing Requirements.** Committees shall provide this information for contributions received from business entities at the same time that they are required to file semiannual or preelection campaign statements with the Ethics Commission.

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

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

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

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

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

1. the name, occupation, employer, and mailing address of the person who bundled the contributions;
2. a list of the contributions bundled by that person (including the name of the contributor and the date the contribution was made);
3. if the individual who bundled the contributions is a member of a City board or commission, the name of the board or commission on which that person serves, and the names of any City officers who appointed or nominated that person to the board or commission.
(c) **Filing Requirements.** Committees shall provide the information for bundled contributions required by subsection (b) at the same time that they are required to file semiannual or preelection campaign statements with the Ethics Commission. Committees shall be required to provide this information following the receipt of the final contribution that makes the cumulative amount of contributions bundled by a single individual total $5,000 or more.

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

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

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

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

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

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

1. The rendition of personal services.
2. The furnishing of any material, supplies or equipment.
3. The sale or lease of any land or building.
4. A grant, loan, or loan guarantee, or
5. A development agreement.

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

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

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

A. The rendition of personal services.
B. The furnishing of any material, supplies or equipment.
(C) the sale or lease of any land or building, or

(D) a grant, loan or loan guarantee.

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

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

(1) Shall make any contribution to:

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

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

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

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

(3) (c) Term of Prohibitions. The prohibitions set forth in subsection (b) shall apply from the submission of a proposal for a contract until:

At any time from the commencement of negotiations for such contract until:

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

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

(c) (d) Prohibition on Receipt of Contributions Soliciting or Accepting Contributions. No individual holding City elective office, candidate for such office, or committee controlled by such an individual shall: solicit or
(1) accept any contribution prohibited by subsection (b); or

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

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

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

(e) (f) Notification.

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

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

(B) Parties to Executed Contracts. After the final execution of a contract by a
City agency and any required approvals of a City elective officer, the agency that has entered into a
contract subject to subsection (b) shall inform any parties to the contract of the prohibition in
subsection (b) and the term of such prohibition established by subsection (c).
(2) **Notification of Ethics Commission.** The City agency seeking to enter into a contract subject to subsection (b) shall notify the Ethics Commission, within 30 days of the submission of a proposal, on a form or in a format adopted by the Commission, of the value of the desired contract, the parties to the contract, and any subcontractor listed as part of the proposal.

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

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

---

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

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

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

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

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

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

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

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

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

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

SEC. 1.142. PROCESS FOR ESTABLISHING ELIGIBILITY; CERTIFICATION BY THE ETHICS COMMISSION.

(a) STATEMENT OF PARTICIPATION OR NON-PARTICIPATION. Each candidate for the Board of Supervisors or Mayor must sign and file a Statement of Participation or Non-Participation in the public financing program. The statement must be filed by the candidate with the Ethics Commission no later than the deadline for filing nomination papers. On the statement, each candidate shall indicate whether he or she intends to participate in the public financing program. A statement of participation or non-participation may not be amended after the deadline for filing nomination papers.

(b) DECLARATION BY CANDIDATE. To become eligible to receive public financing of campaign expenses under this Chapter, a candidate shall declare, under penalty of perjury, that the candidate satisfies the requirements specified in Section 1.140. Candidates shall be permitted to submit the declaration and any supporting material required by the Ethics Commission to the Ethics Commission no earlier than nine months before the date of the election, but no later than the 70th day before the election. Once the declaration and supporting material are submitted, they may not be amended. The declaration and supporting material may be withdrawn and refiled, provided that the refiling is made no later than the 70th day before the election.

If any deadline imposed by this Subsection falls on a Saturday, Sunday, or legal holiday, the deadline shall be the next business day.
(c) DETERMINATION OF ELIGIBILITY. The Executive Director of the Ethics Commission shall review the candidate’s declaration and supporting material to determine whether the candidate is eligible to receive public funds under this Chapter. The Executive Director may audit the candidate’s records, interview contributors and take whatever steps the Executive Director deems necessary to determine eligibility. At the request of the Executive Director, the Controller shall assist in this review process.

(d) DETERMINATION OF OPPOSITION. To determine whether a candidate for the Board of Supervisors is opposed as required under Section 1.140(b)(3) of this Chapter or a candidate for Mayor is opposed as required under Section 1.140(c)(3) of this Chapter, the Executive Director shall review the material filed pursuant to Section 1.152 of this Chapter, and may review any other material.

(e) CERTIFICATION. If the Executive Director determines that a candidate for Mayor or the Board of Supervisors has satisfied the requirements of Section 1.140, the Executive Director shall notify the candidate and certify to the Controller that the candidate is eligible to receive public financing under this Chapter. The Executive Director shall not certify that a candidate is eligible to receive public financing if the candidate’s declaration or supporting material is incomplete or otherwise inadequate to establish eligibility. Except as provided in subsection (h), the Executive Director shall determine whether to certify a candidate no later than 30 days after the date the candidate submits his or her declaration and supporting material, provided that the Executive Director shall make all determinations regarding whether to certify a candidate no later than the 55th day before the election.

(f) RESUBMISSION. If the Executive Director declines to certify that a candidate is eligible to receive public financing under this Chapter, the Executive Director shall notify the candidate. Notwithstanding Section 1.142(b) of this Chapter, the candidate may, within five
business days of the date of notification, resubmit the declaration and supporting material. If
the candidate does not timely resubmit, the Executive Director's determination is final.

If, after viewing resubmitted material, the Executive Director declines to certify that a
candidate is eligible to receive public financing under this Chapter, the Executive Director
shall notify the candidate of this fact. Additional resubmissions may be permitted in the
Executive Director's discretion. If the candidate fails to resubmit in the time specified by the
Executive Director, or if no further resubmissions are permitted, the Executive Director's
determination is final.

(g) APPEAL TO THE ETHICS COMMISSION. If the Executive Director declines to
certify that a candidate is eligible to receive public financing under this Chapter, the candidate
may appeal the Executive Director's final determination to the Ethics Commission. The
candidate must deliver the written appeal to the Ethics Commission within five days of the
date of notification of the Executive Director's determination.

(h) SUPERVISORIAL CANDIDATES SEEKING ELECTION IN NOVEMBER 2012.
The Executive Director shall not certify any supervisorial candidates seeking election in
November 2012 as eligible to receive public funds until the Redistricting Task Force,
convened by the Board of Supervisors in Ordinance No. 93-11, has completed its 2012
revision of supervisorial district boundaries. Supervisorial candidates seeking election in
November 2012 may submit their declaration and any supporting material concerning their
eligibility to the Ethics Commission prior to the completion of the Redistricting Task Force's
revision of supervisorial district boundaries.

SEC. 1.163.5. DISTRIBUTION OF CAMPAIGN ADVERTISEMENTS CONTAINING
FALSE ENDORESEMENTS.
(a) **Prohibition.** No person may sponsor any campaign advertisement that is distributed within 90 days prior to an election and that contains a false endorsement, where the person acts with knowledge of the falsity of the endorsement or with reckless disregard for the truth or falsity of the endorsement. A false endorsement is a statement, signature, photograph, or image representing that a person expressly endorses or conveys support for or opposition to a candidate or measure when in fact the person does not expressly endorse or convey support for or opposition to the candidate or measure as stated or implied in the campaign communication.

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

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

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

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

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

(2) "Internet Advertisement" includes paid internet advertisements such as "banner" and "popup" advertisements, paid emails, or emails sent to addresses purchased from another person, and similar types of internet advertisements as defined by the Ethics Commission by regulation, but shall not include web blogs, listserves sent to persons who have contacted the sender, discussion forums, or general postings on web pages.
(3) “Sponsor” means to pay for, direct, supervise or authorize the production of campaign advertisement.

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

SEC. 1.158. MAJOR DONORS—FINANCIAL DISCLOSURES.

(a) Definitions. Whenever in this Section 1.158 the following words or phrases are used, they shall mean:

“Business entity” shall mean any corporation, partnership, or other legal entity that is not a natural person, but shall not include any nonprofit organization that is exempt from taxation under Section 501(c) of the United States Internal Revenue Code.

“Committee” shall mean any committee that: (1) qualifies as committee pursuant to Section 82013 of the California Government Code, including as that Section may be amended in the future; and (2) is required to file campaign statements with the Ethics Commission.

“Doing business” shall be defined as set forth in Title 2, Section 18230 of the California Code of Regulations.

“Immediate family” shall be defined as spouse, registered domestic partner, and any dependent children; “dependent child” shall be defined as set forth in Title 2, Section 18229.1 of the California Code of Regulations.

“Investment” shall be defined as set forth in Section 82034 of the California Government Code and Title 2, Section 18237 of the California Code of Regulations.

(b) Financial disclosures.
(1) **Required disclosures.** Any entity or person who during a calendar year contributes $10,000 or more to a single committee, must disclose the following financial interests, within 24 hours of meeting the $10,000 threshold:

   **(A)** All investments worth $10,000 or more in any business entity located in or doing business in San Francisco held by the contributor or a member of the contributor's immediate family; provided that the following investments do not need to be disclosed:
   
   (i) government bonds (including municipal bonds), diversified mutual funds, or exchange traded funds;
   
   (ii) bank accounts, savings accounts, money market funds, or certificates of deposit;
   
   (iii) insurance policies;
   
   (iv) annuities;
   
   (v) commodities;
   
   (vi) shares in a credit union;
   
   (vii) investments in defined-benefit pension funds through a government employer; and
   
   (viii) investments held in a blind trust.

   **(B)** All business entities located in or doing business in San Francisco in which the contributor holds the position of and receives compensation as director, officer, partner, trustee, employee, or any position of management.

(2) **Filing.** Persons required to make the disclosures required by subsection (b)(1) shall disclose such information by filing a form, to be specified by the Ethics Commission, with that agency.

   **(A)** For any disclosure required by subsection (b)(1)(A), the disclosure shall include the name of business entity, a general description of the business entity, the
nature of the investment, the date on which the investment was acquired, and the fair market value of the investment. The fair market value of the investment shall be disclosed according to the following ranges: $10,000-$100,000, $100,000-$1,000,000 or $1,000,000 or more.

(B) For any disclosure required by subsection (b)(1)(B), the disclosure shall include the name of the business and a general description of the business entity.

SEC. 1.161. CAMPAIGN ADVERTISEMENTS.

(a) DISCLAIMERS. In addition to complying with the disclaimer requirements set forth in Chapter 4 of the California Political Reform Act, California Government section 84100 et seq., and its enabling regulations, all committees making expenditures which support or oppose any candidate for City elective office or any City measure shall also comply with the following additional requirements:

(1) TOP TWO THREE CONTRIBUTORS. The disclaimer requirements for primarily formed independent expenditure committees and primarily formed ballot measure committees set forth in the Political Reform Act with respect to a committee’s top two three major contributors shall apply to contributors of $20,000 or more. The Ethics Commission may adjust this monetary threshold to reflect any increases or decreases in the Consumer Price Index. Such adjustments shall be rounded off to the nearest five thousand dollars.

(2) WEBSITE REFERRAL. Each disclaimer required by the Political Reform Act or its enabling regulations and by this section shall be followed in the same required format, size and speed by the following phrase: "Financial disclosures are available at sfethics.org." A substantially similar statement that specifies the web site may be used as an alternative in audio communications.
(3) MASS MAILINGS AND SMALLER WRITTEN ADVERTISEMENTS. Any disclaimer required by the Political Reform Act and by this section on a mass mailing, door hanger, flyer, poster, oversized campaign button or bumper sticker, or print advertisement shall be printed in at least 12-point font.

(4) CANDIDATE ADVERTISEMENTS. Advertisements by candidate committees shall include the following disclaimer statements: "Paid for by __________ (insert the name of the candidate committee)." and "Financial disclosures are available at sfethics.org." Except as provided in subsections (a)(3) and (a)(5), the statements' format, size and speed shall comply with the disclaimer requirements for independent expenditures for or against a candidate set forth in the Political Reform Act and its enabling regulations.

(5) AUDIO AND VIDEO ADVERTISEMENTS. For audio advertisements, the disclaimers required by this Section 1.161 shall be spoken at the beginning and end of such advertisements. For video advertisements, the disclaimers required by this Section 1.161 shall be spoken at the beginning and end of such advertisements and appear in writing during the entirety of the advertisements.

* * * *

SEC. 1.162. ELECTIONEERING COMMUNICATIONS.

(a) DISCLAIMERS.

(1) Every electioneering communication for which a statement is filed pursuant to subsection (b) shall include the following disclaimer: "Paid for by __________ (insert the name of the person who paid for the communication)." and "Financial disclosures are available at sfethics.org."

(2) Any disclaimer required by this Section shall be included in or on an electioneering communication in a size, speed or format that complies with the disclaimer.
requirements for independent expenditures supporting or opposing candidates set forth in the Political Reform Act and its enabling regulations.

(3) Notwithstanding subsection (a)(2), any disclaimer required by this Section:

(A) to appear on a mass mailing, door hanger, flyer, poster, oversized campaign button or bumper sticker, or print advertisement shall be printed in at least 14-point font;

(B) to be included in an audio advertisement, shall be spoken at the beginning and end of such advertisements; or

(C) to be included in a video advertisement, shall be spoken at the beginning and end of such advertisements and appear in writing during the entirety of the advertisements.

(b) REPORTING OBLIGATIONS.

(1) Every person who makes payments for electioneering communications in an aggregate amount of $1,000 per candidate during any calendar year shall, within 24 hours of each distribution, file a disclosure statement with the Ethics Commission. For the purposes of this subsection, payments for a communication that refers only to one candidate shall be attributed entirely to that candidate. Payments for a communication that refers to more than one candidate, or also refers to one or more ballot measures, shall be apportioned among each candidate and measure according to the relative share of the communication dedicated to that candidate or measure.

(2) Each disclosure statement required to be filed under this Section shall contain the following information for each communication:

* * * *

(E) a legible copy of the electioneering communication, including any electioneering communication distributed through electronic media technologies, and
(i) if the communication is a telephone call, a copy of the script and if the communication is recorded, the recording shall be provided; or

(ii) if the communication is audio or video, a copy of the script and an audio or video file shall be provided.

SEC. 1.168. ENFORCEMENT; ADVICE.

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

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

(1) No voter resident may commence an action under this subsection (b) without first providing written notice to the City Attorney of intent to commence an action. The notice shall include a statement of the grounds for believing a cause of action exists. The voter resident shall deliver the notice to the City Attorney and the Ethics Commission at least 60 days in advance of filing an action. No voter resident may commence an action under this subsection if the Ethics Commission has issued a finding of probable cause that the defendant violated the provisions of this Chapter, or if the City Attorney or District Attorney has commenced a civil or criminal action against the defendant, or if another voter resident has filed a civil action against the defendant under this subsection.
(2) A Court may award reasonable attorney’s fees and costs to any voter resident who obtains injunctive relief under this subsection (b). If the Court finds that an action brought by a voter resident under this subsection is frivolous, the Court may award the defendant reasonable attorney’s fees and costs.

(c) STATUTE OF LIMITATIONS.

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

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

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

(A) **Fraudulent Concealment.** If the person alleged to have violated this Chapter engages in the fraudulent concealment of his or her acts or identity, this four-year statute of limitations shall be tolled for the period of concealment. For purposes of this subsection, “fraudulent concealment” means the person knows of material facts related to his or her duties under this Chapter and knowingly conceals them in performing or omitting to perform those duties.
(4) **Collection of Fines and Penalties.** A civil action brought to collect fines or penalties imposed under this Chapter shall be commenced within four years after the date on which the monetary penalty or fine was imposed. For purposes of this Section, a fine or penalty is imposed when a court or administrative agency has issued a final decision in an enforcement action imposing a fine or penalty for a violation of this Chapter or the Executive Director has made a final decision regarding the amount of a late fine or penalty imposed under this Chapter. The Executive Director does not make a final decision regarding the amount of a late fine or penalty imposed under this Chapter until the Executive Director has made a determination to accept or not accept any request to waive a late fine or penalty where such waiver is expressly authorized by statute, ordinance, or regulation.

* * * *

(e) **DEBARMENT.**

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

**SEC. 1.170. PENALTIES.**

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

(b) CIVIL. Any person who intentionally or negligently violates any of the provisions of
this Chapter shall be liable in a civil action brought by the civil prosecutor City Attorney for an
amount up to $5,000 for each violation or three times the amount not reported or the amount
received in excess of the amount allowable pursuant to Sections 1.114, 1.126, and 1.127 or
three times the amount expended in excess of the amount allowable pursuant to Section
1.130 or 1.140.5, whichever is greater. In determining the amount of liability, the court may take
into account the seriousness of the violation, the degree of culpability of the defendant, and the ability
of the defendant to pay.

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

* * * *

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

SEC. 3.203. DEFINITIONS.

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

"Anything of value" shall mean any money or property, private financial advantage, service,

payment, advance, forbearance, loan, or promise of future employment, but does not include
compensation and expenses paid by the City, contributions as defined herein, or gifts that qualify for
gift exceptions established by State or local law.

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

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

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

“Fundraising” shall mean:

(a) requesting that another person make a contribution;
(b) inviting a person to a fundraising event;
(c) supplying names to be used for invitations to a fundraiser;
(d) permitting one’s name or signature to appear on a solicitation for contributions or an
invitation to a fundraising event;
(e) permitting one’s official title to be used on a solicitation for contributions or an invitation to
a fundraising event;
(f) providing the use of one’s home or business for a fundraising event;
(g) paying for at least 20% of the costs of a fundraising event;
(h) hiring another person to conduct a fundraising event;
(i) delivering a contribution, other than one’s own, by whatever means to a City elective
officer, a candidate for City elective office, or a candidate-controlled committee; or

(j) acting as an agent or intermediary in connection with the making of a contribution.
"Immediate family" shall mean spouse, registered domestic partner, and dependent children.

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

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

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

"Subordinate employee" shall mean an employee of any person whose official City responsibilities include directing or evaluating the performance of the employee or any of the employee’s supervisors.

SEC. 3.207. ADDITIONAL CONFLICTS OF INTEREST FOR CITY ELECTIVE OFFICERS AND MEMBERS OF BOARDS AND COMMISSIONS.

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

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

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

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

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

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

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

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

(C) all individuals within the official’s jurisdiction.

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

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

(B) an official’s business entity or real property resulting from the proximity of a project that is the subject of a decision;
(C) an official’s interests in business entities or real properties resulting from
the cumulative effect of the official’s multiple interests in similar entities or properties that is
substantially greater than the effect on a single interest;

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

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

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

SEC. 3.20. RECUSALS.

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

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

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

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

(b) Recusal Notification. A member of a City board or commission who is required to file a
statement of economic interests pursuant to Article III, Chapter 1 of the Campaign and Governmental
Conduct Code shall file a recusal notification form each time the member recuses himself or herself, as required by subsection (a).

(1) The member shall file the original recusal notification form, along with a copy of the meeting agenda containing the item involving the conflict of interest, with the Ethics Commission within 15 calendar days after the date of the meeting at which the recusal occurred.

(2) The member shall file the recusal notification form with the Ethics Commission even if the member is not present at the meeting that would have involved the conflict of interest.

(3) The recusal notification form shall be filed under penalty of perjury in a method prescribed by the Ethics Commission and shall include, at a minimum, the following:

(A) the member’s name;

(B) the name of the member’s board or commission;

(C) the date of the meeting at which the recusal occurred or would have occurred;

(D) the agenda item number, a brief description of the matter, and a statement of whether the matter concerns the making of a contract; and

(E) the financial interest causing the recusal.

(e) Repeated Recusals. In the event a member of a City board or commission recuses himself or herself, as required by subsection (a) during any 365-day period from acting on:

(1) three or more agenda items by reason of the same investment in a business entity, the same interest in real property or the same source of income; or

(2) 1% or more of the matters pending before the board or commission by reason of any investments in business entities, any interests in real property or any sources of income, the Ethics Commission shall examine the nature and extent of the conflict(s) of interest and shall determine whether the member has a significant and continuing conflict of

Supervisor Peskin
BOARD OF SUPERVISORS

Agenda Item 4 - Page 038
interest. If the Ethics Commission so determines, the Ethics Commission may recommend to
the official’s appointing authority that the official divest or otherwise remove the conflicting
interest, and, if the official fails to divest or otherwise remove the conflicting interest within 90
days or as the Ethics Commission determines as reasonably practicable, the Ethics
Commission may recommend to the official’s appointing authority that the official should be
removed from office under Charter Section 15.105 or by other means.

(d) (c) Exception. The requirements of this Section 3.209 shall not apply to the members of the
Board of Supervisors.

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

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

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

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

CHAPTER 6: BEHESTED PAYMENT REPORTING FOR COMMISSIONERS

SEC. 3.600. DEFINITIONS.
Whenever in this Chapter 6 the following words or phrases are used, they shall have the following meanings:

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

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

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

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

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

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

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

“Commissioner” shall mean any member of a board or commission listed in Campaign and Governmental Conduct Code Section 3.1-103(a)(1); provided, however, that “Commissioner” shall not include any member of the Board of Supervisors.
“Contact” shall be defined as set forth in Section 2.106 of this Code.

“Financial interest” shall be defined as set forth in the California Political Reform Act (California Government Code Section 87100 et seq.), any subsequent amendments to these Sections, and its implementing regulations.

“Interested party” shall mean (i) any party, participant or agent of a party or participant involved in a proceeding regarding administrative enforcement, a license, a permit, or other entitlement for use before an officer or any board or commission (including the Board of Supervisors) on which the officer sits, or (ii) any person who actively supports or opposes a governmental decision by an officer or any board or commission (including the Board of Supervisors) on which the officer sits, if such person has a financial interest in the decision.

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

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

“Payment” shall mean a monetary payment or the delivery of goods or services.

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

“Party” shall be defined as set forth in California Government Code Section 84308, as amended from time to time.

“Public appeal” shall mean a request for a payment when such request is made by means of television, radio, billboard, a public message on an online platform, the distribution of 500 or more identical pieces of printed material, the distribution of a single email to 200 or more recipients, or a speech to a group of 50 or more individuals.
"Relative" shall mean a spouse, domestic partner, parent, grandparent, child, sibling, parent-in-law, aunt, uncle, niece, nephew, and first cousin, and includes any similar step relationship or relationship created by adoption.

SEC. 3.610. REQUIRED FILING OF BEHESTED PAYMENT REPORTS.

(a) FILING REQUIREMENT. If a Commissioner directly or indirectly requests or solicits any Charitable Contribution(s), or series of Charitable Contributions, from any party, participant or agent of a party or participant involved in a proceeding regarding administrative enforcement, a license, a permit, or other entitlement for use before the Commissioner’s board or commission, the Commissioner shall file a Behested Payment Report with the Ethics Commission in the following circumstances: If an officer directly or indirectly requests or solicits any behested payment(s) from an interested party, the officer shall file the behested payment report described in subsection (b) with the Ethics Commission in the following circumstances:

(1) if the party, participant or agent makes any Charitable Contribution, or series of Charitable Contributions, totaling $1,000 or more while the proceeding is pending, the Commissioner shall file a Behested Payment Report within 30 days of the date on which the Charitable Contribution was made, or if there has been a series of Charitable Contributions, within 30 days of the date on which a Charitable Contribution causes the total amount of the contributions to total $1,000 or more; if the interested party makes any behested payment(s) totaling $1,000 or more during the pendency of the matter involving the interested party, the officer shall file a behested payment report within 30 days of the date on which the behested payment was made, or if there has been a series of behested payments, within 30 days of the date on which the behested payment(s) total $1,000 or more;

(2) if the party, participant or agent makes any Charitable Contribution, or series of Charitable Contributions, totaling $1,000 or more during the three months following the date a final decision is rendered in the proceeding, the Commissioner shall file a Behested Payment Report within
30 days of the date on which the Charitable Contribution was made, or if there has been a series of
Charitable Contributions, within 30 days of the date on which a Charitable Contribution causes the
total amount of the contributions to total $1,000 or more; and if the interested party makes any
behested payment(s) totaling $1,000 or more during the six months following the date on which a final
decision is rendered in the matter involving the interested party, the officer shall file a behested
payment report within 30 days of the date on which the behested payment was made, or if there has
been a series of behested payments, within 30 days of the date on which the behested payment(s) total
$1,000 or more; and

(3) if the party, participant or agent made any Charitable Contribution, or series of
Charitable Contributions, totaling $1,000 or more in the 12 months prior to the commencement of a
proceeding, the Commissioner shall file a Behested Payment Report within 30 days of the date the
Commissioner knew or should have known that the source of the Charitable Contribution(s) became a
party, participant or agent in a proceeding before the Commissioner’s board or commission. if the
interested party made any behested payment(s) totaling $1,000 or more in the 12 months prior to the
commencement of a matter involving the interested party, the officer shall file a behested payment
report within 30 days of the date the officer knew or should have known that the source of the behested
payment(s) became an interested party.

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

(1) name of payor;

(2) address of payor;

(3) amount of the payment(s);

(4) date(s) the payment(s) were made,

(5) the name and address of the payee(s).
(6) a brief description of the goods or services provided or purchased, if any, and a description of the specific purpose or event for which the payment(s) were made;

(7) if the officer or the officer’s relative, staff member, or paid campaign staff, is an officer, executive, member of the board of directors, staff member or authorized agent for the recipient of the behested payment(s), such individual’s name, relation to the officer, and position held with the payee;

(8) if the payee has created or distributed 200 or more substantially similar communications featuring the officer within the six months prior to the deadline for filing the behested payment report, a brief description of such communication(s), the purpose of the communication(s), the number of communication(s) distributed, and a copy of the communication(s); and

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

(c) AMENDMENTS. If any of the information previously disclosed on a behested payment report changes during the pendency of the matter involving the interested party, or within six months of the final decision in such matter, the officer shall file an amended behested payment report.

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

(e) NOTICE. If an officer solicits or otherwise requests, in any manner other than a public appeal, that any person make a behested payment, the official or his agent must notify that person that if the person makes any behested payment in response to the solicitation or request, the person may be subject to the disclosure and notice requirements in Section 3.620.
(b) (f) **WEBSITE POSTING.** The Ethics Commission shall make available through its website all Behested Payment Reports it receives from Commissioners officers.

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

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

**SEC. 3.620. FILING BY DONORS.**

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

1. the proceeding the interested party is or was involved in;
2. the decisions the interested party actively supports or opposes;
3. the outcome(s) the interested party is or was seeking in such proceedings or decisions; and
4. any contact(s) the interested party made in relation to such proceedings or decisions.

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

**SEC. 3.630. FILING BY RECIPIENTS OF MAJOR BEHESTED PAYMENTS.**
(a) **MAJOR BEHESTED PAYMENT REPORT.** Any person who receives a behested payment, or a series of behested payments, received during a calendar year, totaling $100,000 or more that was made at the behest of any officer must do the following:

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

2. within 13 months following the date on which the payment(s) or payments total $100,000 or more, but at least 12 months following the date on which the payment(s) total $100,000 or more, disclose:
   
   (i) all payments made by the person that were funded in whole or in part by the behested payment(s) made at the behest of the officer; and
   
   (ii) if the person has actively supported or opposed was an interested party in any City decision(s) involving the officer in the 12 months following the date on which the payment(s) were made:
      
      (A) the proceeding the person is or was involved in;
      
      (B) the decision(s) the person actively supported or opposed;
      
      (C) the outcome(s) the person is or was seeking in such proceedings or decisions; and
      
      (D) any contact(s) the person made in relation to such proceedings or decisions.

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

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

SEC. 3.620 3.640. REGULATIONS.

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

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

SEC. 3.650. PENALTIES.

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

Section 4. Effective Date and Operative Dates.

(a) Effective Date. This ordinance shall become effective 30 days after enactment.

Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance
unsigned or does not sign the ordinance within ten days of receiving it, or the Board of
Supervisors overrides the Mayor’s veto of the ordinance.

(b) Operative Dates.

(1) This ordinance’s amendments to Sections 1.104, 1.110, 1.142, 1.163.5,
1.168, 1.170, and 3.203 of the Campaign and Governmental Conduct Code, and additions of
Sections 3.207 and 3.231 of the Campaign and Governmental Conduct Code, shall become
operative on the effective date of this ordinance.
(2) This ordinance’s amendments to Sections 1.114, 1.126, 1.135, 1.161, 1.162, 3.600, 3.610, 3.620 of the Campaign and Governmental Conduct Code, and additions of Sections 1.114.5, 1.124, 1.125, 1.158, 3.209, 3.630, 3.640, and 3.650 of the Campaign and Governmental Conduct Code, shall become operative on January 1, 2019.

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

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

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

By: ANDREW SHEN, Deputy City Attorney

n:\legana\as2017\1700562\01261729.docx
April 5, 2018

Ethics Commission
25 Van Ness Ave #220
San Francisco, CA 94102

To: Ethics Commissioners and Staff

We appreciated having the opportunity to work with you on changes to our local ethics regulations to increase transparency and accountability in political activities. During our marathon joint meeting, the Board of Supervisors inadvertently left out an amendment under Chapter 6, Section 3.600:

“Public appeal” shall mean a request for a payment when such request is made by means of television, radio, billboard, a public message on an online platform, the distribution of 500 or more identical pieces of printed material, the distribution of a single email to 200 or more recipients, or a speech to a group of 50 or more individuals.”

This same change was made in Section 1.104 regarding contribution disclosure requirements and adopted by the Board of Supervisors.

Given this inadvertent error, we respectfully request that the Ethics Commission consider adopting an amendment to File 180280 at your next meeting.

Sincerely,

Katy Tang
District 4

Aaron Peskin
District 3