



San Francisco Ethics Commission

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Date: January 10, 2022

To: Members of the Ethics Commission

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

Re: **AGENDA ITEM 6 – 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

At the Commission’s December 10, 2021 regular meeting, Staff presented the attached draft ballot measure (Attachment 1) and the attached regulation amendments (Attachment 2), which would enact the recommendations contained in the last three reports delivered as part of the Commission’s ongoing review of the City’s ethics laws. These reports concern Gifts to Individuals (Phase II.A), Gifts through City Departments (Phase II.B), and Strengthening Essential Ethics Provisions (Phase III). The recommendations contained in these reports, which would be enacted by the ballot measure and draft regulations, are important steps towards addressing demonstrated shortcomings in the City’s ethics laws and helping to prevent future acts of corruption like those alleged in the ongoing federal corruption investigation.

As part of the City’s obligation to meet and confer with employee bargaining units on certain legislative proposals, Staff has engaged with the Municipal Executives Association (MEA) and several of its members. As part of this process, Staff has proposed to MEA four changes to the ballot measure and draft regulations to address concerns raised by MEA members. Those changes are discussed in the letter dated December 27th 2021 that is included as Attachment 3.

Action Requested

Depending on the outcome of the scheduled meet-and-confer session on January 13th, Staff recommends that the Commission vote to place the draft measure on the ballot for the June 7, 2022 election and vote to approve the draft regulation amendments. Any changes to the measure or regulations that are agreed to as a condition of closing the meet and confer process, potentially including the changes contained in Attachment 3, would need to be reflected in any version of the measure or regulations that the Commission were to vote on at this meeting.

I. Background

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 things of value to City officials in an attempt to influence the actions of those officials.

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 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 The current project is necessary to ensure that the law continues to serve these purposes.

The first phase of the project focused on behested payments, payments that are made at the behest of a government official to a third party.² This phase of the project resulted in legislation passed by the Board of Supervisors and the Mayor in December 2021 that prohibits all City officials and employees who are required to file the Form 700 Statement of Economic Interests from soliciting behested payments from those who have official business before their department or who have otherwise sought to influence them.³

The second and third phases of the project focused on gifts made directly to City officials,⁴ gifts made through City departments,⁵ and other essential ethics provisions.⁶ Based on the research in these reports, Staff in December presented the draft ballot measure attached to this memo as Attachment 1 and the draft regulation amendments attached as Attachment 2. These changes to the law would bring needed reforms to strengthen the City's ethics laws. They would:

Phase II – Gifts

- Create a definition of *gift* in the Campaign and Governmental Conduct Code.
 - Regulations would include certain state law gift exceptions but omit those that undermine the purposes of the restricted source rule.
 - Regulations containing local exceptions to the restricted source rule would be amended.
- Expand the application of the restricted source rule to prohibit other aspects of a gift transaction beyond the receipt or solicitation of the gift by an official, including:
 - Restricted sources giving gifts to an official or the immediate family members of an official (and officials soliciting such gifts).

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

² [Phase I Report: Behested Payments](#).

³ See SAN FRANCISCO BOARD OF SUPERVISORS, [File No. 201132](#).

⁴ [Report on Gift Laws Part A: Gifts to Individuals](#) (Phase II.A).

⁵ [Report on Gift Laws Part B: Gifts to City Departments](#) (Phase II.B).

⁶ [Report on Strengthening Essential Ethics Provisions](#) (Phase III).

- The use of an intermediary by the source or recipient of a gift to circumvent the restricted source rule.
- Any person or organization acting as an intermediary for a restricted source gift.
- Any official accepting anything from a City department or non-City organization or person that bestows a personal benefit on the official if the official knows or has reason to know that the true source of the gift is a restricted source.
- Clarify how the restricted source rule applies to City contractors.
- Amend the restricted source rule to explicitly apply to individuals and entities that apply for or obtain a permit, license, or other entitlement for use from a City department.
- Amend the restricted source rule to explicitly apply the rule to affiliates (directors, officers, and major shareholders) of an entity that is a restricted source.
- Prohibit gifts from permit expeditors to officials and employees in departments that issue permits.
- Create a single, standardized disclosure requirement for payments to City departments.
- Amend regulations containing exceptions to the rule against gifts from subordinates.

Phase III – Essential Ethics Provisions

- Strengthen San Francisco's bribery rule by incorporating elements of the federal bribery rule.
- 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.
- Extend the annual ethics training requirement to all Form 700 filers.
- Codify rules contained in departmental Statements of Incompatible Activities into the Code and discontinue departmental Statements of Incompatible Activities.
- 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.
- Protect ethics laws from legislative amendments by requiring approvals by a supermajority of the Ethics Commission and Board of Supervisors for legislative amendments.
- Add a general provision that allows the Commission to require electronic filing of public disclosures.

II. Meet and Confer

State law requires that the City meet and confer with employee bargaining units prior to undertaking certain actions that would impact City employees. The Department of Human Resources and City Attorney's Office have advised that the Commission must meet and confer with employee bargaining units before taking action on the proposed ballot measure and regulation amendments.

The Department of Human Resources distributed the text of the measure and regulations to employee unions on November 10th. On November 17th, Staff met with MEA regarding the proposals. On December 9th, the Department of Human Resources distributed a closeout notice to employee unions stating that because no questions or concerns had been received since the November 17th meeting, the meet and confer process was concluded. Later on December 9th, MEA notified DHR and the Commission

that the union wished to continue the meet and confer process. In light of this, the City Attorney's Office and DHR advised that the Commission not vote on the proposals at its December 10th regular meeting.

Staff engaged in a subsequent meet and confer session with MEA and several of its members on December 17th. Four specific issues were communicated by MEA and its members during the session. After studying these issues and considering ways to mitigate the impact of the concerns identified, while still achieving the purposes of the proposals, Staff sent MEA a letter on December 27th describing methods to mitigate these impacts that Staff would be prepared to recommend to the Commission. The letter is provided as Attachment 3. As of the date of this memo, Staff has received no response to the letter. A third meet and confer session with MEA is scheduled for January 13th.

III. Next Steps

The changes described in Staff's letter to MEA (Attachment 3) address the concerns that have been communicated thus far by the union and its membership. By the time of the Commission's January 14th meeting, the third meet and confer session scheduled for January 13th will have occurred. If the January 13th session concludes the meet and confer process, Staff recommends that the Commission vote to approve the draft ballot measure and regulation amendments, subject to the changes that Staff have proposed through the meet and confer process. If agreement to close meet and confer is reached on January 13th, Staff will seek to present language to implement the proposed changes to the Commission at the January 14th meeting for the Commission's consideration.

However, if MEA declines to conclude meet and confer at that time and instead seeks to continue the process, the Commission will likely be unable to take action on the proposals at its January 14th meeting. Staff's recommendation in this case would be for the Commission to provide feedback on the proposed changes contained in Attachment 3 and to continue any action on the ballot measure and regulations to its next scheduled meeting on January 21st.

ATTACHMENT 1

[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 ~~striketthrough italics Times New Roman font~~.
2 **Board amendment additions** are in double-underlined Arial font.
3 **Board amendment deletions** are in ~~striketthrough 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 1. 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;~~

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

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

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

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

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

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

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

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

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

23 ~~(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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20 **SEC. 3.301. MEETINGS TO BE TELEVISED.**

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

1 The Ethics Commission shall prepare and distribute a public guide regarding campaign
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.
25

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.~~

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~~

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 I, 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 2



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.

ATTACHMENT 3



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December 27, 2021

Raquel Silva
Executive Director
Municipal Executive Association
870 Market Street, Ste. 490
San Francisco, CA 94102
Sent via email: raquel@sfmea.com

Dear Ms. Silva:

My staff and I appreciated the chance to meet with you, MEA representatives, and some MEA members on December 17th about the proposed ethics measure and regulation amendments currently being considered by the Ethics Commission. During that meeting, MEA and its members conveyed feedback about certain impacts the measure and amended regulations may have on MEA members and that MEA hopes the impacts can be mitigated. In furtherance of the goal of mitigating these impacts while also retaining the impact of needed ethics reforms, Commission staff is prepared to provide and recommend to the Ethics Commission revised language in the measure and regulations in the ways described below. We believe these steps would address the substantive concerns that have been conveyed thus far.

1. Nonprofit fundraiser events and the restricted source rule.

MEA members expressed concerns that under the proposed amendments to the restricted source rule they may not be able to accept free attendance to fundraiser events hosted by nonprofit organizations that do business with their departments (and are therefore restricted sources). The reasoning expressed for this concern was that attendance at such events is a necessary part of the duties of certain City officers and employees.

To address this impact, we propose to add an exception to the restricted source rule that would permit a City official to accept a free ticket from a nonprofit organization doing business with the official's department to be used by the official to attend a fundraiser event hosted by the nonprofit organization. The exception would apply if attending the event is necessary for the official to carry out his or her City duties. The ticket would need to be reported as a payment to the department as required by the proposed section 3.217.

2. Arts exhibits and performances and the restricted source rule.

MEA members expressed concerns that under the proposed amendments to the restricted source rule they may not be able to accept free attendance to ticketed arts events or shows, such as visual arts exhibits and live artistic performances, put on by organizations that do business with their departments (and are therefore restricted sources). The reasoning expressed for this concern was that attendance at such events is a necessary part of the duties of certain City officers and employees who must evaluate

the events in question in order to evaluate whether and how the department should do business with the organization in the future.

To address this impact, we propose to add an exception to the restricted source rule that would permit a City official to accept a free ticket from an organization doing business with the official's department to be used by the official to attend an arts exhibit or performance held by the organization. The exception would apply if attending the exhibit or performance is necessary for the official to carry out his or her City duties. The ticket would need to be reported as a payment to the department as required by the proposed section 3.217.

3. Permits and the restricted source rule.

MEA members expressed concerns that persons who are issued permits by their departments would be considered restricted sources under the proposals and that some departments issue many routine permits that do not involve meaningful review by department officials. MEA members said it would be difficult to track these permits for purposes of the restricted source rule and that the rule should not apply to persons who only receive such routine permits.

To address this impact, we propose to exempt from the definition of *doing business* those permits, licenses, and entitlements for use that are issued in a purely ministerial manner. This would mean that a person who applies for or receives a permit, license, or entitlement for use that is issued by the department through a purely ministerial process that does not involve any substantive review, analysis, or decision-making by a City official would not be considered a restricted source solely because of that permit, license, or entitlement for use.

4. Department head liability for failure to disclose payments to a City department.

MEA members expressed concerns that department heads would be explicitly responsible for disclosing payments made to their respective departments by non-City, non-governmental sources for which the department does not provide equal consideration. Current law requires that departments disclose such payments to the Controller, to the Board of Supervisors, and on the department's website, and the proposal would require a department head to report the payments to the Ethics Commission. The reasoning expressed for the concern was that this reporting requirement would create personal liability for a department head who fails to comply with the disclosure requirement. MEA members said that it would be too difficult for a department head to track and disclose these payments and that, if the disclosure responsibility is delegated to other officials in the department, the department head should not be liable if those officials fail to disclose payments.

To address this impact, we propose to amend the disclosure requirement to state that a department head who does not comply with the disclosure requirement would not be subject to penalties under the Campaign and Governmental Conduct Code. Instead, such a department head would potentially be subject to discipline.

Commission staff believes that the mitigation approaches discussed above address the substantive concerns that MEA and its members have shared. The Commission values the perspective of MEA and its members and will in good faith consider and seek to reasonably mitigate concerning impacts that are communicated. Given the seriousness and urgency of the issues at hand, we ask that MEA also act in

good faith by sharing any additional concerns as soon as practicable so that we can proceed in shared purpose toward strong and effective ethics laws that uphold our public service and the public trust.

We appreciate your partnership and look forward to hearing from you soon.

Best regards,

LeeAnn Pelham
Executive Director
San Francisco Ethics Commission

cc: Christina Fong
Gregg Adam
Carol Isen
Ardis Graham
Jonathan Wright
Ronnie Rhoe