



San Francisco Ethics Commission

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Date: December 7, 2021

To: Members of the Ethics Commission

From: Pat Ford, Senior Policy and Legislative Affairs Counsel
Michael Canning, Policy Analyst

Re: **AGENDA ITEM 7 – Presentation, discussion and possible action on proposal regarding a possible June 2022 ballot measure and regulation amendments to enact recommendations contained in “Report on Gift Laws Part A: Gifts to Individuals,” dated August 2, 2021, “Report on Gift Laws Part B: Gifts to City Departments,” dated September 29, 2021, and “Report on Strengthening Essential Ethics Provisions,” dated December 6, 2021.**

Summary

The attached report presents Staff’s findings and recommendations for the third and final phase of the Commission’s review of the City’s government ethics laws. This phase of the project addresses ways to strengthen several of the essential provisions in the Campaign and Governmental Conduct Code that are critical to the overall effectiveness of the City’s ethics laws.

Action Requested

The report includes a draft ballot measure (Attachment 2) that would enact the recommendations contained in the report as well as the recommendations contained in the Phase II reports (Part A, Gifts to Individuals; and Part B, Gifts through City Departments). The report recommends that the Commission vote to place the draft measure on the ballot for the June 7, 2022 election.

Government Ethics and Conflict of Interest Review Policy Project

Report on Strengthening Essential Ethics Provisions



San Francisco Ethics Commission

December 6, 2021

Patrick Ford, Senior Policy and Legislative Affairs Counsel

Michael Canning, Policy Analyst

Executive Summary

In January 2020, the U.S. Department of Justice began to bring criminal corruption charges against multiple City officials, employees, and contractors. These charges allege numerous instances in which individuals seeking favorable outcomes from City government provided meals, travel, luxury goods, and other gifts in an attempt to influence the actions of City officers and employees. In response, the Ethics Commission embarked on a comprehensive review of the City's ethics laws to ensure that the types of conduct alleged in the criminal complaints are appropriately prohibited and deterred by City law and that any other relevant weaknesses identified in the laws can be addressed and the laws strengthened.

The current phase of the project analyzes important foundational provisions in the City's ethics laws that are key to the overall effectiveness of the law. This report discusses improvements to these basic provisions that are needed in order to help ensure a culture of ethics is reinforced in City government.

Key Findings and Recommendations

The Campaign and Governmental Conduct Code aims to ensure the integrity and transparency of local government and contains many rules that all support this broad goal. These rules regulate conduct in several areas, including political campaigns, conflicts-of-interest, lobbying, permit expediting, and financial disclosures by City officials. There are certain key provisions within the Code that are fundamental to its overall success. This report seeks to identify those provisions and recommend ways to improve them.

First, the City's rule against bribery is a cornerstone ethics rule that is needed to prohibit some of the most egregious unethical conduct: payments made with the intent to influence a government official. Many of the charges brought by the Department of Justice against City officials and contractors relate to bribery. However, the City's bribery rule is too narrow to be effective and should more closely resemble the federal bribery rule, which is much stronger.

Second, City law requires officials to disclose any personal, professional, or business relationship with a person who is involved in a government decision that the official is making. This helps identify instances in which decisions may be biased. Several of the federal corruption charges describe close personal relationships between City officials and individuals involved in the decisions being made by the officials. However, research indicates that this disclosure is not implemented consistently or effectively across City departments. More problematically, there is no penalty for failure to comply with the disclosure requirement. A penalty should be created and departments should be directed as to how to administer the disclosures.

Third, effective ethics training is a critical aspect of building a culture of ethics in City government. Only when a significant portion of officials understand the rules can accountability be increased and culture change take place. However, only elected officials, commissioners, and department heads are required by law to complete ethics training. This requirement touches a small portion of the City's officials (roughly 1.4%) and fails to make ethics a Citywide priority that deserves attention by a wider set of officials. Ethics training should be extended as a requirement for all officials who file the Form 700 Statement of Economic Interests because these officers and employees

participate in making government decisions and should therefore be familiar with the rules that help ensure integrity in the decision making process.

Fourth, each City department must adopt a Statement of Incompatible Activities that is intended to be a useful tool to inform City officials about non-City activities that are incompatible with their City duties. However, the statements have not fulfilled the goals they were established to achieve. The statements have led to a fractured and confusing set of rules that varies between departments. They are not useful for compliance purposes and instead serve to complicate education efforts. The rules contained in the statements should be codified in the Code and should apply universally to all City officials so that department-specific statements are no longer necessary. A better written compliance resource should be developed that can be used in practice by every City official.

Finally, there are general provisions contained in each of the ten chapters of the Code that provide for basic administration to occur, including issuing penalties for violations, amending the code, and requiring disclosures to be filed electronically for better public access. These provisions are essential to the City's ethics laws being strong and providing a basis for effective compliance and enforcement. But, problematic differences exist between how these provisions operate in the different chapters. Some chapters have weak penalty provisions. Some are vulnerable to amendment by the Board of Supervisors without approval by the voters or the Ethics Commission. And, some fail to specify that all disclosures must be filed electronically. This results in a fractured legal landscape that contains potential loopholes and undermines the effectiveness of the City's ethics laws. These provisions should be strengthened and harmonized.

The recommendations in the report can be summarized as follows:

A. Strengthen San Francisco's bribery rule by incorporating elements of the federal bribery rule.

1. Define "bribe" broadly as "anything of value," rather than narrowly as a "gift."
2. Prohibit bribery in cases where the payment is made to a third party, not the official in question.
3. Prohibit the solicitation of bribes by City officials.

B. Create a penalty for failure to comply with the existing requirement that officials disclose any personal, professional, or business relationship with persons involved in a government decision the official will make.

C. Extend the annual ethics training requirement to all Form 700 filers.

D. Elevate the rules contained in departmental Statements of Incompatible Activities into the Code. Discontinue departmental Statements of Incompatible Activities.

1. The incompatible activities that should be prohibited in the Code are:
 - a. Activities Subject to the Department's Jurisdiction
 - b. Selective Assistance to Persons Seeking to Do Business with a City Department
(including contractors and applicants for a license, permit, or other entitlement for use)
 - c. Use of City Resources
 - d. Use of Prestige of Office
 - e. Use of City Work Product
 - f. Acting as an Unauthorized City Representative

- g. Compensation for City Duties or Advice
 - h. Lobbying Other Officials within the Department
 - i. Excessive Time Demands and Regular Disqualifications
2. Existing Statements of Incompatible Activities should be discontinued.
 3. Advance Written Determinations should only be available for the rule against excessive time demands or regular disqualification.
 4. Departments should be required to annually distribute to all of its officials a summary of ethics laws created by the Ethics Commission.

E. Strengthen chapters of the Code by harmonizing and improving basic provisions.

1. Standardize penalty provisions to make it clear that all violations of the Code are punishable and that proving a particular mental state is not required.
2. Protect ethics laws from amendment by requiring approvals by a supermajority of the Ethics Commission and Board of Supervisors for legislative amendments.
3. Add a general provision that allows the Commission to require electronic filing of public disclosures.

Each of these recommendations is summarized in the chart attached as Attachment 1.

A draft ballot measure is attached as Attachment 2. The measure would enact the recommendations contained in this Phase III report, as well as the recommendations made in the Phase II reports (Part A, Gifts to Individuals; and Part B, Gifts through City Departments). The report recommends that the Commission vote to place the draft measure on the ballot for the June 7, 2022 election.

The report also recommends that the Commission vote to approve the Phase II regulation amendments regarding gifts that are attached as Attachment 3.

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I. Overview of Ethics Commission's Ethics Review Project

A. Background

The City's ethics laws were created to "assure that the governmental processes of the City and County promote fairness and equity for all residents and to maintain public trust in governmental institutions."¹ In light of the recent corruption allegations brought by federal and local agencies against City officials and contractors, the Ethics Commission undertook a comprehensive project to review existing ethics laws as its top policy priority. The purpose of the project is to assess whether current law adequately identifies and prohibits conduct that could give rise to a conflict of interest or otherwise undermine fair and objective government decision making. Where current laws and programs are insufficient, the project seeks to recommend and implement improvements.

The project is principally focused on analyzing unethical conduct revealed through the multiple ongoing corruption investigations and identifying policy approaches to prevent similar conduct in the future. It is important to note that no shortcoming identified in the law in any way excuses prior acts of public corruption. Rather, this review seeks to strengthen existing laws to foreclose problematic conduct that might otherwise be lawful and to better deter and detect future corrupt acts.

B. Project Methodology

The project has proceeded in multiple phases. The first phase of the project addressed behested payments and resulted in the Commission recommending legislation that would prohibit most City officers and high-level employees from soliciting behested payments from individuals who have a matter before the officer or employee's department. This legislation is addressed under Item 6 on the Ethics Commission's December 10 meeting Agenda.

The second phase of the project focused on gift laws. At the Commission's August 13, 2021 meeting, Staff presented Report on Gifts Part A: Gifts to Individuals, which analyzed gifts made directly to individual City officials.² At the Commission's October 8, 2021 meeting, Staff presented Report on Gifts Part B: Gifts to City Departments, which analyzed gifts made through City departments that confer personal benefits on City officials.³

The current phase of the project reviews a number of basic provisions of the City laws that are fundamental to the overall effectiveness of those laws. These include provisions addressing bribery, disclosure of personal relationships that could influence City decision making, non-City activities that are incompatible with City duties, penalties, processes for amending ethics laws, and mandatory ethics training. The strength of these provisions affects the ability of the City to

¹ Campaign & Gov. Conduct Code § 3.200(a).

² [Report on Gift Laws Part A: Gifts to Individuals.](#)

³ [Report on Gift Laws Part B: Gifts to City Departments.](#)

establish a culture of ethics and prevent future corrupt conduct by City officials, contractors, and those seeking favorable outcomes from City departments.

The methodology used during all phases of the project includes reviewing the findings of the ongoing corruption investigations, analyzing existing City laws and programs, performing empirical research using available data sources, and comparing approaches taken in other jurisdictions. Another core element is engagement with stakeholders, including advocates, good government groups, members of the regulated community, and peer agencies. Staff held interested persons meetings on October 13 and 15, 2020, on April 27 and 29, and November 16 and 18 of this year and will continue to engage stakeholders during the implementation of any legislation that emerges from the project.

C. Goals

Ethics laws are necessary to ensure the integrity of City government and to earn and maintain the public's trust. It is critical that ethics laws be as effective as possible at limiting undue influence, pay-to-play, bribery, or the appearance of any of these. To achieve these purposes, ethics laws must be strong, enforceable, and workable in practice.

City law contains rules that guide the conduct of City officials and those who interact with them. These include foundational rules like the rule against bribery and activities that are incompatible with City duties. The law also contains general provisions that enable the rules to be effective, such as penalties, requirements for training and compliance, and processes for amending the code. These general provisions are equally as essential because they are critical to the effectiveness of ethics laws in practice.

This final report reviews several of these basic provisions in the Campaign and Governmental Conduct Code (the "Code") with the goal of maximizing the overall effectiveness of the City's ethics laws. The report identifies loopholes and oversights in the laws that cause them to be unnecessarily narrow, permissive, or complex. It also identifies approaches and shortcomings in general provisions of current law that impede the administration and enforcement of the City's ethics laws.

II. Findings & Recommendations

The laws concerning bribery, disclosure of personal relationships, incompatible non-City activities, penalties, code amendment, electronic filing, and mandatory ethics awareness training are essential, foundational elements in the Code that have wide ranging effect throughout the administration and enforcement of San Francisco's ethics laws. These basic provisions need to be strengthened to maximize the impact of the City's ethics programs and rebuild public trust. This section presents findings and recommendations about how to improve these core provisions.

A. San Francisco's Bribery Rule Should be Strengthened and Expanded

Section 3.216(a) of the Campaign and Governmental Conduct Code contains a "Prohibition on Bribery" that states that "[n]o person shall offer or make, and no officer or employee shall accept, any gift with the intent that the City officer or employee will be influenced thereby in the

performance of any official act.”⁴ What distinguishes this rule from other rules contained within section 2.216, such as the restricted source rule and the rule against gifts from subordinates, is that the bribery rule prohibits gifts that are given with the intent to influence an official acts by City officials. The other gift rules prohibit gifts regardless of any intent behind the gift. The intent to influence is what makes a payment a bribe and should be understood as the central element of any bribery rule.

Findings: Problematically, San Francisco’s bribery rule only prohibits bribes that also meet the definition of *gift*. As discussed in the *Report on Gift Laws Part A: Gifts to Individuals*, the term *gift* is currently defined by reference to state law.⁵ The California Government Code defines a gift as “any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received.”⁶

One problem with considering a payment to be a bribe only if it meets the definition of gift is that the definition of gift is subject to many exceptions. The *Report on Gift Laws Part A: Gifts to Individuals* recommended that a definition of *gift* be added to the Campaign & Governmental Conduct Code that mirrors the basic state law definition but omits many of the exceptions, which are inappropriate to apply to San Francisco’s gift laws. However, to prohibit only bribes that also constitute gifts under this broader definition would remain problematic. This is because a bribe would not be prohibited if it meets one of the gift exceptions that would still exist under San Francisco law. For example, if an immediate family member made a payment to a City official with the intent that the payment would cause the official to approve a permit application, that payment would not be prohibited as a bribe because payments from immediate family members are not considered to be gifts. Likewise, if an event organizer gave an official free tickets to an event at which the official will perform a ceremonial role or give a speech and the organizer intends to influence the official’s action by giving the free tickets, this would not be considered a bribe because free tickets in such instances do not constitute gifts. These outcomes are clearly poor because anytime a payment is made with the intent to influence an official act, the payment should be considered a bribe.

Another problem with limiting the bribery rule to apply only to gifts is that such a rule only prohibits payments to the official who the payor intends to influence. But, as demonstrated by the current corruption allegations against certain City officials, bribes can be made through a payment to someone other than the official whom one wishes to influence. The U.S. Department of Justice charged Paul Giusti and John Porter, both executives of San Francisco’s garbage collection company Recology, with bribery. Giusti and Porter were charged because of their involvement in a scheme to make payments to a subaccount administered by the nonprofit organization The Parks Alliance with the intent that the payments would influence the official acts of Mohammed Nuru, then the

⁴ Campaign & Gov. Conduct Code § 3.216(a).

⁵ [Report on Gift Laws Part A: Gifts to Individuals](#).

⁶ Cal. Gov. Code § 82028.

director of the Department of Public Works.⁷ Because these payments were not made directly to Nuru, it is not clear that they would constitute gifts and therefore be prohibited under San Francisco's bribery rule. Likewise, the Department of Justice alleges that permit consultant and engineer Rodrigo Santos made payments (and directed clients to make payments) to a nonprofit organization with the intent that the payments would influence the official acts of Bernard Curran, then a senior building inspector with the Department of Building Inspection.⁸ These payments would likely not constitute bribes under San Francisco's bribery rule because they were not made to Curran but rather to a third party, even though they were allegedly made with the intent to influence Curran's official actions.⁹

The federal bribery law under which Giusti and Porter were charged is much broader and does not suffer from the same limitations as San Francisco's rule. The federal bribery rule prohibits anyone from giving or offering "anything of value to any person, with intent to influence or reward [a government official] in connection with any business, transaction, or series of transactions of such organization, government, or agency...."¹⁰ First, this rule is not limited to gifts; "anything of value" can be a bribe. Also, the rule is not limited to payments to the official in question; a payment to "any person" with the intent to influence a government official constitutes a bribe. Additionally, federal law prohibits government officials from soliciting bribes, while San Francisco's law does not. Federal law prohibits officials from soliciting anything of value for themselves or for the benefit of any other person with the intent that the payments will influence the official's actions.¹¹

These shortcomings in San Francisco's bribery rule make it unnecessarily narrow and cause it to potentially fail to prohibit conduct that is problematic and may constitute bribery under federal law.

Recommendations: San Francisco's bribery rule should be strengthened and expanded. The rule should treat anything of value that is given with the intent to influence an official action to be a bribe; the rule should not be limited only to payments that constitute "gifts." The rule should also prohibit payments to *any person* with the intent to influence a government official's actions; it

⁷ See U.S. v. Paul Fredrick Giusti, Case No. 3-20-71664 MAG, Criminal Complaint and Affidavit of IRS Special Agent Mark Twitchell in Support of Criminal Complaint (N.D. Cal. 2020) at ¶ 13 (hereinafter "Giusti Complaint"); U.S. v. John Francis Porter, Case No. 3-21-mju-70609 MAG, Criminal Complaint and Affidavit of Special Agent with IRS Criminal Investigations Mark Twitchell (hereinafter "Porter Complaint").

⁸ DEPARTMENT OF JUSTICE, U.S. ATTORNEY'S OFFICE, NORTHERN DISTRICT OF CALIFORNIA, [Former San Francisco Senior Building Inspector And Former San Francisco Building Inspection Commission President Charged With Building-Permit Fraud](#), August 20, 2020.

⁹ Curran and Santos were each charged with honest services wire fraud. See *id.*

¹⁰ 18 U.S.C. § 666(a)(2). The rule applies if the official business in question involves something valued at \$5,000 or more.

¹¹ *Id.* at § 666(a)(2)(B). A government official violated the federal bribery rule if he or she "corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions...." *Id.*

should not be limited only to payments to the official in question. The rule should also prohibit the solicitation of bribes by City officials.

B. San Francisco's Rule Requiring Disclosure of Personal, Professional and Business Relationships Lacks a Consequence for Noncompliance and Needs Strengthening

Section 3.214 of the Campaign and Governmental Conduct Code requires the public disclosure of "personal, professional, and business relationships." Under the rule, each City officer and employee must:

disclose on the public record any personal, professional or business relationship with any individual who is the subject of or has an ownership or financial interest in the subject of a governmental decision being made by the officer or employee where[,] as a result of the relationship, the ability of the officer or employee to act for the benefit of the public could reasonably be questioned.¹²

Ethics Commission regulations clarify what constitutes a personal, professional, or business relationship.¹³ The regulations also clarify that the disclosure is required anytime an official knows or has reason to know that a person with whom they have such a relationship is the subject of (or has a financial interest in) a decision the official is making. If there is reason to know this, then under the regulations the ability of an officer or employee to act for the benefit of the public can reasonably be questioned and the disclosure must be made.¹⁴

A unique aspect of this disclosure requirement is that the code explicitly states that there is no penalty associated with failure to comply. Section 3.214 provides that a court can void a decision made by an official who fails to make the disclosure if the failure was willful and the official failed to act "primarily for the benefit of the City."¹⁵ But, the section then states that "[n]o other penalties shall apply to a violation of this Section, provided that nothing in this Section shall prohibit an appointing authority from imposing discipline for a violation of this Section."¹⁶

¹² Campaign & Gov. Conduct Code § 3.214(a).

¹³ See Ethics Commission Regulation 3.214-5(b):

(1) Personal relationship. A personal relationship is a relationship involving a family member or a personal friend, but does not include a mere acquaintance.

(2) Professional relationship. A professional relationship is a relationship with a person based on regular contact in a professional capacity, including regular contact in conducting volunteer and charitable activities.

(3) Business relationship. An officer has a business relationship with a person if, within the two years prior to the decision, the person was a client, business partner, colleague, or did business with the officer or employee's business. A business relationship does not include a person with whom the officer or employee does business in a personal capacity, such as a grocery store owner.

¹⁴ *Id.* at Regulation 3.214-5(a)(1).

¹⁵ Campaign & Gov. Conduct Code § 3.214(b).

¹⁶ *Id.*

Findings: To better understand how the disclosure of personal, professional, and business relationships has worked in practice, the Commission distributed a questionnaire to every City department head asking for information about any such disclosures the department has received in the last five years. A sample of departments that reported having disclosures on file were asked to provide the disclosures. The primary findings from this research were that many departments are not familiar with the disclosure requirement. Some departments confused it with the Form 700 Statement of Economic Interests. Additionally, many departments that were aware (or were made aware) of the disclosure requirement were unable to locate the disclosures or reported they did not have any to produce.

These findings could be explained in one or more ways. First, officials in many departments might not be making decisions that involve someone with whom they have a disclosable relationship. This would be the best possible explanation from a policy perspective. Alternatively, officials might be making the disclosures and many departments are failing to properly receive and archive the disclosures in a way that allows them to be easily produced. It is also possible that officials are making decisions involving persons with whom they have a disclosable relationship and, problematically, are failing to make the disclosure.

Recommendations: To help ensure officials appropriately disclose reportable relationships, section 3.214 should be strengthened by deleting language that there is no penalty associated with failure to comply with this disclosure requirement. This would allow the Commission to impose penalties on an official who made a decision involving someone with whom they had a personal, professional, or business relationship and failed to disclose that relationship. It is vital that disclosure requirements under the law carry consequences for those who fail to meet their legal obligations. If individuals are aware that a disclosure requirement carries no personal consequence for noncompliance, they are more likely to not comply with the rule. Nearly all of the disclosure requirements administered by the Commission carry a penalty for noncompliance, and this should be the case for the disclosure of personal, professional, and business relationships as well.

Additionally, departments should be given guidance about how to store 3.214 disclosures and how to make them available to the public. Any disclosures that are made should be readily available to members of the public who want to access them, and the method of access should be uniform across departments as much as possible. This guidance should be issued through subsequent regulations.

C. Extend existing annual ethics awareness training to apply to all Form 700 filers.

Under current law, all City elected officials, members of boards and commissions, and department heads must complete an annual training on ethics laws and must certify completion of the training to the Ethics Commission.¹⁷ There are roughly 500 of these officers. The training is currently provided through an interactive online module that is hosted within the NetFile system that officials use to e-file their Form 700 with the Ethics Commission.

¹⁷ Cal. Gov. Code § 53235, Campaign & Gov. Conduct Code § 3.1-103(a)(1), (b)(1).

Findings: Because only 500 City officers are required to complete annual ethics training, only roughly 1.4% of all City officials (officers and employees) currently receive training. This is not a sufficient number of officials to build a meaningful level of shared knowledge across the City. A more significant portion of City officials must also have exposure to core ethics awareness training to underpin a strong culture of ethics and ensure all those who make or participate in making governmental decisions understand their role in improving the tone at the top.

City officials cannot be expected to practice “see something, say something” when it comes to potential breaches of government ethics standards if they are not being trained in core ethics rules. Employees may observe conduct that they feel is problematic, but they may lack the knowledge that would allow them to confidently identify and report unethical conduct. Ensuring more City employees have this knowledge would help empower them to hold City officers accountable. For example, a department head may be more likely to adhere strictly to ethics rules if many employees within the department have received ethics training. A shared base of knowledge is more likely to influence behavior than knowledge that is only held at the very top of the organization chart.

Recommendations: The Code should require all Form 700 filers to complete annual ethics training. This would require ethics training for roughly 3,700 employees, who are not currently required under the law to receive such training.¹⁸ This requirement would also target officials who make or participate in making government decisions that could foreseeably impact a financial interest, since all such officials are supposed to be identified as Form 700 filers.¹⁹ Thus, these officials represent the set of City officials whose work most affects the outcomes of City processes and who should thus be familiar with all applicable ethics laws. Form 700 filers are also most likely to work closely with City officers and therefore best positioned to create a culture of ethics compliance and accountability.²⁰

Importantly, the Ethics Commission recently received budget authorization to add four new positions to create an *Ethics@Work* program that would seek to engage a wider audience of City officials to deepen their knowledge of ethics laws and enhance their skill in applying them in practice. A statutory requirement for annual core ethics training for all Form 700 filers would support the roll out of this program by ensuring departmental participation. Ethics training will also be available to any officials who wish to voluntarily complete the training.

¹⁸ The Department of Human Resources maintains a policy that ethics training is “[r]equired for Deputy Directors and employees who have responsibilities for contracting and/or purchasing” However, it is unclear who this set of employees consists of, how many of them there are, or how compliance is confirmed. The Commission is not able to issue penalties for failure of this set of officials to complete training because it is not required by law. See San Francisco Department of Human Resources, [Workplace Online Training](#), “Training for Other Audiences.”

¹⁹ Cal. Gov. Code § 82019(a)(3).

²⁰ Beginning January 1, 2022, all Form 700 filers who currently file in a paper format will be required to file electronically. This represents roughly 3,700 filers.

D. Codify Incompatible Activity Provisions to Establish Clear and Consistent Citywide Standards

Section 3.218(b) of the Campaign and Governmental Conduct Code was established to require each City department to adopt a Statement of Incompatible Activities (or “SIA”).²¹ An SIA contains rules regarding activities that are incompatible with the duties of City officials and are therefore prohibited. A violation of a rule contained in an SIA is punishable as a violation of the Campaign and Governmental Conduct Code.²² The requirement for departments to have SIAs was enacted in 2003, and departmental SIAs began to be adopted in earnest in 2006, following the approval of an SIA template.²³ Fifty-four City departments currently have an SIA.

Although SIAs vary slightly between departments, the contents and structure of every SIA is nearly identical. Sections I and II contain introductory content. Section III contains “restrictions on incompatible activities,” which include activities that are subject to the review of the official’s department, providing selective assistance to applicants, activities that impose excessive time demands, and activities that would require regular disqualification or recusal from City duties.²⁴ For some departments, Section III also contains rules that apply only to employees in specified positions, but this is less common and is often duplicative of the standard rules.

Section IV contains “restrictions on use of City resources, City work-product and prestige.” These rules prohibit officials from using City resources for non-City purposes or holding themselves out as representatives of the department when they are authorized to do so. Section V prohibits officials from accepting gifts for assistance with City services. This includes gifts “for the performance of a specific service or act the officer or employee would be expected to render or perform in the regular course of his or her City duties; or for advice about the processes of the City directly related to the officer’s or employee’s duties and responsibilities, or the processes of the entity they serve.”²⁵

For Section III rules only (activities that conflict with official duties, activities subject to review by the official’s department, selective assistance, excessive time demands, and regular disqualifications), an official may seek and Advance Written Determination (or “AWD”) that a given activity does not violate Section III of the department’s SIA. The decision-maker for the AWD depends on who is requesting it. For employees, the decision-maker for an AWD request is the department head or that person’s designee. For a department head, the decision-maker is the person’s appointing authority. For a member of a board or commission, the decision-maker can be the official’s appointing authority, the official’s board or commission, or the Ethics

²¹ Campaign & Gov. Conduct Code § 3.218(b). This requirement was created through Proposition E in 2003.

²² *Id.* at § 3.218(a).

²³ Minutes of the Regular Meeting of the San Francisco Ethics Commission, August 14, 2006.

²⁴ *See, e.g.,* [Ethics Commission Statement of Incompatible Activities](#) section III.

²⁵ *See, e.g., id.* at sections IV—V.

Commission.²⁶ For elected officials, the decision-maker is the Ethics Commission.²⁷ An AWD cannot be issued for rules contained in Section IV (use of City resources or prestige) or Section V (gifts for performing City duties or giving advice).

Findings: To understand how SIAs have performed in practice, staff reviewed the contents of all 54 departmental SIAs. In addition, a questionnaire was distributed to all City department heads requesting information about any AWDs the department has issued in the last five years. Departments that reported having issued AWDs were asked to provide them. Staff also asked a sample of departments for further information about how their SIA has worked in practice. Based on this research, staff concluded that SIAs are not serving to provide consistent, clear, and effective limits on non-City activities that raise ethical concerns. The use of department-specific SIAs to establish effective Citywide ethics standards creates numerous problems.

SIAs exclude most ethics rules and are therefore not useful as a compliance tool.

SIAs only represent a narrow subset of the ethics laws that apply to City officials. Many important rules are not discussed. For example, SIAs do not cover rules regarding gifts, bribery, Form 700 filing, financial conflicts of interest, limits on political activities, post-employment restrictions, or disclosures of personal, professional, and business relationships. Officials must become aware of many ethics rules outside of what is covered by their departments' SIAs.

However, City law requires every department to annually distribute its SIA to all officials within the department. Insofar as any official relies on the SIA as a comprehensive summary of ethics law (as the title and annual distribution practice might suggest it is), that official will not be aware of the majority of applicable ethics rules and might unknowingly violate the law despite efforts to learn and comply. For this reason, SIAs are not useful as a general ethics compliance resource and may in fact inadvertently prevent officials from learning about other types of rules.

The divergence between the SIAs results in a lack of visibility of the rules contained in the SIAs and compliance difficulties.

As discussed, each of the 54 SIAs are largely identical in their contents and structures. However, they differ enough to create inconsistencies between the rules that apply to officials in different departments, which is a problematic outcome. For one, the inconsistencies impede a shared, City-wide understanding of what the rules are. Because of the variations, SIA rules cannot be fully incorporated into an ethics training or written guide that will be used by all City officials. Instead, a warning to check the applicable SIA for additional rules must be offered.²⁸ This prevents the full breadth of SIAs from being taught, discussed, and publicized alongside other ethics rules and

²⁶ See, e.g., *id.* at section III.C.2.

²⁷ See, e.g., [San Francisco Board of Supervisors, Clerk of The Board, Youth Commission and Sunshine Ordinance Task Force Statement of Incompatible Activities](#) section III.C.2.

²⁸ See, e.g., Office of the City Attorney, [Good Government Guide, An overview of the Laws Governing the Conduct of Public](#), February 2019 p. 57. ("Although all SIAs include several of the same rules, no SIA is exactly like another, and City employees and officials should consult their own department's SIA. All SIAs are on the Ethics Commission's website, [sfethics.org](#).")

results in the SIA rules being far less visible than most rules. Thus, SIAs have the unintended consequence of making the rules that they contain harder to comply with than rules that are contained within the Code itself.

The variations would also present a potential compliance hurdle for any official who moves departments or must for other reasons be familiar with the ethics rules that apply to officials in multiple departments. Additionally, staff found minor variations between how the same provisions are worded in different SIAs, which could raise questions of whether the provisions mean the same thing.

Although SIAs may have been intended to allow some tailoring among departments, these differences do not have a clear policy value that offsets problems created by having inconsistent rules. As will be discussed in greater detail below, the better approach is to have ethics rules that apply broadly across all departments but that are flexible enough to be applied in a wide variety of circumstances. The development of advice and written compliance materials is the better way to apply general rules to specific situations within departments, rather than trying to write a different rule to apply to each department.

SIAs are not synced to the law and can become out of date, incorrect, or fail to apply to certain departments.

SIAs exist independently of the Campaign & Governmental Conduct Code, the Political Reform Act, and applicable regulations and guidance. In order for an SIA to be amended, the Ethics Commission must vote to approve any changes, and employee bargaining units must be consulted. Perhaps for these reasons, SIAs have remained largely unchanged since the majority of them were adopted over a decade ago.

This static nature of SIAs creates the potential for them to become out of date as ethics laws change over time. A department's SIA may even come to conflict with applicable statutes, which would override any inconsistent provisions of the SIA. This would cause obvious problems for compliance and education, and the unsustainable process of individually updating each SIA to align them all with current law is not a viable approach. SIAs would lose their value as a compliance tool once they fail to accurately state the law. This problem does not exist for rules that are contained in the Code.

Additionally, if a department lacks an SIA, its officials are largely exempt from the typical SIA rules, which apply to officials in all of the departments that have adopted an SIA. This can happen when a new department is created or when an existing department splits into multiple departments. This outcome is problematic: the applicability of ethics rules should not require an affirmative step on the part of a department, and noncompliance with the SIA adoption requirement should not result in fewer ethics rules applying. Again, codified rules that apply Citywide are not susceptible to this problem.

AWDs should not be issued for certain rules contained in SIAs.

An official may request an Advance Written Determination (AWD) from a department as to whether an activity would violate Section III of the department's SIA. AWDs are typically not

available for rules contained in other sections of an SIA. The availability of this process makes sense for the rule against activities that impose excessive time demands and the rule against activities that would require the official to regularly be disqualified from performing their City duties. In both instances, the department head (for requests by employees) or the appointing authority (for requests by department heads) are best situated to determine what types of activities would interfere with the official's City duties. This analysis will be heavily fact dependent and largely hinge on the official's job performance.

However, AWDs should not be available for the rule against activities that are subject to the jurisdiction of the official's department or the rule against providing selective assistance to certain contract bidders over others. Both of these rules are more traditional ethics rules in that they seek to prevent conflicts of interest, self-dealing, undue influence, or the appearance of any of these. These rules should apply uniformly to all officials across the City. AWDs for such rules are more likely to be used as waivers that allow employees to engage in otherwise prohibited conduct. If officials have questions about how these rules apply to their own conduct, they should seek advice from the Ethics Commission or the City Attorney's office, as is the practice for all ethics rules outside of Section III of the SIA.

Allowing for AWDs on basic ethics rules also raises the potential for inconsistent outcomes between departments and even between officials within the same department. As part of the research for this report, staff reviewed the AWDs that departments shared in response to the questionnaire discussed above. By and large, the AWDs reviewed contained little analysis and thus provided little insight into how departments are interpreting meaning of the rules. By instead seeking advice provided by the Commission or the City Attorney, officials are more likely to receive fair and consistent answers that support the purposes of the rules.

Recommendations: On balance, SIAs have proven to be an ineffective platform for applying important ethics rules about non-City activities. The adoption of departmental SIAs has not resulted in strong, consistent, enforceable, and workable ethics rules.

The rules that are contained in the SIAs should apply uniformly to all City officials. To accomplish this, the rules should be codified in the Campaign and Governmental Conduct Code and departmental SIAs should be discontinued. Doing so would alleviate the problems discussed above. All officials would be subject to the same set of rules, so the rules could be communicated consistently in all compliance materials and trainings, making a shared Citywide understanding of the rules possible. Departments would no longer escape the application of the rules by failing to adopt an SIA. Officials would seek advice from the Ethics Commission or the City Attorney's office about how the rules apply to them, which would serve to provide department- and position-specific guidance while still maintaining consistency across the City.

The SIA rules should be codified as nine broadly applicable ethics rules, as summarized in **Table 1**. These rules are described in greater depth in Attachment 1, which summarizes all provisions of the measure.

Table 1: List of SIA Prohibitions to be Codified in Campaign and Governmental Conduct Code

1.	Activities Subject to the Department’s Jurisdiction
2.	Selective Assistance to Persons Seeking to Do Business with a City Department
3.	Use of City Resources for non-City Purposes
4.	Use of Prestige of Office
5.	Use of City Work Product for non-City Purposes
6.	Acting as an Unauthorized City Representative
7.	Compensation for City Duties or Advice
8.	Lobbying Other Officials within the Department
9.	Excessive Time Demands and Regular Disqualifications

Under most SIAs, officials can request an AWD that can exempt them from rules 1, 2, and 9 in the list above, which in the SIAs appear together as Section III. Officials should still be able to request AWDs for the rule regarding excessive time demands and regular disqualifications from City duties (rule 9). Decision-makers within departments are best situated to evaluate questions about the application of these rules. However, AWDs should not be available for the rules regarding activities subject to review by the department (rule 1) or selective assistance (rule 2). These rules should be treated similarly to other ethics rules that address potential conflicts of interest and not be subject to exceptions by way of an AWD. This is already the case for most SIA rules, and it should be the case for these two basic rules as well.

It is important to note that any City employee that wishes to engage in compensated activity outside of City service must seek approval through the City’s Additional Employment Request process. This requirement is separate from the SIA or AWD process and is set forth in the City’s civil service rules.²⁹ An Additional Employment Request must be approved by both the employee’s department head and the Human Resources Director. Among other reasons, a request can be denied if the compensated activity will “interfere in any way with the full and proper performance of the employee’s regular civil service employment” or is “contrary to the interests of the City

²⁹ See [Civil Service Rule 118](#); City and County of San Francisco, Department of Human Resources, [Additional Employment Request Form Instructions](#).

service generally.”³⁰ Additionally, departments can enact policies that apply to the conduct of employees within the department. Thus, ethics rules are a floor, not a ceiling, for guiding City employee’s conduct, and departments have processes for applying personnel policies as needed.

In addition to codifying the SIA rules, the Code should also be amended to require departments to distribute a summary of applicable ethics laws to their officers and employees each year. Currently, the Code requires departments to annually distribute their respective SIAs. But, as discussed, SIAs are only a narrow subset of ethics rules and are thus not a useful compliance tool. They also tend to be lengthy and difficult to read. Instead, departments should distribute a document that is both more comprehensive and more concise that can be used as a quick reference to help officials spot potential ethics issues. The Ethics Commission should be required to produce this summary for departments to distribute.

E. Other Core Provisions Must be Harmonized within the Code to Ensure Strong Laws and Effective Compliance and Enforcement.

The Campaign and Governmental Code consists of four articles separated into ten chapters. Each chapter contains rules specific to a particular subject matter area. The chapters are listed in **Table 2** below.

Table 2: List of Chapters of the Campaign and Governmental Conduct Code

Chapter Number	Subject Matter
Art. I, Chapter 1	Campaign Finance
Art. I, Chapter 5	Campaign Consultants
Art. II, Chapter 1	Lobbyists
Art. III, Chapter 1	Form 700 Filing
Art. III, Chapter 2	Conflicts-of-Interest and Ethics

³⁰ [Civil Service Rule 118](#). “Requests to engage in additional employment under the provisions of this Rule will not be approved by the Human Resources Director/Designee unless there is compliance with the following condition [sic]:

- 1) That the employment will not impair the efficiency or interfere in any way with the full and proper performance of the employee's regular civil service employment;
- 2) That the performance of such employment is in no way inconsistent, incompatible or in conflict with assigned civil service duties or responsibilities of the employee's department or appointing officer;
- 3) That the performance of such employment will not be contrary to the interests of the City service generally and will not lead to situations which would reflect discredit on the City service;
- 4) That such employment will not involve any duty whatsoever of the employee during the employee's regular City work schedule; and
- 5) That the employment will not be in a hazardous occupation that would involve a substantial risk of injury to the employee. The Human Resources Director/Designee will determine whether such employment is unduly hazardous and will be guided in making a determination by the Manual of Rules, Classifications and Basic Rates for Workers' Compensation Insurance as published by the California Inspection Rating Bureau.”

Art. III, Chapter 3	Ethics Commission Provisions
Art. III, Chapter 4	Permit Consultants
Art. III, Chapter 5	Major Developers
Art. III, Chapter 6	Behested Payments
Art. IV, Chapter 1	Whistleblower Protection

Although the chapters cover different areas of the law and their contents are largely distinct, each chapter typically contains basic provisions that enable the rules within the chapter to be administered and enforced. These provisions address topics such as penalties for violations of the chapter's rules, compliance methods such as electronic filing, and processes for amendments to provisions contained in the chapter. These process-oriented laws are vital to the overall efficacy of the Campaign and Governmental Conduct Code. Problematically, inconsistencies that exist between the various chapters create gaps that impede and weaken the impact of the City's ethics laws.

E-1. Penalty provisions vary between chapters and do not clearly establish strict liability for violations, creating impediments to effective enforcement.

The San Francisco Charter directly confers authority for the Ethics Commission to enforce violations of the laws within its jurisdiction. Section C3.699-13(c) of the Charter states:

When the commission determines on the basis of substantial evidence presented at the hearing that a violation has occurred, it shall issue an order which may require the violator to: ... (3) Pay a monetary penalty to the general fund of the City of up to five thousand dollars (\$5,000) for each violation or three times the amount which the person failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater.

This language empowers the Commission to issue penalties for any violation of the Campaign and Governmental Conduct Code and certain provisions of the Charter.³¹ In furtherance of this general penalty issuing power, most chapters of the Code contain a provision restating that the Commission may impose penalties for violations of the chapter.

Findings and Recommendations: The penalty provisions that exist within certain chapters of the Code are not uniform and contain inconsistencies that weaken the ability of the Commission to pursue administrative enforcement remedies for violations. Most chapters of the Code contain a standard penalty provision that is strong and consistent. The provisions typically provide for administrative, civil, and criminal penalties and, for purposes of administrative penalties, state that

³¹ The Commission also has the authority to issue penalties for violations of other laws, including certain provisions of the Administrative Code and the California Government Code. See San Francisco Ethics Commission [Enforcement Regulations](#) section 1.B.

the Commission can issue any penalties provided for under the Charter.³² For these chapters, the issuance of administrative penalties would not be impeded by the penalty provision.

However, even though penalties can be imposed under the Charter, one chapter of the Code lacks language that mentions penalties at all. Article III, Chapter 1 contains rules regarding the disclosure of personal financial interests, including the requirement that City officers and certain City employees file the Form 700. This chapter does not contain a code section regarding penalties for violations of the chapter. Because the Charter directly authorizes the Commission to issue penalties, violations of this chapter can result in administrative penalties.³³ But, the absence of a penalty provision has the potential to mislead Form 700 filers into thinking that there are no penalties for failure to timely report all relevant financial interests. Likewise, members of board and commissions might think that there are no penalties associated with participating in matters on their commission's agenda despite having failed to file the Form 700 or complete required training; such officers are disqualified under law from participating in agenda items.³⁴ The absence of a statutory penalty provision could also unnecessarily complicate an enforcement proceeding.

Instead, the Article III, Chapter 1 should be made clearer by including a standard penalty provision explicitly stating that violations can result in penalties authorized under the Charter. The ability to carry out enforcement of Form 700 violations is of critical importance and should be clearly communicated through the Code. In a criminal case related to the ongoing federal corruption probe, the San Francisco District Attorney brought criminal charges against a former Department of Public Works employee for failing to disclose his financial interests in a company that did business with his department.³⁵ It must be made clear to filers that noncompliance with disclosure rules can carry serious consequences.

Additionally, there are three chapters of the code containing penalty provisions that attach a prerequisite mental state to violations in order for those violations to result in administrative penalties. The chapters regarding lobbyists, permit consultants, and major developers each state that administrative penalties can be imposed on “[a]ny person who *knowingly or negligently* violates” the law.³⁶ This standard is a departure from how administrative penalties are applied in all other chapters: administrative penalties are applied on a strict liability basis in other chapters, such that any violation can be punished without regard to whether or not the respondent had a

³² See, e.g., Campaign & Gov. Conduct Code § 1.170(c). “Any person who violates any of the provisions of this Chapter 1 shall be liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter for any penalties authorized therein.”

³³ Additionally, the penalty provision contained in Article III, Chapter 2 appears to apply to violations of Article III, Chapter 1 as well. It states that violations of “any of the City's conflict of interest or governmental ethics laws” are punishable by administrative penalties, civil penalties (if intentional or negligent), and criminal penalties (if knowing or willful). *Id.* at § 3.242(a), (b), & (d) [emphasis added].

³⁴ *Id.* at § 3.1-102.5(c).

³⁵ San Francisco District Attorney, [District Attorney Chesa Boudin Announces Charges Against Former Public Works Official Gerald Sanquinetti for Failing to Disclose over a Quarter Million Dollars in Income](#), Press Release, July 8, 2021

³⁶ Campaign & Gov. Conduct Code §§ 2.145(b), 3.415(b), 3.530(b).

particular mental state or level of culpability in violating the law. In those chapters, only civil or criminal liability requires a certain mental state or level of culpability to be present.

These penalty provisions should be amended so that administrative penalties may be imposed for any violations. Lobbyists and permit consultants are individuals who are paid by clients to influence the outcomes of City processes. Many of the recent federal corruption charges related to individuals who were paid to influence City officials, which underscores the continued importance of these disclosure requirements. Disclosures by major developers of payments they make to nonprofit organizations that speak about development projects are likewise important for understanding how money might be used to influence City decision making. Individuals who fail to comply with these disclosures should be subject to administrative enforcement penalties that may be imposed by the Ethics Commission under the same circumstances as those who violate disclosure requirements related to campaign finance or conflicts of interest.

It is important to note that since the time that the culpability standards were included in the three penalty provisions in question, the Commission has adopted the Streamlined Administrative Resolution Process (SARP) and the Fixed Penalty Policy.³⁷ SARP allows respondents who have committed no recent violations, have inflicted minimal public harm, cooperate with investigators, and meet other eligibility criteria to resolve their violations in a streamlined manner. Such respondents are subject to reduced penalties or no penalties at all (warning letters may be issued instead). The culpability standards, which were likely intended to help ensure that those who inadvertently commit minor, first-time violations will not be subject to large penalties, are therefore no longer necessary and serve only to impede effective enforcement. If evidence proving knowledge of the law or negligence are not readily available, the culpability standards may in fact shield bad actors who are known to have violated the law.

Additionally, the chapter of the code regulating behested payments contains a penalty provision that provides for administrative penalties but no civil or criminal penalties. This removes the possibility for important forms of enforcement and weakens the consequences for violations of behested payment rules. Item 6 on the December 10 Commission Agenda separately makes recommendations regarding the City's behested payment laws. One of the recommendations is to relocate the behested payment rules to Article III, Chapter 2, rather than have the rules exist in a standalone chapter. This would solve the problem of there being no civil or criminal penalties, as the rules would then become subject to penalties under section 3.242, which provides for administrative, civil, and criminal penalties.

Table 3 summarizes the penalty provisions in each chapter of the code and highlights the provisions that should be amended to provide for more effective enforcement.

³⁷ See San Francisco Ethics Commission, [Streamlined Administrative Resolution Program](#).

Table 3: Summary of Penalty Provisions in Chapters of the Campaign and Governmental Conduct Code

Chapter Number	Subject Matter	Penalty Provision
No Amendment Recommended for Existing Penalty Language		
Art. I, Chapter 1	Campaign Finance	1.170: identifies criminal, civil, and administrative penalties.
Art. I, Chapter 5	Campaign Consultants	1.525: identifies criminal, civil, and administrative penalties.
Art. III, Chapter 2	Conflicts-of-Interest and Ethics	3.242: identifies criminal, civil, and administrative penalties.
Art. III, Chapter 3	Ethics Commission Provisions	N/A (no rules contained in chapter)
Art. IV, Chapter 1	Whistleblower Protection	4.115(c): identifies administrative penalties, civil penalties, discipline, and cancellation of retaliatory action.
Amendment to Penalty Language Necessary to Strengthen Enforceability		
Art. II, Chapter 1	Lobbyists	2.145: remove requirement that violation must be “knowing or negligent” for administrative penalties to be imposed.
Art. III, Chapter 1	Form 700 Filing	Add a statutory penalty provision to clarify that penalties can be imposed for violations.
Art. III, Chapter 4	Permit Consultants	3.415: remove requirement that violation must be “knowing or negligent” for administrative penalties to be imposed.
Art. III, Chapter 5	Major Developers	3.530: remove requirement that violation must be “knowing or negligent” for administrative penalties to be imposed.
Art. III, Chapter 6	Behested Payments	3.650: strict liability for administrative penalties exists, but not criminal or civil penalties. Agenda Item 6 would relocate rules to Art. III, Ch. 2.

E-2. Legislative amendment requirements vary between chapters, inadequately protecting existing ethics laws from being amended legislatively.

Any provision of any chapter of the Campaign and Governmental Code can be amended by the voters through a ballot measure.³⁸ Such measures can be placed on the ballot through the voter initiative process, by the Board of Supervisors, or by the Ethics Commission.³⁹ This voter amendment power is guaranteed through the City's Charter, and this report does not discuss voter-approved Code amendments.

Separate and apart from amendments by the voters, nearly all of the chapters of the Code can also be amended legislatively without voter approval. The process that is required for legislative amendments depends on (a) whether the chapter was originally created legislatively or by a ballot measure, and (b) whether the chapter contains an amendment provision and what process that provision requires. If a chapter was created through a ballot measure, its provisions cannot be amended legislatively unless a legislative amendment provision allows for such changes. For example, Article III, Chapter 2, which contains conflict-of-interest rules, was created by a ballot measure but provides for legislative amendments in section 3.204.⁴⁰

In addition to Article III, Chapter 2, this is also true for Article I, Chapter 1 (campaign finance) and Article II, Chapter 1 (lobbyists). Under the legislative amendment provisions in each of these chapters, their provisions can only be amended legislatively if a supermajority of both the Ethics Commission (four out of five) and the Board of Supervisors (eight out of eleven) vote to approve the changes. This is an important safeguard to ensure that ethics laws that likely could affect elected officials serving in a legislative body require independent action and support by the five-member Ethics Commission if they are to be changed through the legislative process. By requiring Ethics Commission approval, and by setting a supermajority voting requirement for both bodies, these amendment provisions set a high bar for legislative amendments and help ensure that important ethics rules are only changed either by the voters or through a comprehensive legislative process that involves heightened checks and balances.

However, if a chapter was created legislatively, then it can be amended legislatively through the default legislative process: a simple majority vote of the Board of Supervisors plus mayoral approval.⁴¹ For these chapters, no involvement of the Ethics Commission is required for legislative amendments and only six supervisors need to approve the changes. This makes these chapters far easier to amend than the chapters regarding campaign finance, lobbyists, and conflicts of interest.

Findings and Recommendations: It is problematic that many chapters of the Code lack the same protections regarding legislative amendments that apply to the campaign finance, lobbyist, and

³⁸ San Francisco Charter §§ 14.100, 14.101.

³⁹ *Id.* at §§ 14.101, 2.113, & 15.102.

⁴⁰ See Campaign & Gov. Conduct Code § 3.204. Article III, Chapter 2 was created by Proposition E in 2003. Section 18.115 of the measure created the current legislative amendment provision. See San Francisco Department of Elections, [Voter Information Pamphlet Consolidated Municipal Election, November 4, 2003](#), Proposition E.

⁴¹ San Francisco Charter § 2.105.

conflict-of-interest chapters. These chapters also contain important rules that safeguard the public interest and ensure transparency around government processes. They should therefore also be insulated from any changes that are not approved by a supermajority of both the Ethics Commission and the Board of Supervisors. Such a legislative amendment requirement helps ensure that the rules regulating the integrity of the political process cannot be easily changed by elected officials who are at the center of that process.

These protections should apply to all but one chapter of the Code to ensure that all of the City's ethics laws are similarly safeguarded. The only chapter that should be amendable by a simple majority of the Board (with no Ethics Commission approval) is Article III, Chapter 1, which contains the City's Form 700 filing requirements. The Board of Supervisors is charged under state law as the "code reviewing body" that must review and update the City's statutory lists of Form 700 filers every two years.⁴² In light of this unique designation under state law, the Board should be able to continue to amend Article III, Chapter 1 through its normal legislative process.⁴³

A closely related issue is that Article I, Chapter 5, which regulates campaign consultants, was created through a ballot measure but provides no mechanism for legislative amendments. This means that only the voters can amend provisions of this chapter. This makes it difficult for needed updates or improvements to be made to the chapter to ensure that it continues to be effective. No substantive changes have been made to the City's campaign consultant laws since they were created in 1997, even though many aspects of City political campaigns have changed since that time. To allow for policy review and improvement, the chapter should allow for legislative amendments that are approved by a supermajority of both the Ethics Commission and Board of Supervisors. As discussed above, this requirement sets a high bar for legislative amendments and ensures that any changes are thoroughly vetted and have broad support. It would allow for needed updates while still protecting the chapter from inappropriate amendments.

Lastly, although most provisions of Article II, Chapter 1 require supermajority approval of both the Commission and the Board of Supervisors, it is not clear that this is true for all provisions in the chapter. This disparity within the lobbyist chapter itself should also be remedied by requiring supermajority approval for all provisions.

As will be discussed more in Section IV below, these changes to how a chapter can be amended could only be accomplished through a ballot measure. This is one reason why Staff recommends pursuing a ballot measure to enact all of the recommendations contained in this report.

Table 4 summarizes the amendment requirements for each chapter of the Code and highlights which chapters should have their requirements changed.

⁴² Cal. Gov. Code §§ 82011(b), 87306.5.

⁴³ Commission staff are typically involved in the biennial code review process, providing subject matter expertise on the Form 700 and its underlying policy objectives. This involvement helps ensure that the Commission's perspective is part of the process and that the policy purposes of personal financial disclosure are served, and it should continue.

Table 4: Summary of Penalty Provisions in Chapters of the Campaign and Governmental Conduct Code

Chapter Number	Subject Matter	Legislative Amendment Provision
Chapters for which <u>No Change Is Needed</u>		
Art. I, Chapter 1	Campaign Finance	1.104: Supermajority of both SFEC and BOS is required – no change needed.
Art. III, Chapter 1	Form 700 Filing	No provision: simple majority of BOS is sufficient – no change needed.
Art. III, Chapter 2	Conflicts-of-Interest and Ethics	3.204: Supermajority of both SFEC and BOS is required – no change needed.
Chapters for which Simple Majority of BOS is Sufficient for Legislative Amendment – <u>Supermajority of both BOS and Ethics Commission Should Be Required for Legislative Amendments</u>		
Art. II, Chapter 1	Lobbyists	2.103: Supermajority of both SFEC and BOS is required for changes to most provisions in the chapter, but not all. All provisions should require the same supermajority approval by both SFEC and BOS.
Art. III, Chapter 3	Ethics Commission Provisions	No provision: simple majority of BOS is sufficient – legislative amendments should require a supermajority of both SFEC and BOS.
Art. III, Chapter 4	Permit Consultants	No provision: simple majority of BOS is sufficient – legislative amendments should require a supermajority of both SFEC and BOS.
Art. III, Chapter 5	Major Developers	No provision: simple majority of BOS is sufficient – legislative amendments should require a supermajority of both SFEC and BOS.
Art. III, Chapter 6	Behested Payments	No provision: simple majority of BOS is sufficient – Agenda Item 6 would relocate rules to Art. III, Ch. 2. ⁴⁴
Art. IV, Chapter 1	Whistleblower Protection	No provision: simple majority of BOS is sufficient – legislative amendments should require a supermajority of both SFEC and BOS.

⁴⁴ Item 6 on the Ethics Commission’s December 10, 2021 meeting Agenda.

Chapter for which No Legislative Amendments Are Possible – Amendments Approved by Supermajority of both BOS and Ethics Commission Should Be Allowed		
Art. I, Chapter 5	Campaign Consultants	No provision: chapter can only be amended through ballot measure – legislative amendments by a supermajority of both SFEC and BOS should be permitted.

E-3. Provisions that enable electronic filing are not consistent across chapters and may impede effective compliance and obscure public information.

Many chapters of the Code contain provisions requiring the filing of public disclosures. These include disclosures about spending on political campaigns, the personal financial interests of City officials, and paid activities by lobbyists. Almost all of these disclosures are required to be filed in an electronic filing format (“e-filing”).⁴⁵ E-filing makes the information that is disclosed more easily available to members of the public, who can access the information online without having to seek paper documents from a City department. An electronic filing format also allows filers to meet their obligations by submitting an online form, which most filers prefer to submitting a hardcopy form.

Findings and Recommendations: Electronic filing is typically specified as a requirement for a particular filing by way of an Ethics Commission regulation. Many provisions of the code that contain a disclosure requirement also contain language stating that the Commission may require the disclosure to be made electronically. However, this language does not appear consistently throughout the Code. This inconsistency can create unnecessary confusion about whether electronic filing is or can be required for a certain form. It also leads to the unnecessary practice of including electronic filing language in every disclosure requirement that appears in the Code, which is not an efficient method for establishing electronic filing.

To address this issue and to ensure that any disclosures that may be added to the Code in the future can be required in an electronic format, each chapter of the Code should have a general electronic filing provision. The provision should state that electronic filing can be required for any disclosure required in that chapter. Some chapters of the Code already have such a provision: Article I, Chapter 1 (campaign finance), Article I, Chapter 5 (campaign consultant), and Article III, Chapter 6 (behested payments) have general e-filing provisions.⁴⁶ The chapters to which a general e-filing provision should be added are listed in **Table 5**.

⁴⁵ Only the campaign consultant disclosures are allowed to be filed in a paper format. Section 1.540 of the Code allows the Commission to adopt regulations to require electronic filing, but this process has not been undertaken. This e-filing conversation should take place as part of a separate project.

⁴⁶ Campaign & Gov. Conduct Code §§ 1.112, 1.540.

Table 5: List of Chapters Where an E-Filing Provision Should be Added

Chapter Number	Subject Matter
Article II, Chapter 1	Lobbyists
Article III, Chapter 2	Conflicts-of-Interest and Ethics ⁴⁷
Article III, Chapter 4	Permit Consultants
Article III, Chapter 5	Major Developers

III. Summary of Recommendations – Phase III

This section summarizes the recommendations made in this report in a basic list format. A draft ballot measure that would implement these recommendations as discussed more fully in the next section is presented as Attachment 2 to this report. The draft measure also combines the ordinance language of the draft Phase II ordinance discussed at the Commission’s November 12th meeting. A table summarizing all of the provisions in the combined measure is provided as Attachment 1.

A. Strengthen San Francisco’s bribery rule by incorporating elements of the federal bribery rule.

- 1. Define “bribe” broadly as “anything of value,” rather than narrowly as a “gift.”**
 - a. Gifts, campaign contributions, or other payments would be considered bribes if made or received with the intent to influence an official action.
- 2. Prohibit bribery in cases where the payment is made to a third party, not the official in question.**
- 3. Prohibit the solicitation of bribes by City officials.**

B. Strengthen the requirement that a City official disclose any personal, professional, or business relationship with persons involved in a government decision the official will make.

- 1. Create a penalty for failure to disclose a relationship.**

C. Extend the annual ethics training requirement to all Form 700 filers.

D. Elevate the rules contained in departmental Statements of Incompatible Activities into the Code. Discontinue departmental Statements of Incompatible Activities.

- 1. The incompatible activities that should be prohibited in the Code are:**
 - a. Activities Subject to the Department’s Jurisdiction

⁴⁷ Note: There is already a requirement for the Form 700 to be filed electronically, so no change to Article III, Chapter 1 is needed.

- b. Selective Assistance to Persons Seeking to Do Business with a City Department (including contractors and applicants for a license, permit, or other entitlement for use)
 - c. Use of City Resources
 - d. Use of Prestige of Office
 - e. Use of City Work Product
 - f. Acting as an Unauthorized City Representative
 - g. Compensation for City Duties or Advice
 - h. Lobbying Other Officials within the Department
 - i. Excessive Time Demands and Regular Disqualifications
- 2. Existing Statements of Incompatible Activities should be discontinued.**
 - 3. Advance Written Determinations should only be available for the rule against excessive time demands or regular disqualification.**
 - 4. Departments should be required to annually distribute to all of its officials a summary of ethics laws created by the Ethics Commission.**

E. Strengthen chapters of the Code by harmonizing and improving basic provisions.

- 1. Standardize penalty provisions to make it clear that all violations of the Code are punishable and that proving a particular mental state is not required.**
 - a. Remove required mental states of “knowingly or negligently” from penalty provisions in Article II, Chapter 1 (lobbyists), Article III, Chapter 4 (permit consultants), and Article III, Chapter 5 (major developers).
 - b. Add a penalty provision to Article III, Chapter 1 (Form 700 filing).
- 2. Protect ethics laws from amendment by requiring approvals by a supermajority of the Ethics Commission and Board of Supervisors for legislative amendments.**
 - a. Add Ethics Commission and Board of Supervisors supermajority approval requirement to Article III, Chapter 3 (Ethics Commission provisions), Article III, Chapter 4 (permit consultants), Article III, Chapter 5 (major developers), and Article IV, Chapter 1 (whistleblower protection).
 - b. Allow for legislative amendments to Article I, Chapter 5 (campaign consultants). Supermajority approval of both the Ethics Commission and Board of Supervisors should be required.
- 3. Add a general provision that allows the Commission to require electronic filing of public disclosures.**
 - a. The chapters that lack a general e-filing provision are Article II, Chapter 1 S(lobbyists), Article III, Chapter 2 (conflicts of interest), Article III, Chapter 4 (permit consultants), and Article III, Chapter 5 (major developers).

IV. Recommended Process and Next Step: A Ballot Measure Is the Best Approach to Expeditious Enactment of the Recommendations

This report is the final report in the Commission’s project to strengthen the City’s ethics laws in light of the serious corruption allegations brought by the U.S. Department of Justice. The series began with Phase I (behested payments), which is addressed separately under Item 6 on the Commission’s December 10 meeting Agenda.

The project continued with Phase II.A (gifts to individuals) and II.B (gifts made through City departments), which produced the draft ordinance and regulation amendments discussed at the Commission's November 12th meeting. The project culminates in this report, Phase III, which addresses basic ethics provisions that are fundamental to the City's ethics laws and programs. Staff recommends that the Commission use its power under the City Charter to place the legislative proposals from Phases II and III on the June 7, 2022 ballot as a ballot measure.⁴⁸ The draft measure is presented as Attachment 2.

The recommendations presented in Phases II and III are of critical importance and should be enacted without delay. January 2022 will mark two years since the federal corruption investigation was first announced publicly. Since that time, the Ethics Commission has studied City laws and processes to identify areas for improvement with the goal of preventing similar conduct in the future and restoring public trust in the integrity of City government. Several solutions to known problems have been identified through this process, and they should be expeditiously enacted and implemented.

The recommendations from Phases II and III represent solutions that are empirically supported. Report II.A included detailed analysis of Form 700 data to identify trends in gifts accepted by City officials and to identify potential problems. Report II.B similarly provided empirical research on gifts to City departments, including analysis of departmental reporting on gifts to the City. The current report is based on research that includes complete reviews of disclosures of personal, professional and business relationships, Advance Written Determinations, and all Statements of Incompatible Activities. This research informs the recommendations in the reports, which are designed to address known ethical problems.

The recommendations have also undergone broad stakeholder engagement. Staff has facilitated six interested persons meetings during the project and received additional written comment. Feedback, questions, and ideas received through this process have helped inform the recommendations and ensure that they are based on a broad perspective. Input from stakeholders including reform advocates, national good government organizations, City departments, nonprofit representatives, regulated community representatives, and members of the public has been received and factored into the recommendations. Contributions from the Campaign Legal Center and League of Women Voters were particularly helpful in ensuring that the project was informed by perspectives that extend beyond San Francisco and incorporate best practices in other jurisdictions. Staff's engagement with City departments was also thorough and helped to surface much information about how the recommendations could be implemented in practice.

This process of stakeholder engagement would not end with the approval of a ballot measure. If the measure were to pass, Staff would continue to engage stakeholders to help inform the implementation of the new laws, including implementing regulations. Many details of the proposals can be continually refined through this inclusive process.

Additionally, Staff engaged employee bargaining units through a process facilitated through the Department of Human Resources. The feedback from that process would inform how the laws

⁴⁸ San Francisco Charter § 15.102.

would be implemented, with particular attention on training and compliance materials. At this time, all meet and confer obligations have been met for both Phase II and Phase III recommendations.

As discussed in Agenda Item 6, the ordinance that would enact the Phase I behested payment rule approved by the Commission (File 201132) has been pending before the Board of Supervisors for over a year.⁴⁹ It is important that the Phase II and III recommendations are enacted more expeditiously. These proposals represent fundamental principles that should be put in place now so that the process of training, guidance, and enforcement of newly strengthened ethics laws can begin as soon as possible. Presenting the proposals to the voters at the June 2022 election is the clearest path to achieving this goal.

Another reason to use the Commission's power to place measures on the ballot is that the recommendation to change how certain chapters of the Code can be amended can only be enacted through a voter approved measure. This proposal would institute an important safeguard: several chapters of the Code that can currently be amended through a simple majority vote of the Board of Supervisors would instead require a supermajority vote of both the Board and the Ethics Commission in order to be changed legislatively. The change would also allow for legislative amendments to the campaign consultant laws, under the same double supermajority requirement.⁵⁰

1) Staff recommends that the Commission approve a motion to place the draft measure attached as Attachment 2 on the June 7, 2022 ballot.

Additionally, Staff has provided ten-day public notice of the draft regulations concerning gift exceptions that were discussed at the Commission's August 8th and November 12th meetings. These regulations, which are attached as Attachment 3, would address known problems with existing gift laws and strengthen the restricted source rule. The regulations can be approved separate and apart from the draft ballot measure.

2) Staff recommends that the Commission approve a motion to amend the Ethics Commission regulations as shown in Attachment 3.

⁴⁹ Item 6 on the Ethics Commission's December 10, 2021 meeting Agenda.

⁵⁰ Under the Charter, voter approved measures already can, and would continue to be able to, amend any chapter of the Code. See San Francisco Charter Article XIV. This proposal only concerns legislative amendments that are carried out by City government without voter approval.

ATTACHMENT 1



San Francisco Ethics Commission

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Attachment 1: Summary of Draft Measure Provisions

Section Number	Summary	Details
Report Recommendations		
1.503	Establishes a legislative amendment process limited to amendments approved by a supermajority of both the Ethics Commission and Board of Supervisors.	This chapter, which regulates campaign consultants was created through a ballot measure but provides no mechanism for legislative amendments. This makes it difficult for needed updates or improvements to be made to the chapter to ensure that it continues to be effective. The voters' power to change the chapter would not be affected.
2.135	Adds a provision that allows the Commission to require electronic filing of public disclosures.	This chapter, which regulates lobbyists, does not currently contain explicit language stating that the Commission may require disclosures be made electronically.
2.145	Removes required mental states of "knowingly or negligently" from penalty provision.	This chapter, which regulates lobbyists, attaches a prerequisite mental state to violations in order for those violations to result in administrative penalties. This standard is a departure from how administrative penalties are applied in other chapters: administrative penalties are typically applied on a strict liability basis in other chapters.
2.100 <i>et seq.</i>	Re-authorizes chapter in order to effectuate amendment provision.	<p>This chapter already contains a provision (2.103) that requires legislative amendments to be approved by a supermajority of both the Board of Supervisors and the Ethics Commission, an important safeguard to protect ethics laws. But, it is not clear that the provision applies to all of the lobbyist chapter. The chapter would be re-authorized by the draft measure to ensure that the legislative amendment provision applies to all sections of the chapter.</p> <p>The text of the chapter has not been changed except as noted above. This would not affect the power of the voters to amend the chapter in any way.</p>
3.1-102 & 3.1-102.5	Adds a penalty provision.	This chapter, which contains rules regarding the disclosure of personal financial interests, including the requirement that City officers and certain City employees file the Form 700, does not currently mention penalties, even though they can be imposed under the Charter. The absence of a penalty

		provision has the potential to mislead Form 700 filers into thinking that there are no penalties for failure to timely report all relevant financial interests or vote without having properly filed.
3.203	Creates definition of <i>affiliate</i> .	This concept mirrors the same terms as it is used in the campaign finance context and is important to apply the rule to gifts from individuals who are doing business with a department through a business entity.
3.203	Amends definition of <i>anything of value</i> .	This concept is the basis for the definition of gift. It should therefore not contain a reference to state or local gift exceptions, as those are applied elsewhere in City law.
3.203	Creates definition of <i>appointed department head</i> .	This concept is used in the new draft rules regarding incompatible activities that involve excessive time demands or would result in regular disqualifications.
3.203	Creates definition of <i>contract</i> .	This concept is one of the bases for what makes a person a restricted source. Currently, “doing business” is only defined in regulations, and the measure would codify a definition of doing business, which includes contracting with the City.
3.203	Creates definition of <i>department head</i> .	This term is used in Art. III, Ch. 2 in the draft rule regarding incompatible activities and the new centralized disclosure of gifts to City departments.
3.203	Creates definition of <i>doing business with the department</i> . Includes licenses, permits, and entitlements for use.	Doing business with a City department is one of two ways in which a person becomes a restricted source. The terms was previously defined only by regulation. In addition to contracting with the City, the definition includes seeking or obtaining a license, permit, or other entitlement for use from the City. These activities involve approvals with great monetary value and should be treated similarly to contracts for purposes of the restricted source rule.
3.203	Creates definition of <i>gift</i> .	The definition mirrors the definition of <i>gift</i> contained in state law, but omits state exceptions, which are largely inappropriate in the context of San Francisco’s gift rules. Certain of the state exceptions are applied in the regulations, as described in the subsequent table below.
3.203	Creates definition of <i>license, permit, or other entitlement for use</i> .	This category of City approvals mirrors what is defined in state law as triggering the rule against soliciting contributions (Gov. Code § 84308). It is used in the definition of <i>doing business</i> , an element of <i>restricted source</i> .

3.203	Creates definition of <i>payment</i> .	This term is a feature of the definition of <i>gift</i> and is used in the draft gift rules.
3.203	Expands definition of <i>restricted source</i> .	<p>(a) contains <i>doing business</i>, an existing component of the definition of <i>restricted source</i>.</p> <p>(b) extends the rule to prohibit gifts from a person to an officer if the officer's approval was required for a contract, license, permit, or entitlement for use that constitutes <i>doing business</i> with the City. This ensures that, in situations where a person is doing business with a City department but the business required approval by officers outside of the department (for example, a contract that was approved by the Board of Supervisors), the restricted source rule would still apply to gifts from the person to those officers. This is important since the same risks of pay-to-play and the appearance of corruption exist for such gifts.</p> <p>(c) extends the rule such that any affiliate of a restricted source is also a restricted source. Affiliates of an entity include its directors, officers, and major shareholders. Without this provision, even if a contracting entity is prohibited from making gifts to certain officials, its directors, officers, and owners would still be free to do so.</p> <p>(d) contains <i>attempts to influence</i> an official within the last 12 months, an existing component of the definition of <i>restricted source</i>.</p> <p>(e) relocates the lobbyist gift prohibition from section 2.115(a) to section 3.216(b) to consolidate it with similar rules.</p> <p>(f) would prohibit gifts from registered permit consultants to officials within permit-issuing departments. Like lobbyists, permit consultants are paid to influence the actions of City officials and should therefore be included in the restricted source rule.</p> <p>The definition of <i>restricted source</i> was previously located within section 3.216.</p>
3.205	Extends annual ethics training requirements to all Form 700 filers.	Not all Form 700 filers are currently required to complete an annual training on ethics laws and certify completion of the training to the Ethics Commission. This change will also require every

		department, board, commission, and agency of the City to annually provide to its officers and employees with a summary of relevant state and local ethics laws to be created by the Ethics Commission.
3.214(b)	Creates a penalty for failure to disclose a personal, professional, or business relationship with persons involved in a government decision.	The Code currently explicitly states that there is no penalty associated with failure to comply with this section. Deleting this language stating that there is no penalty associated with failure to comply would allow for penalties against an official who made a decision involving someone with whom they had a personal, professional, or business relationship and failed to disclose that relationship.
3.214(c)	Specify that the Ethics Commission may issue regulations on how the required disclosure must be made and archived.	Departments should be given guidance on how to store 3.214 disclosures and how to make them available to the public.
3.216(a)	Define “bribe” broadly as “anything of value,” rather than narrowly as a “gift.”	The current bribery rule only prohibits bribes that also meet the definition of <i>gift</i> . This is problematic because the definition of gift is subject to many exceptions, which should not be applied to bribes. Anytime a payment is made with the intent to influence an official act, the payment should be considered a bribe.
3.216(a)	Prohibit bribery in cases where the payment is made to a third party, not the official in question.	The current bribery rule does not explicitly prohibit payments made to third parties, even when those payments are made with the intent to influence a City official.
3.216(a)	Prohibit the solicitation of bribes by City officials.	San Francisco does not currently prohibit the solicitation of bribes. A prohibition on the solicitation of bribes would be consistent with federal law.
3.216(b)(1)	Prohibits officials from soliciting or accepting a gift from a restricted source for themselves or for others.	(b)(1) contains the existing rule that officials are prohibited from soliciting or accepting a gift from a person they have reason to know is a restricted source. The amendment would additionally prohibit soliciting, accepting, or coordinating a gift to <i>other</i> City officials if the official has reason to know the source of the gift is a restricted source. This would address an observed practice that undermines the effectiveness of the restricted source rule.
3.216(b)(2)	Prohibits officials from accepting a gift from any person if they have reason	Officials are already prohibited from soliciting or accepting a gift from a person they have reason to know is a restricted source. But, the law fails to specify that officials cannot accept restricted source

	to know the gift was paid for by a restricted source.	gifts that are first passed through a third party. If the official has reason to know that a gift originates from a restricted source, the gift should be prohibited. This includes gifts that are passed through City departments.
3.216(b)(3)	Prohibits officials from soliciting or accepting gifts for a family member from a source they have reason to know is a restricted source.	Officials are already prohibited from soliciting or accepting a gift from a person they have reason to know is a restricted source. The amendment would additionally prohibit soliciting or accepting a gift for the official's family member. This would preclude a potential work around to the rule that creates a danger of pay-to-play.
3.216(b)(4)	Prohibits restricted sources from giving gifts to officials.	Currently, only the solicitation or receipt of a restricted source gift by an official is prohibited. The ordinance would prohibit a person from <i>giving</i> a gift to a City official or the official's family member if the person has reason to know that they are a restricted source for the official. Unlaw gifts will be deterred more effectively if giving them is prohibited. The failure of a lobbyist or permit consultant to register as such would not allow that person to make gifts that would otherwise be prohibited.
3.216(b)(5)	Prohibits restricted sources from passing gifts through an intermediary.	The ordinance would prohibit a person from making a payment to an intermediary if (a) the person has reason to know the payment will be used to give a gift to a City official, and (b) the person has reason to know they are a restricted source for the official. This would prohibit restricted sources from circumventing the restricted source rule by passing gifts through a third party, including a City department.
3.216(b)(6)	Prohibits anyone from acting as an intermediary for a restricted source gift.	The ordinance would prohibit any person from accepting a payment with the understanding that the person will use the payment to give a gift to an official if the person has reason to know that the source of the payment is a restricted source for the official. This rule would help preclude a workaround to the rule by creating liability for those who knowingly act as a passthrough.
3.217	Requires department heads to disclose certain payments to City departments from non-City sources.	The ordinance would require each department head to disclose payments that their department receives from a source that is not a federal, state, or local government and for which the department does not provide equal consideration. The disclosure is due by the fifteenth of the month following receipt the payment and must include basic information about

		the gift and the source, including the names of all City officials who receive a personal benefit from the gift. The disclosure must be updated if the information required to be disclosed, such as how a gift was used, changes after the time of the initial filing.
3.218	<p>Codify the following rules that appear in most Statements of Incompatible Activities:</p> <ol style="list-style-type: none"> 1) Activities Subject to the Department's Jurisdiction 2) Selective Assistance to Persons Seeking to Do Business with a City Department (including contractors and applicants for a license, permit, or other entitlement for use) 3) Use of City Resources 4) Use of Prestige of Office 5) Use of City Work Product 6) Acting as an Unauthorized City Representative 7) Compensation for City Duties or Advice 8) Lobbying Other Officials within the Department 9) Excessive Time Demands and Regular Disqualifications 	<p>These rules represent the standard ethics rules that appear in most Statements of Incompatible Activities. By codifying the rules in the Code, the rules will apply uniformly across all City departments, eliminating unnecessary divergences and enabling broader awareness and compliance. Advanced Written Determinations would remain available for the rule against excessive time demands or regular disqualification, but would no longer be available for the rule against activities subject to review by the official's department of the rule against providing selective assistance.</p>

	Discontinue departmental Statements of Incompatible Activities.	
3.234	Adds a provision that allows the Commission to require electronic filing of public disclosures.	This chapter, which contains Conflicts-of-Interest and Ethics rules, does not currently contain explicit language stating that the Commission may require any disclosures be made electronically.
3.303	Protect ethics laws from amendment by requiring approvals by a supermajority of the Ethics Commission and Board of Supervisors for legislative amendments.	There is currently no provision in this chapter regarding amendments, which means a simple majority vote from the Board of Supervisors is sufficient to amend the chapter. The voters' power to change the chapter would not be affected. In order to carry out this change, all provisions of the chapter need to be reauthorized, so the chapter is reprinted in the draft measure in its entirety. The text has not been changed unless noted in this chart.
3.403	Protect ethics laws from amendment by requiring approvals by a supermajority of the Ethics Commission and Board of Supervisors for legislative amendments.	There is currently no provision in this chapter regarding amendments, which means a simple majority vote from the Board of Supervisors is sufficient to amend the chapter. The voters' power to change the chapter would not be affected. In order to carry out this change, all provisions of the chapter need to be reauthorized, so the chapter is reprinted in the draft measure in its entirety. The text has not been changed unless noted in this chart.
3.415	Removes required mental states of "knowingly or negligently" from the penalty provision.	This chapter, which regulates permit consultants, attaches a prerequisite mental state to violations in order for those violations to result in administrative penalties. This standard is a departure from how administrative penalties are applied in other chapters: administrative penalties are typically applied on a strict liability basis in other chapters.
3.425	Adds a provision that allows the Commission to require electronic filing of public disclosures.	This chapter, which regulates permit consultants, does not currently contain explicit language stating that the Commission may require disclosures be made electronically.
3.505	Protect ethics laws from amendment by requiring approvals by a supermajority of the Ethics Commission and Board of Supervisors for legislative amendments.	There is currently no provision in this chapter regarding amendments, which means a simple majority vote from the Board of Supervisors is sufficient to amend the chapter. The voters' power to change the chapter would not be affected. In order to carry out this change, all provisions of the chapter need to be reauthorized, so the chapter is reprinted in the draft measure in its entirety. The text has not been changed unless noted in this chart.

3.525	Adds a provision that allows the Commission to require electronic filing of public disclosures.	This chapter, which regulates major developers, does not currently contain explicit language stating that the Commission may require disclosures be made electronically.
3.530	Removes required mental states of “knowingly or negligently” from the penalty provision.	This chapter, which regulates major developers, attaches a prerequisite mental state to violations in order for those violations to result in administrative penalties. This standard is a departure from how administrative penalties are applied in other chapters: administrative penalties are typically applied on a strict liability basis in other chapters.
4.103	Protect ethics laws from amendment by requiring approvals by a supermajority of the Ethics Commission and Board of Supervisors for legislative amendments.	There is currently no provision in this chapter regarding amendments, which means a simple majority vote from the Board of Supervisors is sufficient to amend the chapter. The voters’ power to change the chapter would not be affected. In order to carry out this change, all provisions of the chapter need to be reauthorized, so the chapter is reprinted in the draft measure in its entirety. The text has not been changed unless noted in this chart.
Clarifying Amendments		
2.115(a)	Relocates lobbyist gift rule.	The lobbyist gift rule would be deleted from section 2.115(a) and added to section 3.216(b).
3.203	Creates definition of <i>family member</i> .	This term is used in the rule prohibiting restricted sources from giving gifts to an official’s family members and the rule prohibiting officials from soliciting such gifts for family members.
3.216(b)(1)-(2)	Relocates definitions of <i>restricted source</i> and <i>gift</i> .	These definitions are moved to section 3.203.
3.216(b)(7), (c) [new number]	Amends regulation authority.	This amendment would remove specific language about what gifts are exempted by regulation and instead give general authority to the Commission to exempt certain gifts (these exemptions are contained in the draft regulations below).
3.216(f)	Relocates reference to state gift aggregation regulation.	The lobbyist gift rule (2.115) already incorporates the state rule pertaining to the aggregation of gifts from related sources. The ordinance would move the reference to 3.216 so that it applies to all restricted source gifts. The aggregation principles help prevent circumvention of the rule by, for example, prohibiting a restricting source from using a separate entity that they control to give a prohibited gift.

A. Regulation Amendments

The following table summarizes the provisions contained in the draft regulation amendments included as Attachment 2. The provisions that would enact the recommendations from the reports are summarized first. Additional clarifying amendments are summarized second.

Table 2: Summary of Draft Regulation Amendments

Regulation Number	Summary	Objective
Report Recommendations		
3.216(b)-5(a)	Narrows the exception for small non-cash gifts given on four occasions per year.	The amendment would narrow the existing exception to only permit officials to receive small non-cash gifts from a restricted if the gifts are routine office courtesies (like water, coffee, small snacks, or a pad of paper) that are offered during a site visit that is a necessary part of the official's duties. This would still enable officials to accept small items that facilitate the execution of City duties without creating the opportunities for abuse that exist with the current exception. The current exception has been used to justify gifts, such as expensive parties, that clearly undermine the intent of the rule.
3.216(b)-5(b) [former number]	Removes exception for unlimited food and drink consumed in City offices.	The amendment would remove the exception that allows City officials to accept unlimited food and drinks from restricted sources as long as it is consumed in a City workplace. This exception clearly undermines the restricted source rule.
3.216(b)-5(b) [new number]	Clarifies the exception for free attendance at conferences.	The amendment specifies that officials may accept free attendance at a widely attended conference from a restricted source, but only if the restricted source is the organizer of the event. This would prevent abuse of the exception whereby a restricted source could purchase attendance to a conference that they are not organizing and give it to an official. This was not the intent of the exception.
3.216(b)-5 (d)—(f) [former numbers]	Removes exceptions for free meals from industry representatives.	The amendments would remove the exceptions that allow certain City officials to accept free meals from members of the financial, maritime, and aviation industry. These gifts undermine the effectiveness of the restricted source rule and are not justified by operational needs. Departments can and should expend their own funds to cover the costs of employee meals that are necessary in order to carry out City operations. Departments should not rely on restricted sources to cover such costs.
3.216(b)-5 (d)—(l)	Applies appropriate state gift exceptions to restricted source rule.	The amendments would apply certain state law gift exceptions to the restricted source rule. By creating a definition of <i>gift</i> in the Campaign & Governmental Conduct Code (see summary of ordinance provisions

[new numbers]		<p>above), state exceptions would no longer be incorporated in their entirety. This is necessary to uphold the effectiveness of the rule. Instead, only the exceptions that are appropriate and do not undermine the effectiveness of the restricted source rule would be incorporated in the regulations. These are the state exceptions for:</p> <ul style="list-style-type: none"> • informational material; • gifts that are returned, donated, or paid for; • gifts from family members; • campaign contributions and payments for campaign activities; • inheritance; • disaster relief; • free admission to event where official makes a speech; and • free admission to event where official performs a ceremonial role.
3.216(c)-1 (b)(2)(B)(v); (b)(3)	Combines exception for occasions of <i>special personal significance</i> with exception for occasions when gifts are traditionally given.	The amendment would combine two existing exceptions. This would remove the ambiguity that exists around the concept of “occasions of special personal significance” by defining what those occasions are. It would also apply the \$25 limit that already applies to gifts given on occasions when gifts are traditionally given (such as holidays and birthdays). This would still allow subordinates to give small gifts to their supervisors to recognize births, adoptions, deaths, and marriages.
3.216(c)-1 (b)(2)(B)(xiv)	Removes exception for gifts from subordinate to supervisor’s family member.	The amendment removes the exception for gifts to a supervisor’s family member, which is a potential work around that undermines the purposes of the subordinate gift rule.
Clarifying Amendments		
3.216(b)-5; 3.215(c)-1	Changes <i>voluntary</i> to <i>unsolicited</i> .	The amendments use the word <i>unsolicited</i> in place of the word <i>voluntary</i> . The word is clearer and is defined to mean “not requested and [] given freely, without pressure or coercion.” For gifts from subordinates, a gift is still unsolicited if an official other than the recipient requests a group of officials to make contributions to a group gift and the request “includes a statement that an employee may choose to contribute less or not at all.”
3.216(b)-5	Relocates examples to relevant examples.	Currently, all examples appear at the end of regulation 3.216(b)-5. Each examples would instead directly follow the exception to which it corresponds.
3.216(c)-1 (a)(1)	Aligns restatement of subordinate gift rule with the code.	The regulation’s current restatement of the subordinate gift rule does not align with the code. The amendment would ensure alignment.

3.216(c)-1 (b)(7) [new number]	Adds definition of subordinate officer.	Currently, the regulation only defines <i>subordinate employee</i> . However, the rule applies to both officers and employees. The amendment would create a definition of <i>subordinate officer</i> that mirrors the concept of <i>subordinate employee</i> .
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ATTACHMENT 2

[Initiative Ordinance - Campaign and Governmental Conduct Code - Gift Prohibitions and Reporting, Bribery, Ethics Training, Incompatible Activities, and Amendment Process]

Motion ordering submitted to the voters, at an election to be held on June 7, 2022, an ordinance amending the Campaign and Governmental Conduct Code to 1) expand gift prohibitions for City officers and employees; 2) expand rules prohibiting bribery; 3) require ethics training for Form 700 filers; 4) impose gift prohibitions on members of the public with respect to City officers and employees; 5) impose personal liability on City officials for failure to report donations to their departments and for failure to disclose certain relationships; 6) create generally applicable incompatible activity rules; and 7) require Ethics Commission and Board of Supervisors super-majority approval for amendments to certain ethics-related ordinances.

MOVED, That pursuant to Charter Section 15.102, the Ethics Commission hereby submits the following ordinance to the voters of the City and County of San Francisco, at an election to be held on June 7, 2022.

Ordinance amending the Campaign and Governmental Conduct Code to 1) expand gift prohibitions for City officers and employees; 2) expand rules prohibiting bribery; 3) require ethics training for Form 700 filers; 4) impose gift prohibitions on members of the public with respect to City officers and employees; 5) impose personal liability on City officials for failure to report donations to their departments and for failure to disclose certain relationships; 6) create generally applicable incompatible activity rules; and 7) require Ethics Commission and Board of Supervisors super-majority approval for amendments to certain ethics-related ordinances.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in single-underline italics Times New Roman font.

1 **Deletions to Codes** are in ~~strikethrough italics Times New Roman font~~.
2 **Board amendment additions** are in double-underlined Arial font.
3 **Board amendment deletions** are in ~~strikethrough Arial font~~.
4 **Asterisks (* * * *)** indicate the omission of unchanged Code
5 subsections or parts of tables.

6
7 Be it ordained by the People of the City and County of San Francisco:

8 Section 1. Article I, Chapter 5 of the Campaign and Governmental Conduct Code is
9 hereby amended by adding Section 1.503, to read as follows:

10 **SEC. 1.503. AMENDMENT OR REPEAL OF THIS CHAPTER.**

11 The voters may amend or repeal this Chapter 5. The Board of Supervisors may amend this
12 Chapter 5 if all of the following conditions are met:

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

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

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

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

21 Section 2. The voters hereby re-authorize and re-enact in its entirety Article II, Chapter
22 1 of the Campaign and Governmental Conduct Code, in the process revising Sections 2.103,
23 2.115, 2.135, and 2.145, to read as follows:

24 **SEC. 2.100. FINDINGS.**

1 ~~(a) The Board of Supervisors finds that public disclosure of the identity and extent of efforts of~~
2 ~~lobbyists to influence decision-making regarding local legislative and administrative matters is~~
3 ~~essential to protect public confidence in the responsiveness and representative nature of government~~
4 ~~officials and institutions. It is the purpose and intent of the Board of Supervisors to impose reasonable~~
5 ~~registration and disclosure requirements to reveal information about lobbyists' efforts to influence~~
6 ~~decision-making regarding local legislative and administrative matters.~~

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

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

22
23 **~~SEC. 2.103. AMENDMENT OR REPEAL.~~**

24 ~~With respect to any provisions of this Chapter regarding regulation of expenditure lobbyists,~~
25 ~~registration requirements, amendment of registration information and monthly disclosures, or~~

1 ~~restrictions on gifts, campaign contributions, or bundled campaign contributions from lobbyists,~~
2 ~~approved by the voters, the Board of Supervisors may amend those provisions if all of the following~~
3 ~~conditions are met:~~

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

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

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

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

12
13 ***SEC. 2.105. DEFINITIONS.***

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

16 ~~"Activity expenses" means any expense incurred or payment made by a lobbyist or a lobbyist's~~
17 ~~client at the behest of the lobbyist, or arranged by a lobbyist or a lobbyist's client at the behest of the~~
18 ~~lobbyist, which benefits in whole or in part any: officer of the City and County; candidate for City and~~
19 ~~County office; aide to a member of the Board of Supervisors; or member of the immediate family or the~~
20 ~~registered domestic partner of an officer, candidate, or aide to a member of the Board of Supervisors.~~

21 ~~An expense or payment is not an "activity expense" unless it is incurred or made within three months of~~
22 ~~a contact with the officer, candidate, or Supervisor's aide who benefits from the expense or payment, or~~
23 ~~whose immediate family member or registered domestic partner benefits from the expense or payment.~~

24 ~~"Activity expenses" include honoraria, consulting fees, salaries, and any other thing of value totaling~~
25 ~~more than \$25 in value in a consecutive three-month period, but do not include political contributions.~~

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

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

4 ~~"Client" means the person for whom lobbyist services are performed by a lobbyist.~~

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

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

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

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

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

19 ~~"Economic consideration" means any payments, fees, reimbursement for expenses, gifts, or~~
20 ~~anything else of value, provided that "economic consideration" does not include salary, wages or~~
21 ~~benefits furnished by a federal, state or local government agency.~~

22 ~~"Employee" means any person who receives, reasonably expects to receive, or whose employer~~
23 ~~is obligated to provide, an Internal Revenue Service Form W-2 wage and tax statement.~~

24 ~~"Employer" means any person who provides an Internal Revenue Service Form W-2 wage and~~
25 ~~tax statement to an employee who performs lobbyist services on behalf of that person.~~

1 ~~"Expenditure lobbyist" means any person, other than any government entity, or officer or~~
2 ~~employee of a government entity acting in an official capacity, who, directly or indirectly, makes~~
3 ~~payments totaling \$2,500 or more in a calendar month to solicit, request, or urge other persons to~~
4 ~~communicate directly with an officer of the City and County in order to influence local legislative or~~
5 ~~administrative action. Examples of the types of activities the payment for which can count toward the~~
6 ~~\$2,500 threshold referred to in the previous sentence include but are not limited to public relations,~~
7 ~~media relations, advertising, public outreach, research, investigation, reports, analyses, and studies to~~
8 ~~the extent those activities are used to further efforts to solicit, request or urge other persons to~~
9 ~~communicate directly with an officer of the City and County. The following types of payments shall not~~
10 ~~be considered for the purpose of determining whether a person is an expenditure lobbyist: payments~~
11 ~~made to a registered contact lobbyist or the registered contact lobbyist's employer for lobbyist services;~~
12 ~~payments made to an organization for membership dues; payments made by an organization to~~
13 ~~distribute communications to its members; payments made by a news media organization to develop~~
14 ~~and distribute its publications; and payments made by a client to a representative to appear in an~~
15 ~~adjudicatory proceeding before a City agency or department.~~

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

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

20 ~~"Lobbyist" means a contact lobbyist or expenditure lobbyist.~~

21 ~~"Lobbyist services" means services rendered for the purpose of influencing local legislative or~~
22 ~~administrative action, including but not limited to contacts with officers of the City and County of San~~
23 ~~Francisco.~~

24 ~~"Local legislative or administrative action" includes, but is not limited to, the drafting,~~
25 ~~introduction, consideration, modification, enactment, defeat, approval, veto, granting or denial by any~~

~~officer of the City and County of any resolution, motion, appeal, application, petition, nomination, ordinance, amendment, approval, referral, permit, license, entitlement to use or contract.~~

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

~~"Officer of the City and County" means any officer identified in Section 3.203 of this Code, as well as any official body composed of such officers. In addition, for purposes of this Chapter, "officer of the City and County" includes (1) members of the Board of Education, Community College Board, First Five Commission, Law Library Board of Trustees, Local Agency Formation Commission, Health Authority Board, Housing Authority Commission, Parking Authority, Relocation Appeals Board, Successor Agency to the former Redevelopment Agency of the City and County of San Francisco, Oversight Board of the Successor Agency, Successor Agency Commission, Transportation Authority, Workforce Investment San Francisco Board as well as any official body composed of such officers, and any person appointed as the chief executive officer under any such board or commission; (2) the Zoning Administrator, (3) the City Engineer, (4) the County Surveyor, and (5) the Bureau Chief of the Department of Public Works' Bureau of Street Use and Mapping.~~

~~"Person" means an individual, partnership, corporation, association, firm, labor union or other organization or entity, however organized.~~

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

~~"Public hearing" means any open, noticed proceeding.~~

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

SEC. 2.106. LOBBYING CONTACTS.

1 ~~(a) Whenever used in this Chapter 1, "contact" means any communication, oral or written,~~
2 ~~including communication made through an agent, associate or employee, for the purpose of influencing~~
3 ~~local legislative or administrative action, except as provided in Subsections (b) and (c).~~

4 ~~(b) The following activities are not "contacts" within the meaning of this Chapter 1.~~

5 ~~(1) A representative of a news media organization gathering news and information or~~
6 ~~disseminating the same to the public, even if the organization, in the ordinary course of business,~~
7 ~~publishes news items, editorials or other commentary, or paid advertisements, that urge action upon~~
8 ~~local legislative or administrative matters;~~

9 ~~(2) A person providing oral or written testimony that becomes part of the record of a~~
10 ~~public hearing; provided, however, that if the person making the appearance or providing testimony~~
11 ~~has already qualified as a contact lobbyist under this Chapter and is appearing or testifying on behalf~~
12 ~~of a client, the contact lobbyist's testimony shall identify the client on whose behalf the contact lobbyist~~
13 ~~is appearing or testifying;~~

14 ~~(3) A person performing a duty or service that can be performed only by an architect or~~
15 ~~a professional engineer licensed to practice in the State of California;~~

16 ~~(4) A person making a speech or producing any publication or other material that is~~
17 ~~distributed and made available to the public, through radio, television, cable television, or other~~
18 ~~medium of mass communication;~~

19 ~~(5) A person providing written information in response to an oral or written request~~
20 ~~made by an officer of the City and County, provided that the written information is a public record~~
21 ~~available for public review;~~

22 ~~(6) A person providing oral or written information pursuant to a subpoena, or~~
23 ~~otherwise compelled by law or regulation;~~

24 ~~(7) A person submitting a written petition for local legislative or administrative action,~~
25 ~~provided that the petition is a public record available for public review;~~

1 ~~(8) A person making an oral or written request for a meeting, or any other similar~~
2 ~~administrative request, if the request does not include an attempt to influence local legislative or~~
3 ~~administrative action;~~

4 ~~(9) A person appearing before an officer of the City and County pursuant to any~~
5 ~~procedure established by law or regulation for levying an assessment against real property for the~~
6 ~~construction or maintenance of an improvement;~~

7 ~~(10) A person providing purely technical data, analysis, or expertise in the presence of~~
8 ~~a contact lobbyist;~~

9 ~~(11) A person distributing to any officer of the City and County any regularly published~~
10 ~~newsletter or other periodical which is not primarily directed at influencing local legislative or~~
11 ~~administrative action;~~

12 ~~(12) A person disseminating information or material on behalf of an organization or~~
13 ~~entity to all or a significant segment of the organization's or entity's employees or members;~~

14 ~~(13) A person appearing as a party or a representative of a party in an administrative~~
15 ~~adjudicatory proceeding before a City agency or department;~~

16 ~~(14) A person communicating, on behalf of a labor union representing City employees,~~
17 ~~regarding the establishment, amendment, or interpretation of a collective bargaining agreement or~~
18 ~~memorandum of understanding with the City, or communicating about a management decision~~
19 ~~regarding the working conditions of employees represented by a collective bargaining agreement or a~~
20 ~~memorandum of understanding with the City;~~

21 ~~(15) A party or prospective party to a contract providing oral or written information in~~
22 ~~response to a request for proposals, request for qualifications, or other similar request, provided that~~
23 ~~the information is directed to the department or official specifically designated in the request to receive~~
24 ~~such information; negotiating the terms of the contract with the City after being selected to enter into~~
25

1 ~~the contract; or communicating in connection with the administration of an existing contract between~~
2 ~~the party and the City. For the purposes of this subsection (b)(15):~~

3 ~~(A) A "party or prospective party" includes that party's officers or employees; a~~
4 ~~subcontractor listed in the contract, bid, or proposal; or that subcontractor's officers or employees. A~~
5 ~~"party or prospective party" does not include any other agent or associate, including any outside~~
6 ~~consultant or independent contractor.~~

7 ~~(B) Communication "in connection with the administration of an existing~~
8 ~~contract" includes, but is not limited to, communication regarding: insurance and bonding; contract~~
9 ~~performance and/or default; requests for in-scope change orders; legislative mandates imposed on~~
10 ~~contractors by the City and County; payments and invoicing; personnel changes; prevailing wage~~
11 ~~verification; liquidated damages and other penalties for breach of contract; audits; assignments; and~~
12 ~~subcontracting. Communication "in connection with the administration of an existing contract" does~~
13 ~~not include communication regarding new contracts, or out-of-scope change orders.~~

14 ~~(16) An officer or employee of a nonprofit organization or an organization fiscally~~
15 ~~sponsored by such a nonprofit organization communicating on behalf of their organization. For~~
16 ~~purposes of this subsection only, "nonprofit organization" means either an organization with tax~~
17 ~~exempt status under 26 United States Code Section 501(c)(3), or an organization with tax exempt status~~
18 ~~under 26 United States Code Section 501(c)(4) whose most recent federal tax filing included an IRS~~
19 ~~Form 990-N or an IRS Form 990-EZ, or an organization whose next federal tax filing is reasonably~~
20 ~~likely to include an IRS Form 990-N or an IRS Form 990-EZ.~~

21 ~~(c) The following activities are not "contacts" for the purpose of determining whether a person~~
22 ~~qualifies as a contact lobbyist, but are "contacts" for purpose of disclosures required by this Chapter 1:~~

23 ~~(1) A person providing oral information to an officer of the City and County in response~~
24 ~~to an oral or written request made by that officer;~~

25 ~~(2) A person making an oral or written request for the status of an action; and~~

1 ~~(3) A person participating in a public interested persons meeting, workshop, or other~~
2 ~~forum convened by a City agency or department for the purpose of soliciting public input.~~

3
4 **~~SEC. 2.107. NO CONFLICT WITH STATE BAR ACT.~~**

5 ~~Nothing in this Chapter is intended to regulate attorneys engaged in the practice of law under~~
6 ~~the California State Bar Act, Business and Professions Code sections 6000 et seq.~~

7
8 **~~SEC. 2.110. REGISTRATION AND DISCLOSURES; FEES; TERMINATION OF~~**
9 **~~REGISTRATION.~~**

10 ~~(a) **REGISTRATION OF LOBBYISTS REQUIRED.** Lobbyists shall register with the Ethics~~
11 ~~Commission and comply with the disclosure requirements imposed by this Chapter I. Such registration~~
12 ~~shall occur no later than five business days of qualifying as a lobbyist. Contact lobbyists shall register~~
13 ~~prior to making any additional contacts with an officer of the City and County of San Francisco and~~
14 ~~expenditure lobbyists shall register prior to making any additional payments to influence local~~
15 ~~legislative or administrative action.~~

16 ~~(b) **REGISTRATION.**~~

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

19 ~~(A) The name, business address, e-mail address, and business telephone number~~
20 ~~of the lobbyist;~~

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

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

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

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

5 (2) ~~Expenditure lobbyists. At the time of initial registration each expenditure lobbyist~~
6 ~~shall report to the Ethics Commission the following information:~~

7 (A) ~~The name, mailing address, e-mail address, and telephone number of the~~
8 ~~lobbyist;~~

9 (B) ~~Expenditure lobbyists that are entities shall provide:~~

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

11 (ii) ~~if the expenditure lobbyist is a corporation, the names of the~~
12 ~~corporation's chief executive officer, chief financial officer, and secretary, any officer who authorized~~
13 ~~payments to influence local legislative and administrative action, and any person who owns more than~~
14 ~~20 percent of the corporation;~~

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

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

21 (C) ~~Expenditure lobbyists that are individuals shall provide a description of~~
22 ~~their business activities;~~

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

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

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

5 ~~(1) **Contact lobbyists.** Each contact lobbyist shall report to the Ethics Commission the~~
6 ~~following information:~~

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

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

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

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

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

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

20 ~~(G) All activity expenses incurred by the lobbyist during the reporting period,~~
21 ~~including the following information:~~

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

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

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

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

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

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

~~(i) The amount of the contribution;~~

~~(ii) The name of the contributor;~~

~~(iii) The date on which the contribution was made;~~

~~(iv) The contributor's occupation;~~

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

~~(vi) The committee to which the contribution was made.~~

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

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

6 ~~(2) **Expenditure lobbyists.** Each expenditure lobbyist shall report to the Ethics~~
7 ~~Commission the following information:~~

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

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

14 ~~(C) Each payment of \$1,000 or more made during the reporting period,~~
15 ~~including the date of payment, the name and address of each person receiving the payment, a~~
16 ~~description of the payment, and a description of the consideration for which the payment was made.~~

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

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

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

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

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

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

17 ~~(f) **FEES; TERMINATION OF REGISTRATION.**~~

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

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

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

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

3
4 **~~SEC. 2.115. LIMITS AND PROHIBITIONS.~~**

5 ~~(a) GIFT PROHIBITION.~~

6 ~~(1) No lobbyist shall make any gift, including any gift of travel, to an officer of the City~~
7 ~~and County, or to a parent, spouse, domestic partner registered under state law, or dependent child of~~
8 ~~an officer of the City and County. No lobbyist shall make any payment to a third party for the purpose~~
9 ~~of paying for a gift or any part of a gift, including any gift of travel, to an officer of the City and~~
10 ~~County, or to a parent, spouse, domestic partner registered under state law, or dependent child of an~~
11 ~~officer of the City and County.~~

12 ~~(2) No officer of the City and County may accept or solicit any gift, including any gift of~~
13 ~~travel, from any lobbyist for the officer's personal benefit or for the personal benefit of the officer's~~
14 ~~parent, spouse, domestic partner registered under state law, or dependent child. No officer of the City~~
15 ~~and County may accept or solicit any gift, including any gift of travel, from a third party if the officer~~
16 ~~knows or has reason to know that the third party is providing the gift or gift of travel on behalf of a~~
17 ~~lobbyist.~~

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

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

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

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

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

12 ~~(e) **CAMPAIGN CONTRIBUTIONS – PROHIBITIONS.**~~

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

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

20 ~~(f) **BUNDLING OF CAMPAIGN CONTRIBUTIONS – PROHIBITIONS.**~~

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

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

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

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

12 13 **SEC. 2.116. LOBBYIST TRAINING.**

14 ~~(a) Each contact lobbyist must complete a lobbyist training session offered by the Ethics~~
15 ~~Commission within one year of the lobbyist's initial registration. Thereafter, contact lobbyists shall~~
16 ~~attend additional training sessions as required by the Executive Director, at his or her discretion.~~

17 ~~(b) The Ethics Commission shall make lobbyist training sessions available on its website.~~

18 ~~(c) On or before the deadline for completing any required lobbyist training session, each~~
19 ~~contact lobbyist must file a signed declaration with the Ethics Commission stating, under penalty of~~
20 ~~perjury, that the lobbyist has completed the required training session.~~

21 22 **SEC. 2.117. LOBBYING BY CAMPAIGN CONSULTANTS.**

23 ~~(a) **PROHIBITION.** No campaign consultant, individual who has an ownership interest in the~~
24 ~~campaign consultant, or an employee of the campaign consultant shall communicate with any officer of~~
25 ~~the City and County who is a current or former client of the campaign consultant on behalf of another~~

1 ~~person or entity (other than the City and County) in exchange for economic consideration for the~~
2 ~~purpose of influencing local legislative or administrative action.~~

3 ~~(b) **EXCEPTIONS.**~~

4 ~~(1) This prohibition shall not apply to:~~

5 ~~(A) an employee of a campaign consultant whose sole duties are clerical; or~~

6 ~~(B) an employee of a campaign consultant who did not personally provide~~
7 ~~campaign consulting services to the officer of the City and County with whom the employee seeks to~~
8 ~~communicate in order to influence local legislative or administrative action.~~

9 ~~(2) The exceptions in Subsection (b)(1) shall not apply to any person who communicates~~
10 ~~with an officer of the City and County in his or her capacity as an employee of the campaign consultant~~
11 ~~who is prohibited by Subsection (a) from making the communication.~~

12 ~~(c) **DEFINITIONS.** Whenever the following words or phrases are used in this Section, they~~
13 ~~shall mean:~~

14 ~~(1) "Campaign consultant" shall have the same meaning as in Article I, Chapter 5,~~
15 ~~Section 1.505 of this Code.~~

16 ~~(2) "Campaign consulting services" shall have the same meaning as in Article I,~~
17 ~~Chapter 5, Section 1.505 of this Code.~~

18 ~~(3) "Current client" shall mean a person for whom the campaign consultant has filed a~~
19 ~~client authorization statement pursuant to Article I, Chapter 5, Section 1.515(d) of this Code and not~~
20 ~~filed a client termination statement pursuant to Article I, Chapter 5, Section 1.515(f) of this Code. If~~
21 ~~such person is a committee as defined by Section 82013 of the California Government Code, the~~
22 ~~current client shall be any individual who controls such committee; any candidate that such committee~~
23 ~~was primarily formed to support; and any proponent or opponent of a ballot measure that the~~
24 ~~committee is primarily formed to support or oppose.~~

1 ~~(4) "Employee" shall mean an individual employed by a campaign consultant, but does~~
2 ~~not include any individual who has an ownership interest in the campaign consultant that employs~~
3 ~~them.~~

4 ~~(5) "Former client" shall mean a person for whom the campaign consultant has filed a~~
5 ~~client termination statement pursuant to Article I, Chapter 5, Section 1.515(f) of this Code within the 60~~
6 ~~months prior to communicating with the person.~~

7
8 **~~SEC. 2.120. EMPLOYMENT OF CITY AND COUNTY OFFICERS OR EMPLOYEES;~~**
9 **~~APPOINTMENT OF EMPLOYEE TO CITY AND COUNTY OFFICE.~~**

10 ~~(a) EMPLOYMENT OF CITY AND COUNTY OFFICERS OR EMPLOYEES. If any~~
11 ~~lobbyist employs or requests, recommends or causes a client of the lobbyist to employ, and such client~~
12 ~~does employ, any officer of the City and County, any immediate family member or registered domestic~~
13 ~~partner of an officer of the City and County, or any person known by such lobbyist to be a full-time~~
14 ~~employee of the City and County, in any capacity whatsoever, the lobbyist shall file within 10 days after~~
15 ~~such employment a statement with the Ethics Commission setting out the name of the employee, the~~
16 ~~date first employed, the nature of the employment duties, and the salary or rate of pay of the employee.~~

17 ~~(b) APPOINTMENT OF EMPLOYEE TO CITY OFFICE. If an employee of a lobbyist is~~
18 ~~appointed to City or County office, the lobbyist shall file within 10 days after such appointment a~~
19 ~~statement with the Ethics Commission setting out the name of the employee, the date first employed, the~~
20 ~~nature of the employment duties, and the salary or rate of pay of the employee.~~

21 ~~(c) REPORT OF SALARY. Whenever a filer is required to report the salary of an employee~~
22 ~~who is also an officer or employee of the City and County pursuant to this Section, the filer need only~~
23 ~~disclose whether the total salary payments made to the employee are less than or equal to \$250,~~
24 ~~greater than \$250 but less than or equal to \$1,000, greater than \$1,000 but less than or equal to~~
25 ~~\$10,000, or greater than \$10,000.~~

1
2 ***SEC. 2.130. EMPLOYMENT OF UNREGISTERED PERSONS.***

3 *It shall be unlawful knowingly to pay any contact lobbyist to contact any officer of the City and*
4 *County of San Francisco, if said contact lobbyist is required to register under this Chapter and has not*
5 *done so by the deadlines imposed in this Chapter.*
6

7 ***SEC. 2.135. FILING UNDER PENALTY OF PERJURY; RETENTION OF DOCUMENTS;***
8 ***AUDITS.***

9 *(a) All information required under this Chapter shall be submitted to the Ethics Commission, in*
10 *the format designated by the Commission. The lobbyist shall verify, under penalty of perjury, the*
11 *accuracy and completeness of the information provided under this Chapter.*

12 *(b) The lobbyist shall retain for a period of five years all books, papers and documents*
13 *necessary to substantiate the registration and disclosure reports required by this Chapter. These*
14 *records shall include, but not be limited to, copies of all fundraising solicitations sent by the lobbyist or*
15 *his or her agent for an officer of the City and County, a candidate for such office, a committee*
16 *controlled by such officer or candidate, or a committee primarily formed to support or oppose such*
17 *officer or candidate, or any committee primarily formed to support or oppose a ballot measure to be*
18 *voted on only in San Francisco.*

19 *(c) On an annual basis, the Executive Director shall initiate audits of one or more lobbyists*
20 *selected at random. At the request of the Executive Director, the Controller may assist in conducting*
21 *these audits. This requirement shall not restrict the authority of the Executive Director or the Ethics*
22 *Commission to undertake any other audits or investigations of a lobbyist authorized by law or*
23 *regulation. Within ten business days of a request by the Ethics Commission, a lobbyist or anyone*
24 *required to register as a lobbyist shall provide the Ethics Commission with any documents required to*
25 *be retained under this Section.*

1
2 **~~SEC. 2.136. FALSE INFORMATION; DUTY TO COOPERATE AND ASSIST.~~**

3 ~~(a) **PROHIBITION.** No person shall knowingly and intentionally furnish false or fraudulent~~
4 ~~evidence, documents, or information to the Ethics Commission, District Attorney or City Attorney, or~~
5 ~~knowingly and intentionally misrepresent any material fact, or conceal any evidence, documents, or~~
6 ~~information relevant to an investigation by the Ethics Commission, District Attorney or City Attorney of~~
7 ~~an alleged violation of this Chapter.~~

8 ~~(b) **DUTY TO COOPERATE AND ASSIST.** The Ethics Commission, District Attorney or City~~
9 ~~Attorney may request and shall receive from every City officer and employee cooperation and~~
10 ~~assistance with an investigation into an alleged violation of this Chapter.~~

11
12 **~~SEC. 2.140. POWERS AND DUTIES OF THE ETHICS COMMISSION.~~**

13 ~~(a) The Ethics Commission shall prescribe the format for the submission of all information~~
14 ~~required by this Chapter.~~

15 ~~(b) Upon request by the Board of Supervisors or the Mayor, the Ethics Commission shall~~
16 ~~compile the information submitted pursuant to this Chapter and forward a report of the compiled~~
17 ~~information to the Board of Supervisors and the Mayor within thirty days of receipt of the request.~~

18 ~~(c) Upon request by the Board of Supervisors or the Mayor, the Ethics Commission shall file a~~
19 ~~report with the Board of Supervisors and the Mayor on the implementation of this Chapter within thirty~~
20 ~~days of receipt of the request.~~

21 ~~(d) The Ethics Commission shall preserve all original reports, statements, and other records~~
22 ~~required to be kept or filed under this Chapter for a period of five years. Such reports, statements, and~~
23 ~~records shall constitute a part of the public records of the Ethics Commission and shall be open to~~
24 ~~public inspection.~~

1 ~~(e) The Ethics Commission shall provide formal and informal advice regarding the duties~~
2 ~~under this Chapter of a person or entity pursuant to the procedures specified in San Francisco Charter~~
3 ~~Section C3.699-12.~~

4 ~~(f) The Ethics Commission shall have the power to adopt all reasonable and necessary rules~~
5 ~~and regulations for the implementation of this Chapter pursuant to Charter Section 15.102.~~

6 ~~(g) The Ethics Commission shall conduct quarterly workshops concerning the laws relating to~~
7 ~~lobbying.~~

8
9 **~~SEC. 2.145. ADMINISTRATIVE AND CIVIL ENFORCEMENT AND PENALTIES.~~**

10 ~~(a) If any lobbyist fails to submit any information required by this Chapter after any applicable~~
11 ~~deadline, the Ethics Commission shall, in addition to any other penalties or remedies established in this~~
12 ~~Chapter, impose a late filing fee of \$50 per day after the deadline until the information is received by~~
13 ~~the Ethics Commission. The Executive Director of the Ethics Commission may reduce or waive a late~~
14 ~~filing fee if the Executive Director determines that the late filing was not willful and that enforcement~~
15 ~~will not further the purposes of this Chapter. If such reduction or waiver equals or exceeds \$500, the~~
16 ~~Executive Director shall notify the Commission of his or her determination. Thereafter, any two or~~
17 ~~more members of the Commission may cause the reduction or waiver to be calendared for~~
18 ~~consideration by the full Commission in open session at the next Commission meeting occurring no~~
19 ~~sooner than ten days from the date the Executive Director informs the Commission of the Executive~~
20 ~~Director's recommendation. A Commissioner's request that a reduction or waiver be calendared must~~
21 ~~be received by the Executive Director no fewer than five days prior to the date of the meeting, so that~~
22 ~~the Executive Director may comply with the applicable notice and agenda requirements. The Ethics~~
23 ~~Commission shall deposit funds collected under this Section in the General Fund of the City and~~
24 ~~County of San Francisco.~~

1 ~~(b) Any person who knowingly or negligently violates this Chapter, including but not limited to,~~
2 ~~by providing inaccurate or incomplete information regarding lobbying activities, may be liable in an~~
3 ~~administrative proceeding before the Ethics Commission pursuant to Charter Section C3.699-13. In~~
4 ~~addition to the administrative penalties set forth in the Charter, the Ethics Commission may issue~~
5 ~~warning letters regarding potential violations of this Chapter both to the lobbyist and the person who~~
6 ~~pays or employs the lobbyist.~~

7 ~~(c) Any person or entity which knowingly or negligently violates this Chapter may be liable in a~~
8 ~~civil action brought by the City Attorney for an amount up to \$5,000 per violation, or three times the~~
9 ~~amount not properly reported, or three times the amount given or received in excess of the gift limit,~~
10 ~~whichever is greater.~~

11 ~~(d) In investigating any alleged violation of this Chapter the Ethics Commission and City~~
12 ~~Attorney shall have the power to inspect all documents required to be maintained under this Chapter.~~
13 ~~This power to inspect documents is in addition to other powers conferred on the Ethics Commission~~
14 ~~and City Attorney by the Charter or by ordinance, including the power of subpoena.~~

15 ~~(e) **JOINT AND SEVERAL LIABILITY.**~~

16 ~~(1) Should two or more persons be responsible for any violation under this Chapter,~~
17 ~~they may be jointly and severally liable.~~

18 ~~(2) The client or employer of a lobbyist shall be jointly and severally liable for all~~
19 ~~violations of this Chapter committed by the lobbyist in connection with acts or omissions undertaken on~~
20 ~~behalf of that client or employer.~~

21 ~~(3) If a business, firm or organization registers or files lobbyist disclosures on behalf of~~
22 ~~its employees pursuant to Section 2.110(d), the business, firm or organization may be held jointly and~~
23 ~~severally liable for any failure to disclose its employees' lobbying activities.~~

24 ~~(f) The City Attorney may also bring an action to revoke for up to one year the registration of~~
25 ~~any lobbyist who has knowingly violated this Chapter.~~

1
2 **~~SEC. 2.150. LIMITATION OF ACTIONS.~~**

3 ~~(a) No civil action shall be brought to enforce this Chapter unless brought within four years~~
4 ~~after the date the cause of action accrued or the date that the facts constituting the cause of action were~~
5 ~~discovered by the City Attorney. For the purpose of this Subsection, a civil action is brought when the~~
6 ~~City Attorney files the action in a court of law.~~

7 ~~(b) No administrative action alleging a violation of this Chapter and brought under Charter~~
8 ~~Section C3.699-13 shall be brought more than four years after the date of events which form the basis~~
9 ~~of the complaint, or the date that the events constituting the basis of the complaint were discovered by~~
10 ~~the Ethics Commission. For the purpose of this Subsection, a complaint is brought by the Executive~~
11 ~~Director of the Ethics Commission upon the date of service of the probable cause report.~~

12 ~~(c) A civil action brought to enforce or collect penalties or late filing fees imposed under this~~
13 ~~Chapter shall be brought within four years after the date on which the penalty or late filing fee was~~
14 ~~imposed. For purposes of this Subsection, a penalty or late filing fee is imposed when the Ethics~~
15 ~~Commission has issued a final decision in an enforcement action imposing a penalty for a violation of~~
16 ~~this Chapter or the Ethics Commission or Executive Director has made a final determination regarding~~
17 ~~the amount of a late filing fee imposed under this Chapter. The Ethics Commission or Executive~~
18 ~~Director does not make a final determination regarding the amount of a late filing fee imposed under~~
19 ~~this Chapter until the Ethics Commission or Executive Director has made a determination to accept or~~
20 ~~refuse any request to waive a late filing fee where such waiver has been timely requested and is~~
21 ~~expressly authorized by statute, ordinance, or regulation. For the purpose of this Subsection, a civil~~
22 ~~action is brought when the City Attorney files the action in a court of law.~~

23
24 **~~SEC. 2.155. SEVERABILITY.~~**
25

1 ~~If any Section, Subsection, subdivision, sentence, clause, phrase or portion of this Chapter, or~~
2 ~~the application thereof to any person, is for any reason held to be invalid or unconstitutional by the~~
3 ~~decision of any court of competent jurisdiction, such decision shall not affect the validity of the~~
4 ~~remaining portions of this Chapter or its application to other persons. The Board of Supervisors~~
5 ~~hereby declares that it would have adopted this Chapter, and each Section, Subsection, subdivision,~~
6 ~~sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more Sections,~~
7 ~~Subsections, subdivisions, sentences, clauses, phrases, or portions, or the application thereof to any~~
8 ~~person, to be declared invalid or unconstitutional.~~

9
10 **SEC. 2.100. FINDINGS.**

11 (a) The Board of Supervisors finds that public disclosure of the identity and extent of efforts of
12 lobbyists to influence decision-making regarding local legislative and administrative matters is
13 essential to protect public confidence in the responsiveness and representative nature of government
14 officials and institutions. It is the purpose and intent of the Board of Supervisors to impose reasonable
15 registration and disclosure requirements to reveal information about lobbyists' efforts to influence
16 decision-making regarding local legislative and administrative matters.

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

23 (c) Corruption and the appearance of corruption in the form of campaign consultants
24 exploiting their influence with City officials on behalf of private interests may erode public confidence
25 in the fairness and impartiality of City governmental decisions. The City and County of San Francisco

1 has a compelling interest in preventing corruption or the appearance of corruption which could result
2 in such erosion of public confidence. Prohibitions on campaign consultants lobbying current and
3 former clients will protect public confidence in the electoral and governmental processes. It is the
4 purpose and intent of the people of the City and County of San Francisco in enacting this Chapter to
5 prohibit campaign consultants from exploiting or appearing to exploit their influence with City officials
6 on behalf of private interests.

7
8 **SEC. 2.103. AMENDMENT OR REPEAL OF CHAPTER..**

9 The voters may amend or repeal this Chapter. The Board of Supervisors may amend this
10 Chapter if all of the following conditions are met:

- 11 (a) The amendment furthers the purposes of this Chapter;
12 (b) The Ethics Commission approves the proposed amendment in advance by at least a four-
13 fifths vote of all its members;
14 (c) The proposed amendment is available for public review at least 30 days before the
15 amendment is considered by the Board of Supervisors or any committee of the Board of Supervisors;
16 and
17 (d) The Board of Supervisors approves the proposed amendment by at least a two-thirds vote of
18 all its members.

19
20 **SEC. 2.105. DEFINITIONS.**

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

23 "Activity expenses" means any expense incurred or payment made by a lobbyist or a lobbyist's
24 client at the behest of the lobbyist, or arranged by a lobbyist or a lobbyist's client at the behest of the
25 lobbyist, which benefits in whole or in part any: officer of the City and County; candidate for City and

1 County office; aide to a member of the Board of Supervisors; or member of the immediate family or the
2 registered domestic partner of an officer, candidate, or aide to a member of the Board of Supervisors.
3 An expense or payment is not an "activity expense" unless it is incurred or made within three months of
4 a contact with the officer, candidate, or Supervisor's aide who benefits from the expense or payment, or
5 whose immediate family member or registered domestic partner benefits from the expense or payment.
6 "Activity expenses" include honoraria, consulting fees, salaries, and any other thing of value totaling
7 more than \$25 in value in a consecutive three-month period, but do not include political contributions.

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

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

11 "Client" means the person for whom lobbyist services are performed by a lobbyist.

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

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

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

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

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

1 "Economic consideration" means any payments, fees, reimbursement for expenses, gifts, or
2 anything else of value, provided that "economic consideration" does not include salary, wages or
3 benefits furnished by a federal, state or local government agency.

4 "Employee" means any person who receives, reasonably expects to receive, or whose employer
5 is obligated to provide, an Internal Revenue Service Form W-2 wage and tax statement.

6 "Employer" means any person who provides an Internal Revenue Service Form W-2 wage and
7 tax statement to an employee who performs lobbyist services on behalf of that person.

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

23 "Lobbyist" means a contact lobbyist or expenditure lobbyist.
24
25

1 "Lobbyist services" means services rendered for the purpose of influencing local legislative or
2 administrative action, including but not limited to contacts with officers of the City and County of San
3 Francisco.

4 "Local legislative or administrative action" includes, but is not limited to, the drafting,
5 introduction, consideration, modification, enactment, defeat, approval, veto, granting or denial by any
6 officer of the City and County of any resolution, motion, appeal, application, petition, nomination,
7 ordinance, amendment, approval, referral, permit, license, entitlement to use or contract.

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

9 "Officer of the City and County" means any officer identified in Section 3.203 of this Code, as
10 well as any official body composed of such officers. In addition, for purposes of this Chapter, "officer of
11 the City and County" includes (1) members of the Board of Education, Community College Board, First
12 Five Commission, Law Library Board of Trustees, Local Agency Formation Commission, Health
13 Authority Board, Housing Authority Commission, Parking Authority, Relocation Appeals Board,
14 Successor Agency to the former Redevelopment Agency of the City and County of San Francisco,
15 Oversight Board of the Successor Agency, Successor Agency Commission, Transportation Authority,
16 Workforce Investment San Francisco Board as well as any official body composed of such officers, and
17 any person appointed as the chief executive officer under any such board or commission; (2) the
18 Zoning Administrator, (3) the City Engineer, (4) the County Surveyor, and (5) the Bureau Chief of the
19 Department of Public Works' Bureau of Street Use and Mapping.

20 "Person" means an individual, partnership, corporation, association, firm, labor union or other
21 organization or entity, however organized.

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

24 "Public hearing" means any open, noticed proceeding.

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

3
4 **SEC. 2.106. LOBBYING CONTACTS.**

5 (a) Whenever used in this Chapter 1, "contact" means any communication, oral or written,
6 including communication made through an agent, associate or employee, for the purpose of influencing
7 local legislative or administrative action, except as provided in Subsections (b) and (c).

8 (b) The following activities are not "contacts" within the meaning of this Chapter 1.

9 (1) A representative of a news media organization gathering news and information or
10 disseminating the same to the public, even if the organization, in the ordinary course of business,
11 publishes news items, editorials or other commentary, or paid advertisements, that urge action upon
12 local legislative or administrative matters;

13 (2) A person providing oral or written testimony that becomes part of the record of a
14 public hearing; provided, however, that if the person making the appearance or providing testimony
15 has already qualified as a contact lobbyist under this Chapter and is appearing or testifying on behalf
16 of a client, the contact lobbyist's testimony shall identify the client on whose behalf the contact lobbyist
17 is appearing or testifying;

18 (3) A person performing a duty or service that can be performed only by an architect or
19 a professional engineer licensed to practice in the State of California;

20 (4) A person making a speech or producing any publication or other material that is
21 distributed and made available to the public, through radio, television, cable television, or other
22 medium of mass communication;

23 (5) A person providing written information in response to an oral or written request
24 made by an officer of the City and County, provided that the written information is a public record
25 available for public review;

1 (6) A person providing oral or written information pursuant to a subpoena, or
2 otherwise compelled by law or regulation;

3 (7) A person submitting a written petition for local legislative or administrative action,
4 provided that the petition is a public record available for public review;

5 (8) A person making an oral or written request for a meeting, or any other similar
6 administrative request, if the request does not include an attempt to influence local legislative or
7 administrative action;

8 (9) A person appearing before an officer of the City and County pursuant to any
9 procedure established by law or regulation for levying an assessment against real property for the
10 construction or maintenance of an improvement;

11 (10) A person providing purely technical data, analysis, or expertise in the presence of
12 a contact lobbyist;

13 (11) A person distributing to any officer of the City and County any regularly published
14 newsletter or other periodical which is not primarily directed at influencing local legislative or
15 administrative action;

16 (12) A person disseminating information or material on behalf of an organization or
17 entity to all or a significant segment of the organization's or entity's employees or members;

18 (13) A person appearing as a party or a representative of a party in an administrative
19 adjudicatory proceeding before a City agency or department;

20 (14) A person communicating, on behalf of a labor union representing City employees,
21 regarding the establishment, amendment, or interpretation of a collective bargaining agreement or
22 memorandum of understanding with the City, or communicating about a management decision
23 regarding the working conditions of employees represented by a collective bargaining agreement or a
24 memorandum of understanding with the City;

1 (15) A party or prospective party to a contract providing oral or written information in
2 response to a request for proposals, request for qualifications, or other similar request, provided that
3 the information is directed to the department or official specifically designated in the request to receive
4 such information; negotiating the terms of the contract with the City after being selected to enter into
5 the contract; or communicating in connection with the administration of an existing contract between
6 the party and the City. For the purposes of this subsection (b)(15):

7 (A) A "party or prospective party" includes that party's officers or employees; a
8 subcontractor listed in the contract, bid, or proposal; or that subcontractor's officers or employees. A
9 "party or prospective party" does not include any other agent or associate, including any outside
10 consultant or independent contractor.

11 (B) Communication "in connection with the administration of an existing
12 contract" includes, but is not limited to, communication regarding; insurance and bonding; contract
13 performance and/or default; requests for in-scope change orders; legislative mandates imposed on
14 contractors by the City and County; payments and invoicing; personnel changes; prevailing wage
15 verification; liquidated damages and other penalties for breach of contract; audits; assignments; and
16 subcontracting. Communication "in connection with the administration of an existing contract" does
17 not include communication regarding new contracts, or out-of-scope change orders.

18 (16) An officer or employee of a nonprofit organization or an organization fiscally
19 sponsored by such a nonprofit organization communicating on behalf of their organization. For
20 purposes of this subsection only, "nonprofit organization" means either an organization with tax
21 exempt status under 26 United States Code Section 501(c)(3), or an organization with tax exempt status
22 under 26 United States Code Section 501(c)(4) whose most recent federal tax filing included an IRS
23 Form 990-N or an IRS Form 990-EZ, or an organization whose next federal tax filing is reasonably
24 likely to include an IRS Form 990-N or an IRS Form 990-EZ.

1 (c) The following activities are not "contacts" for the purpose of determining whether a person
2 qualifies as a contact lobbyist, but are "contacts" for purpose of disclosures required by this Chapter 1:

3 (1) A person providing oral information to an officer of the City and County in response
4 to an oral or written request made by that officer;

5 (2) A person making an oral or written request for the status of an action; and

6 (3) A person participating in a public interested persons meeting, workshop, or other
7 forum convened by a City agency or department for the purpose of soliciting public input.

8
9 **SEC. 2.107. NO CONFLICT WITH STATE BAR ACT.**

10 Nothing in this Chapter is intended to regulate attorneys engaged in the practice of law under
11 the California State Bar Act, Business and Professions Code sections 6000 et seq.

12
13 **SEC. 2.110. REGISTRATION AND DISCLOSURES; FEES; TERMINATION OF**
14 **REGISTRATION.**

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

21 (b) **REGISTRATION.**

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (C) Expenditure lobbyists that are individuals shall provide a description of
2 their business activities;

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

5 (E) Any other information required by the Ethics Commission through
6 regulation, consistent with the purposes and provisions of this Chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (i) The amount of the contribution;

21 (ii) The name of the contributor;

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

23 (iv) The contributor's occupation;

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

1 (vi) The committee to which the contribution was made.

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

5 (J) Any other information required by the Ethics Commission through regulation
6 consistent with the purposes and provisions of this Chapter.

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

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

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

15 (C) Each payment of \$1,000 or more made during the reporting period,
16 including the date of payment, the name and address of each person receiving the payment, a
17 description of the payment, and a description of the consideration for which the payment was made.

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

1 The following information regarding each campaign contribution shall be
2 submitted to the Ethics Commission:

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

9 (vi) The committee to which the contribution was made.
10 (E) Any other information required by the Ethics Commission through
11 regulation, consistent with the purposes and provisions of this Chapter 1.

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

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

19 (f) **FEES; TERMINATION OF REGISTRATION.**

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

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

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

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

6
7 **SEC. 2.115. LIMITS AND PROHIBITIONS.**

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

11 (b) **FICTITIOUS PERSONS.** No contact lobbyist shall contact any officer of the City and
12 County in the name of any fictitious person or in the name of any real person, except with the consent
13 of such real person.

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

16 **(d) CAMPAIGN CONTRIBUTIONS - PROHIBITIONS.**

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

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

24 **(e) BUNDLING OF CAMPAIGN CONTRIBUTIONS - PROHIBITIONS.**

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

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

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

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

17
18 **SEC. 2.116. LOBBYIST TRAINING.**

19 (a) Each contact lobbyist must complete a lobbyist training session offered by the Ethics
20 Commission within one year of the lobbyist's initial registration. Thereafter, contact lobbyists shall
21 attend additional training sessions as required by the Executive Director, at his or her discretion.

22 (b) The Ethics Commission shall make lobbyist training sessions available on its website.

23 (c) On or before the deadline for completing any required lobbyist training session, each
24 contact lobbyist must file a signed declaration with the Ethics Commission stating, under penalty of
25 perjury, that the lobbyist has completed the required training session.

1
2 **SEC. 2.117. LOBBYING BY CAMPAIGN CONSULTANTS.**

3 **(a) PROHIBITION.** *No campaign consultant, individual who has an ownership interest in the*
4 *campaign consultant, or an employee of the campaign consultant shall communicate with any officer of*
5 *the City and County who is a current or former client of the campaign consultant on behalf of another*
6 *person or entity (other than the City and County) in exchange for economic consideration for the*
7 *purpose of influencing local legislative or administrative action.*

8 **(b) EXCEPTIONS.**

9 **(1) This prohibition shall not apply to:**

10 **(A) an employee of a campaign consultant whose sole duties are clerical; or**

11 **(B) an employee of a campaign consultant who did not personally provide**
12 *campaign consulting services to the officer of the City and County with whom the employee seeks to*
13 *communicate in order to influence local legislative or administrative action.*

14 **(2) The exceptions in Subsection (b)(1) shall not apply to any person who communicates**
15 *with an officer of the City and County in his or her capacity as an employee of the campaign consultant*
16 *who is prohibited by Subsection (a) from making the communication.*

17 **(c) DEFINITIONS.** *Whenever the following words or phrases are used in this Section, they*
18 *shall mean:*

19 **(1) "Campaign consultant" shall have the same meaning as in Article I, Chapter 5,**
20 *Section 1.505 of this Code.*

21 **(2) "Campaign consulting services" shall have the same meaning as in Article I,**
22 *Chapter 5, Section 1.505 of this Code.*

23 **(3) "Current client" shall mean a person for whom the campaign consultant has filed a**
24 *client authorization statement pursuant to Article I, Chapter 5, Section 1.515(d) of this Code and not*
25 *filed a client termination statement pursuant to Article I, Chapter 5, Section 1.515(f) of this Code. If*

1 such person is a committee as defined by Section 82013 of the California Government Code, the
2 current client shall be any individual who controls such committee; any candidate that such committee
3 was primarily formed to support; and any proponent or opponent of a ballot measure that the
4 committee is primarily formed to support or oppose.

5 (4) "Employee" shall mean an individual employed by a campaign consultant, but does
6 not include any individual who has an ownership interest in the campaign consultant that employs
7 them.

8 (5) "Former client" shall mean a person for whom the campaign consultant has filed a
9 client termination statement pursuant to Article I, Chapter 5, Section 1.515(f) of this Code within the 60
10 months prior to communicating with the person.

11
12 **SEC. 2.120. EMPLOYMENT OF CITY AND COUNTY OFFICERS OR EMPLOYEES;**
13 **APPOINTMENT OF EMPLOYEE TO CITY AND COUNTY OFFICE.**

14 **(a) EMPLOYMENT OF CITY AND COUNTY OFFICERS OR EMPLOYEES.** If any
15 lobbyist employs or requests, recommends or causes a client of the lobbyist to employ, and such client
16 does employ, any officer of the City and County, any immediate family member or registered domestic
17 partner of an officer of the City and County, or any person known by such lobbyist to be a full-time
18 employee of the City and County, in any capacity whatsoever, the lobbyist shall file within 10 days after
19 such employment a statement with the Ethics Commission setting out the name of the employee, the
20 date first employed, the nature of the employment duties, and the salary or rate of pay of the employee.

21 **(b) APPOINTMENT OF EMPLOYEE TO CITY OFFICE.** If an employee of a lobbyist is
22 appointed to City or County office, the lobbyist shall file within 10 days after such appointment a
23 statement with the Ethics Commission setting out the name of the employee, the date first employed, the
24 nature of the employment duties, and the salary or rate of pay of the employee.

1 (c) **REPORT OF SALARY.** *Whenever a filer is required to report the salary of an employee*
2 *who is also an officer or employee of the City and County pursuant to this Section, the filer need only*
3 *disclose whether the total salary payments made to the employee are less than or equal to \$250,*
4 *greater than \$250 but less than or equal to \$1,000, greater than \$1,000 but less than or equal to*
5 *\$10,000, or greater than \$10,000.*

6
7 **SEC. 2.130. EMPLOYMENT OF UNREGISTERED PERSONS.**

8 *It shall be unlawful knowingly to pay any contact lobbyist to contact any officer of the City and*
9 *County of San Francisco, if said contact lobbyist is required to register under this Chapter and has not*
10 *done so by the deadlines imposed in this Chapter.*

11
12 **SEC. 2.135. FILING UNDER PENALTY OF PERJURY; RETENTION OF DOCUMENTS;**
13 **AUDITS.**

14 (a) *All information required under this Chapter shall be submitted to the Ethics Commission, in*
15 *the format designated by the Commission, which may include an electronic format. The lobbyist shall*
16 *verify, under penalty of perjury, the accuracy and completeness of the information provided under this*
17 *Chapter.*

18 (b) *The lobbyist shall retain for a period of five years all books, papers and documents*
19 *necessary to substantiate the registration and disclosure reports required by this Chapter. These*
20 *records shall include, but not be limited to, copies of all fundraising solicitations sent by the lobbyist or*
21 *his or her agent for an officer of the City and County, a candidate for such office, a committee*
22 *controlled by such officer or candidate, or a committee primarily formed to support or oppose such*
23 *officer or candidate, or any committee primarily formed to support or oppose a ballot measure to be*
24 *voted on only in San Francisco.*

1 (c) On an annual basis, the Executive Director shall initiate audits of one or more lobbyists
2 selected at random. At the request of the Executive Director, the Controller may assist in conducting
3 these audits. This requirement shall not restrict the authority of the Executive Director or the Ethics
4 Commission to undertake any other audits or investigations of a lobbyist authorized by law or
5 regulation. Within ten business days of a request by the Ethics Commission, a lobbyist or anyone
6 required to register as a lobbyist shall provide the Ethics Commission with any documents required to
7 be retained under this Section.

8
9 **SEC. 2.136. FALSE INFORMATION; DUTY TO COOPERATE AND ASSIST.**

10 (a) **PROHIBITION.** No person shall knowingly and intentionally furnish false or fraudulent
11 evidence, documents, or information to the Ethics Commission, District Attorney or City Attorney, or
12 knowingly and intentionally misrepresent any material fact, or conceal any evidence, documents, or
13 information relevant to an investigation by the Ethics Commission, District Attorney or City Attorney of
14 an alleged violation of this Chapter.

15 (b) **DUTY TO COOPERATE AND ASSIST.** The Ethics Commission, District Attorney or City
16 Attorney may request and shall receive from every City officer and employee cooperation and
17 assistance with an investigation into an alleged violation of this Chapter.

18
19 **SEC. 2.140. POWERS AND DUTIES OF THE ETHICS COMMISSION.**

20 (a) The Ethics Commission shall prescribe the format for the submission of all information
21 required by this Chapter.

22 (b) Upon request by the Board of Supervisors or the Mayor, the Ethics Commission shall
23 compile the information submitted pursuant to this Chapter and forward a report of the compiled
24 information to the Board of Supervisors and the Mayor within thirty days of receipt of the request.

1 (c) Upon request by the Board of Supervisors or the Mayor, the Ethics Commission shall file a
2 report with the Board of Supervisors and the Mayor on the implementation of this Chapter within thirty
3 days of receipt of the request.

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

8 (e) The Ethics Commission shall provide formal and informal advice regarding the duties
9 under this Chapter of a person or entity pursuant to the procedures specified in San Francisco Charter
10 Section C3.699-12.

11 (f) The Ethics Commission shall have the power to adopt all reasonable and necessary rules
12 and regulations for the implementation of this Chapter pursuant to Charter Section 15.102.

13 (g) The Ethics Commission shall conduct quarterly workshops concerning the laws relating to
14 lobbying.

15
16 **SEC. 2.145. ADMINISTRATIVE AND CIVIL ENFORCEMENT AND PENALTIES.**

17 (a) If any lobbyist fails to submit any information required by this Chapter after any applicable
18 deadline, the Ethics Commission shall, in addition to any other penalties or remedies established in this
19 Chapter, impose a late filing fee of \$50 per day after the deadline until the information is received by
20 the Ethics Commission. The Executive Director of the Ethics Commission may reduce or waive a late
21 filing fee if the Executive Director determines that the late filing was not willful and that enforcement
22 will not further the purposes of this Chapter. If such reduction or waiver equals or exceeds \$500, the
23 Executive Director shall notify the Commission of his or her determination. Thereafter, any two or
24 more members of the Commission may cause the reduction or waiver to be calendared for
25 consideration by the full Commission in open session at the next Commission meeting occurring no

1 sooner than ten days from the date the Executive Director informs the Commission of the Executive
2 Director's recommendation. A Commissioner's request that a reduction or waiver be calendared must
3 be received by the Executive Director no fewer than five days prior to the date of the meeting, so that
4 the Executive Director may comply with the applicable notice and agenda requirements. The Ethics
5 Commission shall deposit funds collected under this Section in the General Fund of the City and
6 County of San Francisco.

7 (b) Any person who violates this Chapter, including but not limited to, by providing inaccurate
8 or incomplete information regarding lobbying activities, may be liable in an administrative proceeding
9 before the Ethics Commission pursuant to Charter Section C3.699-13. In addition to the administrative
10 penalties set forth in the Charter, the Ethics Commission may issue warning letters regarding potential
11 violations of this Chapter both to the lobbyist and the person who pays or employs the lobbyist.

12 (c) Any person or entity which knowingly or negligently violates this Chapter may be liable in a
13 civil action brought by the City Attorney for an amount up to \$5,000 per violation, or three times the
14 amount not properly reported, or three times the amount given or received in excess of the gift limit,
15 whichever is greater.

16 (d) In investigating any alleged violation of this Chapter the Ethics Commission and City
17 Attorney shall have the power to inspect all documents required to be maintained under this Chapter.
18 This power to inspect documents is in addition to other powers conferred on the Ethics Commission
19 and City Attorney by the Charter or by ordinance, including the power of subpoena.

20 **(e) JOINT AND SEVERAL LIABILITY.**

21 (1) Should two or more persons be responsible for any violation under this Chapter,
22 they may be jointly and severally liable.

23 (2) The client or employer of a lobbyist shall be jointly and severally liable for all
24 violations of this Chapter committed by the lobbyist in connection with acts or omissions undertaken on
25 behalf of that client or employer.

1 (3) If a business, firm or organization registers or files lobbyist disclosures on behalf of
2 its employees pursuant to Section 2.110(d), the business, firm or organization may be held jointly and
3 severally liable for any failure to disclose its employees' lobbying activities.

4 (f) The City Attorney may also bring an action to revoke for up to one year the registration of
5 any lobbyist who has knowingly violated this Chapter.

6
7 **SEC. 2.150. LIMITATION OF ACTIONS.**

8 (a) No civil action shall be brought to enforce this Chapter unless brought within four years
9 after the date the cause of action accrued or the date that the facts constituting the cause of action were
10 discovered by the City Attorney. For the purpose of this Subsection, a civil action is brought when the
11 City Attorney files the action in a court of law.

12 (b) No administrative action alleging a violation of this Chapter and brought under Charter
13 Section C3.699-13 shall be brought more than four years after the date of events which form the basis
14 of the complaint, or the date that the events constituting the basis of the complaint were discovered by
15 the Ethics Commission. For the purpose of this Subsection, a complaint is brought by the Executive
16 Director of the Ethics Commission upon the date of service of the probable cause report.

17 (c) A civil action brought to enforce or collect penalties or late filing fees imposed under this
18 Chapter shall be brought within four years after the date on which the penalty or late filing fee was
19 imposed. For purposes of this Subsection, a penalty or late filing fee is imposed when the Ethics
20 Commission has issued a final decision in an enforcement action imposing a penalty for a violation of
21 this Chapter or the Ethics Commission or Executive Director has made a final determination regarding
22 the amount of a late filing fee imposed under this Chapter. The Ethics Commission or Executive
23 Director does not make a final determination regarding the amount of a late filing fee imposed under
24 this Chapter until the Ethics Commission or Executive Director has made a determination to accept or
25 refuse any request to waive a late filing fee where such waiver has been timely requested and is

1 expressly authorized by statute, ordinance, or regulation. For the purpose of this Subsection, a civil
2 action is brought when the City Attorney files the action in a court of law.

3
4 **SEC. 2.155. SEVERABILITY.**

5 If any Section, Subsection, subdivision, sentence, clause, phrase or portion of this Chapter, or
6 the application thereof to any person, is for any reason held to be invalid or unconstitutional by the
7 decision of any court of competent jurisdiction, such decision shall not affect the validity of the
8 remaining portions of this Chapter or its application to other persons. The Board of Supervisors
9 hereby declares that it would have adopted this Chapter, and each Section, Subsection, subdivision,
10 sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more Sections,
11 Subsections, subdivisions, sentences, clauses, phrases, or portions, or the application thereof to any
12 person, to be declared invalid or unconstitutional.

13
14 Section 3. Article III, Chapter 1 of the Campaign and Governmental Conduct Code is
15 hereby amended by revising Sections 3.1-102 and 3.1-102.5, to read as follows:

16 **SEC. 3.1-102. FILING REQUIREMENTS.**

17 (a) **Officers and Employees.** Each officer and employee of the City and County of
18 San Francisco holding a position designated in this Chapter I, other than those officials
19 identified in Section 3.1-500, shall file statements disclosing the information required by the
20 disclosure categories set forth in this Chapter, on such forms as may be specified by the Fair
21 Political Practices Commission in a format specified by the Ethics Commission (Form 700
22 unless otherwise provided by the Commission), and at such times required by Regulation
23 18730. A copy of the forms to be used shall be supplied by the Ethics Commission to each
24 filing officer, upon request. Every officer and employee holding a position designated in this
25

1 Chapter shall retain his or her filing obligations, notwithstanding any reclassification or title
2 change that may occur in the future as to the same job duties.

3 (b) **Candidates.** Each candidate for City elective office, as that term is defined in
4 Chapter 1 of Article I of this Code, shall file no later than the final filing date for a declaration of
5 candidacy, a statement disclosing the information required by the disclosure category for the
6 City elective office sought by the candidate. Candidates shall file such statements with the
7 Department of Elections on the same forms as used by filers under subsection (a) of this
8 Section 3.1-102. This statement shall not be required if the candidate has filed, within 60 days
9 prior to the filing of his or her declaration of candidacy, a statement for the same jurisdiction
10 pursuant to this Chapter or Sections 87202 or 87203 of the California Government Code.

11 (c) **Penalties and Enforcement.** Each officer and employee of the City and County of San
12 Francisco and each candidate for City elective office who fails to comply with subsections (a) and (b)
13 shall be subject to the penalties and enforcement provision set forth in Section 3.242 of this Code.

15 **SEC. 3.1-102.5. FAILURE TO FILE.**

16 (a) **Potential Discipline.** Subject to the removal and Civil Service provisions of the
17 Charter as well as any applicable Civil Service Rules, any officer or employee of the City and
18 County of San Francisco who fails to file any statement required by Sections 3.1-101 and 3.1-
19 102 of this Chapter 1 within 30 days after receiving notice from the Ethics Commission of a
20 failure to file may be subject to disciplinary action by ~~his or her~~ their appointing authority,
21 including removal from office or termination of employment.

22 (b) **Warning Letter.** The Ethics Commission may issue a letter to an appointing
23 authority recommending suspension or removal of any City officer or termination of any City
24 employee who has failed to file a statement required by Sections 3.1-101 and 3.1-102 of this
25

1 Chapter 1 if the City officer or employee has not filed the required statement within 30 days of
2 receiving notice from the Ethics Commission of ~~his or her~~ their failure to file.

3 (c) **Required Disqualification by Members of Boards and Commissions.**

4 Members of City boards or commissions who have failed to file statements required by
5 Sections 3.1-101, 3.1-102, and 3.1-103 of the Campaign and Governmental Conduct Code
6 (Form 700 Statements of Economic Interests, Sunshine Ordinance Declarations, and
7 Certificates of Ethics Training) by the applicable filing deadline shall be disqualified from all
8 participation in and voting on matters listed on their boards' and commissions' meeting
9 agendas.

10 (1) **Waiver.** A member of a City board or commission may seek a waiver for
11 cause from the Ethics Commission's Executive Director excusing ~~his or her~~ the member's failure
12 to file the statements required by Sections 3.1-101, 3.1-102, and 3.1-103 of the Campaign
13 and Governmental Conduct Code. If the Executive Director grants such a waiver, the
14 member of a board or commission will not be disqualified under this subsection (c); provided
15 that after a member of board or commission has sought a waiver and while the waiver is
16 pending before the Executive Director, the member shall continue to be disqualified.

17 (2) **Subsequent Filing of Required Statements.** After a member of City board
18 or commission files any delinquent statement required by Sections 3.1-101, 3.1-102, and 3.1-
19 103 of the Campaign and Governmental Conduct Code, the member shall no longer be
20 disqualified under this subsection (c).

21 (d) **Public Announcement.** If a member of a City board or commission has failed to
22 file a required statement (Form 700 Statement of Economic Interests, Sunshine Ordinance
23 Declaration, or Certificate of Ethics Training), at the beginning of each meeting of the board or
24 commission that occurs after the applicable deadline for the required statement and before
25 the member of the board or commission files the required statement, the Commission

1 Secretary, or any City staff who fulfills that role, shall announce that the member of the board
2 or commission has failed to file a statement required by Sections 3.1-101, 3.1-102, and 3.1-
3 103 of this Chapter 1 and that the member will be disqualified from all participation in and
4 voting on matters coming before the board or commission.

5 (e) **Penalties and Enforcement.** Each officer and employee of the City and County of San
6 Francisco and each candidate for City elective office who fails to comply with subsections (a) and (b)
7 shall be subject to the penalties and enforcement provision set forth in Section 3.242 of this Code.

8
9 Section 4. Article III, Chapter 2 of the Campaign and Governmental Conduct Code is
10 hereby amended by revising Sections 3.203 (with added definitions placed in alphabetical
11 sequence), 3.204, 3.214, and 3.216, deleting the entire text of Section 3.218 and replacing it
12 with added new text, and adding Sections 3.205, 3.217, and 3.243, to read as follows:

13 **SEC. 3.203. DEFINITIONS.**

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

15 "Affiliate" shall mean any member of an entity's board of directors or any of that entity's
16 principal officers, including its chairperson, chief executive officer, chief financial officer, chief
17 operating officer, and any person with an ownership interest of more than 10% in the entity.

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

22 "Appointed department head" shall mean any department head who is required to file a
23 Statement of Economic Interests as set forth in Section 3.1-103(b)(1) of this Code, except for the
24 Assessor-Recorder, City Attorney, District Attorney, Mayor, Public Defender, Sheriff, and Treasurer.

25 * * * *

1 “Contract” shall mean any agreement, including any amendment or modification to an
2 agreement, with the City and County of San Francisco for:

3 (a) the rendition of personal services,

4 (b) the furnishing of any material, supplies, or equipment,

5 (c) the sale or lease of any land or building,

6 (d) a grant, loan, or loan guarantee, or

7 (e) a development agreement.

8 * * * *

9 “Department head” shall mean any City official who is required to file a Statement of
10 Economic Interests as set forth in Section 3.1-103(b)(1) of this Code.

11 “Doing business with the department” shall mean:

12 (a) being a party to or seeking to become a party to a contract with the department, until 12
13 months after the term of the contract ends or, if no contract is approved, 12 months after negotiations
14 regarding the contract terminate; or

15 (b) seeking, obtaining, or possessing a license, permit, or other entitlement for use issued by
16 the department, until 12 months after the date the license, permit, or other entitlement for use was
17 issued, extended, or otherwise approved or, if no license, permit, or other entitlement for use was
18 issued or approved, 12 months after the day the final decision not to issue or approve was made.

19 “Family member” shall mean an immediate family member, sibling, parent, grandparent,
20 grandchild, aunt, uncle, niece, nephew, or sibling of a spouse or registered domestic partner. Each
21 term shall be inclusive of relationships established by birth, adoption, or marriage.

22 * * * *

23 “Gift” shall mean any payment that confers a personal benefit on the recipient, to the extent
24 that consideration of equal or greater value is not received and includes a rebate or discount in the
25 price of anything of value unless the rebate or discount is made in the regular course of business to

1 members of the public without regard to official status. Any person, other than a defendant in a
2 criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the
3 burden of proving that the consideration received is of equal or greater value. Any gift exceptions
4 established by State law shall not apply to “gift,” as used in this Chapter.

5 * * * *

6 “License, permit, or other entitlement for use” shall mean business, professional, trade, and
7 land use licenses and permits and other entitlements for use, including land use entitlements, as defined
8 in California Government Code Section 84308 and its implementing regulations, as amended from time
9 to time, provided that “entitlement for use” shall not include any contract, as defined in this Section
10 3.203.

11 * * * *

12 “Payment” shall mean a payment, distribution, transfer, loan, advance, deposit, gift or other
13 rendering of money, property, services, or anything else of value, whether tangible or intangible.

14 “Restricted source” shall mean:

15 (a) a person doing business with or seeking to do business with the department of the officer or
16 employee;

17 (b) for members of boards and commissions, including the Board of Supervisors, a person
18 doing business with any City department pursuant to a contract that required the approval of the board
19 or commission;

20 (c) an affiliate of an entity that qualifies as a restricted source under (a) or (b);

21 (d) a person who during the prior 12 months knowingly attempted to influence the officer or
22 employee in any legislative or administrative action;

23 (e) for officers, a registered lobbyist; or

24 (f) any permit consultant, as defined under Article III, Chapter 4 of this Code, who has
25 registered as a permit consultant with the Ethics Commission, if the permit consultant has reported any

1 contacts with the designated employee's or officer's department to carry out permit consulting services
2 during the prior 12 months.

3 * * * *

4
5 **SEC. 3.204. AMENDMENT OR REPEAL OF THIS CHAPTER.**

6 The voters may amend or repeal this Chapter. The Board of Supervisors may amend
7 this Chapter if all of the following conditions are met:

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

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

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

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

16
17 **SEC. 3.205. ETHICS COMMISSION TRAINING.**

18 **(a) Ethics Training Requirement.** Each City officer and employee required to file a statement
19 of economic interests under Article III, Chapter 1 of this Code shall annually complete an ethics
20 training.

21 **(b) Administration and Content of Ethics Training.** The Ethics Commission shall administer
22 the ethics training required under subsection (a). The Ethics Commission shall determine the contents
23 and format of the training, which shall provide information about state and local governmental ethics
24 laws that apply to City officers and employees.

1 (c) **Notice.** Every department, board, commission, and agency of the City and County shall
2 annually provide to its officers and employees a copy of a summary to be created by the Ethics
3 Commission of relevant state and local ethics laws.

4
5 **SEC. 3.214. DISCLOSURE OF PERSONAL, PROFESSIONAL AND BUSINESS**
6 **RELATIONSHIPS.**

7 (a) **Disclosure.** A City officer or employee shall disclose on the public record any
8 personal, professional, or business relationship with any ~~individual~~ person who is the subject of
9 or has an ownership or financial interest in the subject of a governmental decision being made
10 by the officer or employee where as a result of the relationship, the ability of the officer or
11 employee to act for the benefit of the public could reasonably be questioned. For the
12 purposes of this Section 3.214, the minutes of a public meeting at which the governmental
13 decision is being made, or if the governmental decision is not being made in a public meeting,
14 a memorandum kept on file at the offices of the City officer or employee's department, board,
15 commission, or agency shall constitute the public record.

16 (b) **Penalties.** A court may void any governmental decision made by a City officer or
17 employee who fails to disclose a relationship as required by ~~§~~ subsection (a) if the court
18 determines that: (1) the failure to disclose was willful; and (2) the City officer or employee
19 failed to render ~~his or her~~ their decision with disinterested skill, zeal, and diligence and
20 primarily for the benefit of the City. ~~No other penalties shall apply to a violation of this Section,~~
21 ~~provided that nothing in this Section shall prohibit an appointing authority from imposing discipline for~~
22 ~~a violation of this Section.~~

23 (c) **Regulations.** The Ethics Commission may adopt regulations setting forth the
24 types of personal, professional, and business relationships that must be disclosed pursuant to
25 this Section 3.214 and how the required disclosure must be made and archived.

1
2 **SEC. 3.216. BRIBERY AND GIFTS.**

3 **(a) Prohibition on Bribery.** ~~No person shall offer or make, and no officer or employee shall~~
4 ~~accept, any gift with the intent that the City officer or employee will be influenced thereby in the~~
5 ~~performance of any official act.~~

6 (1) No City officer or employee shall solicit for the benefit of any person, or accept,
7 anything of value from any person, with the intent that the City officer or employee will be influenced
8 or rewarded thereby in the performance of any official act.

9 (2) No person shall offer, provide, or agree to provide anything of value to any person,
10 with intent to influence or reward thereby any City officer or employee in the performance of any
11 official act.

12 **(b) ~~General gift restrictions~~ Restricted Source Rules.** In addition to the gift limits,
13 prohibitions, and reporting requirements imposed by the Political Reform Act and this Code
14 and any subsequent amendments thereto, the following shall be prohibited: ~~no officer or~~
15 ~~employee of the City and County shall solicit or accept any gift or loan from a person who the officer~~
16 ~~or employee knows or has reason to know is a restricted source, except loans received from~~
17 ~~commercial lending institutions in the ordinary course of business.~~

18 (1) No City officer or employee may solicit, coordinate, facilitate, or accept any gift for
19 themselves or for any other City officer or employee from a person who the officer or employee knows
20 or has reason to know is a restricted source for themselves or for the recipient of the gift.

21 (2) No City officer or employee may solicit or accept a gift from any person, including
22 any gift obtained through a City department, if the officer or employee knows or has reason to know
23 that the gift was funded or provided by a restricted source.

24 (3) No City officer or employee may solicit or accept any gift from a restricted source
25 for any of their family members.

1 (4) No person may offer or make a gift to any officer or employee, or any of the officer's
2 or employee's family members, if the person knows or has reason to know that they are a restricted
3 source for the officer or employee. For purposes of this subsection (b)(4), a person who is required to
4 register as a lobbyist or permit consultant and file disclosures but fails to do so shall be considered a
5 restricted source for any official for whom, had the person properly registered and filed disclosures,
6 the person would be considered a restricted source.

7 (5) No person may make a payment to an intermediary, including any City department,
8 if the person knows or has reason to know that the intermediary will use the payment to provide a gift
9 to any City officers or employees and that they are a restricted source for the officers or employees.

10 (6) No person may accept a payment on condition or with the agreement or mutual
11 understanding that the person will use the payment to give a gift to an officer or employee if the person
12 knows or has reason to know that the source of the payment is a restricted source for the officer or
13 employee.

14 ~~(1) **Restricted Source.** For purposes of this section, a restricted source means: (A) a~~
15 ~~person doing business with or seeking to do business with the department of the officer or employee; or~~
16 ~~(B) a person who during the prior 12 months knowingly attempted to influence the officer or employee~~
17 ~~in any legislative or administrative action.~~

18 ~~(2) **Gift.** For purposes of this subsection, the term gift has the same meaning as under~~
19 ~~the Political Reform Act, California Government Code Section 81000 et seq., and the regulations~~
20 ~~adopted thereunder, including any subsequent amendments. Gifts exempted from the limits imposed by~~
21 ~~California Government Code Section 89503 and Section 3.1-101 of the Campaign and Governmental~~
22 ~~Conduct Code shall also be exempted from the prohibition set forth in this subsection.~~

23 ~~(3)~~ **(7) Regulations.** The Ethics Commission ~~shall~~ may issue regulations
24 implementing this~~section~~ Section 3.216, including regulations exempting ~~voluntary~~ certain gifts
25

1 ~~that are nominal in value such as gifts that are given by vendors to clients or customers in the normal~~
2 ~~course of business.~~

3 (c) **Gifts and Loans from Subordinates.** No officer or employee shall solicit or accept
4 any gift or loan, either directly or indirectly, from any subordinate or employee under ~~his or her~~
5 their supervision or from any candidate or applicant for a position as a subordinate or
6 employee under ~~his or her~~ their supervision. The Ethics Commission ~~shall~~ may issue
7 regulations implementing this Section 3.216, including regulations exempting ~~voluntary~~ certain
8 gifts that are given ~~or received for special occasions or under other~~ under circumstances in which
9 gifts are traditionally given or exchanged.

10 * * * *

11 (e) **Restrictions.** Nothing in this section 3.216 shall prohibit a City department,
12 agency, board, or commission from imposing additional gift restrictions on its officers or
13 employees.

14 (f) **Aggregation of Gifts.** For purposes of this Section 3.216, gifts shall be aggregated as set
15 forth in California Code of Regulations, Title 2, Section 18945.1, as amended from time to time.

16
17 **SEC. 3.217. DISCLOSURE OF GIFTS TO THE CITY.**

18 (a) **Disclosure Requirement.** Any department head whose City department receives any
19 payment from a non-City source for which equal or greater consideration is not provided by the
20 department must disclose the payment to the Ethics Commission.

21 (b) **Contents.** The disclosure required in subsection (a) must include the following:

22 (1) the name of the source of the payment;

23 (2) the date of the payment;

24 (3) the total value of the payment;

25 (4) if the payment includes goods or services, a description of the goods or services;

1 (5) the purpose and use of the payment;

2 (6) the name of any City officer or employee that receives a personal benefit from the
3 gift or through the City's use of the gift;

4 (7) a description and valuation of the personal benefits received by any City officer or
5 employee through the department's use of the gift;

6 (8) a description of any contract that the payor has with the department;

7 (9) a description of any license, permit, or other entitlement for use that the payor is
8 currently seeking from the department or has been issued by the department within the last 12 months
9 to the payor; and

10 (10) a description of any financial interest the payor has involving the City.

11 (c) **Deadline for Initial Filing.** The disclosure required in subsection (a) must be filed no later
12 than the fifteenth calendar day following the end of the month in which the payment was received by the
13 department.

14 (d) **Supplemental Filings.** If any of the information disclosed by the department head in the
15 initial filing made pursuant to subsection (c) changes after the time of the initial filing, the department
16 head must submit a supplemental filing within 30 days that describes those changes.

17 (e) **Form.** The disclosures required by this Section 3.217 must be made in a form and format
18 prescribed by the Ethics Commission and may include an electronic format.

19 (f) **Exception – Payments from Government Agencies.** Payments from local, state, and
20 federal government agencies to City departments are not subject to the disclosures required in this
21 Section 3.217.

22 23 **SEC. 3.218. INCOMPATIBLE ACTIVITIES.**

24 ~~(a) **Prohibition.** No officer or employee of the City and County may engage in any~~
25 ~~employment, activity, or enterprise that the department, board, commission, or agency of which he or~~

1 ~~she is a member or employee has identified as incompatible in a statement of incompatible activities~~
2 ~~adopted under this Section. No officer or employee may be subject to discipline or penalties under this~~
3 ~~Section unless he or she has been provided an opportunity to demonstrate that his or her activity is not~~
4 ~~in fact inconsistent, incompatible or in conflict with the duties of the officer or employee.~~

5 ~~(b) **Statement of Incompatible Activities.** Every department, board, commission, and agency~~
6 ~~of the City and County shall, by August 1 of the year after which this Section becomes effective, submit~~
7 ~~to the Ethics Commission a statement of incompatible activities. No statement of incompatible~~
8 ~~activities shall become effective until approved by the Ethics Commission after a finding that the~~
9 ~~activities are incompatible under the criteria set forth in Subsection (c). After initial approval by the~~
10 ~~Ethics Commission, a department, board, commission or agency of the City and County may, subject to~~
11 ~~the approval of the Ethics Commission, amend its statement of incompatible activities. The Ethics~~
12 ~~Commission may, at any time, amend the statement of incompatible activities of any department, board,~~
13 ~~commission or agency of the City and County.~~

14 ~~(c) **Required Language.** Each statement of incompatible activities shall list those outside~~
15 ~~activities that are inconsistent, incompatible, or in conflict with the duties of the officers and employees~~
16 ~~of the department, board, commission, or agency of the City and County. This list shall include, but~~
17 ~~need not be limited to, activities that involve: (1) the use of the time, facilities, equipment and supplies~~
18 ~~of the City and County; or the badge, uniform, prestige, or influence of the City and County officer or~~
19 ~~employee's position for private gain or advantage; (2) the receipt or acceptance by an officer or~~
20 ~~employee of the City and County of any money or other thing of value from anyone other than the City~~
21 ~~and County for the performance of an act that the officer or employee would be required or expected to~~
22 ~~render in the regular course of his or her service or employment with the City and County; (3) the~~
23 ~~performance of an act in a capacity other than as an officer or employee of the City and County that~~
24 ~~may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of the~~
25 ~~City and County officer or employee's department, board, commission or agency; and (4) time demands~~

1 ~~that would render performance of the City and County officer or employee's duties less efficient. The~~
2 ~~Ethics Commission may permit City boards and commissions to exclude any required language from~~
3 ~~their statement of incompatible activities if their members, by law, must be appointed in whole or in~~
4 ~~part to represent any profession, trade, business, union or association.~~

5 ~~(d) **Meet and Confer.** No statement of incompatible activities or any amendment thereto shall~~
6 ~~become operative until the City and County has satisfied the meet and confer requirements of State law.~~

7 ~~(e) **Notice.** Every department, board, commission and agency of the City and County shall~~
8 ~~annually provide to its officers and employees a copy of its statement of incompatible activities.~~

9 ~~(f) **Existing Civil Service Rules.** Rules and Regulations relating to outside activities previously~~
10 ~~adopted or approved by the Civil Service Commission shall remain in effect until statements of~~
11 ~~incompatible activities are adopted pursuant to this Section.~~

12 (a) **Prohibitions.** City officers and employees shall not engage in the following activities:

13 (1) **Activities Subject to the Department's Jurisdiction.** City officers and employees
14 shall not engage in activities that are subject to the control, inspection, review, audit, permitting,
15 enforcement, contracting, or are otherwise within the responsibility of the officer or employee's
16 department. But City officers and employees may engage in certain activities including, but not limited
17 to, the following: being a party to a matter before or otherwise appearing before one's own department
18 or commission on behalf of oneself or one's immediate family, filing or otherwise pursuing claims
19 against the City on one's own behalf, making a public records disclosure request or other request for
20 information as permitted by law, and attending and participating in a meeting of a board, commission,
21 or other policy body under the Brown Act or Sunshine Ordinance. Incompatible activities prohibited
22 by this subsection (a)(1) shall include, but are not limited, to the following:

23 (A) contracting with one's own department or having a financial interest in or
24 serving on the board of directors for an entity that contracts with one's own department (but this
25

1 prohibition shall not extend to any entity solely because an officer or employee's spouse or registered
2 domestic partner has a financial interest in the entity or serves as a member of its board of directors);

3 (B) acquiring an ownership interest in real property, if the officer or employee
4 had participated personally and substantially in the permitting or inspection of that property within the
5 12 months prior to the acquisition; and

6 (C) having or acquiring a financial interest in any financial products issued or
7 regulated by the officer or employee's department.

8 (2) **Selective Assistance.** City officers and employees shall not provide assistance or
9 advice that is not generally available to all persons, in a manner that confers an advantage on any
10 person who is doing business or seeking to do business with the City. This subsection (a)(2) shall not
11 prohibit an officer or employee from communicating with individual applicants regarding the
12 individual's application, bid, or proposal, provided that such assistance is provided on an impartial
13 basis to all applicants who request it and is part of the officer or employee's City duties.

14 (3) **Use of City Resources.** City officers and employees shall not engage in the use,
15 other than minimal or incidental use, of the time, facilities, equipment, or supplies of the City for
16 private gain or advantage.

17 (4) **Use of Prestige of Office.** City officers and employees shall not engage in the use of
18 any marker (including without limitation a badge, uniform, or business card), prestige, or influence of
19 the City officer or employee's position for private gain or advantage.

20 (5) **Use of City Work Product.** City officers and employees shall not sell, publish, or
21 otherwise use, in exchange for anything of value and without appropriate authorization, any non-public
22 materials that were prepared on City time or while using City facilities, property (including without
23 limitation, intellectual property), equipment, or other materials;

24 (6) **Acting as an Unauthorized City Representative.** City officers and employees shall
25 not hold themselves out as a representative of their departments, or as an agent acting on behalf of

1 their departments, unless authorized to do so, including the use of City letterhead, title, e-mail, business
2 card, or any other resource for any communication that may lead the recipient of the communication to
3 think that the officer or employee is acting in an official capacity when the officer or employee is not;

4 (7) **Compensation for City Duties or Advice.** City officers and employees shall not
5 receive or accept a payment from anyone other than the City for the performance of a specific service
6 or act the officer or employee would be expected to render or perform in the regular course of their
7 City duties or for advice about the processes of the City directly related to the officer or employee's
8 duties and responsibilities or the processes of the officer or employee's department.

9 (8) **Lobbying Activity.** City officers and employees shall not receive or accept a
10 payment from anyone other than the City in exchange for communicating with any other City officer or
11 employee within their own department with the intent to influence an administrative or legislative
12 action.

13 (b) **Excessive Time Demands or Regular Disqualifications.** No City appointed department
14 head or employee may engage in any activity that either imposes excessive time demands such that it
15 materially impairs the appointed department head's or employee's performance of their City duties or
16 that disqualifies the appointed department head or employee from their City assignments or
17 responsibilities on a regular basis.

18 (1) **Advance Written Determination.** An appointed department head or employee may
19 seek an advance written determination from the decision-maker specified in subsection (b)(2) below as
20 to whether a proposed outside activity would impose excessive time demands or require regular
21 disqualifications and would therefore be prohibited under this subsection (b).

22 (2) **Decision-Maker.**

23 (A) For a request by an employee, the department head of the employee's
24 department or the department head's designee shall be the decision-maker on a request for an advance
25 written determination. If the department head delegates the decision-making to a designee and if the

1 designee determines that the proposed activity imposes excessive time demands or results in regular
2 disqualifications, the employee may appeal that determination to the department head.

3 (B) For a request by an appointed department head, the department head's
4 appointing authority shall be the decision-maker on a request for an advance written determination.

5 (3) **Effect.** An advance written determination approved by the appropriate decision-
6 maker that an activity does not impose excessive time demands or require regular disqualifications
7 provides the officer or employee immunity from any subsequent enforcement action for a violation of
8 subsection (b) if the material facts are as presented in the appointed department head or employee's
9 request for an advance written determination. An advance written determination cannot exempt the
10 requestor from any other applicable laws.

11 (4) **Public Records.** Requests for advance written determinations and advance written
12 determinations, including approvals and denials, are public records.

13 (c) **Statements of Incompatible Activities.** Statements of Incompatible Activities adopted and
14 approved prior to June 7, 2022 are hereby repealed and shall no longer have any legal effect, provided
15 that any administrative or disciplinary proceedings initiated prior to June 7, 2022, alleging violations
16 of Statements of Incompatible Activities may continue.

17
18 **SEC. 3.243. ELECTRONIC FILING OF DISCLOSURES.**

19 The Ethics Commission may require electronic filing of any disclosure required under this
20 Chapter.

21
22 Section 5. The voters hereby re-authorize and re-enact in its entirety Article III,
23 Chapter 3 of the Campaign and Governmental Conduct Code, and add Section 3.303 to
24 Article III, Chapter 3, to read as follows:

25 **SEC. 3.300. ~~ETHICS COMMISSION.~~**

1 ~~The powers and duties of the Ethics Commission are governed by Charter Sections 15.100, et~~
2 ~~seq., and Appendix C, Sections C3.699-10-C3.699-16.~~

3
4 **SEC. 3.301. MEETINGS TO BE TELEVISED.**

5 ~~The Ethics Commission shall televise its regular and special meetings on San Francisco~~
6 ~~Government Television (SFGovTV). The Ethics Commission shall not be required to televise the~~
7 ~~portions of its meetings that are held in closed session or otherwise required to be confidential.~~

8
9 **SEC. 3.302. PUBLIC GUIDE FOR CONTRIBUTORS.**

10 ~~The Ethics Commission shall prepare and distribute a public guide regarding campaign~~
11 ~~contributions. The guide shall include a summary of local law regarding contribution limits, required~~
12 ~~reporting by contributors and committees, and rules regarding who may contribute to committees. The~~
13 ~~guide shall be for informational purposes only, and shall not have the force or effect of law or~~
14 ~~regulation.~~

15
16 **SEC. 3.300. ETHICS COMMISSION.**

17 ~~The powers and duties of the Ethics Commission are governed by Charter Sections 15.100, et~~
18 ~~seq., and Appendix C, Sections C3.699-10-C3.699-16.~~

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25 **SEC. 3.302. PUBLIC GUIDE FOR CONTRIBUTORS.**

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2 contributions. The guide shall include a summary of local law regarding contribution limits, required
3 reporting by contributors and committees, and rules regarding who may contribute to committees. The
4 guide shall be for informational purposes only, and shall not have the force or effect of law or
5 regulation.

6
7 **SEC. 3.303. AMENDMENT OR REPEAL OF THIS CHAPTER.**

8 The voters may amend or repeal this Chapter 3. The Board of Supervisors may amend this
9 Chapter 3 if all of the following conditions are met:

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

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

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

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

18
19 Section 6. The voters hereby re-authorize and re-enact in its entirety Article III,
20 Chapter 4 of the Campaign and Governmental Conduct Code, in the process rewording
21 subsection (b) of Section 3.415, and add Sections 3.403 and 3.425 to Article III, Chapter 4, to
22 read as follows:

23 **SEC. 3.400A. FINDINGS.**

24 ~~The Board of Supervisors finds that bringing greater transparency to the City and County's~~
25 ~~permitting process is essential to protect public confidence in the fairness and impartiality of that~~

1 ~~process. It is the purpose and intent of this Chapter 4 to impose reasonable disclosure requirements on~~
2 ~~permit consultants to provide the public with information about who is paying the consultants, the~~
3 ~~permits they are getting paid to obtain, the City employees with whom they have had contact in the~~
4 ~~course of obtaining the permits, and the political contributions they have made to City officials.~~

5
6 **~~SEC. 3.400. PERMIT APPLICATION PROCESSING.~~**

7 ~~(a) EQUAL TREATMENT OF PERMIT APPLICANTS. It shall be the policy of the Department~~
8 ~~of Building Inspection, the Planning Department, the Department of Public Works and the officers and~~
9 ~~employees of such departments to treat all permit applicants the same regardless of the relationship of~~
10 ~~the applicant and/or the applicant's representatives to any officer or employee of the City and County~~
11 ~~and regardless of whether the applicant hires a permit consultant to provide permit consulting services.~~
12 ~~Intentional preferential treatment of any permit applicant and/or the applicant's representatives by any~~
13 ~~officer or employee of the Department of Building Inspection, the Planning Department, or the~~
14 ~~Department of Public Works shall subject the officer or employee to disciplinary action for official~~
15 ~~misconduct.~~

16 ~~(b) APPLICATION PRIORITY. It shall be the policy of the Department of Building~~
17 ~~Inspection, the Planning Department, the Department of Public Works and the officers and employees~~
18 ~~of such departments to review, consider, and process all applications, revisions, corrections and other~~
19 ~~permit-related material in the order in which that type of material is received unless there is a written~~
20 ~~finding of a public policy basis for not doing so, such as the involvement of public funds in the project~~
21 ~~for which the permit is sought, or the response to a delay caused by an earlier procedural error in~~
22 ~~processing the permit or another permit for the same project. Absent such a finding, any officer or~~
23 ~~employee of the Department of Building Inspection, the Planning Department, or the Department of~~
24 ~~Public Works who intentionally fails to review, consider and process all applications, revisions,~~
25 ~~corrections and other permit-related material in the order in which that type of material is received~~

1 ~~shall be subject to disciplinary action for official misconduct. The Department of Building Inspection,~~
2 ~~the Planning Department, and the Department of Public Works shall each adopt written guidelines for~~
3 ~~determining when there is a public policy basis for processing permit material out of order. For~~
4 ~~purposes of this section, and any corresponding written guidelines, expediting of work consisting~~
5 ~~primarily of disability access improvements for real property shall qualify as a public policy basis for~~
6 ~~processing permit material out of order, on a priority basis.~~

7 ~~(c) **PERMIT PROCESSING CODE OF CONDUCT.** No later than 60 days after the effective~~
8 ~~date of this Article, the Ethics Commission shall adopt a code of conduct for permit processing (the~~
9 ~~"Permit Processing Code of Conduct") containing ethical guidelines for permit applicants, permit~~
10 ~~consultants, and officers and employees of the Department of Building Inspection, the Planning~~
11 ~~Department, the and Department of Public Works. The Permit Processing Code of Conduct shall be~~
12 ~~posted in a conspicuous place in each department, and a copy shall be distributed to each officer of the~~
13 ~~City and County who makes or participates in making decisions related to permit applications.~~

14 15 **SEC. 3.400A. FINDINGS.**

16 The Board of Supervisors finds that bringing greater transparency to the City and County's
17 permitting process is essential to protect public confidence in the fairness and impartiality of that
18 process. It is the purpose and intent of this Chapter 4 to impose reasonable disclosure requirements on
19 permit consultants to provide the public with information about who is paying the consultants, the
20 permits they are getting paid to obtain, the City employees with whom they have had contact in the
21 course of obtaining the permits, and the political contributions they have made to City officials.

22 23 **SEC. 3.400. PERMIT APPLICATION PROCESSING.**

24 (a) **EQUAL TREATMENT OF PERMIT APPLICANTS.** It shall be the policy of the Department
25 of Building Inspection, the Planning Department, the Department of Public Works and the officers and

1 employees of such departments to treat all permit applicants the same regardless of the relationship of
2 the applicant and/or the applicant's representatives to any officer or employee of the City and County
3 and regardless of whether the applicant hires a permit consultant to provide permit consulting services.
4 Intentional preferential treatment of any permit applicant and/or the applicant's representatives by any
5 officer or employee of the Department of Building Inspection, the Planning Department, or the
6 Department of Public Works shall subject the officer or employee to disciplinary action for official
7 misconduct.

8 (b) **APPLICATION PRIORITY.** It shall be the policy of the Department of Building
9 Inspection, the Planning Department, the Department of Public Works and the officers and employees
10 of such departments to review, consider, and process all applications, revisions, corrections and other
11 permit-related material in the order in which that type of material is received unless there is a written
12 finding of a public policy basis for not doing so, such as the involvement of public funds in the project
13 for which the permit is sought, or the response to a delay caused by an earlier procedural error in
14 processing the permit or another permit for the same project. Absent such a finding, any officer or
15 employee of the Department of Building Inspection, the Planning Department, or the Department of
16 Public Works who intentionally fails to review, consider and process all applications, revisions,
17 corrections and other permit-related material in the order in which that type of material is received
18 shall be subject to disciplinary action for official misconduct. The Department of Building Inspection,
19 the Planning Department, and the Department of Public Works shall each adopt written guidelines for
20 determining when there is a public policy basis for processing permit material out of order. For
21 purposes of this section, and any corresponding written guidelines, expediting of work consisting
22 primarily of disability access improvements for real property shall qualify as a public policy basis for
23 processing permit material out of order, on a priority basis.

24 (c) **PERMIT PROCESSING CODE OF CONDUCT.** No later than 60 days after the effective
25 date of this Article, the Ethics Commission shall adopt a code of conduct for permit processing (the

1 "Permit Processing Code of Conduct") containing ethical guidelines for permit applicants, permit
2 consultants, and officers and employees of the Department of Building Inspection, the Planning
3 Department, the and Department of Public Works. The Permit Processing Code of Conduct shall be
4 posted in a conspicuous place in each department, and a copy shall be distributed to each officer of the
5 City and County who makes or participates in making decisions related to permit applications.

6
7 **SEC. 3.403. AMENDMENT OR REPEAL OF THIS CHAPTER.**

8 The voters may amend or repeal this Chapter 4. The Board of Supervisors may amend this
9 Chapter 4 if all of the following conditions are met:

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

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

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

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

18
19 **SEC. 3.405. DEFINITIONS.**

20 "Client" means the person for whom permit consulting services are performed by a permit
21 consultant.

22 "Contact" means any communication, oral or written, including communication made through
23 an agent, associate or employee. A "contact" shall not include a request for information, as long as the
24 request does not include any attempt to influence an administrative or legislative decision.

1 ~~"Major project" means any project located in the City and County which has actual or~~
2 ~~estimated construction costs exceeding \$1,000,000 and which requires a permit issued by the~~
3 ~~Department of Building Inspection or the Planning Department. Estimated construction costs shall be~~
4 ~~calculated in the same manner used to determine building permit fees under the Building Code.~~

5 ~~"Minor Project" means any project located in the City and County which requires a permit~~
6 ~~issued by the Entertainment Commission.~~

7 ~~"Permit consultant" is any individual who receives or is promised compensation to provide~~
8 ~~permit consulting services to commence on or after January 1, 2015 on a Major Project or a Minor~~
9 ~~Project. This includes any employee who receives compensation attributable to time spent on permit~~
10 ~~consulting services. This does not include:~~

11 ~~(1) The licensed architect or engineer of record for construction activity allowed or~~
12 ~~contemplated by the permit, or an employee of the architect or engineer;~~

13 ~~(2) The contractor who will be responsible for all construction activity associated with~~
14 ~~the requested permit; or~~

15 ~~(3) The employee or agent of an organization with tax exempt status under 26 United~~
16 ~~States Code Section 501(c)(3) communicating on behalf of that organization regarding the development~~
17 ~~of a project for that organization.~~

18 ~~"Permit consulting services" means any contact with the Department of Building Inspection, the~~
19 ~~Entertainment Commission, the Planning Department, or the Department of Public Works to help a~~
20 ~~permit applicant obtain a permit.~~

21
22 **~~SEC. 3.410. PERMIT CONSULTANT REGISTRATION AND DISCLOSURES.~~**

23 ~~(a) **REGISTRATION OF PERMIT CONSULTANTS REQUIRED.** Permit consultants shall~~
24 ~~register with the Ethics Commission and comply with the disclosure requirements imposed by this~~
25 ~~Chapter. Such registration shall occur no later than five business days after providing permit~~

1 consulting services, but the permit consultant shall register prior to providing any further permit
2 consulting services.

3 ~~(b) **REGISTRATION.** At the time of initial registration each permit consultant shall report to~~
4 ~~the Ethics Commission the following information:~~

5 ~~(1) The name, business address, e-mail address, and business telephone number of the~~
6 ~~permit consultant;~~

7 ~~(2) The name, business address, e-mail address, and business telephone number of each~~
8 ~~client for whom the permit consultant is performing permit consulting services;~~

9 ~~(3) The name, business address, e-mail address, and business telephone number of the~~
10 ~~permit consultant's employer, firm or business affiliation; and~~

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

13 ~~(c) **PERMIT CONSULTANT DISCLOSURES.** Beginning on April 15, 2015, each permit~~
14 ~~consultant shall file four quarterly reports, according to the following schedule: the permit consultant~~
15 ~~shall file a report on April 15 for the period starting January 1 and ending March 31; on July 15 for~~
16 ~~the period starting April 1 and ending June 30; on October 15 for the period starting July 1 and ending~~
17 ~~September 30; and on January 15 for the period starting October 1 and ending December 31. Each~~
18 ~~quarterly report shall contain the following:~~

19 ~~(1) The name, business address, e-mail address, and business telephone number of each~~
20 ~~person from whom the permit consultant or the permit consultant's employer received or expected to~~
21 ~~receive economic consideration for permit consulting services during the reporting period, and the~~
22 ~~amount of economic consideration the permit consultant received or expected to receive;~~

23 ~~(2) For each contact with the Department of Building Inspection, the Entertainment~~
24 ~~Commission, the Planning Department, or the Department of Public Works in the course of providing~~
25 ~~permit consulting services during the reporting period:~~

1 (A) ~~The name of each officer or employee of the City and County of San~~
2 ~~Francisco with whom the permit consultant made contact;~~

3 (B) ~~A description of the permit sought or obtained, including the application~~
4 ~~number for the permit; and~~

5 (C) ~~The client on whose behalf the contact was made.~~

6 (3) ~~All political contributions of \$100 or more made by the permit consultant or the~~
7 ~~permit consultant's employer during the reporting period to an officer of the City and County, a~~
8 ~~candidate for such office, a committee controlled by such officer or candidate, a committee primarily~~
9 ~~formed to support or oppose such officer or candidate, or any committee primarily formed to support~~
10 ~~or oppose a ballot measure to be voted on only in San Francisco.~~

11 (4) ~~Any amendments to the permit consultant's registration information required by~~
12 ~~Subsection (b).~~

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

15
16 **~~SEC. 3.415. PENALTIES AND ENFORCEMENT.~~**

17 (a) ~~If any permit consultant fails to submit any information required by this Chapter after any~~
18 ~~applicable deadline, the Ethics Commission shall, in addition to any other penalties or remedies~~
19 ~~established in this Chapter, impose a late filing fee of \$50 per day after the deadline until the~~
20 ~~information is received by the Ethics Commission. The Executive Director of the Ethics Commission~~
21 ~~may reduce or waive a late filing fee if the Executive Director determines that the late filing was not~~
22 ~~willful and that enforcement will not further the purposes of this Chapter. The Ethics Commission shall~~
23 ~~deposit funds collected under this Section in the General Fund of the City and County of San~~
24 ~~Francisco.~~

1 ~~(b) Any person who knowingly or negligently violates this Chapter may be liable in an~~
2 ~~administrative proceeding before the Ethics Commission pursuant to Charter Section C3.699-13. In~~
3 ~~addition to the administrative penalties set forth in the Charter, the Ethics Commission may issue~~
4 ~~warning letters regarding potential violations of this Chapter to the permit consultant.~~

5 ~~(c) Any person or entity which knowingly or negligently violates this Chapter may be liable in a~~
6 ~~civil action brought by the City Attorney for an amount up to \$5,000 per violation.~~

7
8 **SEC. 3.420. ETHICS COMMISSION REPORT.**

9 ~~Between April 1 and April 15, 2016 and between April 1 and April 15, 2017, the Ethics~~
10 ~~Commission shall provide a report to the Board of Supervisors regarding the implementation of~~
11 ~~Sections 3.405 through 3.415. The report shall include, but not be limited to, the total number of~~
12 ~~registered permit consultants, the total number of investigations commenced by the Ethics Commission~~
13 ~~into possible violations of the registration and disclosure requirements, and a summary of each~~
14 ~~settlement reached with permit consultants for violating the registration or disclosure requirements.~~

15
16 **SEC. 3.405. DEFINITIONS.**

17 "Client" means the person for whom permit consulting services are performed by a permit
18 consultant.

19 "Contact" means any communication, oral or written, including communication made through
20 an agent, associate or employee. A "contact" shall not include a request for information, as long as the
21 request does not include any attempt to influence an administrative or legislative decision.

22 "Major project" means any project located in the City and County which has actual or
23 estimated construction costs exceeding \$1,000,000 and which requires a permit issued by the
24 Department of Building Inspection or the Planning Department. Estimated construction costs shall be
25 calculated in the same manner used to determine building permit fees under the Building Code.

1 "Minor Project" means any project located in the City and County which requires a permit
2 issued by the Entertainment Commission.

3 "Permit consultant" is any individual who receives or is promised compensation to provide
4 permit consulting services to commence on or after January 1, 2015 on a Major Project or a Minor
5 Project. This includes any employee who receives compensation attributable to time spent on permit
6 consulting services. This does not include:

7 (1) The licensed architect or engineer of record for construction activity allowed or
8 contemplated by the permit, or an employee of the architect or engineer;

9 (2) The contractor who will be responsible for all construction activity associated with
10 the requested permit; or

11 (3) The employee or agent of an organization with tax exempt status under 26 United
12 States Code Section 501(c)(3) communicating on behalf of that organization regarding the development
13 of a project for that organization.

14 "Permit consulting services" means any contact with the Department of Building Inspection, the
15 Entertainment Commission, the Planning Department, or the Department of Public Works to help a
16 permit applicant obtain a permit.

17
18 **SEC. 3.410. PERMIT CONSULTANT REGISTRATION AND DISCLOSURES.**

19 **(a) REGISTRATION OF PERMIT CONSULTANTS REQUIRED.** Permit consultants shall
20 register with the Ethics Commission and comply with the disclosure requirements imposed by this
21 Chapter. Such registration shall occur no later than five business days after providing permit
22 consulting services, but the permit consultant shall register prior to providing any further permit
23 consulting services.

24 **(b) REGISTRATION.** At the time of initial registration each permit consultant shall report to
25 the Ethics Commission the following information:

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

3 (2) The name, business address, e-mail address, and business telephone number of each
4 client for whom the permit consultant is performing permit consulting services;

5 (3) The name, business address, e-mail address, and business telephone number of the
6 permit consultant's employer, firm or business affiliation; and

7 (4) Any other information required by the Ethics Commission consistent with the
8 purposes and provisions of this Chapter.

9 (c) **PERMIT CONSULTANT DISCLOSURES.** Beginning on April 15, 2015, each permit
10 consultant shall file four quarterly reports, according to the following schedule: the permit consultant
11 shall file a report on April 15 for the period starting January 1 and ending March 31; on July 15 for
12 the period starting April 1 and ending June 30; on October 15 for the period starting July 1 and ending
13 September 30; and on January 15 for the period starting October 1 and ending December 31. Each
14 quarterly report shall contain the following:

15 (1) The name, business address, e-mail address, and business telephone number of each
16 person from whom the permit consultant or the permit consultant's employer received or expected to
17 receive economic consideration for permit consulting services during the reporting period, and the
18 amount of economic consideration the permit consultant received or expected to receive;

19 (2) For each contact with the Department of Building Inspection, the Entertainment
20 Commission, the Planning Department, or the Department of Public Works in the course of providing
21 permit consulting services during the reporting period:

22 (A) The name of each officer or employee of the City and County of San
23 Francisco with whom the permit consultant made contact;

24 (B) A description of the permit sought or obtained, including the application
25 number for the permit; and

1 (C) The client on whose behalf the contact was made.

2 (3) All political contributions of \$100 or more made by the permit consultant or the
3 permit consultant's employer during the reporting period to an officer of the City and County, a
4 candidate for such office, a committee controlled by such officer or candidate, a committee primarily
5 formed to support or oppose such officer or candidate, or any committee primarily formed to support
6 or oppose a ballot measure to be voted on only in San Francisco.

7 (4) Any amendments to the permit consultant's registration information required by
8 Subsection (b).

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

11
12 **SEC. 3.415. PENALTIES AND ENFORCEMENT.**

13 (a) If any permit consultant fails to submit any information required by this Chapter after any
14 applicable deadline, the Ethics Commission shall, in addition to any other penalties or remedies
15 established in this Chapter, impose a late filing fee of \$50 per day after the deadline until the
16 information is received by the Ethics Commission. The Executive Director of the Ethics Commission
17 may reduce or waive a late filing fee if the Executive Director determines that the late filing was not
18 willful and that enforcement will not further the purposes of this Chapter. The Ethics Commission shall
19 deposit funds collected under this Section in the General Fund of the City and County of San
20 Francisco.

21 (b) Any person who violates this Chapter may be liable in an administrative proceeding before
22 the Ethics Commission pursuant to Charter Section C3.699-13. In addition to the administrative
23 penalties set forth in the Charter, the Ethics Commission may issue warning letters regarding potential
24 violations of this Chapter to the permit consultant.

1 (c) Any person or entity which knowingly or negligently violates this Chapter may be liable in a
2 civil action brought by the City Attorney for an amount up to \$5,000 per violation.

3
4 **SEC. 3.420. ETHICS COMMISSION REPORT.**

5 Between April 1 and April 15, 2016 and between April 1 and April 15, 2017, the Ethics
6 Commission shall provide a report to the Board of Supervisors regarding the implementation of
7 Sections 3.405 through 3.415. The report shall include, but not be limited to, the total number of
8 registered permit consultants, the total number of investigations commenced by the Ethics Commission
9 into possible violations of the registration and disclosure requirements, and a summary of each
10 settlement reached with permit consultants for violating the registration or disclosure requirements.

11
12 **SEC. 3.425. ELECTRONIC FILING OF DISCLOSURES.**

13 The Ethics Commission may require electronic filing of any disclosure required under this
14 Chapter 4.

15
16 Section 7. The voters hereby re-authorize and re-enact in its entirety Article III,
17 Chapter 5 of the Campaign and Governmental Conduct Code, in the process rewording
18 subsection (b) of Section 3.530, and add Sections 3.505 and 3.525 to Article III, Chapter 5, to
19 read as follows:

20 **SEC. 3.500. FINDINGS**

21 ~~The Board of Supervisors finds that public disclosure of the donations that developers make to~~
22 ~~nonprofit organizations that may communicate with the City and County regarding major development~~
23 ~~projects is essential to protect public confidence in the fairness and impartiality of City and County~~
24 ~~land use decisions. The Board further finds that disclosure is essential to allow the public to fully and~~
25 ~~fairly evaluate the City and County's land use decisions. It is the purpose and intent of this Chapter to~~

1 ~~impose reasonable disclosure requirements on developers to provide the public with information about~~
2 ~~these donations.~~

3
4 **SEC. 3.500. FINDINGS**

5 The Board of Supervisors finds that public disclosure of the donations that developers make to
6 nonprofit organizations that may communicate with the City and County regarding major development
7 projects is essential to protect public confidence in the fairness and impartiality of City and County
8 land use decisions. The Board further finds that disclosure is essential to allow the public to fully and
9 fairly evaluate the City and County's land use decisions. It is the purpose and intent of this Chapter to
10 impose reasonable disclosure requirements on developers to provide the public with information about
11 these donations.

12
13 **SEC. 3.505. AMENDMENT OR REPEAL OF THIS CHAPTER.**

14 The voters may amend or repeal this Chapter 5. The Board of Supervisors may amend this
15 Chapter 5 if all of the following conditions are met:

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

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

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

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

24
25 **SEC. 3.510. DEFINITIONS.**

1 ~~"Affiliate" shall mean any individual or entity that directly or indirectly controls, is controlled~~
2 ~~by or is under common control with, another entity, and for these purposes "control" means the power~~
3 ~~to direct the affairs or management of another entity, whether by contract, operation of law or~~
4 ~~otherwise.~~

5 ~~"CEQA" shall mean the California Environmental Quality Act (Public Resources Code Section~~
6 ~~21,000 et seq.), the CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3,~~
7 ~~Section 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code, as any of them may~~
8 ~~be amended.~~

9 ~~"Developer" shall mean the individual or entity that is the project sponsor responsible for filing~~
10 ~~a completed Environmental Evaluation Application with the Planning Department (or other lead~~
11 ~~agency) under CEQA for a major project. For any project sponsor that is an entity, "Developer" shall~~
12 ~~include all of its constituent individuals or entities that have decision-making authority regarding any~~
13 ~~of the entity's major decisions or actions. By way of example and without limitation, if the project~~
14 ~~sponsor is a limited liability company, each of its members is considered a developer for purposes of~~
15 ~~the requirements of this Chapter, and similarly if the project sponsor is a partnership, each of its~~
16 ~~general partners is considered a developer for purposes of the requirements of this Chapter. If the~~
17 ~~owner or agent that signs and submits the Environmental Evaluation Application will not be~~
18 ~~responsible for obtaining the entitlements or developing the major project, then for purposes of the~~
19 ~~requirements of this Chapter the developer shall be instead the individual or entity that is responsible~~
20 ~~for obtaining the entitlements for the major project.~~

21 ~~"Donation" shall mean any gift of money, property, goods or services.~~

22 ~~"EIR" shall mean an environmental impact report prepared under CEQA. For purposes of this~~
23 ~~Chapter, an EIR shall also include, without limitation, any CEQA determination that the Planning~~
24 ~~Department or Planning Commission (or other appropriate lead agency) makes to allow consideration~~
25

1 ~~of approval of a major project to proceed under an EIR, a previously certified program EIR, master~~
2 ~~EIR or staged EIR.~~

3 ~~"Entity" shall mean any partnership, corporation (including, but not limited to, any business~~
4 ~~trust or nonprofit corporation), limited liability company, joint stock company, trust, unincorporated~~
5 ~~association, joint venture or any other organization or association. "Entity" shall not include any state~~
6 ~~or local government agency.~~

7 ~~"Major project" shall mean a real estate development project located in the City and County for~~
8 ~~which the City's Planning Commission (or any other local lead agency) has certified an EIR under~~
9 ~~CEQA and which has estimated construction costs exceeding \$1,000,000. As used in the preceding~~
10 ~~sentence, the term "real estate development project" includes any project involving construction of one~~
11 ~~or more new structures or an addition to one or more existing structures, change of use within one or~~
12 ~~more existing structures, or substantial rehabilitation of one or more existing structures, where, in any~~
13 ~~such instance, the structure includes any occupiable floor area, excluding only a residential~~
14 ~~development project with four or fewer dwelling units. Estimated construction costs shall be calculated~~
15 ~~in the same manner used to determine building permit fees under the Building Code.~~

16 ~~"Nonprofit organization" shall mean any corporation formed under California Corporations~~
17 ~~Code Section 5000 et seq. for any public or charitable purpose, or any organization described in 26~~
18 ~~United States Code Section 501(c).~~

19 ~~"Structure" shall have the same meaning as the Planning Code defines such term.~~

20
21 **~~SEC. 3.520. REQUIRED DISCLOSURE.~~**

22 ~~(a) Any developer of a major project shall, within 30 days of the date the Planning Commission~~
23 ~~(or any other local lead agency) certifies the EIR for that project or, for a major project relying on a~~
24 ~~program EIR, within 30 days of the date that the Planning Department, Planning Commission, or any~~
25

1 ~~other local lead agency adopts a final environmental determination under CEQA, report the following~~
2 ~~information to the Ethics Commission:~~

3 ~~(1) The name, business address, business e-mail address and business telephone~~
4 ~~number of the developer, as well as those of any affiliates that made donations subject to this Chapter.~~

5 ~~(2) The EIR case number and a description of the major project.~~

6 ~~(3) The date the Planning Commission (or other local lead agency) certified the EIR or~~
7 ~~adopted the final environmental determination.~~

8 ~~(4) The name, business address, business e-mail address, business telephone number~~
9 ~~and website of any nonprofit organization: (A) to whom the developer or any affiliate of the developer~~
10 ~~has made cumulative donations of \$5,000 or more since the date one year before the Environmental~~
11 ~~Evaluation Application for the major project was filed; and (B) that with regard to the developer's~~
12 ~~major project, has had one or more contacts with an officer of the City and County or has provided~~
13 ~~public comment at any hearing before any board or commission of the City and County. For the~~
14 ~~purpose of this Subsection 3.520(a)(4), the term "contact" shall have the same meaning as in Section~~
15 ~~2.106 of this Code, except that a "contact" shall also include a person providing oral or written~~
16 ~~testimony that becomes part of the record of a public hearing; and the term "officer of the City and~~
17 ~~County of San Francisco" shall have the same meaning as in Section 2.105 of this Code.~~

18 ~~(5) For each nonprofit organization reported under Subsection (a)(4), the date and~~
19 ~~amount of each donation the developer or affiliate made to the nonprofit during the reporting period.~~

20 ~~(6) Any other information required by the Ethics Commission consistent with the~~
21 ~~purposes and provisions of this Chapter.~~

22 ~~(b) After a developer files a report required by Subsection (a), the developer shall file a total of~~
23 ~~four additional quarterly reports, according to the following schedule: The developer shall file a~~
24 ~~report on April 15 for the period starting January 1 and ending March 31; on July 15 for the period~~
25 ~~starting April 1 and ending June 30; on October 15 for the period starting July 1 and ending September~~

1 ~~30; and on January 15 for the period starting October 1 and ending December 31. Each quarterly~~
2 ~~report shall include:~~

3 ~~(1) The name, business address, business e-mail address, and business telephone~~
4 ~~number of the developer and any affiliates that made donations subject to this Chapter.~~

5 ~~(2) The EIR case number and a description of the major project.~~

6 ~~(3) The date the Planning Commission (or other local lead agency) certified the EIR or~~
7 ~~adopted the final environmental determination.~~

8 ~~(4) The name, business address, business e-mail address, business telephone number~~
9 ~~and website of any nonprofit organization to which the developer has made cumulative donations of~~
10 ~~\$5,000 or more since the date one year before the Environmental Evaluation Application was filed.~~

11 ~~(5) For each nonprofit organization reported under Subsection (b)(4), the date and~~
12 ~~amount of each donation the developer made to the nonprofit during the reporting period.~~

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

15 ~~(e) At the time of filing the initial report required by subsection (a), the developer shall pay a~~
16 ~~fee of \$500.~~

18 **SEC. 3.510. DEFINITIONS.**

19 "Affiliate" shall mean any individual or entity that directly or indirectly controls, is controlled
20 by or is under common control with, another entity, and for these purposes "control" means the power
21 to direct the affairs or management of another entity, whether by contract, operation of law or
22 otherwise.

23 "CEQA" shall mean the California Environmental Quality Act (Public Resources Code Section
24 21,000 et seq.), the CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3,

1 Section 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code, as any of them may
2 be amended.

3 "Developer" shall mean the individual or entity that is the project sponsor responsible for filing
4 a completed Environmental Evaluation Application with the Planning Department (or other lead
5 agency) under CEQA for a major project. For any project sponsor that is an entity, "Developer" shall
6 include all of its constituent individuals or entities that have decision-making authority regarding any
7 of the entity's major decisions or actions. By way of example and without limitation, if the project
8 sponsor is a limited liability company, each of its members is considered a developer for purposes of
9 the requirements of this Chapter, and similarly if the project sponsor is a partnership, each of its
10 general partners is considered a developer for purposes of the requirements of this Chapter. If the
11 owner or agent that signs and submits the Environmental Evaluation Application will not be
12 responsible for obtaining the entitlements or developing the major project, then for purposes of the
13 requirements of this Chapter the developer shall be instead the individual or entity that is responsible
14 for obtaining the entitlements for the major project.

15 "Donation" shall mean any gift of money, property, goods or services.

16 "EIR" shall mean an environmental impact report prepared under CEQA. For purposes of this
17 Chapter, an EIR shall also include, without limitation, any CEQA determination that the Planning
18 Department or Planning Commission (or other appropriate lead agency) makes to allow consideration
19 of approval of a major project to proceed under an EIR, a previously certified program EIR, master
20 EIR or staged EIR.

21 "Entity" shall mean any partnership, corporation (including, but not limited to, any business
22 trust or nonprofit corporation), limited liability company, joint stock company, trust, unincorporated
23 association, joint venture or any other organization or association. "Entity" shall not include any state
24 or local government agency.

1 "Major project" shall mean a real estate development project located in the City and County for
2 which the City's Planning Commission (or any other local lead agency) has certified an EIR under
3 CEQA and which has estimated construction costs exceeding \$1,000,000. As used in the preceding
4 sentence, the term "real estate development project" includes any project involving construction of one
5 or more new structures or an addition to one or more existing structures, change of use within one or
6 more existing structures, or substantial rehabilitation of one or more existing structures, where, in any
7 such instance, the structure includes any occupiable floor area, excluding only a residential
8 development project with four or fewer dwelling units. Estimated construction costs shall be calculated
9 in the same manner used to determine building permit fees under the Building Code.

10 "Nonprofit organization" shall mean any corporation formed under California Corporations
11 Code Section 5000 et seq. for any public or charitable purpose, or any organization described in 26
12 United States Code Section 501(c).

13 "Structure" shall have the same meaning as the Planning Code defines such term.

14
15 **SEC. 3.520. REQUIRED DISCLOSURE.**

16 (a) Any developer of a major project shall, within 30 days of the date the Planning Commission
17 (or any other local lead agency) certifies the EIR for that project or, for a major project relying on a
18 program EIR, within 30 days of the date that the Planning Department, Planning Commission, or any
19 other local lead agency adopts a final environmental determination under CEQA, report the following
20 information to the Ethics Commission:

21 (1) The name, business address, business e-mail address and business telephone
22 number of the developer, as well as those of any affiliates that made donations subject to this Chapter.

23 (2) The EIR case number and a description of the major project.

24 (3) The date the Planning Commission (or other local lead agency) certified the EIR or
25 adopted the final environmental determination.

1 (4) The name, business address, business e-mail address, business telephone number
2 and website of any nonprofit organization: (A) to whom the developer or any affiliate of the developer
3 has made cumulative donations of \$5,000 or more since the date one year before the Environmental
4 Evaluation Application for the major project was filed: and (B) that with regard to the developer's
5 major project, has had one or more contacts with an officer of the City and County or has provided
6 public comment at any hearing before any board or commission of the City and County. For the
7 purpose of this Subsection 3.520(a)(4), the term "contact" shall have the same meaning as in Section
8 2.106 of this Code, except that a "contact" shall also include a person providing oral or written
9 testimony that becomes part of the record of a public hearing; and the term "officer of the City and
10 County of San Francisco" shall have the same meaning as in Section 2.105 of this Code.

11 (5) For each nonprofit organization reported under Subsection (a)(4), the date and
12 amount of each donation the developer or affiliate made to the nonprofit during the reporting period.

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

15 (b) After a developer files a report required by Subsection (a), the developer shall file a total of
16 four additional quarterly reports, according to the following schedule: The developer shall file a
17 report on April 15 for the period starting January 1 and ending March 31; on July 15 for the period
18 starting April 1 and ending June 30; on October 15 for the period starting July 1 and ending September
19 30; and on January 15 for the period starting October 1 and ending December 31. Each quarterly
20 report shall include:

21 (1) The name, business address, business e-mail address, and business telephone
22 number of the developer and any affiliates that made donations subject to this Chapter.

23 (2) The EIR case number and a description of the major project.

24 (3) The date the Planning Commission (or other local lead agency) certified the EIR or
25 adopted the final environmental determination.

1 (4) The name, business address, business e-mail address, business telephone number
2 and website of any nonprofit organization to which the developer has made cumulative donations of
3 \$5,000 or more since the date one year before the Environmental Evaluation Application was filed.

4 (5) For each nonprofit organization reported under Subsection (b)(4), the date and
5 amount of each donation the developer made to the nonprofit during the reporting period.

6 (6) Any other information required by the Ethics Commission consistent with the
7 purposes and provisions of this Chapter.

8 (e) At the time of filing the initial report required by subsection (a), the developer shall pay a
9 fee of \$500.

10
11 **SEC. 3.525. ELECTRONIC FILING OF DISCLOSURES.**

12 The Ethics Commission may require electronic filing of any disclosure required under this
13 Chapter 5.

14
15 **SEC. 3.530. PENALTIES AND ENFORCEMENT.**

16 ~~(a) If any developer fails to submit any information required by this Chapter after any~~
17 ~~applicable deadline, the Ethics Commission shall, in addition to any other penalties or remedies~~
18 ~~established in this Chapter, impose a late filing fee of \$50 per day after the deadline until the~~
19 ~~information is received by the Ethics Commission. The Executive Director of the Ethics Commission~~
20 ~~may reduce or waive a late filing fee if the Executive Director determines that the late filing was not~~
21 ~~willful and that enforcement will not further the purposes of this Chapter. The Ethics Commission shall~~
22 ~~deposit funds collected under this Section in the General Fund of the City and County of San~~
23 ~~Francisco.~~

24 ~~(b) Any person who knowingly or negligently violates this Chapter, including but not limited to,~~
25 ~~by providing inaccurate or incomplete information, may be liable in an administrative proceeding~~

1 ~~before the Ethics Commission pursuant to Charter Section C3.699-13. In addition to the administrative~~
2 ~~penalties set forth in the Charter, the Ethics Commission may issue warning letters regarding potential~~
3 ~~violations of this Chapter.~~

4 ~~(c) Any person or entity which knowingly or negligently violates this Chapter may be liable in a~~
5 ~~civil action brought by the City Attorney for an amount up to \$5,000 per violation, or three times the~~
6 ~~amount not properly reported, whichever is greater.~~

7 ~~(d) In investigating any alleged violation of this Chapter the Ethics Commission and City~~
8 ~~Attorney shall have the power to inspect all documents required to be maintained under this Chapter.~~
9 ~~This power to inspect documents is in addition to other powers conferred on the Ethics Commission~~
10 ~~and City Attorney by the Charter or by ordinance, including the power of subpoena.~~

11 ~~(e) Should two or more persons be responsible for any violation under this Chapter, they may~~
12 ~~be jointly and severally liable.~~

14 **SEC. 3.530. PENALTIES AND ENFORCEMENT.**

15 (a) If any developer fails to submit any information required by this Chapter after any
16 applicable deadline, the Ethics Commission shall, in addition to any other penalties or remedies
17 established in this Chapter, impose a late filing fee of \$50 per day after the deadline until the
18 information is received by the Ethics Commission. The Executive Director of the Ethics Commission
19 may reduce or waive a late filing fee if the Executive Director determines that the late filing was not
20 willful and that enforcement will not further the purposes of this Chapter. The Ethics Commission shall
21 deposit funds collected under this Section in the General Fund of the City and County of San
22 Francisco.

23 (b) Any person who violates this Chapter, including but not limited to, by providing inaccurate
24 or incomplete information, may be liable in an administrative proceeding before the Ethics
25 Commission pursuant to Charter Section C3.699-13. In addition to the administrative penalties set

1 forth in the Charter, the Ethics Commission may issue warning letters regarding potential violations of
2 this Chapter.

3 (c) Any person or entity which knowingly or negligently violates this Chapter may be liable in a
4 civil action brought by the City Attorney for an amount up to \$5,000 per violation, or three times the
5 amount not properly reported, whichever is greater.

6 (d) In investigating any alleged violation of this Chapter the Ethics Commission and City
7 Attorney shall have the power to inspect all documents required to be maintained under this Chapter.
8 This power to inspect documents is in addition to other powers conferred on the Ethics Commission
9 and City Attorney by the Charter or by ordinance, including the power of subpoena.

10 (e) Should two or more persons be responsible for any violation under this Chapter, they may
11 be jointly and severally liable.

12
13 Section 8. The voters hereby re-authorize and re-enact in its entirety Article IV,
14 Chapter 1 of the Campaign and Governmental Conduct Code, and add Section 4.103 to
15 Article IV, Chapter 1, to read as follows:

16 **SEC. 4.100. FINDINGS.**

17 ~~The City and County of San Francisco ("City") has a paramount interest in protecting the~~
18 ~~integrity of its government institutions. To further this interest, individuals should be encouraged to~~
19 ~~report possible violations of laws, regulations, and rules governing the conduct of City officers and~~
20 ~~employees, City contractors, and employees of City contractors.~~

21 ~~This Chapter 1 fulfills the Charter's requirements for two City programs relating to~~
22 ~~whistleblowers, as required by Charter Appendix Section F1.107. First, as required by the Charter, the~~
23 ~~Office of the Controller has authority to receive and investigate whistleblower complaints concerning~~
24 ~~deficiencies in the quality and delivery of City government services, wasteful and inefficient City~~
25

1 ~~government practices, misuse of City funds, and improper activities by City officers, employees, and~~
2 ~~contractors.~~

3 ~~Second, as required by the Charter, this ordinance protects the confidentiality of~~
4 ~~whistleblowers, and protects City officers and employees from retaliation for filing whistleblower~~
5 ~~complaints or providing assistance with the investigation of such complaints. As set forth in this~~
6 ~~Chapter 1, the Ethics Commission has primary responsibility for ensuring such protections.~~

8 **SEC. 4.100. FINDINGS.**

9 The City and County of San Francisco ("City") has a paramount interest in protecting the
10 integrity of its government institutions. To further this interest, individuals should be encouraged to
11 report possible violations of laws, regulations, and rules governing the conduct of City officers and
12 employees, City contractors, and employees of City contractors.

13 This Chapter 1 fulfills the Charter's requirements for two City programs relating to
14 whistleblowers, as required by Charter Appendix Section F1.107. First, as required by the Charter, the
15 Office of the Controller has authority to receive and investigate whistleblower complaints concerning
16 deficiencies in the quality and delivery of City government services, wasteful and inefficient City
17 government practices, misuse of City funds, and improper activities by City officers, employees, and
18 contractors.

19 Second, as required by the Charter, this ordinance protects the confidentiality of
20 whistleblowers, and protects City officers and employees from retaliation for filing whistleblower
21 complaints or providing assistance with the investigation of such complaints. As set forth in this
22 Chapter 1, the Ethics Commission has primary responsibility for ensuring such protections.

24 **SEC. 4.103. AMENDMENT OR REPEAL OF THIS CHAPTER.**

25

1 The voters may amend or repeal this Chapter 1. The Board of Supervisors may amend this
2 Chapter 1 if all of the following conditions are met:

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

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

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

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

11
12 **~~SEC. 4.105. COMPLAINTS; INVESTIGATION PROCEDURES; REFERRAL TO OTHER~~**
13 **~~AGENCIES.~~**

14 ~~(a) COMPLAINTS. Any person may file a complaint for investigation with the Office of the~~
15 ~~Controller's Whistleblower Program, Ethics Commission, District Attorney, City Attorney, or the~~
16 ~~complainant's department alleging that a City officer or employee has engaged in improper~~
17 ~~government activity, misused City funds, caused deficiencies in the quality and delivery of government~~
18 ~~services or engaged in wasteful and inefficient government practices, or that a City contractor or~~
19 ~~employee of a City contractor has engaged in unlawful activity in connection with a City contract.~~

20 ~~(b) ETHICS COMMISSION COMPLAINT PROCEDURES. The Ethics Commission shall~~
21 ~~investigate complaints filed under this Section 4.105 that contain potential violations of local campaign~~
22 ~~finance, lobbying, conflicts of interest, and governmental ethics laws pursuant to the procedures~~
23 ~~specified in Charter Section C3.699-13 and the regulations adopted thereunder. Nothing in this~~
24 ~~subsection (b) shall preclude the Ethics Commission from referring any matter to any other City~~
25 ~~department, commission, board, officer, or employee or to other government agencies for investigation~~

1 ~~and possible disciplinary or enforcement action. The Ethics Commission may require that any City~~
2 ~~department, commission, board, officer, or employee report to the Ethics Commission on the referred~~
3 ~~matter.~~

4 ~~(c) REFERRAL. The Ethics Commission shall refer complaints that do not allege a violation of~~
5 ~~law, regulation or rule that is within the Ethics Commission's jurisdiction to the appropriate agency for~~
6 ~~investigation and possible disciplinary or enforcement action. The Commission may conduct~~
7 ~~preliminary investigations into such complaints to determine whether the complaint contains sufficient~~
8 ~~information to warrant referral. The Ethics Commission may require any City department to provide a~~
9 ~~written report regarding the department's investigation and any action that the department has taken in~~
10 ~~response to the Ethics Commission's referral within a time frame that the Ethics Commission shall~~
11 ~~specify.~~

12
13 **~~SEC. 4.107. COMPLAINTS BY CITIZENS AND EMPLOYEES; WHISTLEBLOWER~~**
14 **~~PROGRAM.~~**

15 ~~(a) WHISTLEBLOWER PROGRAM. The Controller shall administer and publicize a~~
16 ~~whistleblower and citizen complaint program for citizens and employees to report the misuse of City~~
17 ~~funds, improper government activities by City officers and employees, deficiencies in the quality and~~
18 ~~delivery of government services, and wasteful and inefficient City government practices. Subject to~~
19 ~~subsection (b), the Controller shall investigate and otherwise attempt to resolve complaints reported to~~
20 ~~the Whistleblower Program. The Controller shall administer a hotline telephone number and website~~
21 ~~and publicize the hotline and website through press releases, public advertising, and communications~~
22 ~~to City employees.~~

23 ~~(b) REFERRAL OF CERTAIN COMPLAINTS. The Controller shall refer the following~~
24 ~~complaints as set forth in this subsection (b):~~

1 ~~(1) Those which another City agency is required by federal, state, or local law to~~
2 ~~adjudicate. To that agency;~~

3 ~~(2) Those which may be resolved through a grievance mechanism established by~~
4 ~~collective bargaining agreement or contract. To the official or agency designated in the agreement or~~
5 ~~contract;~~

6 ~~(3) Those which involve allegations of conduct which may constitute a violation of~~
7 ~~criminal law. To the District Attorney or other appropriate law enforcement agency;~~

8 ~~(4) Those which are subject to an existing, ongoing investigation by the District~~
9 ~~Attorney, City Attorney, or Ethics Commission, where the applicable official or Commission states in~~
10 ~~writing that investigation by the Controller would substantially impede or delay his, her, or its own~~
11 ~~investigation of the matter. To the investigating office; and~~

12 ~~(5) Those which allege conduct that may constitute a violation of local campaign~~
13 ~~finance, lobbying, conflict of interest, or governmental ethics laws, regulations, or rules. To the Ethics~~
14 ~~Commission and the City Attorney.~~

15 ~~Where the conduct that is the subject of the complaint may violate criminal law and any civil or~~
16 ~~administrative law, statute, ordinance, or regulation, the Controller may take action on the noncriminal~~
17 ~~aspects of the matter under this Section 4.107 even if a referral has been made to another agency under~~
18 ~~this subsection (b).~~

19 ~~If a complaint is referred under this subsection (b), the Controller shall inform the complainant~~
20 ~~of the appropriate procedure for the resolution of the complaint.~~

21 ~~(c) TRACKING AND INVESTIGATION. The Controller shall receive, track, and investigate~~
22 ~~complaints made or referred to the Whistleblower Program. The investigation may include all steps~~
23 ~~that the Controller deems appropriate, including the review of the complaint and any documentary or~~
24 ~~other evidence provided with it, the gathering of any other relevant documents from any City~~
25

1 ~~department or other source, and interviews of the complainant and other persons with relevant~~
2 ~~information.~~

3 ~~(d) INFORMATION PROVIDED UNDER PENALTY OF PERJURY. In those instances in~~
4 ~~which the Controller deems it appropriate, the Controller may require that persons making complaints~~
5 ~~or providing information swear to the truth of their statements by taking an oath administered by the~~
6 ~~Controller, or an agent of the Controller, or through written declarations made under penalty of~~
7 ~~perjury under the laws of the State of California.~~

8 ~~(e) REFERRAL AND RECOMMENDATION BY CONTROLLER. The Controller may refer the~~
9 ~~complaint to a City department for investigation, either before conducting an initial investigation or~~
10 ~~after doing so, and may recommend that a City department take specific action based on the~~
11 ~~Controller's initial investigation. Within 60 days of receiving a complaint for investigation or a~~
12 ~~recommendation by the Controller for specific action, or such other time as the Controller shall~~
13 ~~specify, the City department shall report to the Controller in writing the results of the department's~~
14 ~~investigation and any action that the department has taken in response to a recommendation by the~~
15 ~~Controller that the department take specific action.~~

16 ~~(f) REPORT BY DEPARTMENT AND FURTHER ACTION BY CONTROLLER. If the~~
17 ~~Controller has recommended that a City department take disciplinary or other corrective action that~~
18 ~~the department has declined to take, the department shall report to the Controller its reasons for failing~~
19 ~~to do so within the time frame that the Controller specifies for reporting on its investigation of the~~
20 ~~complaint. If the Controller determines that the department's reasons are inadequate and that further~~
21 ~~investigation may be appropriate, the Controller may refer the matter to the Mayor, City Attorney, or~~
22 ~~District Attorney, or to any officer or agency that has jurisdiction over the matter.~~

23 ~~(g) RESPONSIBILITY OF DEPARTMENTS. The department head shall be responsible for~~
24 ~~compliance by his or her department with these duties. If department staff fail to comply with the duties~~
25 ~~to investigate complaints referred by the Controller and to make the reports required by this Section~~

1 ~~4.107, the Controller shall notify the department head. If the department head fails to take action to~~
2 ~~obtain the department's compliance with these duties, the Controller may refer the matter to the Mayor,~~
3 ~~City Attorney, or District Attorney or to any officer or agency that has jurisdiction over the matter.~~

4
5 **~~SEC. 4.110. DEFINITIONS.~~**

6 ~~For purposes of this Chapter I, the following words and phrases shall have the following~~
7 ~~meanings:~~

8 ~~"City" or "City agency" shall mean the City and County of San Francisco, its departments,~~
9 ~~commissions, task forces, committees, and boards.~~

10 ~~"Complainant's department" includes the complainant's supervisor, the executive director or~~
11 ~~highest ranking officer in the complainant's department, and the board or commission overseeing the~~
12 ~~complainant's department.~~

13 ~~"Deficiencies in the quality and delivery of government services" shall mean the failure to~~
14 ~~perform a service, when performance is required under any law, regulation or policy, or under a City~~
15 ~~contract or grant.~~

16 ~~"Improper government activity" shall mean violation of any federal, state, or local law,~~
17 ~~regulation, or rule, including but not limited to laws, regulations, or rules governing campaign finance,~~
18 ~~conflicts of interest, or governmental ethics laws; or action which creates a danger to public health or~~
19 ~~safety by the failure of City officers or employees to perform duties required by their positions.~~

20 ~~"Improper government activity" does not include employment actions for which other remedies exist.~~

21 ~~"Misuse of City funds" shall mean any use of City funds for purposes outside of those directed~~
22 ~~by the City.~~

23 ~~"Preliminary investigation" shall be limited to, but need not include all of the following: review~~
24 ~~of the complaint and any documentary evidence provided with the complaint; interview of the~~
25 ~~complainant; interview of the respondent, counsel to respondent and any witnesses who voluntarily~~

1 ~~agree to be interviewed for this purpose; review of any relevant public documents and documents~~
2 ~~provided voluntarily to the Commission.~~

3 ~~“Supervisor” shall mean any individual having the authority, on behalf of the City, to hire,~~
4 ~~transfer, suspend, lay off, recall, promote, discharge, reward, or discipline other employees, or the~~
5 ~~responsibility to routinely direct them, to adjust their grievances, or to effectively recommend such~~
6 ~~action, if, in connection with the foregoing, the exercise of that authority is not merely routine or~~
7 ~~clerical, but requires the use of independent judgment.~~

8 ~~“Unlawful activity” shall mean violations of any federal, state or local law, regulation or rule~~
9 ~~including but not limited to those laws, regulations or rules governing campaign finance, conflicts of~~
10 ~~interest or governmental ethics laws; or actions which create a danger to public health or safety by the~~
11 ~~failure of City officers or employees to perform duties imposed by a City contract.~~

12 ~~“Wasteful and inefficient City government practices” shall mean the expenditure of City funds~~
13 ~~that could be eliminated without harming public health or safety, or reducing the quality of government~~
14 ~~services.~~

15
16 **~~SEC. 4.115. PROTECTION OF WHISTLEBLOWERS—CITY EMPLOYEES.~~**

17 ~~(a) RETALIATION PROHIBITED. No City officer or employee may terminate, demote,~~
18 ~~suspend, or take other similar adverse employment action against any City officer or employee because~~
19 ~~the officer or employee has in good faith~~

20 ~~(1) filed a complaint as set forth in Section 4.105(a);~~

21 ~~(2) attempted to file a complaint through the procedures set forth in Section 4.105(a)~~
22 ~~but, in good faith, did not file the complaint with the appropriate City department or official; or~~

23 ~~(3) provided any information in connection with or otherwise cooperated with any~~
24 ~~investigation conducted under this Chapter 1.~~

25 ~~(b) COMPLAINTS OF RETALIATION.~~

1 ~~(1) **Administrative Complaints.** Any City officer or employee, or former City officer or~~
2 ~~employee, who believes he or she has been the subject of retaliation in violation of subsection (a) of this~~
3 ~~Section 4.115 may file a complaint with the Ethics Commission. The complaint must be filed no later~~
4 ~~than two years after the date of the alleged retaliation.~~

5 ~~The Ethics Commission shall investigate complaints of violations of subsection (a) of~~
6 ~~this Section 4.115 pursuant to the procedures specified in Charter Section C3.699-13 and the~~
7 ~~regulations adopted thereunder. The Ethics Commission may decline to investigate complaints~~
8 ~~alleging violations of subsection (a) if it determines that the same or similar allegations are pending~~
9 ~~with or have been finally resolved by another administrative or judicial body. Nothing in this~~
10 ~~subsection (b)(1) shall preclude the Ethics Commission from referring any matter to any other City~~
11 ~~department, commission, board, officer, or employee, or to other government agencies for investigation~~
12 ~~and possible disciplinary or enforcement action. The Ethics Commission may refer matters to the~~
13 ~~Department of Human Resources with a recommendation. The Ethics Commission may require any~~
14 ~~City department to provide a written report regarding the department's investigation and any action~~
15 ~~that the department has taken in response to the Ethics Commission's referral within a time frame that~~
16 ~~the Ethics Commission shall specify.~~

17 ~~(2) **Civil Complaints.** Any City officer or employee who believes he or she has been the~~
18 ~~subject of retaliation in violation of subsection (a) of this Section 4.115 may bring a civil action against~~
19 ~~the City officer or employee who committed the violation. Such action must be filed no later than two~~
20 ~~years after the date of the retaliation.~~

21 ~~(3) **Burden of Establishing Retaliation.** In order to establish under this Section 4.115~~
22 ~~that retaliation occurred, a complainant in a civil action must demonstrate, or the Ethics Commission~~
23 ~~in an administrative proceeding must determine, by a preponderance of the evidence, that the~~
24 ~~complainant's engagement in activity protected under subsection (a) was a substantial motivating~~
25 ~~factor for the adverse employment action. The respondent may rebut this claim if the respondent~~

1 demonstrates by a preponderance of the evidence that he, she, or it would have taken the same
2 employment action irrespective of the complainant's participation in protected activity.

3 ~~(4) **Duty to Assist with Retaliation Complaints.** Supervisors who receive a complaint~~
4 ~~alleging retaliation under this Chapter 1 must keep the complaint confidential and immediately assist~~
5 ~~the complainant by referring the complainant to the Ethics Commission and documenting the referral~~
6 ~~in writing. Documentation must include the date and time of the referral and that the complaint was~~
7 ~~about retaliation. Supervisors who fail to comply with this subsection (b) are subject to the penalties~~
8 ~~and remedies set forth in subsection (c).~~

9 ~~(c) **PENALTIES AND REMEDIES.**~~

10 ~~(1) **Administrative Penalties.** Any City officer or employee who violates subsection (a)~~
11 ~~of this Section 4.115 may be subject to administrative penalties pursuant to Charter Section C3.699-13~~

12 :

13 ~~(2) **Redress for Retaliatory Employment Action.** Following an administrative hearing~~
14 ~~and after making a finding that an adverse employment action has been taken for purposes of~~
15 ~~retaliation, the Ethics Commission may, subject to the Charter's budgetary and civil service provisions,~~
16 ~~recommend the cancellation of the retaliatory termination, demotion, suspension or other adverse~~
17 ~~employment action.~~

18 ~~(3) **Discipline by Appointing Authority.** Any City officer or employee who violates~~
19 ~~subsections (a) or (b)(4) of this Section 4.115 shall be subject to disciplinary action up to and including~~
20 ~~dismissal by his or her appointing authority. If no disciplinary action is taken by the appointing~~
21 ~~authority, the Ethics Commission may refer the matter to the Civil Service Commission for action~~
22 ~~pursuant to Charter Section A8.341.~~

23 ~~(4) **Civil Penalties.** Any City officer or employee who violates subsection (a) of this~~
24 ~~Section 4.115 may be personally liable in a civil action authorized under subsection (b)(2) of this~~
25 ~~Section for a civil penalty not to exceed \$10,000.~~

1 ~~(d) RESERVATION OF AUTHORITY.~~

2 ~~(1) Civil Service Commission. Nothing in this Section 4.115 shall interfere with the~~
3 ~~powers granted to the Civil Service Commission by the Charter.~~

4 ~~(2) Appointing Authority. Nothing in this Section 4.115 shall interfere with the power~~
5 ~~of an appointing officer, manager, or supervisor to take action with respect to any City officer or~~
6 ~~employee, provided that the appointing officer, manager, or supervisor reasonably believes that such~~
7 ~~action is justified on facts separate and apart from the fact that the officer or employee filed a~~
8 ~~complaint as set forth in Section 4.105(a), attempted to file such a complaint in good faith, or~~
9 ~~cooperated with an investigation of such a complaint.~~

10 ~~(e) NOTICE OF WHISTLEBLOWER PROTECTIONS. The Controller shall prepare, and each~~
11 ~~City department shall post a notice of whistleblower protections. The notice shall be posted in a~~
12 ~~location that is conspicuous and accessible to all employees.~~

13 ~~(f) WHISTLEBLOWER PROTECTION AWARENESS TRAINING.~~

14 ~~(1) The Controller, in collaboration with the Ethics Commission, shall prepare, and all~~
15 ~~City departments shall distribute, materials to publicize and promote whistleblower protections as part~~
16 ~~of each department's new hire training programs.~~

17 ~~(2) The Ethics Commission, in collaboration with the Controller and Department of~~
18 ~~Human Resources, shall prepare, and all City departments shall distribute, materials to publicize and~~
19 ~~promote supervisors' responsibilities under this Chapter 1. In addition, the Department of Human~~
20 ~~Resources, in collaboration with the Controller and Ethics Commission, shall prepare web-based~~
21 ~~training for supervisors regarding their responsibilities under this Chapter 1, which shall be~~
22 ~~implemented by January 1, 2020. This training must be provided to all City supervisors annually by~~
23 ~~April of each year thereafter.~~

24
25 ~~SEC. 4.117. PROTECTION OF WHISTLEBLOWERS - CITY CONTRACTORS.~~

1 ~~(a) RETALIATION PROHIBITED. No City officer or employee may take steps to terminate a~~
2 ~~contract with a City contractor; refuse to use a City contractor for contracted services; request that a~~
3 ~~City contractor terminate, demote, or suspend one of its employees; or take other similar adverse~~
4 ~~action against any City contractor or employee of a City contractor because the contractor or the~~
5 ~~contractor's employee:~~

6 ~~(1) filed a complaint with any supervisor within a City agency alleging that a City~~
7 ~~officer or employee engaged in improper government activity, misused City funds, caused deficiencies~~
8 ~~in the quality and delivery of government services, or engaged in wasteful and inefficient government~~
9 ~~practices;~~

10 ~~(2) filed a complaint with any supervisor within a City agency alleging that another~~
11 ~~City contractor, or employee of another City contractor, engaged in unlawful activity, misused City~~
12 ~~funds, caused deficiencies in the quality and delivery of government services or engaged in wasteful~~
13 ~~and inefficient government practices; or~~

14 ~~(3) provided any information in connection with or otherwise cooperated with any~~
15 ~~investigation conducted under this Chapter 1.~~

16 ~~(b) COMPLAINTS OF RETALIATION.~~

17 ~~(1) Administrative Complaints. Any City contractor or employee of a City contractor,~~
18 ~~who believes it, he, or she has been the subject of retaliation in violation of subsection (a) of this~~
19 ~~Section 4.117 may file a complaint with the Ethics Commission. The complaint must be filed no later~~
20 ~~than two years after the date of the alleged retaliation.~~

21 ~~The Ethics Commission shall investigate complaints of violations of subsection (a) of~~
22 ~~this Section 4.117 pursuant to the procedures specified in Charter Section C3.699-13 and the~~
23 ~~regulations adopted thereunder. The Ethics Commission may decline to investigate complaints~~
24 ~~alleging violations of subsection (a) if it determines that the same or similar allegations are pending~~
25 ~~with or have been finally resolved by another administrative or judicial body. Nothing in this~~

1 ~~subsection shall preclude the Ethics Commission from referring any matter to any other City~~
2 ~~department, commission, board, officer, or employee, or to other government agencies for investigation~~
3 ~~and possible disciplinary or enforcement action. The Ethics Commission may refer matters to the~~
4 ~~Department of Human Resources with a recommendation. The Ethics Commission may require any~~
5 ~~City department to provide a written report regarding the department's investigation and any action~~
6 ~~that the department has taken in response to the Ethics Commission's referral, within a time frame that~~
7 ~~the Ethics Commission shall specify.~~

8 ~~(2) **Burden of Establishing Retaliation.** In order to establish that retaliation occurred~~
9 ~~under this Section 4.117, the Ethics Commission in an administrative proceeding must determine, by a~~
10 ~~preponderance of the evidence, that the complainant's engagement in activity protected under~~
11 ~~subsection (a) was a substantial motivating factor for the adverse action. The respondent may rebut~~
12 ~~this claim if it demonstrates by a preponderance of the evidence that it would have taken the same~~
13 ~~adverse action irrespective of the complainant's participation in protected activity.~~

14 ~~(c) **PENALTIES AND REMEDIES.**~~

15 ~~(1) **Administrative Penalties.** Any City officer or employee who violates subsection (a)~~
16 ~~of this Section 4.117 may be subject to administrative penalties pursuant to Charter Section C3.699-13.~~

17 ~~(2) **Redress for Retaliatory Adverse Action.** Following an administrative hearing and~~
18 ~~after making a finding that an adverse action has been taken for purposes of retaliation, the Ethics~~
19 ~~Commission may, subject to the Charter's budgetary and contracting provisions, order the cancellation~~
20 ~~of retaliatory adverse action taken against a City contractor or employee of a City contractor.~~

21 ~~(3) **Discipline by Appointing Authority.** Any City officer or employee who violates~~
22 ~~subsection (a) of this Section 4.117 shall be subject to disciplinary action up to and including dismissal~~
23 ~~by his or her appointing authority. If no disciplinary action is taken by the appointing authority, the~~
24 ~~Ethics Commission may refer the matter to the Civil Service Commission for action pursuant to Charter~~
25 ~~Section A8.341.~~

1 ~~(d) NOTICE OF WHISTLEBLOWER PROTECTIONS. The Controller shall prepare, and each~~
2 ~~City department shall post, a notice of the whistleblower protections established by this Section 4.117.~~
3 ~~City contractors shall distribute the notice of protections to all of their employees.~~

4
5 **~~SEC. 4.120. CONFIDENTIALITY.~~**

6 ~~(a) WHISTLEBLOWER IDENTITY. City officers and employees shall treat as confidential the~~
7 ~~identity of any person who files a complaint as set forth in Section 4.105(a). A complainant may~~
8 ~~voluntarily disclose his or her identity.~~

9 ~~(b) COMPLAINTS AND INVESTIGATIONS. City officers and employees shall treat as~~
10 ~~confidential complaints filed under Sections 4.105, 4.115, and 4.117, and related information,~~
11 ~~including but not limited to materials gathered and prepared in the course of investigating such~~
12 ~~complaints, and deliberations regarding such complaints.~~

13 ~~(c) PENALTIES. Except as provided in subsection (d), violations of subsections (a) and (b)~~
14 ~~may be subject to the administrative proceedings and penalties set forth in Charter Section C3.699-13,~~
15 ~~in addition to disciplinary action up to and including dismissal by his or her appointing authority.~~

16 ~~(d) EXCEPTIONS.~~

17 ~~(1) Conduct of Investigations. Nothing in this Section 4.120 shall preclude the~~
18 ~~Controller's Office, Ethics Commission, District Attorney, and City Attorney from disclosing the~~
19 ~~identity of an individual or other information to the extent necessary to conduct its investigation.~~

20 ~~(2) Legal Proceedings. Nothing in this Section 4.120 shall preclude City officers and~~
21 ~~employees from disclosing the identity of an individual or other information relating to a complaint to~~
22 ~~the extent required by the rules governing an administrative or court proceeding.~~

23 ~~(3) Referrals. Nothing in this Section 4.120 shall preclude the Ethics Commission from~~
24 ~~referring any matter to any other City department, commission, board, officer, or employee, or to other~~
25 ~~government agencies, for investigation and possible disciplinary or enforcement action.~~

1
2 ***SEC. 4.123. CONFIDENTIALITY PROTECTION FOR WHISTLEBLOWER PROGRAM***
3 ***COMPLAINANTS AND INVESTIGATIONS.***

4 ~~*(a) WHISTLEBLOWER IDENTITY AND INVESTIGATIONS. Every officer and employee of*~~
5 ~~*the City shall keep confidential:*~~

6 ~~*(i) The identity of any person who makes a complaint to the Whistleblower Program*~~
7 ~~*under Section 4.107 of this Chapter, and any information that would lead to the disclosure of the*~~
8 ~~*person's identity, unless the person who made the complaint provides written authorization for the*~~
9 ~~*disclosure.*~~

10 ~~*(ii) Complaints or reports to the Whistleblower Program and information related to the*~~
11 ~~*investigation of the matter, including drafts, notes, preliminary reports, working papers, records of*~~
12 ~~*interviews, communications with complainants and witnesses, and any other materials and information*~~
13 ~~*gathered or prepared in the course of the investigation.*~~

14 ~~*The protection of confidentiality set forth in this Section applies irrespective of whether*~~
15 ~~*the information was provided in writing and whether the information was provided or is maintained in*~~
16 ~~*electronic, digital, paper or any other form or medium.*~~

17 ~~*(b) INQUIRY REGARDING IDENTITY PROHIBITED. In order to assure effective*~~
18 ~~*implementation of the provisions of this Section providing confidentiality to whistleblowers, City*~~
19 ~~*officers and employees may not use any City resources, including work time, to ascertain or attempt to*~~
20 ~~*ascertain directly or indirectly the identity of any person who has made a complaint to the*~~
21 ~~*Whistleblower Program, unless such person has provided written authorization for the disclosure.*~~
22 ~~*Nothing in this Section shall preclude an officer or employee assigned to investigate a complaint under*~~
23 ~~*this Chapter from ascertaining the identity of a complainant to the extent necessary to conduct the*~~
24 ~~*investigation.*~~

1 ~~(c) EXCEPTIONS. Nothing in this Section shall preclude the Controller from (i) disclosing the~~
2 ~~identity of a person or other information to the extent necessary to conduct a civil or criminal~~
3 ~~investigation or to take any enforcement action, including any action to discipline an employee or take~~
4 ~~remedial action against a contractor, or (ii) releasing information as part of a referral when referring~~
5 ~~any matter to another City department, commission, board, officer or employee, or to other~~
6 ~~governmental agencies, for investigation and possible disciplinary, enforcement or remedial action, or~~
7 ~~(iii) releasing information to the Citizens Audit Review Board so that it may carry out its duty to~~
8 ~~provide advisory input to the Controller on the Whistleblower Program, provided that information is~~
9 ~~prepared so as to protect the confidentiality of persons making complaints and of investigations, or (iv)~~
10 ~~releasing information to inform the public of the nature of the actions taken by the Controller in the~~
11 ~~operation of the Whistleblower Program provided that information is prepared so as to protect the~~
12 ~~confidentiality of persons making complaints and of investigations.~~

13
14 **~~SEC. 4.125. FURNISHING FALSE OR MISLEADING INFORMATION; DUTY TO~~**
15 **~~COOPERATE.~~**

16 ~~(a) FURNISHING FALSE OR MISLEADING INFORMATION PROHIBITED. When making~~
17 ~~or filing a complaint pursuant to this Chapter or participating in an investigation conducted by the~~
18 ~~Controller, Ethics Commission, District Attorney, City Attorney or any other department or~~
19 ~~commission, or any of their agents, as authorized under this Chapter, City officers and employees may~~
20 ~~not knowingly and intentionally furnish false or fraudulent evidence, documents, or information;~~
21 ~~misrepresent any material fact, or conceal any evidence, documents or information for the purpose of~~
22 ~~misleading any officer or employee or any of their agents.~~

23 ~~(b) COOPERATION REQUIRED. All City departments, commissions, boards, officers and~~
24 ~~employees shall cooperate with and provide full and prompt assistance to the Controller, Ethics~~
25

1 ~~Commission, District Attorney, City Attorney, and all other commissions and departments, and any of~~
2 ~~their agents, in carrying out their duties under this Chapter.~~

3
4 **SEC. 4.130. REPORTS TO THE BOARD OF SUPERVISORS.**

5 ~~The Ethics Commission shall provide an annual report to the Board of Supervisors which shall~~
6 ~~include the following:~~

7 ~~(1) The number of complaints received;~~

8 ~~(2) The type of conduct complained about;~~

9 ~~(3) The number of referrals to the Civil Service Commission, other City departments, or other~~
10 ~~government agencies;~~

11 ~~(4) The number of investigations the Ethics Commission conducted;~~

12 ~~(5) Findings or recommendations on policies or practices resulting from the Ethics~~
13 ~~Commission's investigations;~~

14 ~~(6) The number of disciplinary actions taken by the City as a result of complaints made to the~~
15 ~~Ethics Commission; and~~

16 ~~(7) The number and amount of administrative penalties imposed by the Ethics Commission as a~~
17 ~~result of complaints made to the Commission.~~

18
19 **SEC. 4.135. LIMITATION OF LIABILITY.**

20 ~~In adopting and enforcing this Chapter, the City undertakes to promote the general welfare.~~
21 ~~The City is not assuming, nor is it imposing on its officers and employees, an obligation for breach of~~
22 ~~which it is liable in money damages.~~

23
24 **SEC. 4.105. COMPLAINTS; INVESTIGATION PROCEDURES; REFERRAL TO OTHER**
25 **AGENCIES.**

1 (a) **COMPLAINTS.** Any person may file a complaint for investigation with the Office of the
2 Controller's Whistleblower Program, Ethics Commission, District Attorney, City Attorney, or the
3 complainant's department alleging that a City officer or employee has engaged in improper
4 government activity, misused City funds, caused deficiencies in the quality and delivery of government
5 services or engaged in wasteful and inefficient government practices, or that a City contractor or
6 employee of a City contractor has engaged in unlawful activity in connection with a City contract.

7 (b) **ETHICS COMMISSION COMPLAINT PROCEDURES.** The Ethics Commission shall
8 investigate complaints filed under this Section 4.105 that contain potential violations of local campaign
9 finance, lobbying, conflicts of interest, and governmental ethics laws pursuant to the procedures
10 specified in Charter Section C3.699-13 and the regulations adopted thereunder. Nothing in this
11 subsection (b) shall preclude the Ethics Commission from referring any matter to any other City
12 department, commission, board, officer, or employee or to other government agencies for investigation
13 and possible disciplinary or enforcement action. The Ethics Commission may require that any City
14 department, commission, board, officer, or employee report to the Ethics Commission on the referred
15 matter.

16 (c) **REFERRAL.** The Ethics Commission shall refer complaints that do not allege a violation
17 of law, regulation or rule that is within the Ethics Commission's jurisdiction to the appropriate agency
18 for investigation and possible disciplinary or enforcement action. The Commission may conduct
19 preliminary investigations into such complaints to determine whether the complaint contains sufficient
20 information to warrant referral. The Ethics Commission may require any City department to provide a
21 written report regarding the department's investigation and any action that the department has taken in
22 response to the Ethics Commission's referral within a time-frame that the Ethics Commission shall
23 specify.

1 **SEC. 4.107. COMPLAINTS BY CITIZENS AND EMPLOYEES; WHISTLEBLOWER**
2 **PROGRAM.**

3 **(a) WHISTLEBLOWER PROGRAM.** *The Controller shall administer and publicize a*
4 *whistleblower and citizen complaint program for citizens and employees to report the misuse of City*
5 *funds, improper government activities by City officers and employees, deficiencies in the quality and*
6 *delivery of government services, and wasteful and inefficient City government practices. Subject to*
7 *subsection (b), the Controller shall investigate and otherwise attempt to resolve complaints reported to*
8 *the Whistleblower Program. The Controller shall administer a hotline telephone number and website*
9 *and publicize the hotline and website through press releases, public advertising, and communications*
10 *to City employees.*

11 **(b) REFERRAL OF CERTAIN COMPLAINTS.** *The Controller shall refer the following*
12 *complaints as set forth in this subsection (b):*

13 **(1)** *Those which another City agency is required by federal, state, or local law to*
14 *adjudicate: To that agency;*

15 **(2)** *Those which may be resolved through a grievance mechanism established by*
16 *collective bargaining agreement or contract: To the official or agency designated in the agreement or*
17 *contract;*

18 **(3)** *Those which involve allegations of conduct which may constitute a violation of*
19 *criminal law: To the District Attorney or other appropriate law enforcement agency;*

20 **(4)** *Those which are subject to an existing, ongoing investigation by the District*
21 *Attorney, City Attorney, or Ethics Commission, where the applicable official or Commission states in*
22 *writing that investigation by the Controller would substantially impede or delay his, her, or its own*
23 *investigation of the matter: To the investigating office; and*

1 (5) Those which allege conduct that may constitute a violation of local campaign
2 finance, lobbying, conflict of interest, or governmental ethics laws, regulations, or rules: To the Ethics
3 Commission and the City Attorney.

4 Where the conduct that is the subject of the complaint may violate criminal law and any civil or
5 administrative law, statute, ordinance, or regulation, the Controller may take action on the noncriminal
6 aspects of the matter under this Section 4.107 even if a referral has been made to another agency under
7 this subsection (b).

8 If a complaint is referred under this subsection (b), the Controller shall inform the complainant
9 of the appropriate procedure for the resolution of the complaint.

10 (c) **TRACKING AND INVESTIGATION.** The Controller shall receive, track, and investigate
11 complaints made or referred to the Whistleblower Program. The investigation may include all steps
12 that the Controller deems appropriate, including the review of the complaint and any documentary or
13 other evidence provided with it, the gathering of any other relevant documents from any City
14 department or other source, and interviews of the complainant and other persons with relevant
15 information.

16 (d) **INFORMATION PROVIDED UNDER PENALTY OF PERJURY.** In those instances in
17 which the Controller deems it appropriate, the Controller may require that persons making complaints
18 or providing information swear to the truth of their statements by taking an oath administered by the
19 Controller, or an agent of the Controller, or through written declarations made under penalty of
20 perjury under the laws of the State of California.

21 (e) **REFERRAL AND RECOMMENDATION BY CONTROLLER.** The Controller may refer
22 the complaint to a City department for investigation, either before conducting an initial investigation or
23 after doing so, and may recommend that a City department take specific action based on the
24 Controller's initial investigation. Within 60 days of receiving a complaint for investigation or a
25 recommendation by the Controller for specific action, or such other time as the Controller shall

1 specify, the City department shall report to the Controller in writing the results of the department's
2 investigation and any action that the department has taken in response to a recommendation by the
3 Controller that the department take specific action.

4 (f) **REPORT BY DEPARTMENT AND FURTHER ACTION BY CONTROLLER.** If the
5 Controller has recommended that a City department take disciplinary or other corrective action that
6 the department has declined to take, the department shall report to the Controller its reasons for failing
7 to do so within the time frame that the Controller specifies for reporting on its investigation of the
8 complaint. If the Controller determines that the department's reasons are inadequate and that further
9 investigation may be appropriate, the Controller may refer the matter to the Mayor, City Attorney, or
10 District Attorney, or to any officer or agency that has jurisdiction over the matter.

11 (g) **RESPONSIBILITY OF DEPARTMENTS.** The department head shall be responsible for
12 compliance by his or her department with these duties. If department staff fail to comply with the duties
13 to investigate complaints referred by the Controller and to make the reports required by this Section
14 4.107, the Controller shall notify the department head. If the department head fails to take action to
15 obtain the department's compliance with these duties, the Controller may refer the matter to the Mayor,
16 City Attorney, or District Attorney or to any officer or agency that has jurisdiction over the matter.

18 **SEC. 4.110. DEFINITIONS.**

19 For purposes of this Chapter 1, the following words and phrases shall have the following
20 meanings:

21 "City" or "City agency" shall mean the City and County of San Francisco, its departments,
22 commissions, task forces, committees, and boards.

23 "Complainant's department" includes the complainant's supervisor, the executive director or
24 highest ranking officer in the complainant's department, and the board or commission overseeing the
25 complainant's department.

1 "Deficiencies in the quality and delivery of government services" shall mean the failure to
2 perform a service, when performance is required under any law, regulation or policy, or under a City
3 contract or grant.

4 "Improper government activity" shall mean violation of any federal, state, or local law,
5 regulation, or rule, including but not limited to laws, regulations, or rules governing campaign finance,
6 conflicts of interest, or governmental ethics laws; or action which creates a danger to public health or
7 safety by the failure of City officers or employees to perform duties required by their positions.

8 "Improper government activity" does not include employment actions for which other remedies exist.

9 "Misuse of City funds" shall mean any use of City funds for purposes outside of those directed
10 by the City.

11 "Preliminary investigation" shall be limited to, but need not include all of the following: review
12 of the complaint and any documentary evidence provided with the complaint; interview of the
13 complainant; interview of the respondent, counsel to respondent and any witnesses who voluntarily
14 agree to be interviewed for this purpose; review of any relevant public documents and documents
15 provided voluntarily to the Commission.

16 "Supervisor" shall mean any individual having the authority, on behalf of the City, to hire,
17 transfer, suspend, lay off, recall, promote, discharge, reward, or discipline other employees, or the
18 responsibility to routinely direct them, to adjust their grievances, or to effectively recommend such
19 action, if, in connection with the foregoing, the exercise of that authority is not merely routine or
20 clerical, but requires the use of independent judgment.

21 "Unlawful activity" shall mean violations of any federal, state or local law, regulation or rule
22 including but not limited to those laws, regulations or rules governing campaign finance, conflicts of
23 interest or governmental ethics laws; or actions which create a danger to public health or safety by the
24 failure of City officers or employees to perform duties imposed by a City contract.

1 "Wasteful and inefficient City government practices" shall mean the expenditure of City funds
2 that could be eliminated without harming public health or safety, or reducing the quality of government
3 services.

4
5 **SEC. 4.115. PROTECTION OF WHISTLEBLOWERS – CITY EMPLOYEES.**

6 **(a) RETALIATION PROHIBITED.** No City officer or employee may terminate, demote,
7 suspend, or take other similar adverse employment action against any City officer or employee because
8 the officer or employee has in good faith

9 (1) filed a complaint as set forth in Section 4.105(a);

10 (2) attempted to file a complaint through the procedures set forth in Section 4.105(a)
11 but, in good faith, did not file the complaint with the appropriate City department or official; or

12 (3) provided any information in connection with or otherwise cooperated with any
13 investigation conducted under this Chapter 1.

14 **(b) COMPLAINTS OF RETALIATION.**

15 **(1) Administrative Complaints.** Any City officer or employee, or former City officer or
16 employee, who believes he or she has been the subject of retaliation in violation of subsection (a) of this
17 Section 4.115 may file a complaint with the Ethics Commission. The complaint must be filed no later
18 than two years after the date of the alleged retaliation.

19 The Ethics Commission shall investigate complaints of violations of subsection (a) of
20 this Section 4.115 pursuant to the procedures specified in Charter Section C3.699-13 and the
21 regulations adopted thereunder. The Ethics Commission may decline to investigate complaints
22 alleging violations of subsection (a) if it determines that the same or similar allegations are pending
23 with or have been finally resolved by another administrative or judicial body. Nothing in this
24 subsection (b)(1) shall preclude the Ethics Commission from referring any matter to any other City
25 department, commission, board, officer, or employee, or to other government agencies for investigation

1 and possible disciplinary or enforcement action. The Ethics Commission may refer matters to the
2 Department of Human Resources with a recommendation. The Ethics Commission may require any
3 City department to provide a written report regarding the department's investigation and any action
4 that the department has taken in response to the Ethics Commission's referral within a time frame that
5 the Ethics Commission shall specify.

6 (2) **Civil Complaints.** Any City officer or employee who believes he or she has been the
7 subject of retaliation in violation of subsection (a) of this Section 4.115 may bring a civil action against
8 the City officer or employee who committed the violation. Such action must be filed no later than two
9 years after the date of the retaliation.

10 (3) **Burden of Establishing Retaliation.** In order to establish under this Section 4.115
11 that retaliation occurred, a complainant in a civil action must demonstrate, or the Ethics Commission
12 in an administrative proceeding must determine, by a preponderance of the evidence, that the
13 complainant's engagement in activity protected under subsection (a) was a substantial motivating
14 factor for the adverse employment action. The respondent may rebut this claim if the respondent
15 demonstrates by a preponderance of the evidence that he, she, or it would have taken the same
16 employment action irrespective of the complainant's participation in protected activity.

17 (4) **Duty to Assist with Retaliation Complaints.** Supervisors who receive a complaint
18 alleging retaliation under this Chapter 1 must keep the complaint confidential and immediately assist
19 the complainant by referring the complainant to the Ethics Commission and documenting the referral
20 in writing. Documentation must include the date and time of the referral and that the complaint was
21 about retaliation. Supervisors who fail to comply with this subsection (b) are subject to the penalties
22 and remedies set forth in subsection (c).

23 (c) **PENALTIES AND REMEDIES.**

24 (1) **Administrative Penalties.** Any City officer or employee who violates subsection (a)
25 of this Section 4.115 may be subject to administrative penalties pursuant to Charter Section C3.699-13.

1 (2) **Redress for Retaliatory Employment Action.** Following an administrative hearing
2 and after making a finding that an adverse employment action has been taken for purposes of
3 retaliation, the Ethics Commission may, subject to the Charter's budgetary and civil service provisions,
4 recommend the cancellation of the retaliatory termination, demotion, suspension or other adverse
5 employment action.

6 (3) **Discipline by Appointing Authority.** Any City officer or employee who violates
7 subsections (a) or (b)(4) of this Section 4.115 shall be subject to disciplinary action up to and including
8 dismissal by his or her appointing authority. If no disciplinary action is taken by the appointing
9 authority, the Ethics Commission may refer the matter to the Civil Service Commission for action
10 pursuant to Charter Section A8.341.

11 (4) **Civil Penalties.** Any City officer or employee who violates subsection (a) of this
12 Section 4.115 may be personally liable in a civil action authorized under subsection (b)(2) of this
13 Section for a civil penalty not to exceed \$10,000.

14 **(d) RESERVATION OF AUTHORITY.**

15 (1) **Civil Service Commission.** Nothing in this Section 4.115 shall interfere with the
16 powers granted to the Civil Service Commission by the Charter.

17 (2) **Appointing Authority.** Nothing in this Section 4.115 shall interfere with the power
18 of an appointing officer, manager, or supervisor to take action with respect to any City officer or
19 employee, provided that the appointing officer, manager, or supervisor reasonably believes that such
20 action is justified on facts separate and apart from the fact that the officer or employee filed a
21 complaint as set forth in Section 4.105(a), attempted to file such a complaint in good faith, or
22 cooperated with an investigation of such a complaint.

23 (e) **NOTICE OF WHISTLEBLOWER PROTECTIONS.** The Controller shall prepare, and
24 each City department shall post a notice of whistleblower protections. The notice shall be posted in a
25 location that is conspicuous and accessible to all employees.

1 **(f) WHISTLEBLOWER PROTECTION AWARENESS TRAINING.**

2 (1) The Controller, in collaboration with the Ethics Commission, shall prepare, and all
3 City departments shall distribute, materials to publicize and promote whistleblower protections as part
4 of each department's new hire training programs.

5 (2) The Ethics Commission, in collaboration with the Controller and Department of
6 Human Resources, shall prepare, and all City departments shall distribute, materials to publicize and
7 promote supervisors' responsibilities under this Chapter 1. In addition, the Department of Human
8 Resources, in collaboration with the Controller and Ethics Commission, shall prepare web-based
9 training for supervisors regarding their responsibilities under this Chapter 1, which shall be
10 implemented by January 1, 2020. This training must be provided to all City supervisors annually by
11 April of each year thereafter.

12
13 **SEC. 4.117. PROTECTION OF WHISTLEBLOWERS - CITY CONTRACTORS.**

14 **(a) RETALIATION PROHIBITED.** No City officer or employee may take steps to terminate
15 a contract with a City contractor; refuse to use a City contractor for contracted services; request that a
16 City contractor terminate, demote, or suspend one of its employees; or take other similar adverse
17 action against any City contractor or employee of a City contractor because the contractor or the
18 contractor's employee:

19 (1) filed a complaint with any supervisor within a City agency alleging that a City
20 officer or employee engaged in improper government activity, misused City funds, caused deficiencies
21 in the quality and delivery of government services, or engaged in wasteful and inefficient government
22 practices;

23 (2) filed a complaint with any supervisor within a City agency alleging that another
24 City contractor, or employee of another City contractor, engaged in unlawful activity, misused City
25

1 funds, caused deficiencies in the quality and delivery of government services or engaged in wasteful
2 and inefficient government practices; or

3 (3) provided any information in connection with or otherwise cooperated with any
4 investigation conducted under this Chapter 1.

5 **(b) COMPLAINTS OF RETALIATION.**

6 **(1) Administrative Complaints.** Any City contractor or employee of a City contractor,
7 who believes it, he, or she has been the subject of retaliation in violation of subsection (a) of this
8 Section 4.117 may file a complaint with the Ethics Commission. The complaint must be filed no later
9 than two years after the date of the alleged retaliation.

10 The Ethics Commission shall investigate complaints of violations of subsection (a) of
11 this Section 4.117 pursuant to the procedures specified in Charter Section C3.699-13 and the
12 regulations adopted thereunder. The Ethics Commission may decline to investigate complaints
13 alleging violations of subsection (a) if it determines that the same or similar allegations are pending
14 with or have been finally resolved by another administrative or judicial body. Nothing in this
15 subsection shall preclude the Ethics Commission from referring any matter to any other City
16 department, commission, board, officer, or employee, or to other government agencies for investigation
17 and possible disciplinary or enforcement action. The Ethics Commission may refer matters to the
18 Department of Human Resources with a recommendation. The Ethics Commission may require any
19 City department to provide a written report regarding the department's investigation and any action
20 that the department has taken in response to the Ethics Commission's referral, within a time frame that
21 the Ethics Commission shall specify.

22 **(2) Burden of Establishing Retaliation.** In order to establish that retaliation occurred
23 under this Section 4.117, the Ethics Commission in an administrative proceeding must determine, by a
24 preponderance of the evidence, that the complainant's engagement in activity protected under
25 subsection (a) was a substantial motivating factor for the adverse action. The respondent may rebut

1 this claim if it demonstrates by a preponderance of the evidence that it would have taken the same
2 adverse action irrespective of the complainant's participation in protected activity.

3 **(c) PENALTIES AND REMEDIES.**

4 **(1) Administrative Penalties.** Any City officer or employee who violates subsection (a)
5 of this Section 4.117 may be subject to administrative penalties pursuant to Charter Section C3.699-13.

6 **(2) Redress for Retaliatory Adverse Action.** Following an administrative hearing and
7 after making a finding that an adverse action has been taken for purposes of retaliation, the Ethics
8 Commission may, subject to the Charter's budgetary and contracting provisions, order the cancellation
9 of retaliatory adverse action taken against a City contractor or employee of a City contractor.

10 **(3) Discipline by Appointing Authority.** Any City officer or employee who violates
11 subsection (a) of this Section 4.117 shall be subject to disciplinary action up to and including dismissal
12 by his or her appointing authority. If no disciplinary action is taken by the appointing authority, the
13 Ethics Commission may refer the matter to the Civil Service Commission for action pursuant to Charter
14 Section A8.341.

15 **(d) NOTICE OF WHISTLEBLOWER PROTECTIONS.** The Controller shall prepare, and
16 each City department shall post, a notice of the whistleblower protections established by this Section
17 4.117. City contractors shall distribute the notice of protections to all of their employees.

18
19 **SEC. 4.120. CONFIDENTIALITY.**

20 **(a) WHISTLEBLOWER IDENTITY.** City officers and employees shall treat as confidential
21 the identity of any person who files a complaint as set forth in Section 4.105(a). A complainant may
22 voluntarily disclose his or her identity.

23 **(b) COMPLAINTS AND INVESTIGATIONS.** City officers and employees shall treat as
24 confidential complaints filed under Sections 4.105, 4.115, and 4.117, and related information,

1 including but not limited to materials gathered and prepared in the course of investigating such
2 complaints, and deliberations regarding such complaints.

3 (c) **PENALTIES.** Except as provided in subsection (d), violations of subsections (a) and (b)
4 may be subject to the administrative proceedings and penalties set forth in Charter Section C3.699-13,
5 in addition to disciplinary action up to and including dismissal by his or her appointing authority.

6 (d) **EXCEPTIONS.**

7 (1) **Conduct of Investigations.** Nothing in this Section 4.120 shall preclude the
8 Controller's Office, Ethics Commission, District Attorney, and City Attorney from disclosing the
9 identity of an individual or other information to the extent necessary to conduct its investigation.

10 (2) **Legal Proceedings.** Nothing in this Section 4.120 shall preclude City officers and
11 employees from disclosing the identity of an individual or other information relating to a complaint to
12 the extent required by the rules governing an administrative or court proceeding.

13 (3) **Referrals.** Nothing in this Section 4.120 shall preclude the Ethics Commission from
14 referring any matter to any other City department, commission, board, officer, or employee, or to other
15 government agencies, for investigation and possible disciplinary or enforcement action.

16
17 **SEC. 4.123. CONFIDENTIALITY PROTECTION FOR WHISTLEBLOWER PROGRAM**
18 **COMPLAINANTS AND INVESTIGATIONS.**

19 (a) **WHISTLEBLOWER IDENTITY AND INVESTIGATIONS.** Every officer and employee
20 of the City shall keep confidential:

21 (1) The identity of any person who makes a complaint to the Whistleblower Program
22 under Section 4.107 of this Chapter, and any information that would lead to the disclosure of the
23 person's identity, unless the person who made the complaint provides written authorization for the
24 disclosure.

1 (2) Complaints or reports to the Whistleblower Program and information related to the
2 investigation of the matter, including drafts, notes, preliminary reports, working papers, records of
3 interviews, communications with complainants and witnesses, and any other materials and information
4 gathered or prepared in the course of the investigation.

5 The protection of confidentiality set forth in this Section applies irrespective of whether
6 the information was provided in writing and whether the information was provided or is maintained in
7 electronic, digital, paper or any other form or medium.

8 (b) **INQUIRY REGARDING IDENTITY PROHIBITED.** In order to assure effective
9 implementation of the provisions of this Section providing confidentiality to whistleblowers, City
10 officers and employees may not use any City resources, including work time, to ascertain or attempt to
11 ascertain directly or indirectly the identity of any person who has made a complaint to the
12 Whistleblower Program, unless such person has provided written authorization for the disclosure.
13 Nothing in this Section shall preclude an officer or employee assigned to investigate a complaint under
14 this Chapter from ascertaining the identity of a complainant to the extent necessary to conduct the
15 investigation.

16 (c) **EXCEPTIONS.** Nothing in this Section shall preclude the Controller from (i) disclosing
17 the identity of a person or other information to the extent necessary to conduct a civil or criminal
18 investigation or to take any enforcement action, including any action to discipline an employee or take
19 remedial action against a contractor, or (ii) releasing information as part of a referral when referring
20 any matter to another City department, commission, board, officer or employee, or to other
21 governmental agencies, for investigation and possible disciplinary, enforcement or remedial action, or
22 (iii) releasing information to the Citizens Audit Review Board so that it may carry out its duty to
23 provide advisory input to the Controller on the Whistleblower Program, provided that information is
24 prepared so as to protect the confidentiality of persons making complaints and of investigations, or (iv)
25 releasing information to inform the public of the nature of the actions taken by the Controller in the

1 operation of the Whistleblower Program provided that information is prepared so as to protect the
2 confidentiality of persons making complaints and of investigations.

3
4 **SEC. 4.125. FURNISHING FALSE OR MISLEADING INFORMATION; DUTY TO**
5 **COOPERATE.**

6 **(a) FURNISHING FALSE OR MISLEADING INFORMATION PROHIBITED.** When
7 making or filing a complaint pursuant to this Chapter or participating in an investigation conducted by
8 the Controller, Ethics Commission, District Attorney, City Attorney or any other department or
9 commission, or any of their agents, as authorized under this Chapter, City officers and employees may
10 not knowingly and intentionally furnish false or fraudulent evidence, documents, or information,
11 misrepresent any material fact, or conceal any evidence, documents or information for the purpose of
12 misleading any officer or employee or any of their agents.

13 **(b) COOPERATION REQUIRED.** All City departments, commissions, boards, officers and
14 employees shall cooperate with and provide full and prompt assistance to the Controller, Ethics
15 Commission, District Attorney, City Attorney, and all other commissions and departments, and any of
16 their agents, in carrying out their duties under this Chapter.

17
18 **SEC. 4.130. REPORTS TO THE BOARD OF SUPERVISORS.**

19 The Ethics Commission shall provide an annual report to the Board of Supervisors which shall
20 include the following:

21 (a) The number of complaints received;

22 (b) The type of conduct complained about;

23 (c) The number of referrals to the Civil Service Commission, other City departments, or other
24 government agencies;

25 (d) The number of investigations the Ethics Commission conducted;

1 (e) Findings or recommendations on policies or practices resulting from the Ethics
2 Commission's investigations;

3 (f) The number of disciplinary actions taken by the City as a result of complaints made to the
4 Ethics Commission; and

5 (g) The number and amount of administrative penalties imposed by the Ethics Commission as a
6 result of complaints made to the Commission.

7
8 **SEC. 4.135. LIMITATION OF LIABILITY.**

9 In adopting and enforcing this Chapter, the City undertakes to promote the general welfare.
10 The City is not assuming, nor is it imposing on its officers and employees, an obligation for breach of
11 which it is liable in money damages.

12
13 **Section 9. Effective and Operative Dates.**

14 (a) Effective Date. The effective date of this ordinance shall be ten days after the date
15 the official vote count is declared by the Board of Supervisors.

16 (b) Operative Dates.

17 (1) This ordinance's addition of Sections 3.205 and 3.217 to the Campaign and
18 Governmental Conduct Code shall become operative six months after the effective date of
19 this ordinance.

20 (2) The remainder of this ordinance shall become operative thirty days after the
21 effective date of this ordinance.

22
23 **Section 10. Scope of Ordinance.** In enacting this ordinance, the People of the City
24 and County of San Francisco intend to amend only those words, phrases, paragraphs,
25 subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other

ATTACHMENT 3



ETHICS COMMISSION

NOTICE OF PROPOSED REGULATIONS CONCERNING GIFT RULES

Draft Regulations to San Francisco Campaign and Governmental Conduct Code – San Francisco Government Ethics Ordinance Section 3.216

Regulation 3.216(b)-5. Gifts from Restricted Sources—Exemptions

The following are not gifts subject to the ~~ban~~ rules contained in section 3.216(b).

~~(a) Voluntary gifts, other than cash, with an aggregate value of \$25 or less per occasion, provided that no officer or employee may receive gifts from any restricted source under this exception on more than four occasions during a calendar year. For the purpose of this subsection, a gift card or gift certificate is a cash gift.~~

(a) Gifts, other than cash, that constitute routine office courtesies with an aggregate value of \$10 or less per occasion provided to an officer or employee without regard to official status by a restricted source at the restricted source's place of business at such times that the officer or employee must visit the restricted source's place of business in order to carry out City duties. Gifts received by any officer or employee under this exception from any single restricted source must not exceed four occasions during a calendar year. Routine office courtesies include bottled water, coffee, small snacks, a pad of paper, and writing instruments. Routine office courtesies do not include alcohol.

Example: An employee of a department must visit the place of business of a company doing business with the department in order to assess the company's compliance with the laws administered by the department. During the site visit, the employee may accept routine office courtesies that are offered such as coffee, tea, juice, pastry or bagels, as long as their aggregate value does not exceed \$10 per employee for the duration of the visit, provided that the employee has not already accepted such routine office courtesies from the restricted source on four occasions during the calendar year.

~~(b) Voluntary gifts, of food and drink, without regard to value, to be shared in the office among officers and employees.~~

~~(c) Free attendance at a widely attended convention, conference, seminar, or symposium where attendance is appropriate to the official duties of the officer or employee and the donor organizer of the event provides the free attendance voluntarily unsolicited. A gift is unsolicited if it is not requested and is given freely, without pressure or coercion.~~

(1) "Free attendance" may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment or instructional material furnished to all attendees as an integral part of the event. "Free attendance" may also include attendance at meet-and-greet or hospitality sessions and meals offered in connection with the convention, conference, seminar, or symposium where networking or discussion opportunities may



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enable the officer or employee to establish working relationships that may inure to the benefit of the City. The term does not include entertainment collateral to the event.

(2) A "widely attended" event is an event that is open to individuals from throughout a given industry or profession, or an event that is open to individuals who represent a range of persons interested in a given matter.

(3) An officer or employee who attends such an event may not accept an sponsor's event organizer's offer of free attendance at the event for an accompanying individual.

Example: Staff of a City department are invited to attend a conference on best practices in the industry that is organized by a restricted source. The event organizer provides free attendance to the department's staff without the department asking for free attendance. Staff may accept free attendance to the conference. At this conference, staff may accept food, refreshments, entertainment or instructional material furnished to all attendees as an integral part of the event.

~~(d) Voluntary meals from a member of the investment, financial, or banking community provided to officers and employees who are responsible for managing investments or debt obligations on behalf of the City, provided that (i) such meals are necessary to discuss City investments or financial transactions in order to cultivate and maintain working relationships between the City and the investment, financial, or banking community; (ii) management of the City's investments or debt is discussed during the meal; and (iii) the person providing the meal is not negotiating a contract with the department of the officer or employee. For the purpose of this subsection, "investment, financial, or banking community" includes investment managers; firms that market and sell municipal securities in the tax-exempt and taxable markets including entities that support financing transactions such as bond insurers, rating agencies, credit banks, bond and disclosure counsel, financial advisors, feasibility consultants and trust agents; the custodian bank; and consultants who contract to assist the business of the retirement trust. For the purposes of this subsection, "negotiating a contract" means communicating with the department of the officer or employee regarding a proposal to adopt or change a material term of an existing or prospective contract. A person is "negotiating a contract" from the date that the person or the department makes the proposal until the date of the approval of the contract or the date that the person or the department communicates to the other party that negotiations for the contract have terminated.~~

~~(e) Voluntary meals or vessel boardings or vessel trips that do not extend overnight from a member of the maritime industry provided to officers and employees who are responsible for managing the Port's maritime commerce portfolio, provided that (i) such meals or vessel boardings or trips are necessary to cultivate and maintain working relationships between the Port and the maritime industry; (ii) management of the Port's maritime commerce portfolio is discussed during the meal, vessel boarding or trip; and (iii) the person providing the meal, or vessel boarding or trip is not negotiating a contract with the Port at the time of the meal or vessel boarding or trip. For the purposes of this subsection, "maritime industry" means individuals and entities engaged in: cruise and cargo shipping; ship repair; commercial and sport fishing; ferry and excursion operations; harbor services such as pilots, tugboats, barges, water taxis, lay berthing and other ship services; terminal management; stevedoring and~~



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longshore labor; facility and ship security. "Managing the Port's maritime commerce portfolio" includes: managing and marketing the Port to the maritime industry; promoting Port maritime facilities to potential and existing customers; ensuring compliance with federal security mandates and providing environmental stewardship; and operating the City's cruise and cargo terminals, ferry terminals, shipyards and dry docks, Fisherman's Wharf and Hyde Street commercial fishing harbors, excursion terminals and harbor service facilities for pilots, tugboats, barges, water taxis, lay berthing and other ship services. For the purposes of this subsection, "negotiating a contract" means communicating with the Port regarding a proposal to adopt or change a material term of an existing or prospective contract. A person is "negotiating a contract" from the date that the person or the Port makes the proposal until the date of the approval of the contract or the date that the person or the Port communicates to the other party that negotiations for the contract have terminated.

(f) Voluntary meals from a member of the aviation industry provided to officers and employees who are responsible for managing and marketing the Airport to the aviation industry, provided that (i) such meals are necessary to cultivate and maintain working relationships between the Airport and aviation industry representatives; (ii) the aviation industry's business relationship with the Airport is discussed during the meal; and (iii) the person providing the meal is not, at the time of the meal, negotiating contract benefits on terms that the Airport does not otherwise offer to all similarly situated airlines currently under contract with the Airport. For the purposes of this subsection, "aviation industry" means individuals and entities engaged in: air cargo shipping; general and business aviation and commercial airlines; air tourism; airline service related associations and agencies; joint marketing programs with non-competitive airports to enhance air service to the public; and facility and airline security. "Managing and marketing the Airport" includes: managing and marketing the Airport to the aviation industry; promoting Airport facilities to potential and existing customers; ensuring compliance with federal security mandates and providing environmental stewardship; and operating the Airport's airfield, facilities and terminals. For the purposes of this subsection, "negotiating contract benefits" means communicating with the Airport regarding a proposal to adopt or change a material term of an existing or prospective contract to include commercial benefits that the Airport does not otherwise offer to all similarly situated airlines currently under contract with the Airport. A person is "negotiating contract benefits" from the date that the Airport considers the proposal until the date of the approval of the contract or the date that the Airport communicates to the other party that negotiations for the contract benefits have terminated.

(gc) Items of any value received by a City employee or officer in a random drawing associated with participation in the City's Annual Joint Fundraising Drive under Administrative Code Chapter 16, Article V (also known as Combined Charities Fundraising Drive).

Example: An employee donates to the City's Combined Charities Fundraising Drive. The employee's name is entered in a drawing with all other donors, and the employee wins a \$50 gift certificate in the drawing. The gift certificate was provided to the City by a company doing business with the employee's department. Even though the company that provided the gift certificate is a restricted source, the employee may accept the gift as a reward or benefit associated with participation in the fundraising drive.



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Example: A restricted source sends five pizzas to a department as a goodwill gesture. Because this is a gift to the office, staff may share the pizza.

Example: A restricted source sends two opening day Giants ballgame tickets to a staff person. The staff person may not accept the tickets because their value exceeds \$25.

Example: A restricted source sends a baseball cap to the department head. The department head may accept the baseball cap because its value is \$25 or less, provided that the department head has not already accepted gifts with a value of \$25 or less from the restricted source on four occasions during the calendar year.

Example: Staff of a department are invited to a morning training event that is sponsored by a restricted source. Staff who attend the session may accept food and beverages that are offered at the event such as coffee, tea, juice, pastry or bagels, because their value do not exceed \$25, provided that such staff has not already accepted such food and beverages from the restricted source on four occasions during the calendar year.

Example: Staff of a City department are invited to attend a forum on best practices in the industry that is sponsored by a restricted source. At this conference, staff may accept food, refreshments, entertainment or instructional material furnished to all attendees as an integral part of the event.

Example: An employee donates to the City's Combined Charities Fundraising Drive. The employee's name is entered in a drawing with all other donors, and the employee wins a \$50 gift certificate in the drawing. The gift certificate was provided to the City by a company doing business with the employee's department. Even though the company that provided the gift certificate is a restricted source, the employee may accept the gift as a reward or benefit associated with participation in the fundraising drive.

(d) Informational material as defined by California Code of Regulations Title 2, regulation 18942.1.

(e) A payment that is not used and that, pursuant to California Code of Regulations Title 2, regulation 18941, is returned, donated, or for which reimbursement is paid.

(f) A payment from: the official's spouse or former spouse; child or step-child; parent; grandparent; grandchild; brother; sister; current or former parent-in-law, brother-in-law, or sister-in-law; nephew; niece; aunt or uncle; including grand nephew, grand niece, grand aunt, or grand uncle, or first cousin including first cousin once removed or the spouse, or former spouse, of any such person other than a former in-law, unless the donor is acting as an agent or intermediary for any person not identified in this paragraph.

(g) A campaign contribution required to be reported under Title 9 of the California Government Code.

(h) Any devise or inheritance.



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(i) Payments received under a government agency program or a program established by a bona fide charitable organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code designed to provide disaster relief or food, shelter, or similar assistance to qualified recipients if the payments are available to members of the public without regard to official status.

(j) Admission, where paid admission is required, food, and nominal items provided as part of the paid admission to those attending, to an official where the official makes a speech (as defined in California Code of Regulations Title 2, regulation 18950 (b)(2)), so long as the admission is provided by the person who organizes the event. For purpose of this subdivision, "nominal" means an insignificant item typically purchased in large volume and provided for free as a means of advertisement at events, such as a pen, pencil, mouse pad, rubber duck, stress ball, note pad, or similar item.

(k) Payments for campaign activities as specified in California Code of Regulations Title 2, regulation 18950.3.

(l) A ticket provided to an official and one guest of the official for the admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose at which the official performs a ceremonial role on behalf of the official's agency, as defined in California Code of Regulations Title 2, regulation 18942.3, so long as the official's agency complies with the posting provisions set forth in California Code of Regulations Title 2, regulation 18944.1, subdivision (d).

Regulation 3.216(c)-1: Gifts from Subordinates

(a) Prohibition on gifts.

(1) For the purposes of section 3.216(c), a City officer or employee may not solicit or accept from a subordinate or employee under his or her supervision or from any candidate or applicant for a position as a subordinate or employee under his or her supervision any gift, as defined in subsection (b) of this section.

(2) Gifts permitted under this section remain subject to any other applicable laws and rules, including but not limited to state and local limits on gifts to designated employees (Cal. Gov't Code § 89503; C&GCC § 3.1-101), the City's prohibition on gifts given in exchange for appointments or promotions (C&GCC § 3.208), and the City's prohibition on bribery (C&GCC § 3.216); the City's limits on gifts from restricted sources (C&GCC § 3.216); the City's limits on gifts from lobbyists (C&GCC § 2.115), and any departmental rules on gifts.

(b) Definitions. For purposes of this section, the following definitions shall apply:



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(1) Applicant or candidate. An applicant or candidate for a position as a subordinate means any person who has communicated, orally or in writing, to a City officer or employee acting in an official capacity, that the person wants to be considered for the position.

(2) Gift.

(A) Except as provided in (B), a gift is any payment that confers a personal benefit on the recipient to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status.

(B) The following, ~~voluntarily given~~ when unsolicited, are not gifts within the meaning of this section.

(i) Gifts, other than cash, with an aggregate value of \$25 or less per occasion, given on occasions on which gifts are traditionally given.

(ii) Gifts, such as food and drink, without regard to value, to be shared in the office among employees.

(iii) Personal hospitality provided at a residence that is of a type and value customarily provided by the employee to personal friends.

(iv) Items given in connection with the receipt of personal hospitality if of a type and value customarily provided by the employee on such occasions.

~~(v) A gift of any value given in recognition of an occasion of special personal significance.~~

(vi) A gift of any value given in recognition of an occasion that terminates a subordinate relationship.

(vii) Informational material that serves primarily to convey information and which is provided for the purpose of assisting the recipient in the performance of his or her official duties and may include books, reports, pamphlets, calendars, or periodicals.

(viii) Gifts from an individual's spouse, domestic partner, child, parent, grandparent grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse or domestic partner of any such person, provided that a gift from any such person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph.

~~(viii)~~ Campaign contributions required to be reported under the Government Code, Title 9, Chapter 4 (commencing with Section 84100) and the Campaign and Governmental Conduct Code, Article I (commencing with Section 1.100).

(ix) Any devise or inheritance.



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(xi) Personalized plaques and trophies with an individual value of less than two hundred fifty dollars (\$250).

(xii) A gift that, within 30 days of receipt of the gift, the donor either pays for, returns unused, or donates unused to a government or a nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code without being claimed as a charitable contribution for tax purposes.

(xiii) A ticket to a fundraiser for an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code or for a political committee or candidate.

~~(xiv) A gift given directly to members of the immediate family of an officer or employee, provided that the gift is not used or disposed of by the officer or employee or given to the officer or employee by the recipient family member for the officer's or employee's disposition or use at the discretion of the officer or employee. A gift is given directly to a family member of the officer or employee if the family member's name or designation appears in the address or communication tendering or offering the gift and the gift is intended for the family member's use and enjoyment. A gift given to the family member of an officer or employee will be considered a gift to the officer or employee if the officer or employee exercises discretion and control over who will use the gift. If the officer or employee enjoys a direct benefit from a gift to the immediate family of the officer or employee, the full value of the gift will be attributable to the official.~~

(3) Occasion on which gifts are traditionally given. An occasion on which gifts are traditionally given includes anyis a holiday traditionally associated with gift giving, such as Christmas and Chanukah, as well as birthdays, marriage, birth or adoption of a child, or bereavement following the death of an immediate family member or thanking a person for a kindness or good deed.

~~(4) Occasion of special personal significance. An occasion of special personal significance is any occasion that does not typically occur on a regular basis and that is of personal significance to the recipient of the gift, as opposed to a general holiday or recurring event such as a birthday. Examples of such an event include marriage, birth or adoption of a child, graduation or illness.~~

~~(45)~~ Occasion that terminates a subordinate relationship. An occasion that terminates a subordinate relationship is any event severing the relationship, including but not limited to retirement, transfer, or promotion.

~~(56)~~ Receipt of gift. A gift is received when a person exercises control over the gift.

~~(67)~~ Subordinate employee. An employee is a subordinate employee of any person whose official City responsibilities include directing or evaluating the performance of the employee or any of the employee's supervisors.



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(7) Subordinate officer. An officer is a subordinate of (a) any other officer whose position, or a board on which the officer sits, is the appointing authority for the officer in question, and (b) any officer whose position, or a board on which the officer sits, is the appointing authority for the appointing authority for the officer in question.

Example: The City Administrator is the appointing authority for a department head. The department head is therefore a subordinate to the City Administrator. Additionally, because the Mayor is the appointing authority for the City Administrator, the department head is also a subordinate to the Mayor.

(8) Value. The value of a gift is determined by the actual value or where the actual value is unknown, making a reasonable good faith estimate of the fair market value of the item or service, comparing where possible similar items or services.

(9) ~~Voluntarily Unsolicited~~. A gift is ~~given voluntarily unsolicited~~ if it is not requested and is given freely, without pressure or coercion. A contribution to a gift from multiple persons is ~~given voluntarily unsolicited~~ if the recipient of the gift did not request the contribution and it is made in an amount determined by the employee or subordinate. A contribution to a gift from multiple persons will be presumed to have been ~~given voluntarily unsolicited~~ if the request for the ~~donation-contribution~~ is made by an officer or employee other than the recipient and includes a statement that an employee may choose to contribute less or not at all.