

# ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

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Date: March 4, 2009

To: Members, Ethics Commission

From: John St. Croix, Executive Director  
By: Mabel Ng, Deputy Executive Director

Re: Proposed changes to Lobbyist Ordinance

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## **A. Introduction**

At its meeting last month, the Ethics Commission received public comment regarding staff proposals for possible changes to the Lobbyist Ordinance ("the Ordinance"), San Francisco Campaign and Governmental Conduct Code section 2.100 et seq. At that time, Commission members agreed to present to staff their questions regarding the proposals so that staff may prepare responses in advance of the March 9, 2009 meeting. Staff received questions and comments from two commissioners. Former commissioners also provided comments. (Copies of all written questions and comments related to the proposed staff changes are attached.)

This memorandum expands upon the earlier February 9, 2009 staff memo in order to address some of the questions and comments that staff received after the last meeting. Rather than providing two separate memos explaining staff's proposed changes to the Ordinance, section B of this memo includes and expands on the text of the February 9 memo, with some edits. This memo also specifies the page and line numbers where proposed changes appear in the mark-up version of the amended Ordinance. In addition, staff has designated the proposed changes as either technical or substantive. Staff has also identified decision points for the Commissioners to make regarding the substantive changes, which are set forth in border text.

As you know, the Commission identified review of the Lobbyist Ordinance as a Commission priority at its December 16, 2006 retreat. In April 2007, the City Attorney's Office presented a table comparing San Francisco's Ordinance with similar laws of other jurisdictions. An updated chart with some new information is attached. In July 2007, the Commission discussed amending the Ordinance, and the members spoke of the difficulty in monitoring lobbyist contacts with City officers.

At the May 7, 2008 meeting, staff presented several recommendations to the Commission in order to seek direction on possible changes to the Ordinance. On May 30, 2008, staff held an interested persons meeting to receive comment on possible

changes. Attendees, who included the regulated as well as the non-regulated community, commented that the lobbyist fees were too high and that there is a need for transparency.

Based on these comments, staff prepared draft changes to the Ordinance. Among other things, the earlier proposal would have required any individual who receives at least \$1,000 within three months and makes one contact with a City officer to influence local legislative or administrative action to register as a lobbyist; reduced the lobbyist fees; prohibited gifts from lobbyists; and required lobbyists to undergo training. Staff then convened two interested persons meetings on July 22 and 28, 2008; and, in subsequent months, held separate individual meetings with former Commissioner Joe Lynn and Larry Bush to receive their comments. Based on an overall assessment of the comments received, as well as staff's administration of the Ordinance, staff re-crafted the draft amendments and presented them for the Commission's consideration at the February 9, 2009 meeting.

The current draft amendments strive to achieve the following two broad principles: simplification and transparency. In general, simplification of the Ordinance means reducing the lobbyist categories from three to one. Staff believes that simplifying the Ordinance will make it easier for individuals who contact City officers to determine whether they qualify as lobbyists and for members of the public to understand the Ordinance and monitor compliance. By simplifying the Ordinance, the Commission can make compliance, monitoring and enforcement more straightforward. Lobbyists will more easily be able to comply with the Ordinance, and interested members of the public will be more able to recognize and report violations.

Simplification will also enable the Commission to adopt an online filing system. Commission staff tasked with producing an electronic filing system determined that building a system based on the existing Ordinance is cost prohibitive because the Ordinance is complicated, requires the production of many duplicative forms that would take considerable time to produce, and was crafted to accommodate paper filing instead of electronic filing. Reduction in lobbyist types, consolidation of forms, and removal of client authorization forms are necessary to create a cost-effective, informative and realistic online filing system within a reasonable time period. An online filing system based on the draft amendments will make reporting easier and more convenient, ensure that information is available to the public almost immediately after reporting, and allow Commission staff and the public to review, sort and analyze reported data in useful ways.

Transparency means ensuring that City officials and the public have access to information about who is being paid to lobby and who is paying for lobbying. The proposed amendments will promote transparency by requiring lobbyists to disclose their activities more frequently so that the public has access to information before it becomes stale. The amendments also will increase transparency by requiring lobbyists to disclose the dates of their contacts. Staff has weighed the options of requiring quarterly reports, shifting to monthly reporting, or requiring 24-hour or three-day reports. While requiring reporting 24 hours or three days after a contact may be a desirable long-term goal, staff believes that it is not currently feasible and would impose a considerable burden. At the same time, staff believes that quarterly or bi-monthly reports would result in information that may no longer be current. As discussed further below, staff believes that monthly reporting enhances transparency, and that when reporting becomes electronic and

the paper filing requirement is eliminated, monthly reporting will not be significantly burdensome for filers.

The major areas of substantive change in the Ordinance are the following:

1. Modify, delete or add exceptions to the term “contact” (section 2.105(d), discussed on pages 4-7 of this memo)
2. Redefine who is a lobbyist under the Ordinance (section 2.105(g), discussed on pages 7-8 of this memo)
3. Require registration within 10 days of qualification as a lobbyist (section 2.110(a), discussed on page 9 of this memo)
4. Require lobbyists to disclose their activities, including dates of contacts, on a monthly basis (section 2.110(c), discussed on pages 10-13 of this memo)
5. Reduce annual registration fee to \$100 (section 2.110(e), discussed on pages 13-14 of this memo)
6. Eliminate client authorization and termination filing requirements as well as client fees (sections 2.110(f), (g) and (h), discussed on page 14 of this memo)
7. Rather than bar campaign consultants from lobbying their former or current clients, require them to register and comply with disclosure provisions of the Ordinance (section 2.117, discussed on page 15 of this memo)

## **B. Proposed Changes to Lobbyist Ordinance**

**Section 2.100 Findings** *(page 1, line 14 – page 2, line 6) (These changes reflect the purposes underlying the Ordinance, but they do not substantively change the requirements of the Ordinance.)* In addition to the technical amendments in this section, staff proposes modifications and deletions to the last two lines of subsection (b), which will conform changes in this section to proposed changes in section 2.117, discussed below.

### **Section 2.105 Definitions**

**(a) “Activity Expenses.”** *(page 2, lines 10-21; these are technical changes.)* Staff proposes to (1) eliminate gifts from the definition of activity expenses, which are expenses that may benefit a City officer who is contacted by a lobbyist; (2) change “any other form of economic consideration” to “any other thing of value;” and (3) reduce the threshold of disclosure from \$30 to \$25. These changes will harmonize the Ordinance with the existing rule banning City officers from receiving gifts from a “restricted source” (a person who during the prior 12 months attempted to influence the officer in any legislative or administrative action) under Campaign and Governmental Conduct Code section 3.216(b).

**(b) “Candidate.”** *(page 2, line 22 – page 3, line 2; these are technical changes.)* The changes more clearly and directly define a candidate for the purposes of the Ordinance.

**(d) “Contact.”** *(page 3, lines 5-7; these are technical changes.)* The changes to the first three lines in section 2.105(d) are linguistic corrections.

A contact is a communication to influence a local legislative or administrative action. Currently, the Ordinance defines three separate categories of lobbyists. First, a *contract lobbyist* is a person who receives at least \$3,200 in three months or who has at least 25 contacts within two months with City officers, or who receives at least \$3,200 in three months and has one contact with a City officer regarding a permit, parcel map or subdivision tract map. Second, a *business and organization lobbyist* is any business or organization that pays its employees to contact City officers and whose employees have at least 25 contacts with City officers within any consecutive two-month period. Third, an *expenditure lobbyist* is any person who makes \$3,200 or more in payments in any three months to influence local legislative or administrative actions.

Staff proposes to eliminate these three categories, and adopt a single definition of “lobbyist” (discussed below on pages 7-8). Under staff’s proposal, a “lobbyist” is an individual who makes or is promised \$3,000 in three months and has one contact with a City officer. Thus, whether a communication counts as a contact is critical in evaluating whether an individual who communicates with a City officer is a lobbyist.

Staff proposes several modifications to the exceptions to the Ordinance's definition of “contact.” The current Lobbyist Ordinance contains 16 exceptions to the definition of “contact.” Persons who engage in activities listed in current section 2.105(d)(1)(A)-(P) are engaged in activities that are **not** subject to regulation under the Ordinance. As discussed below, staff proposes to delete, modify and add some exceptions.

(d)(1)(A) (page 3, lines 10-15; this is a technical change): The current exception provides that a City officer’s communications are not contacts if they are made within the course of the officer’s official duties. Staff proposes to delete this exception, as it would no longer be necessary if the Commission approves the revised definition of “economic consideration.” The new definition of “economic consideration” (section 2.105(e)) excludes salary, wages or benefits furnished by a federal, state or local government agency. Because under no circumstances could legal communications by an officer in the course of official duties be considered “contacts,” the exception is unnecessary. But, if a public official is paid by a non-governmental entity to perform lobbyist services, that official would qualify as a lobbyist if he or she meets the economic and contact thresholds.

(d)(1)(D)(C) (page 4, lines 3-8; this is a substantive change; please also see discussion regarding current section 2.105(d)(1)(P) on page 7 of this memo.): Staff has consolidated two existing exceptions. Currently, section 2.105(d)(1)(D) creates an exception for communications by attorneys and architects. Section 2.105(d)(1)(P) creates a similar exception for permit-related communications by a professional engineer performing duties that only a licensed engineer may perform. Staff proposes combining the exceptions for professional services into a single exception and deleting current section 2.105(d)(1)(P).

<p><b>Decision Point 1:</b> <i>Shall the Ordinance be amended to incorporate an exception so that a communication by a professional engineer licensed to practice in the State of California is not a contact under the Ordinance?</i></p>
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(d)(1)(~~FE~~) (page 4, lines 12-14; this is a substantive change.) Staff proposes a change to provide that a person providing oral information in response to a request from a City officer is not a contact. Without this change, an individual who makes a telephone call in response to a request from a City officer, for example, would be required to report the telephone call as a contact.

**Decision Point 2:** *Shall the Ordinance be amended to include an exception so that a person who orally provides information in response to a request from a City officer is not making a contact?*

(d)(1)(J) (page 5, lines 1-3; this is a **new** substantive change): Current law provides that a request for a meeting, for the status of an action, or any other similar administrative request is not a contact. Based on a comment from Commissioner Hansen, staff proposes to delete the exception relating to a request for the status of an action. Staff believes that such communications may influence legislative or administrative actions, as they may remind a City officer that the communicator is waiting for action on the matter. Under staff's proposal, such communications would not automatically be excluded from the definition of contacts. If a status update communication is an attempt to influence governmental action, it would be a contact. But if the communication, judged in context, is merely a request for information without the purpose of influencing governmental action, it would not be a contact.

**Decision Point 3:** *Shall the Ordinance be amended to delete the exception that a person making a request for the status of an action is not making a "contact" under the Ordinance?*

(d)(1)(~~EJ~~) (page 5, lines 8-10; these are substantive changes.): Currently, a communication by an expert employed or retained by a lobbyist to provide information to a City officer is not a contact. Staff proposes to narrow the existing exception for communications by an expert so that it exempts only an expert providing technical data, analysis or expertise to a City officer in the presence of a registered lobbyist. Under the proposed amendment, the registered lobbyist would be required to report the contact with the officer, while the expert would be permitted to share his or her expertise with City officers without having to register as a lobbyist.

**Decision Point 4:** *Shall the Ordinance be amended to narrow the exception for expert communications such that only a person providing purely technical data, analysis or expertise in the presence of a registered lobbyist is not making a "contact" under the Ordinance?*

(d)(1)(~~NL~~) (page 5, lines 14-16; these are technical changes): Current law provides that a communication by a person disseminating information or material to all or a significant segment of the person's employees or members is not a contact. Staff proposes linguistic changes to clarify the exception. Under this exception, current and proposed, for example, a communication from the Sierra Club to its members, which may incidentally include members of the Board of Supervisors, would not be a contact for the purposes of the Ordinance.

(d)(1)(N)-(Q) (page 6, line 4 – page 7, line 7; these are substantive changes): Staff proposes to add four new exceptions to the definition of "contact."

In proposed subsection (N), staff seeks to clarify that a person communicating with the City regarding the terms of a contract after the person has been selected as the contractor is not a “contact.” Such communications are necessary in order for the City to negotiate terms with its contractors. Without this exception, the Ordinance would require many contractors to register as lobbyists solely as a result of contract negotiations.

**Decision Point 5:** *Shall the Ordinance be amended so that a person negotiating the terms of a contract after being selected to enter into a contract with the City is not making a “contact” under the Ordinance?*

In subsection (O), the proposed exception recognizes that communicating with City officers in the course of an administrative adjudicatory proceeding should not constitute lobbying. For example, under this exception, an advocate who is paid to represent a party at an administrative proceeding before the Ethics Commission or the Board of Appeals would not be required to register as a lobbyist.

**Decision Point 6:** *Shall the Ordinance be amended so that a person appearing as a party or a representative of a party in an administrative adjudicatory proceeding before a City agency or department is not making a “contact” under the Ordinance?*

In proposed subsection (P), staff recommends adding language to provide that a communication by a labor union relating to a collective bargaining agreement or a memorandum of understanding with the City is not a contact. Communications by a labor union with City officers regarding other matters would be considered a contact.

**Decision Point 7:** *Shall the Ordinance be amended to state expressly that a person communicating on behalf of a labor union representing City employees regarding the establishment, amendment, or interpretation of a collective bargaining agreement (CBA) or memorandum of understanding (MOU) with the City, or communicating about a management decision regarding the working conditions of employees represented by a CBA or MOU is not making a “contact” under the Ordinance?*

In new subsection (Q), staff proposes that oral or written input provided at a public interested persons meeting, workshop or similar meeting is not a contact.

**Decision Point 8:** *Shall the Ordinance be amended to provide that a person participating in a public interested persons meeting, workshop or other forum convened by a City department for the purpose of soliciting public input is not making a “contact” under the Ordinance?*

(d)(1)(P) (page 6, lines 9-22; these are technical changes): Staff proposes deleting existing subsection (d)(1)(P), which provides that a communication regarding a grading permit, parcel map, subdivision tract map, or permit relating to the construction, alteration, demolition or moving of a building, other than communications with certain identified officers, is not a contact. Under current law, communications with City officers regarding such permits are not contacts, unless the communication is by a non-professional engineer with an elected City officer, the

Zoning Administrator, the Bureau Chief of the Department of Public Works' Bureau of Street Use and Mapping, or the Directors of Planning, Building Inspection or Public Works. Staff believes that the exception as currently written is confusing and thus proposes to strike it. Staff's proposal would eliminate the exception for permit-related communications. A communication regarding permits would be a contact regulated by the Ordinance if the communication—like a communication related to any other City matter—is with an officer of the City. Communications by a professional engineer performing services that only a licensed engineer could perform have been incorporated into proposed subsection (d)(1)C).

(e) “Economic consideration.” (page 7, line 8-10; these are substantive changes.) Staff proposes adding language to clarify that economic consideration does not include salary, wages or benefits furnished by a federal, state or local government agency. This proposal mirrors an exception in the Political Reform Act, which recognizes that officials' interests in their governmental salaries generally do not give rise to conflicts of interest. As previously discussed, this amendment also allows for the deletion of current section 2.105(d)(1)(A).

**Decision Point 9:** *Shall the Ordinance be amended so that the term “economic consideration” does not include salary, wages or benefits from a federal, state or local agency?*

(ig) “Lobbyist.” (page 7, line 15 – page 9, line 22; these are substantive changes.) Currently, there are three types of lobbyists in San Francisco: contract lobbyists, business and organization lobbyists, and expenditure lobbyists, each with different qualifying thresholds.<sup>1</sup> Staff believes this has led to confusion about who qualifies as a lobbyist under local law. Accordingly, staff recommends amending the Ordinance to adopt a single category of lobbyists. Under the proposed change, any individual who receives or is promised \$3,000 or more in economic consideration within three consecutive months for lobbyist services and makes at least one contact with a City officer would be a “lobbyist.” In contrast to current law, a person would not qualify as a lobbyist under staff's proposal solely because the person receives payment; the person must also make at least one lobbying contact. Conversely, a person would not qualify as a lobbyist simply by making contacts; the person also must receive or be promised \$3,000 in consideration. Overall, the proposed definition will simplify the Ordinance while capturing all necessary information. Along those lines, staff proposes to reduce the economic threshold from \$3,200 to \$3,000 because \$3,000 is a round number that is easier to remember; and to lower the number of contacts from 25 to one because one contact is easier to track. The proposed definition of lobbyist places greater emphasis on compensation, rather than compensation and number of contacts, to focus on professional lobbyists rather than individuals who merely have many contacts with City officers.

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<sup>1</sup> A contract lobbyist is a person who contracts for economic consideration to contact a City officer on behalf of any other person and who receives \$3,200 within any three consecutive months, or has at least 25 separate contacts with City officers within any two consecutive months, or receives \$3,200 within any three consecutive months and makes one contact with a City officer regarding grading permits, parcel maps, subdivision tract maps or permits relating to the construction, alteration, demolition or moving of a building. A business and organization lobbyist is a business or organization that compensates its members or employees any amount for lobbyist services and the compensated members or employees have at least 25 separate contacts with City officers within any two consecutive months. An expenditure lobbyist is any person who makes \$3,200 or more in payments in any three months to influence local legislative or administrative actions.

Under current law, lobbying firms and organizations register as lobbyists, but under staff's proposal, all registered lobbyists will be individuals. This simplifies the Ordinance: in the simplest terms, lobbyists are people who are paid to lobby. Under the proposal, those individual lobbyists would be required to disclose the names of their employers as well as their clients. To accommodate entities that employ more than one lobbyist, staff's proposal would allow, in proposed section 2.110(d), a firm or organization employing multiple lobbyists to register and file required disclosures on behalf of its individual lobbyists.

**Decision Points:**

**10.** *Shall the Ordinance be amended so that there is a single category of lobbyists?*

**11.** *If the answer to the above question is yes, shall the Ordinance be amended to define a lobbyist as any individual who receives or is promised \$3,000 or more in economic consideration within three consecutive months for lobbyist services and makes at least one contact with a City officer?*

(jh) "Lobbyist services." (page 9, line 23 – page 10, line 3; these are technical changes.) Staff proposes to delete "attempting to influence" to conform language in this section to the proposed definition of "lobbyist." Staff proposes to delete the second sentence in the subsection because it is surplusage. At the interested persons meeting, a participant commented that the term "lobbyist services" remains unclear – staff believes that the Commission should adopt regulations to clarify the scope of lobbyist services.

(ki) "Local legislative or administrative action." (page 10, lines 4-10; these are technical changes.) Staff proposes that "local legislative or administrative action" should include decisions about City contracts. Staff has also deleted the last sentence in this subsection because it is unnecessary in light of proposed new subsection 2.105(d)(1)(P). Under that proposed subsection, a person who appears as a party in an administrative adjudicatory proceeding before a City agency or department would not be making a contact.

(lj) "Measure." (page 10, line 11-14; these are technical changes.) Staff proposes to amend the definition of "measure" to describe more accurately initiatives and recalls.

(m) "Payments to influence local legislative or administrative action." (page 10, line 22 – page 11, line 14; this is a technical change.) Staff proposes to strike this definition because it is no longer needed if there is a single category of lobbyists. Under staff's proposals, the term "payments to influence local legislative or administrative action" will not appear in the Ordinance, so the Ordinance need not define the term here.

(n) "Person." (page 11, lines 15-16; this is a technical change.) Staff proposes to add the term "labor union" to the definition of "person," to clarify that an individual who lobbies on behalf of a labor union would be subject to the Ordinance. Thus, unless the individual is communicating with an officer regarding the establishment, amendment or interpretation of a collective bargaining agreement ("CBA") or memorandum of understanding ("MOU"), or about a management decision regarding working conditions of employees represented by a CBA or



MOU, the individual is subject to the Ordinance if he or she makes or is promised \$3,000 within any three consecutive months.

**Section 2.110 Registration and Disclosures, Fees; Termination of Registration.**

Staff proposes several changes to this section. In general, the proposed changes aim to effectuate an online filing system for lobbyist registration and reporting.

(a) Registration of Lobbyist Required. (page 11, line 21 – page 12, line 4; this is a substantive change.) Current law requires a lobbyist to register before making contacts with a City officer. But because of how the Ordinance defines “lobbyist,” some persons do not become lobbyists under current law until they have made at least one contact with a City officer. Thus, the pre-contact registration requirement creates a Catch 22: a person must register as a lobbyist before the person becomes a lobbyist.

Since staff’s proposed definition of “lobbyist” requires a person to contact a City officer to qualify as a lobbyist, it would be awkward to require lobbyists to register before they were subject to the Ordinance. For this reason, staff proposes that any individual who qualifies as a lobbyist must register as a lobbyist no later than 10 business days after qualifying as a lobbyist and, in any event, the individual who has qualified as a lobbyist must register prior to making any additional contact with any City officer.

**Decision Point 12:** *Shall the Ordinance be amended to require any individual who qualifies as a lobbyist to register with the Ethics Commission no later than 10 business days after qualifying as a lobbyist and, in any event, prior to making any additional contacts with any City officer?*

(b) Registration. (page 12, line 5 – page 15, line 20; these are substantive changes.) Current law generally requires a lobbyist to disclose information about the lobbyist, economic consideration received or promised, number of contacts, the local legislative or administrative action the lobbyist sought to influence, and political contributions of \$100 or more. What disclosures are required varies depending upon the type of lobbyist that is registering. Staff proposes that registration instead capture only information about the lobbyist and the lobbyist’s client(s). Staff’s proposed amendments regarding monthly disclosures will require lobbyists to disclose other information, such as identification of the legislative or administrative action that the lobbyist seeks to influence and which City officer is lobbied, in the lobbyist reports rather than in the initial registration. Staff believes that the proposed changes will simplify filing requirements.

**Decision Point 13:** *Shall the Ordinance be amended to streamline the information that must be reported when an individual registers as a lobbyist?*

(c) Reregistration Reports. (page 15, line 21-23; these are substantive changes.) The Ordinance currently requires each lobbyist to reregister annually no later than January 15. Staff proposes to delete the reregistration requirement. Under the proposed changes, lobbyists would be required to provide updated information in their filings with the Commission when they submit their monthly reports. (See proposed section 2.110(c)(9) on page 18, lines 4-5.) Staff

believes that reregistration creates unnecessary bureaucracy. To ensure that the public has access to relevant information in a timely manner, staff believes monthly updates of registration information is preferable to annual reregistration and updates.

In addition, under staff's proposal, lobbyists would be required to pay the \$100 annual fee by each subsequent February 1. (*See* proposed section 2.110(e)(1) on page 20, lines 14-16.) Failure to pay would result in termination of one's status as a lobbyist. Staff's proposal also would allow the Commission to adopt regulations permitting lobbyists to terminate before February 1.

**Decision Point 14:** *Shall the Ordinance be amended to dispense with reregistration reports?*

(d) Lobbyist Disclosures. (page 16, line 1 – page 20, line 8; these are substantive changes.)

This section, which replaces the Ordinance's current requirements for quarterly reports, would require lobbyists to submit information such as the names of their clients and the names of City officers whom they contacted, the dates of contacts, the legislative or administrative action that the lobbyists sought to influence, the amount of economic consideration they received, activity expenses, and political contributions.

In an earlier draft, staff recommended requiring lobbyists to submit reports about their activities for the past month by the third business day of the following month. In general, staff recommends moving from quarterly reports to monthly reports in order to provide disclosure about lobbying activities in a time-frame that would be more relevant in understanding the context of a particular local legislative or administrative action. At the interested persons meetings, staff received comments that monthly reporting would be a burden on the lobbyists' staff who must gather and review that information. Based on these comments, staff has extended the proposed time for the filing of reports to the 15<sup>th</sup> day after the month during which the activities occurred. Staff believes that this change is a reasonable compromise to ease the burden placed on lobbyists without significantly interfering with the public's interest in accessing information.

At the Commission's February 9, 2009 meeting, several individuals testified that it would be burdensome for lobbyists to provide monthly reporting. Some commissioners also expressed concern that monthly reporting may be especially burdensome on lobbyists who have small operations. Staff has taken these comments into consideration but continues to recommend monthly reporting. Staff believes that quarterly reporting does not provide information on a sufficiently timely basis to allow the public and City officers information while City decisions are being made. By the time information about lobbyist activities is received under current law, it may be 3 ½ months old. The current three-month reporting period does not achieve the appropriate level of transparency.

With the new electronic filing system, staff envisions that monthly filings will be simpler and quicker. With electronic filing, filers will log in and be prompted to enter information. Staff understands that for lobbyists who have bigger operations, there are review processes that may consume considerable time before filings could be submitted; however, staff believes that monthly filing will not create undue burdens—in fact, gathering and reviewing information regarding a month's worth of activities would likely consume less time than gathering and

reviewing information regarding three months' worth of activities. Several states now mandate monthly electronic reports of lobbyist activity. *See, e.g.*, Texas Government Code § 305.007, Revised Code of Washington § 42.17.170, Colorado Revised Statutes § 24-6-303.5 (2) (a), Alaska Statutes § 24.45.08, Maine Revised Statutes §317, Mississippi Code of 1972 5-8-11.

As mentioned above, many of the proposed changes to the Ordinance promote transparency. Some individuals have proposed requiring 24-hour or 3-day reporting when there is activity related to pending decisions. Staff believes that such reporting currently would be unrealistic for the Commission in light of staffing constraints, and it would be unfair to filers because of its burdens on lobbyists.

**Decision Points:**

- 15. *Shall the Ordinance be amended to require lobbyists to disclose activities on a monthly basis?*
- 16. *If not, shall the Ordinance continue to require lobbyists to disclose activities on a quarterly basis?*
- 17. *Shall the Ordinance be amended to require lobbyists to disclose activity on a 24-hour or three-day basis?*

Staff also has proposed that lobbyists' monthly reports disclose the dates of contacts with City officials. (See page 16, line 15.) Staff believes that this information would increase transparency and provide valuable information to the members of the public who are interested in following the influence of paid lobbyists during the City decision-making process. At the interested persons meetings and the February 9 Commission meeting, staff also received comments that it may be difficult for lobbyists to ascertain the dates of contacts because lobbyists do not keep track of the dates of the contacts. Nonetheless, staff believes that the dates on which contacts are made provides important information to the City and the public about the sequence of lobbying contacts and any resulting legislative or administrative action. Currently, lobbyists must disclose in their quarterly reports the names and titles of each City officer they contacted on behalf of their clients during the quarter; staff does not believe that it is particularly difficult for filers also to track and disclose the dates of those contacts. For these reasons, staff recommends requiring the disclosure of dates of contacts.

**Decision Point 18:** *Shall the Ordinance be amended to require lobbyists to disclose the dates of their contacts with City officers, as set forth in proposed section 2.110(c)(3) on page 16, line 15?*

Staff also recommends requiring lobbyists to identify the local legislative or administrative action that they sought to influence, including, if any, the title and file number of any resolution, motion, appeal, application, petition, nomination, ordinance, amendment, approval, referral, permit, license, entitlement, or contract, and the outcome sought by the client. (See page 16, lines 16-19.) These changes will help identify which lobbyist contacted which City officer and the particular legislative or administrative action that was the subject of the contact.

At the February 9 meeting, speakers asked why staff proposed requiring disclosure of the amount of economic consideration received or expected by the lobbyist from each client “for each

contact.” (See section 2.110(c)(6) on page 16, lines 21-22.) After considering these comments, staff agrees that requiring disclosure of the amount of consideration for each contact does not serve the goals of the Ordinance. Staff now proposes requiring disclosure of economic consideration received or expected by the lobbyist from each client “during the reporting period.”

**Decision Point 19:** *Shall the Ordinance be amended to require lobbyists to disclose information as set forth in proposed section 2.110(c) on page 16, line 10 – page 18, line 7 of the mark-up draft?*

Staff proposes to require the disclosure of additional information regarding political contributions made, arranged, or delivered by a lobbyist or made by a client at the behest of the lobbyist or lobbyist’s employer. (See page 17, line 11 – page 18, line 3.) For example, lobbyists will be required to disclose, for each contribution, the amount and date of the contribution, name of contributor, contributor’s occupation, contributor’s employer or if self employed, the name of the contributor’s business, and the committee to which the contribution was made. Such information is consistent with the information the candidates and committees must disclose under the Campaign Finance Reform Ordinance.

However, staff also recommends that lobbyists no longer be required to disclose information about donations to ballot measure committees, if those committees are not controlled by a City officer that may be contacted by lobbyists. (See page 17, lines 15-17). A purpose of the Ordinance is to require lobbyists to disclose their efforts to influence decision-making regarding local legislative and administrative matters. Thus, the Ordinance requires disclosure of contributions to City officers that a lobbyist seeks to influence, whether the contributions are made to the officers’ candidate committees or to ballot measure committees under their control. But the Ordinance also currently requires disclosure of contributions to other ballot measure committees, without any legal connection to a City officer. Staff recommends deleting the latter requirement since it does not necessarily have any relationship to the lobbyist’s attempts to influence a City officer.

**Decision Points:**

**20.** *Shall the Ordinance be amended to require the disclosure of information regarding political contributions as set forth in proposed section 2.110(c)(8) on page 17, line 11 – page 18, line 3?*

**21.** *Shall the Ordinance be amended to delete the requirement that lobbyists report contributions to any ballot measure committee that is not controlled by a City elective officer?*

(d) Registration and Filing of Disclosures by Organizations. (page 20, lines 9-12; these are *substantive changes.*) Current law requires contract lobbyists and business and organization lobbyists to register and file reports, which may include reports of activities by the employee lobbyists. Under staff’s proposal to redefine “lobbyist,” individuals who qualify as lobbyists must register and submit disclosure reports. At the interested persons meeting, staff received comment that it would be more convenient if organizations were permitted to register and submit disclosure reports on behalf of their employees. For this reason, staff proposes new subsection

2.110(d), which will permit organizations to file on behalf of their employee lobbyists. Concurrently, staff also recommends a change to section 2.145(e) (see page 30, lines 10-14), which provides corresponding liability for organizations that file on their employees' behalf.

**Decision Point 22:** *Shall the Ordinance be amended to authorize the Commission to establish procedures to permit organizations to register and submit disclosure reports on behalf of their lobbyist employees?*

(e) Fees; Termination of Registration. (page 20, line 13 – page 21, line 3; this includes a substantive change.) At last year's interested persons meetings, staff received comments that the lobbyist registration fees were too high for individual lobbyists and smaller organizations that engage in lobbying activity. In an effort to simplify administration of the Ordinance and make the Ordinance fee structure more equitable, staff proposes to lower the annual lobbyist fees from \$500 to \$100. Under staff's proposal, the Ordinance would no longer require lobbyists to pay any client fees. Lobbyists would be required to pay an annual \$100 fee by February 1 of each year. If a lobbyist failed to pay his or her annual fee by February 1, the Commission would terminate that lobbyist's registration.

Staff also proposes technical changes to section 2.110(d)(3), on page 21, lines 1-3, to permit a full-time employee of a tax-exempt organization to seek waiver of the registration fee by presenting proof of the organization's tax-exempt status. These technical changes conform the section to the proposed changes in the law defining a lobbyist as an individual who meets the economic and contact thresholds.

**Decision Point 23:** *Shall the Ordinance be amended to lower the registration fee for lobbyists to \$100 per year?*

The following three items are substantive changes to current sections 2.110(f), (g) and (h), which appear on page 21, line 6 – page 22, line 12:

(f) Client Authorization Statements. Staff proposes to dispense with client authorization statements, which would streamline the Ordinance's filing requirements. These statements do not provide necessary information to the public or the Commission.

(g) Client Termination Statements. Staff proposes to dispense with client termination statements, which would streamline the Ordinance's filing requirements. These statements also do not provide necessary information to the public or the Commission.

(h) Lobbyist Termination Statements. Staff proposes to eliminate lobbyist termination statements. This change would also streamline the Ordinance's filing requirements.

**Decision Points:**

- 24.** *Shall the Ordinance be amended to delete the requirement of Client Authorization Statements?*
- 25.** *Shall the Ordinance be amended to delete the requirement of Client Termination Statements?*
- 26.** *Shall the Ordinance be amended to delete the requirement of Lobbyist Termination Statements?*

**Section 2.115 Prohibitions**

**(a) Gift Limit.** *(page 22, lines 14-20; this is a substantive change.)* Current law prohibits lobbyists from giving gifts worth \$50 or more to City officers within three months of making a contact. Staff proposes to prohibit lobbyists from making gifts to City officers when those gifts are worth more than \$25, unless the gifts would be permitted under the City's restricted source rule. *See* San Francisco Campaign and Governmental Conduct Code § 3.216(b). The restricted source rule generally prohibits City employees and officers from accepting gifts from persons who have knowingly sought to influence them in any legislative or administrative action within the previous twelve months. The Commission has adopted regulations allowing employees and officers to accept de minimis gifts from restricted sources, including gifts worth \$25 or less on up to four occasions a year. Staff's proposal would restrict lobbyists from giving gifts worth more than \$25 to City officers, whether or not the lobbyists have lobbied any particular City officer within the last 12 months. But the proposal would also incorporate the Commission's regulations permitting City officers to accept certain de minimis gifts.

**Decision Point 27:** *Shall the Ordinance be amended to prohibit gifts worth \$25 or more and to incorporate the regulatory exceptions to the restricted source rule?*

**Section 2.116. Lobbyist Training.** *(page 23, lines 7-10; this is a substantive change.)* Staff proposes that at least once each year, each lobbyist must complete a lobbyist training offered by the Ethics Commission. There is no current requirement that a lobbyist attend a training session offered by the Ethics Commission, although the Ordinance currently requires the Commission to conduct quarterly trainings and requires a lobbyist to report his or her most recent lobbyist training when reregistering with the Commission.

Based on comments at the February 9 meeting, staff proposes that all lobbyists be required to undergo a training on the Ordinance (1) within a year of registration, and (2) as necessary as determined by the Executive Director.

**Decision Point 28:** *Shall the Ordinance require lobbyists to undergo a training during the first year of registration and as necessary as determined by the Executive Director?*

**Section 2.117. Lobbying by Campaign Consultants.** *(page 23, line 11 - page 26, line 4; these are substantive changes.)* Current law prohibits any campaign consultant from lobbying his or her current client or former client. Staff proposes to amend the law to shift emphasis from restrictions on lobbying to an emphasis on greater disclosure and information-gathering.

**Decision Point 29:** *Shall the Ordinance be amended so that campaign consultants (1) are no longer barred from lobbying their clients or former clients who are City officers but (2) are required to register as lobbyists and report their lobbying activities?*

**Section 2.125 Notification of Beneficiaries of Gifts.** *(page 26, line 24 – page 27, line 5; these are technical changes.)* Current law requires a lobbyist to provide written notice to any City officer who is a beneficiary of a gift. Because the proposed changes only allow lobbyists to make de minimis gifts of \$25 or less to City officers, staff believes that this provision is no longer necessary.

**Section 2.130. Employment of Unregistered Persons.** *(page 27, lines 6-9; these are technical changes.)* Staff proposes changes to reflect other amendments to the Ordinance, and to clarify that registration must occur by the deadlines imposed in the Ordinance.

**Section 2.135. Filing Under Penalty of Perjury; Retention of Documents.** *(page 27, lines 10-19; this contains a substantive change.)* Staff proposes requiring lobbyists to provide to the Ethics Commission, upon its request, books, papers and any other materials related to the lobbyist’s activities within ten business days.

**Decision Point 30:** *Shall the Ordinance be amended to require a lobbyist to provide to the Ethics Commission his or her books, papers, documents and other materials related to the lobbyist’s activities within 10 business days?*

**Section 2.140. Powers and Duties of the Ethics Commission.** *(page 27, line 21 – page 29, line 5; these are both technical and substantive changes.)* Staff has proposed changes that would require the Commission to prescribe the format for the submission of all information required under the Ordinance, which may be by paper, electronic filing or both. As explained above, staff anticipates adopting an electronic filing system for registration and reporting in the near future. These proposed changes will accommodate the move towards electronic filing.

Staff proposes deleting the requirements that the Commission issue a registration number to each registered lobbyist (because a lobbyist registering online will be provided an identification number); that it provide a copy of the Ordinance to each lobbyist (because it is unnecessary and a waste of paper); and that it issue a “Notice of Registration Required” upon the written request of any City officer.

Staff proposes, in revised sections 2.140(b) and (c) on page 28, lines 11-17, that the Commission, instead of compiling quarterly reports about lobbyist activities, or a July report about the implementation of the Ordinance, compile such reports only upon the request of the Board of Supervisors or Mayor. Staff expects that any information that lobbyists submit on a monthly basis will be available on the Commission’s website. Commissioner Harriman asked whether the reporting requirement in proposed section 2.140(b) should have a time frame. Generally, when the Board or the Mayor seeks a report, the requestor provides a time frame for a response; in any event, staff attempts to be responsive to such requests on a timely basis.

Finally, staff proposes to delete the requirement, under current section 2.140(j) on page 29, lines 4-5, that the Commission conduct quarterly workshops on the Ordinance. Staff expects that it will continue to conduct workshops as necessary and that the Commission will make training available online in the future.

**Decision Points:**

31. *Shall the Ordinance be amended to require the Ethics Commission to prescribe the format for the submission of information required by the Ordinance?*
32. *Shall the Ordinance be amended to delete the requirements that the Ethics Commission issue registration numbers to registered lobbyists, provide a copy of the Ordinance to each lobbyist, and issue a “Notice of Registration Required” upon the request of any City officer?*
33. *Shall the Ordinance be amended to state that upon request by the Board of Supervisors or the Mayor, the Ethics Commission shall compile information submitted by lobbyists and forward a report to the Board and the Mayor?*
34. *Shall the Ordinance be amended to state that upon the request of the Board of Supervisors or the Mayor, the Commission shall file a report with the Board and the Mayor on the implementation of the Ordinance?*
35. *If the answers to questions 3 and/or 4 are yes, shall there be a timeline for the submission of the report(s)? If yes, what shall the timeline be?*

**Section 2.145. Administrative and Civil Enforcement and Penalties.** *(page 29, line 6 – page 30, line 16; these are technical and substantive changes.)* Staff proposes to allow the Commission to issue warning letters regarding potential violations of the Ordinance (page 29, lines 22-24); and to increase the civil penalties to \$5,000 per violation (page 30, lines 1-4). In addition, as mentioned earlier, staff recommends adding language to clarify that a business or organization that registers or files reports on behalf of its employees may be held jointly and severally liable for any failure to disclose the employee’s lobbying activities (page 30, lines 10-14).

**Decision Points:**

36. *Shall the Ordinance be amended to permit the Ethics Commission to issue warning letters regarding potential violations of the Ordinance?*
37. *Shall the Ordinance be amended to increase civil fines to \$5,000 per violation?*
38. *Shall the Ordinance be amended to provide for joint and several liability for organizations that register or file reports on behalf of their lobbyist employees but fail to do so?*

**Section 2.150. Limitation of Actions.** *(page 30, line 17 – page 31, line 13; these are technical and substantive changes.)* Upon Commissioner Harriman’s query, staff has decided not to recommend an extension of the statute of limitations to five years from four years.

Proposed subsection (c) adds a four-year period for the collection of monetary penalties or fines. Staff recommends this change in order to ensure that the City has adequate time to collect penalties or fines before filing a civil action for collection. The new language tracks section 1.168(c)(4) of the Campaign Finance Reform Ordinance.



**Decision Point 39:** *Shall the Ordinance be amended to provide a four-year period for the collection of monetary penalties or fines that are imposed under the Ordinance?*

**Section 2.160. Electronic Filing of Statements and Reports.** *(page 32, line 4 – page 32, line 23; these are technical changes.)* Staff proposes to delete this section, which authorizes the Commission to require the electronic submission of lobbyist reports. Such authorization is now set forth in section 2.140.

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1 [Lobbyist ordinance amendments.]

2

3 **Ordinance amending Chapter I of Article II of the Campaign and Governmental Conduct**  
4 **Code by amending sections 2.100, 2.105, 2.110, 2.115, 2.117, 2.130, 2.135, 2.140, 2.145,**  
5 **2.150, adding section 2.116, and deleting sections 2.125 and 2.160, to simplify**  
6 **registration requirements, adopt a more equitable fee structure, and ease electronic**  
7 **filing of lobbyist disclosures.**

8 Note: Additions are single-underline italics Times New Roman;  
9 deletions are ~~strikethrough italics Times New Roman~~.  
10 Board amendment additions are double underlined.  
11 Board amendment deletions are ~~strikethrough normal~~.

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

13 Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby  
14 amended by amending Sections 2.100-2.160, to read as follows:

15 SEC. 2.100. FINDINGS.

16 (a) The Board of Supervisors finds that public disclosure of the identity and extent of  
17 efforts of lobbyists to influence decision-making regarding local legislative and administrative  
18 matters is essential to protect public confidence in the responsiveness and representative  
19 nature of government officials and institutions. It is the purpose and intent of the Board of  
20 Supervisors to impose ~~on lobbyists~~ reasonable registration and disclosure requirements to  
21 reveal information about lobbyists' efforts to influence decision-making regarding local  
22 legislative and administrative matters.

23 (b) 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  
25 confidence in the fairness and impartiality of City governmental decisions. The City and  
County of San Francisco has a ~~paramount~~ compelling interest in preventing corruption or the

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

7 SEC. 2.105. DEFINITIONS.

8 Whenever used in this Chapter, the following words and phrases shall have the  
9 definitions provided in this Section:

10 (a) "Activity expenses" means any expense incurred or payment made by a lobbyist  
11 or a lobbyist's client at the behest of the lobbyist, or arranged by a lobbyist or a lobbyist's  
12 client at the behest of the lobbyist, which benefits in whole or in part any: officer of the City  
13 and County; candidate for City and County office; aide to a member of the Board of  
14 Supervisors; or member of the immediate family or the registered domestic partner of an  
15 officer, candidate, or aide to a member of the Board of Supervisors. An expense or payment is  
16 not an "activity expense" unless it is incurred or made within three months of a contact with  
17 the officer, candidate, or Supervisor's aide who benefits from the expense or payment, or  
18 whose immediate family member or registered domestic partner benefits from the expense or  
19 payment. "Activity expenses" include ~~gifts,~~ honoraria, consulting fees, salaries, and any other  
20 ~~form of economic consideration~~ thing of value totaling more than ~~\$3025~~ in value in a consecutive  
21 three-month period, but do not include political contributions.

22 (b) "Candidate" means a person who has ~~taken affirmative action~~ filed a declaration of  
23 candidacy to seek ~~nomination or~~ election to local office, ~~a local officeholder who has taken~~

24

25

1 ~~affirmative action to seek nomination or election to any elective office, or a local officeholder who is~~  
2 ~~the subject of a recall election.~~

3 (c) "Client" means the person for whom ~~whose benefit~~ lobbyist services are performed by a  
4 ~~contract~~ lobbyist.

5 (d) "Contact" means communication, orally or ~~in writing~~written, including  
6 communication made through an agent, associate or employee, for the purpose of influencing  
7 ~~or attempting to influence~~ local legislative or administrative action.

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

10 ~~(A) A public official acting in the public official's official capacity. For~~  
11 ~~purposes of this Subsection, "public official" includes an elected or appointed official or~~  
12 ~~employee, or officially designated representative of the United States, the State of~~  
13 ~~California, or any political subdivision thereof. For purposes of this Subsection, "public~~  
14 ~~official" also includes persons appointed to serve on City and County advisory~~  
15 ~~committees and City and County task forces;~~

16 ~~(BA)~~ A representative of a news media organization gathering news and  
17 information or disseminating the same to the public, even if the organization, in  
18 the ordinary course of business, publishes news items, editorials or other  
19 commentary, or paid advertisements, that urge action upon local legislative or  
20 administrative matters;

21 ~~(CB)~~ A person providing oral or written testimony that becomes part of  
22 the record of a public hearing; provided, however, that if the person making the  
23 appearance or providing testimony has already qualified as a lobbyist under this  
24 Chapter and is appearing or testifying on behalf of a client, the lobbyist's  
25

1 testimony shall identify the client on whose behalf the lobbyist is appearing or  
2 testifying;

3 (DC) A person *acting on behalf of others in the performance of performing a*  
4 *duty or service, which duty or service lawfully can be performed for such other*  
5 *only by an attorney ~~or~~, an architect, or a professional engineer* licensed to practice  
6 in the State of California, *and* including any communication by an attorney in  
7 connection with litigation involving the City and County or a claim filed pursuant  
8 to Administrative Code Section 10.20-1 et seq.;

9 (ED) A person making a speech or producing any ~~Chapter~~, publication or  
10 other material that is distributed and made available to the public, through radio,  
11 television, cable television, or other medium of mass communication;

12 (FE) A person providing *oral or* written information in response to an oral  
13 or written request made by an officer of the City and County, provided that the  
14 written information is a public record available for public review;

15 (GF) A person providing oral or written information pursuant to a  
16 subpoena, or otherwise compelled by law or regulation;

17 (HG) A person providing oral or written information in response to a  
18 request for proposals, request for qualifications, or other similar request,  
19 provided that the information is directed to the department or official specifically  
20 designated in the request to receive such information;

21 (HI) A person submitting a written petition for local legislative or  
22 administrative action, provided that the petition is a public record available for  
23 public review;

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

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

8                    (L) *An expert employed or retained by a lobbyist registered under this*  
9                    *Chapter to provide information to an officer of the City and County* A person providing  
10                    purely technical data, analysis, or expertise in the presence of a registered lobbyist;

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

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

17                    (O) A person communicating in connection with the administration of  
18                    an existing contract between the person and the City and County of San  
19                    Francisco. For purposes of this Subsection, communication, "in connection with  
20                    the administration of an existing contract" includes, but is not limited to,  
21                    communication regarding: insurance and bonding; contract performance and/or  
22                    default; requests for in-scope change orders; legislative mandates imposed on  
23                    contractors by the City and County; payments and invoicing; personnel changes;  
24                    prevailing wage verification; liquidated damages and other penalties for breach  
25

1 of contract; audits; assignments; and subcontracting. Communication "in  
2 connection with the administration of an existing contract" does not include  
3 communication regarding new contracts, or out-of-scope change orders; ~~and~~

4 (O) A person negotiating the terms of a contract after being selected to enter  
5 into a contract with the City and County through a competitive bidding process, or as  
6 otherwise permitted under the Administrative Code;

7 (P) A person appearing as a party or a representative of a party in an  
8 administrative adjudicatory proceeding before a City agency or department;

9 ~~(P) A person applying for, opposing or otherwise taking any position on a~~  
10 ~~grading permit, parcel map, subdivision tract map or a permit relating to the~~  
11 ~~construction, alteration, demolition or moving of a building, other than;~~

12 ~~(i) communications with any elected official of the City and County, the~~  
13 ~~Zoning Administrator, the City Engineer, the County Surveyor, the Bureau Chief~~  
14 ~~of the Department of Public Works' Bureau of Street Use and Mapping, or the~~  
15 ~~Director of the Planning Department, Department of Building Inspection or~~  
16 ~~Department of Public Works, except for communications by a professional~~  
17 ~~engineer licensed to practice in the State of California performing a duty or~~  
18 ~~service that lawfully can be performed only by a professional engineer; or~~

19 ~~(ii) communications regarding an appeal taken or opposed by the~~  
20 ~~person or the person's client pursuant to any procedure or authority provided by~~  
21 ~~law from an administrative determination made with respect to such an~~  
22 ~~application or map.~~

23 (Q) A person communicating, on behalf of a labor union representing City  
24 employees, regarding the establishment, amendment, or interpretation of a collective  
25

1 bargaining agreement or memorandum of understanding with the City, or  
2 communicating about a management decision regarding the working conditions of  
3 employees represented by a collective bargaining agreement or a memorandum of  
4 understanding with the City; and

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

8 (e) "Economic consideration" means any payments, fees, reimbursement for  
9 expenses, gifts, or anything else of value, provided that "economic consideration" does not include  
10 salary, wages or benefits furnished by a federal, state or local government agency.

11 ~~(f) "Ethics Commission" means the San Francisco Ethics Commissioner or its designee.~~

12 ~~(g) "Filer" means a person who qualifies as a lobbyist under Subsection (i) of this Section.~~

13 ~~(h)~~ "Gift" shall be defined as set forth in the Political Reform Act, Government Code  
14 Section 81000 et seq., and the regulations adopted thereunder.

15 ~~(ig)~~ "Lobbyist" means ~~the following:~~ any individual who:

16 (1) receives or is promised economic consideration of \$3,000 or more within three  
17 consecutive calendar months for lobbyist services; and

18 (2) on behalf of the persons providing the economic consideration, makes any contact  
19 with an officer of the City and County.

20 ~~(1) Contract Lobbyist.~~

21 ~~(A) "Contract lobbyist" means any person who contracts for economic~~  
22 ~~consideration to contact any officer of the City and County of San Francisco on behalf~~  
23 ~~of any other person, and who:~~



1 ~~(i) Receives or becomes entitled to receive at least \$3,200 in economic~~  
2 ~~consideration within any three consecutive calendar months in exchange for~~  
3 ~~lobbyist services; or~~

4 ~~(ii) Has at least 25 separate contacts with officers of the City and~~  
5 ~~County within any two consecutive calendar months; or~~

6 ~~(iii) Receives or becomes entitled to receive at least \$3,200 in economic~~  
7 ~~consideration within any three consecutive calendar months from any person in~~  
8 ~~exchange for services, including but not limited to lobbyist services, and makes~~  
9 ~~one or more contacts on behalf of that person with any officer of the City and~~  
10 ~~County for the purpose of influencing local legislative or administrative action~~  
11 ~~regarding a grading permit, parcel map, subdivision tract map or a permit~~  
12 ~~relating to the construction, alteration, demolition or moving of a building.~~

13 ~~(B) For purposes of calculating whether a person has reached the income~~  
14 ~~threshold set forth in (1)(A)(i) of this Subsection, all economic consideration the person~~  
15 ~~has received or become entitled to receive, during the three consecutive calendar~~  
16 ~~months, from all clients in exchange for lobbyist services shall be combined.~~

17 ~~(C) For purposes of calculating whether a person has reached the contacts~~  
18 ~~threshold set forth in (1)(A)(ii) of this Subsection, all contacts with officers of the City~~  
19 ~~and County that were made by the person during the two preceding calendar months on~~  
20 ~~behalf of all clients shall be combined.~~

21 ~~(2) Business and Organization Lobbyist.~~

22 ~~(A) "Business and organization lobbyist" means any business or organization~~  
23 ~~any of whose employees or members, as a regular part of their employment or duties,~~

1 ~~contact officers of the City and County of San Francisco on behalf of that business or~~  
2 ~~organization, provided:~~

3 ~~(i) The business or organization compensates its employees or members,~~  
4 ~~at any amount, for their lobbyist services on its behalf; and~~

5 ~~(ii) The compensated employees or members have a total of at least 25~~  
6 ~~separate contacts with officers of the City and County within any two consecutive~~  
7 ~~calendar months. Contacts made by an employee or member who merely~~  
8 ~~indicates his or her affiliation or identification with the business or organization,~~  
9 ~~but who does not represent the official position of the business or organization~~  
10 ~~shall not be included in this calculation.~~

11 ~~(3) Expenditure Lobbyist.~~

12 ~~(A) "Expenditure lobbyist" means any person who makes payments to influence~~  
13 ~~local legislative or administrative action totaling \$3,200 or more in value within any~~  
14 ~~three consecutive calendar months.~~

15 ~~(B) The following shall not be included in calculating payments under (3)(A) of~~  
16 ~~this Subsection: economic consideration paid to any person in exchange for lobbyist~~  
17 ~~services; and dues payments, donations, and other economic consideration paid to any~~  
18 ~~business and organization lobbyist or expenditure lobbyist, regardless of whether the~~  
19 ~~economic consideration is used in whole or in part to influence local legislative or~~  
20 ~~administrative action.~~

21 ~~(4) Exemptions. No person shall qualify as a "lobbyist" within the meaning of this~~  
22 ~~Chapter by reason of activities described in Subsection (d)(1) of Section 2.105.~~

23 ~~(j)h~~ "Lobbyist services" means services rendered for the purpose of influencing ~~or~~  
24 ~~attempting to influence~~ local legislative or administrative action, including but not limited to

1 contacts with officers of the City and County of San Francisco. ~~"Lobbyist services" shall not~~  
2 ~~include activities described in Subsection (d)(1) of Section 2.105, other than Subsection (d)(1)(C) of~~  
3 ~~Section 2.105.~~

4 (ki) "Local legislative or administrative action" includes, but is not limited to, the  
5 drafting, introduction, consideration, modification, enactment, defeat, approval, veto, granting  
6 or denial by any officer of the City and County of any resolution, motion, appeal, application,  
7 petition, nomination, ordinance, amendment, approval, referral, permit, license, ~~or~~ entitlement  
8 to use or contract. ~~"Local legislative or administrative action" does not include a decision by any~~  
9 ~~officer of the City and County which adjudicates the rights and/or duties of a single person or group of~~  
10 ~~persons, other than a proceeding described in Subsection (d)(1)(K) of Section 2.105.~~

11 (lj) "Measure" means a local referendum, initiative or recall or local ballot measure,  
12 ~~whether or not it qualifies for the ballot that has either been placed on the ballot by local elected~~  
13 ~~officials under procedures set forth in the Municipal Elections Code or has been circulated for~~  
14 ~~signatures in the City and County.~~

15 (mk) "Officer of the City and County" means any officer identified in San Francisco  
16 Administrative Code Section 1.50, as well as any official body composed of such officers. In  
17 addition, for purposes of this Chapter, "officer of the City and County" includes (1) members of  
18 the Board of Education, Community College Board, Housing Authority, Redevelopment  
19 Agency, and Transportation Authority, as well as any official body composed of such officers,  
20 (2) the Zoning Administrator, (3) the City Engineer, (4) the County Surveyor, and (5) the  
21 Bureau Chief of the Department of Public Works' Bureau of Street Use and Mapping.

22 (n) ~~"Payments to influence local legislative or administrative action" include actual or~~  
23 ~~promised payments of anything of value, whether or not legally enforceable, made in consideration for~~  
24 ~~influencing or attempting to influence local legislative or administrative action. Such payments include~~  
25

1 ~~payments for contacts with officers of the City and County as well as other lobbyist services. Such~~  
2 ~~payments shall not include the following:~~

3 ~~(1) Payments for services that are solely secretarial, clerical, or manual, or are limited~~  
4 ~~solely to the compilation of data and statistics;~~

5 ~~(2) Payments for any regular, ongoing business overhead that would continue to be~~  
6 ~~incurred in substantially similar amounts regardless of the filer's activities to influence local~~  
7 ~~legislative or administrative action, other than payments to lobbyists, employees or members for~~  
8 ~~lobbyist services;~~

9 ~~(3) Payments for soliciting or urging the filer or the filer's employees or members to~~  
10 ~~contact officers of the City and County;~~

11 ~~(4) Payments for the settlement or resolution of litigation or claims filed pursuant to~~  
12 ~~Administrative Code Section 10.20-1 et seq.; or~~

13 ~~(5) Payments for activities described in Subsection (d)(1) of Section 2.105, other than~~  
14 ~~Subsections (d)(1)(C), (L) and (P) of Section 2.105.~~

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

17 ~~(pm)~~ "Public hearing" means any open, noticed proceeding.

18 SEC. 2.110. ~~REGISTRATION OF LOBBYISTS REQUIRED;~~ REGISTRATION AND  
19 DISCLOSURES; REREGISTRATION, QUARTERLY REPORTS; FEES; CLIENT AUTHORIZATION;  
20 TERMINATION OF REGISTRATION.

21 (a) REGISTRATION OF LOBBYISTS REQUIRED. No person who qualifies as a contract  
22 or business or organization lobbyist shall register with the Ethics Commission and comply with the  
23 disclosure requirements imposed by this Chapter. Such registration shall occur no later than ten  
24 business days of qualifying as a lobbyist, but the lobbyist shall register prior to making any additional  
25

1 ~~contacts with an officer of the City and County of San Francisco. contact any officer of the City and~~  
2 ~~County, and no person who qualifies as an expenditure lobbyist shall make payments to influence local~~  
3 ~~legislative or administrative action, without first registering with the Ethics Commission and complying~~  
4 ~~with the disclosure requirements imposed by this Chapter.~~

5 (b) ~~REGISTRATION REPORTS.~~ At the time of initial registration each ~~filer~~ lobbyist shall  
6 report to the Ethics Commission the following information:

7 (1) The name, business address, e-mail address, and business telephone  
8 number of the ~~filer~~ lobbyist;

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

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

13 (4) Any other information required by the Ethics Commission consistent with the  
14 purposes and provisions of this Chapter. If the filer is a contract lobbyist, the filer shall also  
15 report the following:

16 (A) ~~If the filer is an entity, the name of each individual who is an owner, partner~~  
17 ~~or officer of the filer as follows:~~

18 (i) ~~If the filer is a sole proprietorship, list the name of the sole~~  
19 ~~proprietor;~~

20 (ii) ~~If the filer is a corporation, however organized, list the name of each~~  
21 ~~officer;~~

22 (iii) ~~If the filer is a partnership, however organized, and if the~~  
23 ~~partnership has 10 or more partners, list the name of the partnership; or~~



1                    ~~(B) The name of each employee or member of the business or organization~~  
2 ~~authorized to contact officers of the City and County on behalf of the business or~~  
3 ~~organization;~~

4                    ~~(C) The total amount of payments to influence local legislative or~~  
5 ~~administrative action made by the filer during the preceding two months;~~

6                    ~~(D) The total number of contacts with officers of the City and County, made on~~  
7 ~~behalf of the filer by the filer's employees or members during the preceding two months;~~  
8 ~~and~~

9                    ~~(E) A description of each local legislative or administrative action the filer~~  
10 ~~seeks to influence or sought to influence during the preceding two months; and the~~  
11 ~~outcome sought by the filer.~~

12 ~~(4) If the filer is an expenditure lobbyist, the filer shall also report the following:~~

13                    ~~(A) If the filer is an entity, a description of the nature and purpose of the entity,~~  
14 ~~and the name of each individual who is an owner, partner or officer of the filer as~~  
15 ~~follows:~~

16                    ~~(i) If the filer is a sole proprietorship, list the name of the sole~~  
17 ~~proprietor;~~

18                    ~~(ii) If the filer is a corporation, however organized, list the name of each~~  
19 ~~officer;~~

20                    ~~(iii) If the filer is a partnership, however organized, and if the~~  
21 ~~partnership has 10 or more partners, list the name of the partnership; or~~

22                    ~~(iv) If the filer is a partnership, however organized, and if the~~  
23 ~~partnership has fewer than 10 partners, list the name of each partner.~~

1                    ~~(B) If the filer is an individual, the name and address of the filer's employer, if~~  
2                    ~~any, or his or her principal place of business if the filer is self employed, and a~~  
3                    ~~description of the business activity in which the filer or his or her employer is engaged;~~

4                    ~~(C) The total amount of payments to influence local legislative or~~  
5                    ~~administrative action made during the preceding two months; and~~

6                    ~~(D) A description of each local legislative or administrative action the filer~~  
7                    ~~seeks to influence or sought to influence during the preceding two months, and the~~  
8                    ~~outcome sought by the filer.~~

9                    ~~(5) All political contributions of \$100 or more made or delivered by the filer, or made~~  
10                   ~~by a client at the behest of the filer, during the preceding two months in support of or in~~  
11                   ~~opposition to an officer of the City and County, a candidate for such office, a committee~~  
12                   ~~controlled by such officer or candidate, or a committee primarily formed to support or oppose~~  
13                   ~~such officer or candidate, or any committee primarily formed to support or oppose a ballot~~  
14                   ~~measure to be voted on only in San Francisco. This report shall include all political~~  
15                   ~~contributions arranged by the lobbyist, or for which the lobbyist acted as an agent or~~  
16                   ~~intermediary.~~

17                   ~~(6) Any other information required by the Ethics Commission consistent with the~~  
18                   ~~purposes and provisions of this Chapter.~~

19                   ~~(7) No lobbyist shall be required to report activities described in Subsection (d)(1) of~~  
20                   ~~Section 2.105, other than Subsections (d)(1)(C), (L) and (P) of Section 2.105.~~

21                   ~~(e) REREGISTRATION REPORTS. Each lobbyist shall reregister annually no later than~~  
22                   ~~January 15. The reregistration report must include the date of the most recent lobbyist workshop (as~~  
23                   ~~described in Section 2.140(j) of this Chapter) attended by the lobbyist.~~



1            ~~(d)~~ QUARTERLY REPORTS OF LOBBYIST ACTIVITYLOBBYIST DISCLOSURES. *Each*  
2 *lobbyist shall file with the Ethics Commission quarterly reports containing the information specified in*  
3 *this Subsection. For each calendar month, each lobbyist shall submit the following information no later*  
4 *than the fifteenth calendar day following the end of the month*~~The quarterly report for the period~~  
5 *starting January 1st and ending March 31st shall be filed no later than April 15th; the quarterly report*  
6 *for the period starting April 1st and ending June 30th shall be filed no later than July 15th; the*  
7 *quarterly report for the period starting July 1st and ending September 30th shall be filed no later than*  
8 *October 15th; and the quarterly report for the period starting October 1st and ending December 31st*  
9 *shall be filed no later than January 15th. Quarterly reports shall include the following information:*

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

13            (2) The name of each officer of the City and County of San Francisco with whom the  
14 lobbyist made a contact during the reporting period;

15            (3) The date on which each contact was made;

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

20            (5) The client on whose behalf each contact was made;

21            (6) The amount of economic consideration received or expected by the lobbyist or the  
22 lobbyist's employer from each client during the reporting period;

23            ~~(7)~~ All activity expenses incurred by the filer-lobbyist during the reporting  
24 period, including the following information:

- 1 (A) The date and amount of each activity expense;
- 2 (B) 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 (C) The full name of the payee of each activity expense if other than the  
5 beneficiary;
- 6 (D) Whenever a *filer-lobbyist* is required to report a salary of an individual  
7 pursuant to this Subsection, the *filer-lobbyist* need only disclose whether the total  
8 salary payments made to the individual during the reporting period was less than  
9 or equal to \$250, greater than \$250 but less than or equal to \$1,000, greater  
10 than \$1,000 but less than or equal to \$10,000, or greater than \$10,000.

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

19 The following information regarding each political contribution shall be submitted to  
20 the Ethics Commission:

- 21 (A) The amount of the contribution;
- 22 (B) The name of the contributor;
- 23 (C) The date on which the contribution was made;
- 24 (D) The contributor's occupation;
- 25

1 (E) The contributor's employer, or if self-employed, the name of the  
2 contributor's business; and

3 (F) The committee to which the contribution was made.

4 (9) Any amendments to the lobbyist's registration information required by subsection  
5 (b).

6 (10) Any other information required by the Ethics Commission consistent with the  
7 purposes and provisions of this Chapter.

8 ~~(3) If the filer is a contract lobbyist, the filer shall also report the following:~~

9 ~~(A) The name of each person employed or retained by the filer during the~~  
10 ~~reporting period to contract officers of the City and County;~~

11 ~~(B) The name, address, and telephone number of each client on whose behalf~~  
12 ~~the filer provided lobbyist service during the reporting period;~~

13 ~~(C) The total economic consideration promised by or received from clients~~  
14 ~~during the reporting period in exchange for lobbyist services;~~

15 ~~(D) The name and title, if applicable, of each officer and department of the City~~  
16 ~~and County contacted by the filer during the reporting period;~~

17 ~~(E) For each client, describe the local legislative or administrative action the~~  
18 ~~filer was retained to influence and the outcome sought by the filer; and~~

19 ~~(F) For each client, describe the lobbyist services provided for which economic~~  
20 ~~consideration was received from or promised by the client.~~

21 ~~(4) If the filer is a business or organization lobbyist, the filer shall also report the~~  
22 ~~following:~~

1                   ~~(A) The name of each employee or member of the business or organization~~  
2                   ~~authorized to contact officers of the City and County, during the reporting period, on~~  
3                   ~~behalf of the business or organization;~~

4                   ~~(B) The total amount of payments to influence local legislative or administrative~~  
5                   ~~action made by the filer during the reporting period;~~

6                   ~~(C) The name and title, if applicable, of each officer and department of the City~~  
7                   ~~and County contacted by the filer's employees or members during the reporting period;~~  
8                   ~~and~~

9                   ~~(D) A description of each local legislative or administrative action the filer~~  
10                  ~~sought to influence during the reporting period, and the outcome sought by the filer.~~

11                  ~~(5) If the filer is an expenditure lobbyist, the filer shall also report the following:~~

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

14                  ~~(B) A description of each local legislative or administrative action the filer~~  
15                  ~~sought to influence during the reporting period, and the outcome sought by the filer.~~

16                  ~~(6) Each City and County contract awarded to the filer during the reporting period.~~

17                  ~~For purposes of this Subsection, the term "contract" means a contract for: the rendition of~~  
18                  ~~personal services; the furnishing of any material, supplies or equipment to or from the City,~~  
19                  ~~whether by purchase or lease; the sale or lease of land or buildings to or by the City, or the~~  
20                  ~~financing of the same.~~

21                  ~~(7) Payments made by City and County officers to the filer during the reporting period,~~  
22                  ~~provided that the payment is made in exchange for "campaign consulting services," as defined~~  
23                  ~~in Section 1.505 of this Code, and provided that the filer contacted the officer within one year of~~

1 ~~the date of payment. The required disclosure of payments under this Subsection shall not apply~~  
2 ~~to information that is privileged under State law.~~

3 ~~(8) The name of each officer of the City and County who is employed or retained by the~~  
4 ~~filer, or by a client of the filer at the behest of the filer, at any time during the reporting period.~~

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

7 ~~(10) No lobbyist shall be required to report activities described in Subsection (d)(1) of~~  
8 ~~Section 2.105, other than Subsection (d)(1)(C), (L) and (P) of Section 2.105.~~

9 (d) REGISTRATION AND FILING OF DISCLOSURES BY ORGANIZATIONS. The Ethics  
10 Commission is authorized to establish procedures to permit the registration and filing of lobbyist  
11 disclosures by a business, firm, or organization on behalf of the individual lobbyists employed by those  
12 businesses, firms, or organizations.

13 (e) FEES; TERMINATION OF REGISTRATION.

14 (1) At the time of registration ~~or reregistration~~; each lobbyist shall pay a fee of  
15 ~~\$500~~100. On or before every subsequent February 1, each registered lobbyist shall pay an  
16 additional fee of \$100. ~~The Ethics Commission shall prorate the fee by calendar quarter.~~

17 ~~(2) In addition, at the time of registration and reregistration, contract lobbyists shall~~  
18 ~~pay a fee of \$75 for each current client. When a contract lobbyist is retained by a client~~  
19 ~~subsequent to registration, payment of the \$75 fee shall accompany the filing of the information~~  
20 ~~required in Subsection (f) of this Section. The Ethics Commission shall prorate these fees by~~  
21 ~~calendar quarter.~~

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  
24 to establish additional processes for the termination of a lobbyist's registration.

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

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

6 ~~(f) CLIENT AUTHORIZATION STATEMENTS. At the time of initial registration, each~~  
7 ~~contract lobbyist shall submit to the Ethics Commission a written authorization from each client. The~~  
8 ~~client authorization statement shall be signed by both the contract lobbyist and the client.~~

9 ~~If the lobbyist is retained by a client after the date of initial registration, the lobbyist shall file a~~  
10 ~~client authorization statement before providing any lobbyist services to the client, and before receiving~~  
11 ~~any economic consideration from the client in exchange for such lobbyist services, and in any event no~~  
12 ~~later than 15 days after being retained by the client. The lobbyist is not required to amend previously~~  
13 ~~filed registration, reregistration or quarterly reports to include a client who retains the services of the~~  
14 ~~lobbyist after the time the report was filed.~~

15 ~~If the lobbyist is retained by a client after the date of initial registration, the lobbyist may submit~~  
16 ~~a copy of the client authorization statement by facsimile machine. The client authorization statement~~  
17 ~~shall be deemed to be timely filed only if the facsimile copy is received no later than the filing deadline,~~  
18 ~~and within 15 days of the filing deadline the original document is received by the Ethics Commission,~~  
19 ~~and the original document is identical in all respects to the facsimile copy.~~

20 ~~The lobbyist is not required to resubmit client authorization statements at the time of~~  
21 ~~reregistration.~~

22 ~~(g) CLIENT TERMINATION STATEMENTS. Within 15 days after a client terminates the~~  
23 ~~services of a contract lobbyist, the lobbyist shall submit to the Ethics Commission a statement that the~~  
24 ~~client has terminated the services of the lobbyist. The client termination statement shall be signed by~~  
25

1 ~~the contract lobbyist. A contract lobbyist may not provide lobbyist services to a client after a client~~  
2 ~~termination statement is filed, until a new client authorization statement has been filed pursuant to~~  
3 ~~Subsection (f) of this Section.~~

4 ~~(h) LOBBYIST TERMINATION STATEMENTS. Once a person qualifies as a "lobbyist" under~~  
5 ~~this Chapter, the person shall be subject to all registration, reporting and other requirements and~~  
6 ~~prohibitions imposed by this Chapter until the person ceases all lobbyist activity and files a lobbyist~~  
7 ~~termination statement with the Ethics Commission pursuant to this Subsection, regardless of whether~~  
8 ~~the person continues to meet the activity thresholds established in Section 2.105(i). A lobbyist~~  
9 ~~termination statement shall include all information required by Subsection (d) of this Section for the~~  
10 ~~period starting with the first day of the calendar quarter and ending with the date of termination. A~~  
11 ~~lobbyist termination statement shall be filed no later than 30 days after the date the lobbyist ceased all~~  
12 ~~lobbyist activity.~~

13 SEC. 2.115. PROHIBITIONS.

14 (a) GIFT LIMIT. No lobbyist shall make gifts to an officer of the City and County that  
15 have a fair market value of more than \$25, except for those gifts that would qualify for one of the  
16 exemptions established by the regulations implementing section 3.216(b) of this Code.~~aggregating~~  
17 ~~more than \$50 within three months of contacting the officer. No lobbyist shall act as an agent or~~  
18 ~~intermediary in the making of any gift to an officer of the City and County, or arrange for the making of~~  
19 ~~any gift to an officer of the City and County by a third party, within three months of contacting the~~  
20 ~~officer.~~

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

24  
25

1 (c) FICTITIOUS PERSONS. No lobbyist shall contact any officer of the City and  
2 County in the name of any fictitious person or in the name of any real person, except with the  
3 consent of such real person.

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

7 SEC. 2.116. LOBBYIST TRAINING.

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

11 SEC. 2.117. LOBBYING BY CAMPAIGN CONSULTANTS.

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

17 ~~(b) EXCEPTIONS.~~

- 18 ~~(1) This prohibition shall not apply to:~~
- 19 ~~(A) an employee of a campaign consultant whose sole duties are clerical; or~~
  - 20 ~~(B) an employee of a campaign consultant who did not personally provide~~  
21 ~~campaign consulting services to the officer of the City and County with whom the~~  
22 ~~employee seeks to communicate in order to influence local legislative or administrative~~  
23 ~~action.~~



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

4                   (εa) DISCLOSURE. Each campaign consultant who qualifies as a lobbyist who  
5                   ~~communicates with any officer of the City and County, or staff person of such officer, on behalf of~~  
6                   ~~another person or entity (other than the City and County) in exchange for economic consideration for~~  
7                   ~~the purpose of influencing local legislative or administrative action shall file a quarterly shall comply~~  
8                   ~~with the registration and reporting requirements of this Chapter and submit the following additional~~  
9                   ~~information in his or her lobbyist disclosures report with the Ethics Commission containing the~~  
10                  ~~following information:~~

11                  (1) The names, business addresses and business telephone numbers of each  
12                  current client for whom the ~~campaign consultant~~lobbyist provides campaign consulting  
13                  services during the reporting period and each former client who is an officer of the City  
14                  and County for whom the ~~campaign consultant~~lobbyist provided campaign consulting  
15                  services during the past 60 months; and

16                  (2) Any other information required by the Ethics Commission consistent with the  
17                  purposes and provisions of this Chapter.

18                  ~~(2) The names, addresses and telephone numbers of each person on whose behalf the~~  
19                  ~~filer provided lobbyist services during the reporting period;~~

20                  ~~(3) The total economic consideration promised by or received from each person listed~~  
21                  ~~in subsection (2) for lobbyist services during the reporting period;~~

22                  ~~(4) For each person listed in subsection (2), the local legislative or administrative~~  
23                  ~~action the filer was retained to influence, and the outcome sought by the filer;~~

1                   ~~(5) The name of each officer of the City and County, or staff person of such officer,~~  
2                   ~~whom the campaign consultant contacted in seeking to influence a local legislative or~~  
3                   ~~administrative action and the number of contacts with each such individual officer or staff~~  
4                   ~~person during the reporting period.~~

5                   ~~(d)~~ DEFINITIONS. Whenever the following words or phrases are used in this  
6 Section, they shall mean:

7                   (1) "Campaign ~~C~~consultant" shall have the same meaning as in Article I, Chapter  
8 5, Section 1.505 of this Code.

9                   (2) "Campaign ~~e~~consultant~~c~~onsulting services" shall have the same meaning as in  
10 Article I, Chapter 5, Section 1.505 of this Code.

11                   (3) "Current client" shall mean a person for whom the campaign consultant has  
12 filed a client authorization statement pursuant to Article I, Chapter 5, Section 1.515(d)  
13 of this Code and not filed a client termination statement pursuant to Article I, Chapter 5,  
14 Section 1.515(f) of this Code. If such person is a committee as defined by Section  
15 82013 of the California Government Code, the current client shall be any individual who  
16 controls such committee; any candidate that such committee was primarily formed to  
17 support; and any proponent or opponent of a ballot measure that the committee is  
18 primarily formed to support or oppose.

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

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

1                   ~~(6) "Staff person" shall be defined by regulation by the Ethics Commission, and shall~~  
2                   ~~include any person who works for an elected official and holds a position designated by Article~~  
3                   ~~3, Chapter 1 of the Campaign and Governmental Conduct Code to file financial disclosures~~  
4                   ~~pursuant to Disclosure Category 1.~~

5                   SEC. 2.120. EMPLOYMENT OF CITY AND COUNTY OFFICERS OR EMPLOYEES;  
6                   APPOINTMENT OF EMPLOYEE TO CITY AND COUNTY OFFICE.

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

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

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

24                  ~~SEC. 2.125. NOTIFICATION OF BENEFICIARIES OF GIFTS.~~

1           ~~Each lobbyist shall provide each officer of the City and County who is the beneficiary of a gift~~  
2 ~~made by the lobbyist a written statement including the date, value and description of the gift. The~~  
3 ~~lobbyist shall provide this information to the officer within 30 days following the end of the reporting~~  
4 ~~period in which the gift was made. A lobbyist may satisfy this notification requirement by providing a~~  
5 ~~copy of the lobbyist's quarterly report of lobbyist activity to the officer.~~

6           SEC. 2.130. EMPLOYMENT OF UNREGISTERED PERSONS.

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

10           SEC. 2.135. FILING UNDER PENALTY OF PERJURY; RETENTION OF  
11 DOCUMENTS.

12           All information required under this Chapter shall be ~~filed with~~submitted to the Ethics  
13 Commission, ~~on forms provided in the format designated by~~ the Commission. The ~~filer~~lobbyist  
14 shall verify, under penalty of perjury, the accuracy and completeness of the information  
15 provided under this Chapter. The ~~filer~~lobbyist shall retain for a period of five years all books,  
16 papers and documents necessary to substantiate the registration and disclosure reports  
17 required by this Chapter. Upon request, the lobbyist shall provide to the Ethics Commission his or  
18 her books, papers and documents, or any other materials related to the lobbyist's activities within ten  
19 business days.

20           SEC. 2.140. POWERS AND DUTIES OF THE ETHICS COMMISSION.

21           (a) The Ethics Commission shall ~~provide forms~~prescribe the format for the ~~reporting~~  
22 submission of all information required by this Chapter, and may require paper filing, electronic  
23 filing or both.

24           ~~(b) The Ethics Commission shall issue a registration number to each registered lobbyist.~~

1           ~~(c) At the time of initial registration and reregistration, the Ethics Commission shall provide~~  
2 ~~the lobbyist with a copy of the City's lobbyist law, and any related material which the Commission~~  
3 ~~determines will serve the purposes of this Chapter. Each lobbyist shall sign a statement acknowledging~~  
4 ~~receipt of these materials.~~

5           ~~(d) The Ethics Commission shall issue a "Notice of Registration Required" upon the written~~  
6 ~~request of any officer of the City and County. Any person who in good faith and on reasonable grounds~~  
7 ~~believes that compliance with this Chapter is not required by reason of being exempt under Section~~  
8 ~~2.105(i) shall not be deemed to have violated this Chapter if, within 15 days after notice from the Ethics~~  
9 ~~Commission, that person either complies or furnishes satisfactory evidence to the Ethics Commission~~  
10 ~~evidencing that said person is exempt from registration.~~

11           ~~(eb) Upon request by the Board of Supervisors or the Mayor, The~~the Ethics Commission  
12 shall compile the information ~~provided in registration and quarterly reports filed~~ submitted  
13 pursuant to this Chapter ~~as soon as practicable after the close of each quarter~~ and shall forward a  
14 report of the compiled information to the Board of Supervisors and the Mayor.

15           ~~(fc) In July of each year~~ Upon request by the Board of Supervisors or the Mayor, the Ethics  
16 Commission shall file a report with the Board of Supervisors and the Mayor on the  
17 implementation of this Chapter.

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

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

1           (i) The Ethics Commission shall have the power to adopt all reasonable and  
2 necessary rules and regulations for the implementation of this Chapter pursuant to Charter  
3 Section ~~C3.699-9~~15.102.

4           ~~(j) The Ethics Commission shall conduct quarterly workshops concerning the laws relating to~~  
5 ~~lobbying.~~

6           SEC. 2.145. ADMINISTRATIVE AND CIVIL ENFORCEMENT AND PENALTIES.

7           (a) If any lobbyist ~~fails to file~~submit any information required by this Chapter ~~original~~  
8 ~~statement or report~~ after any applicable deadline ~~imposed by this Chapter~~, the Ethics Commission  
9 shall, in addition to any other penalties or remedies established in this Chapter, fine the  
10 lobbyist \$50 per day after the deadline until the ~~statement or report~~information is received by the  
11 Ethics Commission. The Ethics Commission may reduce or waive a fine if the Commission  
12 determines that the late filing was not willful and that enforcement will not further the purposes  
13 of this Chapter. The Ethics Commission shall deposit funds collected under this Section in the  
14 General Fund of the City and County of San Francisco.

15           ~~(b) Any person who believes that the provisions of this Chapter have been violated may file a~~  
16 ~~complaint with the Ethics Commission. Upon receipt of a complaint, or upon its own initiative, the~~  
17 ~~Commission may investigate alleged violations of this Chapter and may enforce the provisions of this~~  
18 ~~Chapter pursuant to Charter Section C3.699-13 and to the Commissioner's rules and regulations~~  
19 ~~adopted pursuant to Charter Section C3.699-9.~~Any person who knowingly or negligently violates this  
20 Chapter, including but not limited to, by providing inaccurate or incomplete information regarding  
21 lobbying activities, shall be liable in an administrative proceeding before the Ethics Commission  
22 pursuant to Charter section C3.699-13. In addition to the administrative penalties set forth in the  
23 Charter, the Ethics Commission may issue warning letters regarding potential violations of this  
24 Chapter.

1 (c) Any person or entity which knowingly or negligently violates this Chapter may be  
2 liable in a civil action brought by the City Attorney for an amount up to ~~\$1,000~~5,000 per  
3 violation, or three times the amount not properly reported,~~or three times the amount given or~~  
4 ~~received in excess of the gift limit~~, whichever is greater.

5 (d) In investigating any alleged violation of this Chapter the Ethics Commission and  
6 City Attorney shall have the power to inspect,~~upon reasonable notice~~, all documents required to  
7 be maintained under this Chapter. This power to inspect documents is in addition to other  
8 powers conferred on the Ethics Commission and City Attorney by the Charter or by ordinance,  
9 including the power of subpoena.

10 (e) Should two or more persons be responsible for any violation under this Chapter,  
11 they shall be jointly and severally liable. If a business, firm or organization registers or files  
12 lobbyists disclosures on behalf of its employees pursuant to section 2.110(d), the business, firm or  
13 organization may be held jointly and severally liable for any failure to disclose its employees' lobbying  
14 activities.

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

#### 17 SEC. 2.150. LIMITATION OF ACTIONS.

18 (a) ~~No administrative or~~ civil action shall be ~~maintained~~ brought to enforce this Chapter  
19 unless brought within four years after the date the cause of action accrued or the date that the  
20 facts constituting the cause of action were discovered by the ~~Ethics Commission or~~ City  
21 Attorney, ~~whichever is later~~. For the purpose of this subsection, a civil action is brought when the City  
22 Attorney files the action in a court of law.

23 (b) No administrative action alleging a violation of this Chapter and brought under Charter  
24 section C3.699-13 shall be brought more than four years after the date of events which form the basis  
25

1 of the complaint, or the date that the events constituting the basis of the complaint were discovered by  
2 the Ethics Commission. For the purpose of this subsection, a complaint is brought by the Executive  
3 Director of the Ethics Commission upon the date of service of the probable cause report.

4 (c) A civil action brought to collect fines or penalties imposed under this Chapter shall be  
5 brought within four years after the date on which the monetary penalty or fine was imposed. For  
6 purposes of this subsection, a fine or penalty is imposed when the Ethics Commission has issued a final  
7 decision in an enforcement action imposing a fine or penalty for a violation of this Chapter or the  
8 Executive Director has made a final determination regarding the amount of a late fine or penalty  
9 imposed under this Chapter. The Executive Director does not make a final determination regarding the  
10 amount of a late fine or penalty imposed under this Chapter until the Executive Director has made a  
11 determination to accept or refuse any request to waive a late fine or penalty where such waiver is  
12 expressly authorized by statute, ordinance, or regulation. For the purpose of this subsection, a civil  
13 action is brought when the City Attorney files the action in a court of law.

14 **SEC. 2.155. SEVERABILITY.**

15 If any Section, Subsection, subdivision, sentence, clause, phrase or portion of this  
16 Chapter, or the application thereof to any person, is for any reason held to be invalid or  
17 unconstitutional by the decision of any court of competent jurisdiction, such decision shall not  
18 affect the validity of the remaining portions of this Chapter or its application to other persons.  
19 The Board of Supervisors hereby declares that it would have adopted this Chapter, and each  
20 Section, Subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of  
21 the fact that any one or more Sections, Subsections, subdivisions, sentences, clauses,  
22 phrases, or portions, or the application thereof to any person, to be declared invalid or  
23 unconstitutional.

24 ~~**SEC. 2.160. ELECTRONIC FILING OF STATEMENTS AND REPORTS.**~~



1           ~~(a) ELECTRONIC FILING REQUIRED. Whenever lobbyists are required by this Chapter to~~  
2 ~~file an original statement or report, the Ethics Commission may require the lobbyists to file an~~  
3 ~~electronic copy of the statement or report. The electronic copy shall be due no later than the deadline~~  
4 ~~imposed by this Chapter for filing the original statement or report.~~

5           ~~(b) POWERS AND DUTIES OF THE ETHICS COMMISSION.~~

6           ~~(i) Pursuant to San Francisco Charter Section 15.102, the Ethics Commission shall~~  
7 ~~adopt regulations specifying the electronic filing requirements applicable to campaign~~  
8 ~~lobbyists. The Ethics Commission shall adopt these regulations no fewer than 120 days before~~  
9 ~~the electronic filing requirements are effective.~~

10           ~~(ii) The Ethics Commission shall prescribe the format for electronic copies of~~  
11 ~~statements and reports no fewer than 90 days before the statements and reports are due to be~~  
12 ~~filed.~~

13           ~~(c) PENALTIES. If any lobbyist files an electronic copy of a statement or report after the~~  
14 ~~deadline imposed by this Section, the Ethics Commission shall, in addition to any other penalties or~~  
15 ~~remedies established in this Chapter, fine the lobbyist \$10 per day after the deadline until the electronic~~  
16 ~~copy is received by the Ethics Commission. The Ethics Commission may reduce or waive a fine if the~~  
17 ~~Commission determines that the late filing was not willful and that enforcement will not further the~~  
18 ~~purposes of this Chapter. The Ethics Commission shall deposit funds collected under this Section in the~~  
19 ~~General Fund of the City and County of San Francisco.~~

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

22 By: \_\_\_\_\_  
23 ATTORNEY'S NAME  
24 Deputy City Attorney

25  
ETHICS COMMISSION  
BOARD OF SUPERVISORS

1 [Lobbyist ordinance amendments.]

2

3 **Ordinance amending Chapter I of Article II of the Campaign and Governmental Conduct**  
4 **Code by amending sections 2.100, 2.105, 2.110, 2.115, 2.117, 2.130, 2.135, 2.140, 2.145,**  
5 **2.150, adding section 2.116, and deleting sections 2.125 and 2.160, to simplify**  
6 **registration requirements, adopt a more equitable fee structure, and ease electronic**  
7 **filing of lobbyist disclosures.**

8

Note: Additions are *single-underline italics Times New Roman*;  
9 deletions are *strikethrough italics Times New Roman*.  
Board amendment additions are double underlined.  
10 Board amendment deletions are ~~strikethrough normal~~.

11

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

12

Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby  
13 amended by amending Sections 2.100-2.160, to read as follows:

14

SEC. 2.100. FINDINGS.

15

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

22

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

1 of corruption which could result in such erosion of public confidence. Requiring campaign  
2 consultants who lobby current and former clients to disclose their lobbying activities will  
3 protect public confidence in the electoral and governmental processes.

4 SEC. 2.105. DEFINITIONS.

5 Whenever used in this Chapter, the following words and phrases shall have the  
6 definitions provided in this Section:

7 (a) "Activity expenses" means any expense incurred or payment made by a lobbyist  
8 or a lobbyist's client at the behest of the lobbyist, or arranged by a lobbyist or a lobbyist's  
9 client at the behest of the lobbyist, which benefits in whole or in part any: officer of the City  
10 and County; candidate for City and County office; aide to a member of the Board of  
11 Supervisors; or member of the immediate family or the registered domestic partner of an  
12 officer, candidate, or aide to a member of the Board of Supervisors. An expense or payment is  
13 not an "activity expense" unless it is incurred or made within three months of a contact with  
14 the officer, candidate, or Supervisor's aide who benefits from the expense or payment, or  
15 whose immediate family member or registered domestic partner benefits from the expense or  
16 payment. "Activity expenses" include honoraria, consulting fees, salaries, and any other thing  
17 of value totaling more than \$25 in value in a consecutive three-month period, but do not  
18 include political contributions.

19 (b) "Candidate" means a person who has filed a declaration of candidacy to seek  
20 election to local office.

21 (c) "Client" means the person for whom lobbyist services are performed by a lobbyist.

22 (d) "Contact" means communication, oral or written, including communication made  
23 through an agent, associate or employee, for the purpose of influencing local legislative or  
24 administrative action.

25

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

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

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

14 (C) A person performing a duty or service, which duty or service lawfully  
15 can be performed only by an attorney, an architect, or a professional engineer  
16 licensed to practice in the State of California, including any communication by an  
17 attorney in connection with litigation involving the City and County or a claim  
18 filed pursuant to Administrative Code Section 10.20-1 et seq.;

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

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

25

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

3 (G) A person providing oral or written information in response to a  
4 request for proposals, request for qualifications, or other similar request,  
5 provided that the information is directed to the department or official specifically  
6 designated in the request to receive such information;

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

10 (I) A person making an oral or written request for a meeting, or any other  
11 similar administrative request, if the request does not include an attempt to  
12 influence local legislative or administrative action;

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

16 (K) A person providing purely technical data, analysis, or expertise in the  
17 presence of a registered lobbyist;

18 (L) A person distributing to any officer of the City and County any  
19 regularly published newsletter or other periodical which is not primarily directed  
20 at influencing local legislative or administrative action;

21 (M) A person disseminating information or material on behalf of an  
22 organization or entity to all or a significant segment of the organization's or  
23 entity's employees or members;

24  
25

1 (N) A person communicating in connection with the administration of an  
2 existing contract between the person and the City and County of San Francisco.  
3 For purposes of this Subsection, communication, "in connection with the  
4 administration of an existing contract" includes, but is not limited to,  
5 communication regarding: insurance and bonding; contract performance and/or  
6 default; requests for in-scope change orders; legislative mandates imposed on  
7 contractors by the City and County; payments and invoicing; personnel changes;  
8 prevailing wage verification; liquidated damages and other penalties for breach  
9 of contract; audits; assignments; and subcontracting. Communication "in  
10 connection with the administration of an existing contract" does not include  
11 communication regarding new contracts, or out-of-scope change orders;

12 (O) A person negotiating the terms of a contract after being selected to  
13 enter into a contract with the City and County through a competitive bidding  
14 process, or as otherwise permitted under the Administrative Code;

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

17 (Q) A person communicating, on behalf of a labor union representing  
18 City employees, regarding the establishment, amendment, or interpretation of a  
19 collective bargaining agreement or memorandum of understanding with the City,  
20 or communicating about a management decision regarding the working  
21 conditions of employees represented by a collective bargaining agreement or a  
22 memorandum of understanding with the City; and  
23  
24  
25

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

4 (e) "Economic consideration" means any payments, fees, reimbursement for  
5 expenses, gifts, or anything else of value, provided that "economic consideration" does not  
6 include salary, wages or benefits furnished by a federal, state or local government agency.

7 (f) "Gift" shall be defined as set forth in the Political Reform Act, Government Code  
8 Section 81000 et seq., and the regulations adopted thereunder.

9 (g) "Lobbyist" means any individual who:

10 (1) receives or is promised economic consideration of \$3,000 or more within  
11 three consecutive calendar months for lobbyist services; and

12 (2) on behalf of the persons providing the economic consideration, makes any  
13 contact with an officer of the City and County.

14 (h) "Lobbyist services" means services rendered for the purpose of influencing local  
15 legislative or administrative action, including but not limited to contacts with officers of the City  
16 and County of San Francisco.

17 (i) "Local legislative or administrative action" includes, but is not limited to, the  
18 drafting, introduction, consideration, modification, enactment, defeat, approval, veto, granting  
19 or denial by any officer of the City and County of any resolution, motion, appeal, application,  
20 petition, nomination, ordinance, amendment, approval, referral, permit, license, entitlement to  
21 use or contract.

22 (j) "Measure" means a local referendum, initiative or recall that has either been placed  
23 on the ballot by local elected officials under procedures set forth in the Municipal Elections  
24 Code or has been circulated for signatures in the City and County.

1 (k) "Officer of the City and County" means any officer identified in San Francisco  
2 Administrative Code Section 1.50, as well as any official body composed of such officers. In  
3 addition, for purposes of this Chapter, "officer of the City and County" includes (1) members of  
4 the Board of Education, Community College Board, Housing Authority, Redevelopment  
5 Agency, and Transportation Authority, as well as any official body composed of such officers,  
6 (2) the Zoning Administrator, (3) the City Engineer, (4) the County Surveyor, and (5) the  
7 Bureau Chief of the Department of Public Works' Bureau of Street Use and Mapping.

8 (l) "Person" means an individual, partnership, corporation, association, firm, labor  
9 union or other organization or entity, however organized.

10 (m) "Public hearing" means any open, noticed proceeding.

11 SEC. 2.110. REGISTRATION AND DISCLOSURES; FEES; TERMINATION OF  
12 REGISTRATION.

13 (a) REGISTRATION OF LOBBYISTS REQUIRED. Lobbyists shall register with the  
14 Ethics Commission and comply with the disclosure requirements imposed by this Chapter.  
15 Such registration shall occur no later than ten business days of qualifying as a lobbyist, but  
16 the lobbyist shall register prior to making any additional contacts with an officer of the City and  
17 County of San Francisco.

18 (b) REGISTRATION. At the time of initial registration each lobbyist shall report to the  
19 Ethics Commission the following information:

20 (1) The name, business address, e-mail address, and business telephone  
21 number of the lobbyist;

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

24

25



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

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

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

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

12 (2) The name of each officer of the City and County of San Francisco with  
13 whom the lobbyist made a contact during the reporting period;

14 (3) The date on which each contact was made;

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

19 (5) The client on whose behalf each contact was made;

20 (6) The amount of economic consideration received or expected by the lobbyist  
21 or the lobbyist's employer from each client during the reporting period;

22 (7) All activity expenses incurred by the lobbyist during the reporting period,  
23 including the following information:

24 (A) The date and amount of each activity expense;

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

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

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

10 (8) All political contributions of \$100 or more made or delivered by the lobbyist  
11 or the lobbyist's employer, or made by a client at the behest of the lobbyist or the  
12 lobbyist's employer during the reporting period to an officer of the City and County, a  
13 candidate for such office, a committee controlled by such officer or candidate, or a  
14 committee primarily formed to support or oppose such officer or candidate. This report  
15 shall include such political contributions arranged by the lobbyist, or for which the  
16 lobbyist acted as an agent or intermediary.

17 The following information regarding each political contribution shall be submitted  
18 to the Ethics Commission:

19 (A) The amount of the contribution;

20 (B) The name of the contributor;

21 (C) The date on which the contribution was made;

22 (D) The contributor's occupation;

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

25

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

2 (9) Any amendments to the lobbyist's registration information required by  
3 subsection (b).

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

6 (d) REGISTRATION AND FILING OF DISCLOSURES BY ORGANIZATIONS. The  
7 Ethics Commission is authorized to establish procedures to permit the registration and filing of  
8 lobbyist disclosures by a business, firm, or organization on behalf of the individual lobbyists  
9 employed by those businesses, firms, or organizations.

10 (e) FEES; TERMINATION OF REGISTRATION.

11 (1) At the time of registration each lobbyist shall pay a fee of \$100. On or  
12 before every subsequent February 1, each registered lobbyist shall pay an additional  
13 fee of \$100.

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

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

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

23 SEC. 2.115. PROHIBITIONS.

24

25

1 (a) GIFT LIMIT. No lobbyist shall make gifts to an officer of the City and County that  
2 have a fair market value of more than \$25, except for those gifts that would qualify for one of  
3 the exemptions established by the regulations implementing section 3.216(b) of this Code.

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  
6 employed or retained to secure its granting, denial, confirmation, rejection, passage or defeat.

7 (c) FICTITIOUS PERSONS. No 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  
9 consent 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  
12 employees.

13 SEC. 2.116. LOBBYIST TRAINING.

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

18 SEC. 2.117. LOBBYING BY CAMPAIGN CONSULTANTS.

19 (a) DISCLOSURE. Each campaign consultant who qualifies as a lobbyist shall comply  
20 with the registration and reporting requirements of this Chapter and submit the following  
21 additional information in his or her lobbyist disclosures:

22 (1) The names, business addresses and business telephone numbers of each  
23 current client for whom the lobbyist provides campaign consulting services during the  
24 reporting period and each former client who is an officer of the City and County for  
25

1 whom the lobbyist provided campaign consulting services during the past 60 months;  
2 and

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

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

7 (1) "Campaign consultant" shall have the same meaning as in Article I, Chapter  
8 5, Section 1.505 of this Code.

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

11 (3) "Current client" shall mean a person for whom the campaign consultant has  
12 filed a client authorization statement pursuant to Article I, Chapter 5, Section 1.515(d)  
13 of this Code and not filed a client termination statement pursuant to Article I, Chapter 5,  
14 Section 1.515(f) of this Code. If such person is a committee as defined by Section  
15 82013 of the California Government Code, the current client shall be any individual who  
16 controls such committee; any candidate that such committee was primarily formed to  
17 support; and any proponent or opponent of a ballot measure that the committee is  
18 primarily formed to support or oppose.

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

22 SEC. 2.120. EMPLOYMENT OF CITY AND COUNTY OFFICERS OR EMPLOYEES;  
23 APPOINTMENT OF EMPLOYEE TO CITY AND COUNTY OFFICE.

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

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

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

18 SEC. 2.130. EMPLOYMENT OF UNREGISTERED PERSONS.

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

22 SEC. 2.135. FILING UNDER PENALTY OF PERJURY; RETENTION OF  
23 DOCUMENTS.

1 All information required under this Chapter shall be submitted to the Ethics  
2 Commission, in the format designated by the Commission. The lobbyist shall verify, under  
3 penalty of perjury, the accuracy and completeness of the information provided under this  
4 Chapter. The lobbyist shall retain for a period of five years all books, papers and documents  
5 necessary to substantiate the registration and disclosure reports required by this Chapter.  
6 Upon request, the lobbyist shall provide to the Ethics Commission his or her books, papers  
7 and documents, or any other materials related to the lobbyist's activities within ten business  
8 days.

9 SEC. 2.140. POWERS AND DUTIES OF THE ETHICS COMMISSION.

10 (a) The Ethics Commission shall prescribe the format for the submission of all  
11 information required by this Chapter, and may require paper filing, electronic filing or both.

12 (b) Upon request by the Board of Supervisors or the Mayor, the Ethics Commission  
13 shall compile the information submitted pursuant to this Chapter and forward a report of the  
14 compiled information to the Board of Supervisors and the Mayor.

15 (c) Upon request by the Board of Supervisors or the Mayor, the Ethics Commission  
16 shall file a report with the Board of Supervisors and the Mayor on the implementation of this  
17 Chapter.

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

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

25

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

4 SEC. 2.145. ADMINISTRATIVE AND CIVIL ENFORCEMENT AND PENALTIES.

5 (a) If any lobbyist fails to submit any information required by this Chapter after any  
6 applicable deadline, the Ethics Commission shall, in addition to any other penalties or  
7 remedies established in this Chapter, fine the lobbyist \$50 per day after the deadline until the  
8 information is received by the Ethics Commission. The Ethics Commission may reduce or  
9 waive a fine if the Commission determines that the late filing was not willful and that  
10 enforcement will not further the purposes of this Chapter. The Ethics Commission shall  
11 deposit funds collected under this Section in the General Fund of the City and County of San  
12 Francisco.

13 (b) Any person who knowingly or negligently violates this Chapter, including but not  
14 limited to, by providing inaccurate or incomplete information regarding lobbying activities, shall  
15 be liable in an administrative proceeding before the Ethics Commission pursuant to Charter  
16 section C3.699-13. In addition to the administrative penalties set forth in the Charter, the  
17 Ethics Commission may issue warning letters regarding potential violations of this Chapter.

18 (c) Any person or entity which knowingly or negligently violates this Chapter may be  
19 liable in a civil action brought by the City Attorney for an amount up to \$5,000 per violation, or  
20 three times the amount not properly reported, whichever is greater.

21 (d) In investigating any alleged violation of this Chapter the Ethics Commission and  
22 City Attorney shall have the power to inspect all documents required to be maintained under  
23 this Chapter. This power to inspect documents is in addition to other powers conferred on the  
24  
25



1 Ethics Commission and City Attorney by the Charter or by ordinance, including the power of  
2 subpoena.

3 (e) Should two or more persons be responsible for any violation under this Chapter,  
4 they shall be jointly and severally liable. If a business, firm or organization registers or files  
5 lobbyists disclosures on behalf of its employees pursuant to section 2.110(d), the business,  
6 firm or organization may be held jointly and severally liable for any failure to disclose its  
7 employees' lobbying activities.

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

10 SEC. 2.150. LIMITATION OF ACTIONS.

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

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

21 (c) A civil action brought to collect fines or penalties imposed under this Chapter shall  
22 be brought within four years after the date on which the monetary penalty or fine was  
23 imposed. For purposes of this subsection, a fine or penalty is imposed when the Ethics  
24 Commission has issued a final decision in an enforcement action imposing a fine or penalty  
25

1 for a violation of this Chapter or the Executive Director has made a final determination  
2 regarding the amount of a late fine or penalty imposed under this Chapter. The Executive  
3 Director does not make a final determination regarding the amount of a late fine or penalty  
4 imposed under this Chapter until the Executive Director has made a determination to accept  
5 or refuse any request to waive a late fine or penalty where such waiver is expressly  
6 authorized by statute, ordinance, or regulation. For the purpose of this subsection, a civil  
7 action is brought when the City Attorney files the action in a court of law.

8 SEC. 2.155. SEVERABILITY.

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

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

23

24

By: \_\_\_\_\_  
ATTORNEY'S NAME  
Deputy City Attorney

25

**COMPARISON OF LOBBYING LAWS – REGISTRATION THRESHOLD**

<b>Type of Lobbyist</b>	<b>San Francisco<sup>1</sup></b>	<b>Sacramento<sup>2</sup></b>	<b>San Jose<sup>3</sup></b>	<b>San Diego<sup>4</sup></b>	<b>Los Angeles<sup>5</sup></b>	<b>State of CA<sup>6</sup></b>	<b>Federal<sup>7</sup></b>
<b>Contract Lobbyist</b>	\$3,200 in a calendar quarter or 25 contacts within 2 consecutive months	\$3,200 in 3 consecutive months	\$1000 in 3 consecutive months	\$1	\$1,000 within 3 consecutive months	\$2,000 in a calendar month or 1/3 of time in calendar month	1 contact and spends %20 of time Lobbying, and receives \$2,500 in 3 months or expends 10,000 in three months
<b>Organization lobbyist</b>	25 contacts within 2 consecutive months	100 hrs in 3 consecutive months	Trade organizations (or similar): 20 hrs in 3 consecutive months Lobbyist organization: 1,000 in one month and 20 hrs in 3 consecutive months	10 contacts with City Officials within 60 calendar days	30 compensated hours within 3 consecutive months	1/3 of time in calendar month	\$10,500 within 3 calendar months
<b>Expenditure lobbyist</b>	\$3,200 within 3 consecutive months	\$5,000 within calendar year?	\$5,000 within 3 consecutive months	\$5,000 within 90 calendar days	\$5,000 in a calendar quarter	\$5,000 in calendar quarter	Makes 1 contact and spends %20 of time Lobbying, and receives \$2,500 in 3 months or expends 10,000 in 3 months

<sup>1</sup> San Francisco Campaign and Government Conduct Code § 2.105

<sup>2</sup> Sacramento Municipal Code § 2.15.050

<sup>3</sup> San Jose Municipal Code §12.12.190

<sup>4</sup> Proposed San Diego Municipal Code § 27.4002

<sup>5</sup> L.A. Municipal Lobbying Ordinance § 48.02

<sup>6</sup> California Government Code §§ 18238.5, 18239, 18239.5

<sup>7</sup> Lobbyist Disclosure Act of 1995, 2 USC 1603 § 4(a); Lobbying Transparency and Accountability Act of 2007 § 101

**COMPARISON OF LOBBYING LAWS – INFORMATION ON REGISTRATION FORM**

<b>Category</b>	<b>San Francisco<sup>1</sup></b>	<b>Sacramento<sup>2</sup></b>	<b>San Jose<sup>3</sup></b>	<b>San Diego<sup>4</sup></b>	<b>Los Angeles<sup>5</sup></b>	<b>State of CA<sup>6</sup></b>	<b>Federal<sup>7</sup></b>
<b>Firm or individual registers?</b>	Either entity or individual	Firm and/or Organization	Either entity or individual	Firm and/or organization	Both	Firm and/or organization	Firm
<b>Must file within</b>	Must register before contacting city official	15 days	10 days	10 days	10 days	10 days	45 days
<b>Lobbyist information</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Names of officers and/or employees</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Names of Client/s</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Nature/purpose of filer's or client's business</b>	No	Yes	Yes	Yes	No	Yes	No
<b>Client authorization</b>	Yes	No	No	No	Yes	Yes	No
<b>Decisions to be influenced</b>	Yes	Yes	Yes	Yes	Yes	No	No
<b>Outcome sought</b>	Yes	No	No	Yes	No	No	No
<b>Agency to be lobbied</b>	No	No	No	No	Yes	Yes	No
<b>Compensation received or promised</b>	Yes (within past two months)	No	No	No	No	No	Yes (any compensation over 5,000 paid within the 3 months)
<b>Campaign contributions</b>	Yes (within past two months; itemize \$100 or more)	Yes (\$100 in past calendar quarter)	Yes	No	No	No	No

<b>Category</b>	<b>San Francisco<sup>1</sup></b>	<b>Sacramento<sup>2</sup></b>	<b>San Jose<sup>3</sup></b>	<b>San Diego<sup>4</sup></b>	<b>Los Angeles<sup>5</sup></b>	<b>State of CA<sup>6</sup></b>	<b>Federal<sup>7</sup></b>
<b>Campaign fundraising</b>	Yes (within past two months; itemize \$100 or more)	No	Yes	Yes; name of any current elected official for whom at least \$1,000 was raised within past 2 years	No	No	No
<b>Compensated campaign services</b>	No	No	Yes	Yes; for any current elected official within past 2 years	No	No	No
<b>City contracts</b>	No	Yes (consulting)	Yes (any consulting contract period not specified)	Yes; any contract services provided within past 2 years	No	No	Yes (any government job ever) (§ 104)
<b>Amendments</b>	Required but no time frame specified	Not Addressed	Not Addressed	Filed within 10 calendar days of discovery	Filed within 10 calendar days of discovery	Filed within 20 calendar days of discovery	Not Addressed
<b>Training for lobbyist</b>	Registration reports must include date of most recent training	n/a	Training required every two years	n/a	Training required every two years	Photograph of each lobbyist & training certification	No training for lobbyist required, but training every two years for officials is required

<sup>1</sup> San Francisco Campaign and Government Conduct Code § 2.110

<sup>2</sup> Sacramento Municipal Code §§ 2.15.0602, 15.120

<sup>3</sup> San Jose Municipal Code §§ 12.12.400, 12.12.410, 12.12.420, 12.12.530,

<sup>4</sup> Proposed San Diego Municipal Code §§ 27.4007, 27.4009, 27.4012

<sup>5</sup> L.A. Municipal Lobbying Ordinance § 48.07(D),(E),(G),(I)

<sup>6</sup> California Government Code §§ 86100, 86101, 86103, 86104, 86105, 86107

<sup>7</sup> Lobbyist Disclosure Act of 1995, 2 USC 1603 § 4(a); Lobbying Transparency and Accountability Act of 2007 § 217, 221, 232

**COMPARISON OF LOBBYING LAWS – CONTENTS OF QUARTERLY DISCLOSURE REPORTS**

<b>Category</b>	<b>San Francisco<sup>1</sup></b>	<b>Sacramento<sup>2</sup></b>	<b>San Jose<sup>3</sup></b>	<b>San Diego<sup>4</sup></b>	<b>Los Angeles<sup>5</sup></b>	<b>State of CA<sup>6</sup></b>	<b>Federal<sup>7</sup></b>
<b>Firm or individual files?</b>	Either entity or individual	Firm or Organization	Either entity or individual	Firm or organization	Both	Both	Firm
<b>Lobbyist information</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Names of officers and/or employees</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Names of Client/s</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Compensation Received</b>	Yes (total payments promised and total payments received)	No	Yes (promised and received)	Yes, to nearest \$1,000 (for lobbying firms)	Yes (total payments received)	Yes (total payments received)	Yes (total payments received-round to the nearest \$10,000)
<b>Number of contacts</b>	No (but organization lobbyists required to disclose compensation paid to employees)	No	Yes	Yes (for organization lobbyists)	No (but organization lobbyists required to disclose compensation paid to employees)	No (but lobbyist employers must disclose payments to employees who spend 10% of time in one month on lobbying)	No (but must give a statement of the Houses of Congress and the Federal agencies contacted by lobbyists)
<b>Decisions influenced</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Outcome sought</b>	Yes	No	No	Yes	No	No	No

<b>Category</b>	<b>San Francisco<sup>1</sup></b>	<b>Sacramento<sup>2</sup></b>	<b>San Jose<sup>3</sup></b>	<b>San Diego<sup>4</sup></b>	<b>Los Angeles<sup>5</sup></b>	<b>State of CA<sup>6</sup></b>	<b>Federal<sup>7</sup></b>
<b>Activity expenses (includes consulting fees, salaries, &amp; other forms of compensation)</b>	Yes (all expenses regardless of amount)	Yes (all expenses)	Yes (all expenses regardless of amount)	Yes (if \$10 or more on one occasion during reporting period)	Yes, if \$25 or more	Yes (all expenses regardless of amount)	Yes (all expenses)
<b>Campaign contributions</b>	Yes (itemize \$100 or more)	Yes (itemize any over \$100)	Yes	Yes (itemize \$100 or more)	Yes (itemize \$100 or more)	Yes (itemize \$100 or more)	Yes (for contrib. of \$200 or more)
<b>Campaign fundraising</b>	Yes; itemize \$100 or more; include name of candidate and indicate whether the filer delivered or arranged the contribution or whether a client made the contribution at the lobbyist's behest	No	Yes (include name of candidate, date and whether contributed, delivered for or intermediary for)	Yes if \$1,000 or more raised; include name of candidate, date & description of activity, and approximate amount raised	Yes; include name of candidate, date of activity, and amount raised	No	Yes (date location and total amount raised)
<b>Compensated campaign services</b>	Yes	No	Not Addressed	Yes	Yes	No	Not Addressed
<b>City contracts</b>	Yes	Yes	Yes	Yes	Yes	No	Yes ( \$104)
<b>Amendments</b>	Not addressed	Not Addressed	Not Addressed	Filed within 10 calendar days of discovery	Not Addressed	Not Addressed	Not Addressed

<b>Category</b>	<b>San Francisco<sup>1</sup></b>	<b>Sacramento<sup>2</sup></b>	<b>San Jose<sup>3</sup></b>	<b>San Diego<sup>4</sup></b>	<b>Los Angeles<sup>5</sup></b>	<b>State of CA<sup>6</sup></b>	<b>Federal<sup>7</sup></b>
<b>Miscellaneous</b>	Must separately disclose gift tickets and admissions to political and charitable fundraisers	n/a	report donations of \$1000 or more to for profit or non-profit organization at the behest of official	n/a	Must disclose contributions of \$1,000 or more made at behest of city officials to other candidates and/or to charitable or nonprofit organizations	Invitations from lobbyists must include a disclosure indicating that attendance at the event constitutes acceptance of a reportable gift.	Public database of lobbying disclosure reports (§ 203)

<sup>1</sup> San Francisco Campaign and Government Conduct Code § 2.110(d).

<sup>2</sup> Sacramento Municipal Code § 12.15.130.

<sup>3</sup> San Jose Municipal Code § 12.12.430.

<sup>4</sup> Proposed San Diego Municipal Code §§ 27.4015, 27.4017, 27.4018.

<sup>5</sup> L.A. Municipal Lobbying Ordinance § 48.08, 48.08.5.

<sup>6</sup> California Government Code §§ 86112 – 86116; FPPC Regs. 18613, 18616.

<sup>7</sup> Lobbyist Disclosure Act of 1995 2 USC 1603, 1604 § 5(c); Lobbying Transparency and Accountability Act of 2007 § 217, 221.



**COMPARISON OF LOBBYING LAWS – MISCELLANEOUS ISSUES**

<b>Issue</b>	<b>San Francisco</b>	<b>Sacramento</b>	<b>San Jose</b>	<b>San Diego</b>	<b>Los Angeles</b>	<b>State of California</b>	<b>Federal</b>
<b>City Official defined</b>	Any officer of the City and County of San Francisco (§ 2.105)	Any employee (other than purely clerical) (§ 2.15.050)	list of 19 elected or appointed offices (§ 12.12.130)	List of 29 positions identified in ordinance (§ 27.4002)	Elected or appointed officers, members, employees, or consultants who qualify as public officials pursuant to state law (those who file SEIs) (§ 48.02)	Any employee (other than purely clerical) (§ 82004, 82038)	Any legislative branch employee, any employee of executive branch, and any uniformed service person who makes over a certain pay grade (2 USC 1602 §3)
<b>Annual Fees</b>	\$500 registration \$75 per client (§ 2.110(e))	\$100 registration \$25 per client (§ 2.15.100)	\$350 registration \$60 per client (§ 12.12.440)	Annual fee based on number of registered lobbyist plus annual fee per client registration fee. (fee schedules filed with County Clerk) (§ 27.4010)	\$450 registration \$75 per client (§ 48.07)	\$25 (§ 86102)	No filing fee if filed electronically \$150 fee for paper filing
<b>On-line filing</b>	may be allowed (§2.160)	may be allowed (§ 12.15.130)	required of all but expenditure Lobbyist— paper version also still required (§12.12.430)	Required when system is implemented (§27.4010)	Required (§48.06.1) searchable database available to the public	Required if \$5000 or more in activity in quarter (84605(d)) Has searchable database available to the public	required by all (§ 102) demands searchable database available to the public

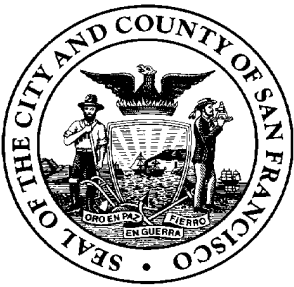
<b>Issue</b>	<b>San Francisco</b>	<b>Sacramento</b>	<b>San Jose</b>	<b>San Diego</b>	<b>Los Angeles</b>	<b>State of California</b>	<b>Federal</b>
<b>Campaign contributions by lobbyist banned</b>	No	No	No	No	Yes (Charter § 470(c)(11))	Yes, if the lobbyist is registered to lobby the governmental agency of the candidate or officer. (§ 85702)	No (this is the biggest loophole in new legislation <sup>1</sup> )
<b>Campaign consultants banned from lobbying</b>	Yes (§ 2.117)	No	No	No	No	No	No
<b>Gift limits</b>	Yes (\$50 within 3 months of contacting an official) (§ 2.115)	Yes (Officials may not accept any gifts from lobbyists)	Yes(Officials may not accept any gifts from lobbyists)	Yes (\$10 in a calendar month) (§ 27.4030)	Yes (Officials may not accept any gifts from lobbyists) (§ 49.5.10(A)(4))	Yes (\$10 in a calendar month) (§ 86203)	Yes (official cannot accept any gift- and tickets must be valued at face value) (§ 107)
<b>Acting as intermediary for gifts prohibited?</b>	Yes (within 3 months of contacting an official) (§ 2.115)	Yes	Yes(on any amount)	Yes (if more than \$10 in a calendar month) (§ 27.4030)	Yes (§ 49.5.10(A)(5))	Yes (§ 86203)	Yes
<b>Contingent fees prohibited</b>	No	No	No	No	No	Yes (for administrative & legislative actions, but not contracts) (§ 86205(f))	No

<sup>1</sup> See, David D. Kirkpatrick, *Congress Finds Ways to Avoid Lobbyist Limits*, The New York Times, February 11, 2007 <http://travel.nytimes.com/2007/02/11/us/politics/11trips.html>.

<b>Issue</b>	<b>San Francisco</b>	<b>Sacramento</b>	<b>San Jose</b>	<b>San Diego</b>	<b>Los Angeles</b>	<b>State of California</b>	<b>Federal</b>
<b>Penalties</b>	\$50 a day for late fees \$1000 for each violation or 3x the amount not reported (which ever is greater), civil penalties, revocation of lobbying registration for a year (§ 2.145)	\$25 per day lat fee capped at \$500) if willfully violate guilty of misdemeanor, in civil action can be fined for up to \$2,000 or amount not reported, whichever is greater, city attorney may bring injunction to compel (§ 2.15.100 )	\$5,000 for each violation or amount lobbyist received in compensation, whichever is greater (§ 12.12.550) city attorney can seek injunction, debarment from appearing before city council or agency (§ 12.12.540)	\$10 per day late fee capped at \$100 misdemeanor or injunction by city attorney (§ 27.4055)	\$25 per day lat fee capped at \$500) if willfully violate guilty of misdemeanor, in civil action can be fined for up to \$2,000 or amount not reported, whichever is greater, city attorney may bring injunction to compel (§ 48.09)	misdemeanor, may impose \$5,000 per violation	can be fined \$200,000 (§ 216) criminal penalty with possible imprisonment of 10 yrs (§ 222)
<b>Revolving door</b>	No (but the City's post-employment restrictions restrict departing employees and officers from lobbying their own departments for compensation for 12 months.	No	No	No	No	restricts official from lobbying 12 months after office	2 yrs wait period for very senior members of congress and staff (§241) 1 year waiting period for staff member who makes 75% of what officer does before allowed to lobby (§111)

<b>Issue</b>	<b>San Francisco</b>	<b>Sacramento</b>	<b>San Jose</b>	<b>San Diego</b>	<b>Los Angeles</b>	<b>State of California</b>	<b>Federal</b>
<b>Audits</b>	no audit system	no audit system (§ 2.15.150)	no audit system (§12.12.430(E))	no audit system (§ 27.4045)	EC has the right to audit randomly or when staff has reason to believe report inaccurate. (§ 48.09)	Franchise Tax Board audits on random basis, but the lobbyists have a 25% of being audited (§ 90001(a))	Comptroller General audit and report to congress on the extent of lobbyist noncompliance (§ 222(B))
<b>Statute of limitations</b>	4 years (§2.150)	4 years (§2.15.220)	N/A (§§12.12.540, 12.12.550)	“Any limitation of time prescribed by law within which prosecution for a violation of any part of this division must be commenced shall not begin to run until the City’s discovery of the violation.” (§ 27.4055 (e))	4 years for civil violation; 1 year for criminal prosecution (§48.09(B)(C))	4 years (§91000(c))	N/A

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# ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

JAMIENNE S. STUDLEY  
CHAIRPERSON

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VICE-CHAIRPERSON

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COMMISSIONER

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COMMISSIONER

CHARLES L. WARD  
COMMISSIONER

JOHN ST. CROIX  
EXECUTIVE DIRECTOR

**Date:** March 4, 2009  
**To:** Members, Ethics Commission  
**From:** John St. Croix, Executive Director  
**Re:** Letter from former Commissioners regarding Lobbyist Ordinance

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A letter dated February 9, 2009 was received by the Commission from five former Commissioners detailing observations, criticisms and suggestions regarding the update and enforcement of the Lobbying Ordinance.

This memo is in response to some of those concerns. **Please note: the letter was originally sent February 9, 2009 by former Commissioner Joe Lynn and you previously received that version. The version in this packet is dated February 19, 2009. Since the original was received, four other former Commissioners signed onto the letter.**

The first page of the letter deals mostly with suggestions for procedural review; as there is a procedure in place, this memo does not address them. Nor do I respond to the unspecific assertion that staff should respond to "ten years" of criticism. After consulting with the City Attorney's Office, I have concluded that the large majority of the proposed changes to the Ordinance require the adoption of legislation rather than regulations.

The Commission may well want to consider a requirement that union personnel register as lobbyists when not directly working on behalf of their various MOUs and collective bargaining agreements. The Commission has had a protracted discussion on this subject before without specific resolution. The Commission may believe that a renewed discussion may be desirable but it would likely be lengthy and contentious. Therefore, staff believes it should be considered as an independent issue from the current discussion.

The assertion on Page 2 that non-profit organizations do not register or report is simply incorrect. Several non-profit organizations are registered as lobbyists; one 501(c)(3) had previously sought and received a waiver from having to pay a registration fee.

The staff proposal will expand the amount of information reported from each contact that lobbyists report.

Under staff's proposals, the Ordinance will not include any exception for lobbying related to permits. Reporting activity related to City permit processing (that is, advocacy about permits with people other than City officers) is also, while perhaps a needed discussion, one that should be conducted separately from this review of lobbying reform. However, the assertion in the letter that somehow regulation of permit-processing would require that officials receiving bribes would have to report them is, frankly, bizarre. It is also more than disingenuous to suggest that the Commission staff is somehow responsible for such behavior having occurred. Also, it is not my intent to respond point-by-point to constant suggestions that staff does not or cannot carry out the work of the Commission.

The next section of the letter deals largely with the evolution of news coverage and reporting.

I did not take the time to search for articles in the last five years that reported on lobbying and lobbying activity in San Francisco. But the assertion that such reporting has fallen to zero is absurd. Further, to suggest that there has not been one single article reported on the players and influence involved in the Hunter's Point Shipyard is specious. There have been dozens of articles on the involved proposals, dozens more on the Lennar Corporation and its relations and negotiations with City government. There were dozens of such articles on Google and the other players involved in the City's Wi-Fi proposal. The same can be said over the debate of the City's power plant closures, the City's water issues, universal health care, medical marijuana, and other areas where individuals and organizations are likely to try to influence government decisions. The media are not asleep at the wheel.

There appears to be a suggestion – it is not clear – that the Commission somehow involve itself in the blogosphere as a replacement for mainstream media. This arena does not adhere to journalistic standards and there are frequent forums for individuals to make assertions that are complete departures from the truth with seemingly little consequence. I cannot make any real sense of it.

It is true that two lobbyist quarterly reports were posted late to the website but the reports were available to the public on a timely basis. The Commission did not stop issuing press releases on lobbyist quarterly reports in 2004 but continues to issue a press release at the time each report is delivered.

The next section deals with public accountability.

The staff does its best to enforce the law. That is why we are here, making the best use of the resources we have. Most registered lobbyists also do their best to meet the requirements of the law. The letter suggests that the Commission should discuss what information should be disclosed and when. The Commission has already articulated this goal which is why we are having this discussion.

This brings us to the “bullet points” section of the letter.

**“The presumption should be in favor of disclosure...”**

Specific types of contact required for disclosure are a policy call for Commissioners to make. Staff has tried to seek a balance that provides information useful to the public while not making the reporting process unduly onerous in order to achieve maximum compliance. I have already stated that permit processing and union activity should be addressed separately from the discussion on lobbyist reform. Commissioners may want to consider other suggestions stated in this section. For example, the letter states that if a City official requests information from a lobbyist, the lobbyist must report that contact. Also, if a lobbyist calls an official to request the status of a bill or a pending decision, that must be reported.

**“Lobbyists should file contemporaneously...”**

The staff proposal requires monthly disclosure rather than quarterly. This places an additional burden on lobbyists, who must file 12 times annually rather than four. The letter from former Commissioners would move from four reports to perhaps hundreds. While a twenty-four hour turnaround might be stated as an eventual goal, it is extreme to move from quarterly to daily. What is the justification for placing this heavy onus on lobbyists? The idea seems to suggest that City officials will make different decisions if lobbyist contacts are disclosed within days rather than weeks. There is no particular basis made to support that assumption.

**“...disclose contributions and expenditures to organizations that benefit the City...”**

This section of the letter proposes an entire new set of tracking and enforcement responsibilities for the Commission staff. Even if the Commission were not facing serious budget cuts, adding new sets of responsibilities should be considered carefully. Given the potential loss of staff, it is not the time to consider expansions of the scope of the lobbyist ordinance.

Information regarding “sister city,” “friends of,” and non-profit contributions and expenditures is already available through other, existing requirements. For example, when an individual or organization makes a contribution of \$5,000 or more to a non-profit at the behest of a local elected official, that official must file an Ethics Commission “Behest Form.” When those kinds of groups fund out-of-state travel for an official, the official must disclose the trip on Ethics Commission forms.

Such disclosures are not encyclopedic but neither is such spending nor travel done completely outside of the public eye.

**“...requiring public disclosure of past business relationships...”**

See above.

**“...adopt standards for annual evaluations...”**

The staff proposals contain options to achieve this goal. Further, the Commission should not adopt standards that will be difficult or impossible for the staff to follow through; i.e., 24-hour disclosure of incomplete reports. If the staff receives forty reports on the day of a filing deadline, it is not feasible to conduct audits of all of them in a single day.

However, the conversion to electronic filing prompts the staff to believe that our ability to produce timely reports will be enhanced and that the quality of volume of information available to the public will noticeably improve.

Please let me know if you have any questions.



# Written Comments Received

Former Commissioners 2.19/09

Charles Marsteller, 2/18/09

Commissioner Eileen Hansen, 2/17/09

Commissioner Susan Harriman, 2/10/09

M. Brett Gladstone, Gladstone & Associates, 2/9/09

Jon Kaufman, Solem & Associates, 2/9/09

Oliver Luby, 2/9/09

Evette Davis, 2/9/09

Jessica Berg, 2/9/09

February 19, 2009

Madame Chair, Members of the Commission:

Your discussion on the San Francisco Lobbyist Ordinance is an important and welcome step.

We respectfully suggest that the Commission is being asked to begin its deliberations at the wrong place. Before reviewing specific language in proposed amendments, the Commission needs to adopt a standard as the basis for a review.

The Commission needs to begin this review of the lobbyist law by providing direction to the staff on what result it hopes to accomplish and specifically how it intends for the voters and public to benefit from any changes.

All changes should meet three tests:

- transparency in influencing and making decisions
- accessibility to information for all residents through all media
- timeliness that provides the information at the time when decisions are being influenced

Do the reforms provide more transparency? Do they better enable residents to understand the role of money and contacts to influence local decisions? Do they provide this information in time for it to be useful for residents participating in the process?

Once it has adopted its standards, the deliberation should begin with whether its policies can be implemented by regulation or whether actual amendments to the law are required. Regulations can be adopted by the Commission acting on its own. Amendments to the law prolong the time required to institute reforms and include reviews by the Board of Supervisors or the voters directly. There is a clear advantage in first considering a regulatory approach.

Importantly, the Commission needs to direct the staff to respond to criticisms of the application of the existing law. A series of specific criticisms have been leveled against the Commission's handling of the lobbyist law over the past ten years. These criticisms have come from the daily newspaper editorial pages and from interested residents and public interest groups.

The Commission needs to direct staff to respond with specifics on how any proposed amendments make it more likely than the law's requirements be applied to unions and collective bargaining organizations. While most lobbying laws exclude reporting on negotiation of collective bargaining agreements, this exclusion does not extend to such activities as lobbying by the firefighters over closing fire stations,

or city workers over cuts to the budget. This is an issue that has repeatedly come before the commission, been the subject of news articles faulting the Commission for its record, and several times resulted in the Commission's educational outreach to unions but with no success.

The Commission is presented now with a slight modification in the existing language of the law, but no information on whether this will provide more effective transparency and reporting.

For the same reason, the Commission needs to direct staff to respond with specifics on why other jurisdictions with identical lobbyist law provisions report that nonprofit organizations are registering and reporting, but that in San Francisco no nonprofit organizations are registering and reporting. In what way will the proposed amendments address this issue?

The Commission needs to direct staff to report on how the proposed amendments will result in compliance with the existing requirement that lobbyists report on the specific administrative or legislative decision involved, the names of the decision-makers contacted, and the results sought from the contact.

The Commission needs to direct staff on compliance with reporting on activity related to city permits, which appear to remain outside the current scope of the Commission staff's activity. For example, last year it was revealed that Quickly, a tapioca drink emporium, paid \$40,000 to expedite permits for new locations, with payments to then-supervisor Ed Jew a sitting elected official and to a consultant. How would the proposed amendments provide public accountability that a company paying for permit assistance should have registered, and that the consultant paid to assist in the permits should have registered and disclosed the payments?

The Commission and the voters have reason to believe that the city has established policies to deal with each of the issues cited, yet there is no record that the Commission staff has taken the necessary steps to implement the will of the Commission.

Until the Commission is provided information from staff regarding the reasons why the existing law appears to the public to lack compliance and enforcement, there will be insufficient information to deliberate on any proposals.

### **Transparency: the current environment**

It is our contention that your deliberations also are best considered in the context of today's information environment. The resources available to residents have undergone a revolution, upending traditional venues. Experimental and emerging information resources rapidly alter what we learn and how we learn about government and San Francisco city government in particular.

Ten or even five years ago, the universal avenue was coverage in the daily print media and some television news coverage predominantly consisting of offering viewpoints on City Hall actions.

Today the print media has reduced its reporting staff to a fraction of what it was ten years ago, when this Commission last considered the public needs for information on influence at City Hall. Except for major stories, San Francisco city government news coverage consists of a political gossip column and occasionally amusing collections of paragraphs assembled by a few reporters that may or may not include anything to do with city government.

Consider that in the past five years covering a total of 20 quarterly lobbyists reports, San Francisco's daily print media has not reported on a single report. Yet from 1995 to the first quarter of 2001, the daily newspapers ran articles on the quarterly reports 18 times.

Consider that as City Hall has deliberated on major new policies and commitments of the city treasury involving votes on the Hunters Point shipyard, there has not been a single article on the money and players seeking to influence those decisions through the lobbying process.

Nothing has emerged to take the place of daily print media and major television broadcast stations. Any coverage most likely takes place in online-only media such as BeyondChron.org, Fog City Journal, the San Francisco Weekly's online Snitch, or the Bay Guardian's Politics Blog.

A more personal form of disseminating information and opinions has emerged in the form of blogs, online media, and the growing use of social media such as Facebook, Youtube, Twitter and others. It is a growing list and these venues seek to offer highly focused areas of interest, whether it is about one district or neighborhood, or one topic, or one political perspective.

If the residents are to know who is paying to influence City Hall, how much they are paying, who they seek to influence, and what exactly they seek to influence, it is the Ethics Commission that must not only generate the reports but provide them timely and completely for the public benefit.

To meet this obligation, the current lobbyist reporting system needs to be strengthened and the Commission itself needs to be timely and complete in the performance of its duties.

As one example, consider the fourth quarter of 2008 reports of lobbyist activities at City Hall. It was a period involving major policy and spending initiatives, including the high profile Potrero Mirant power plant retrofit, the Transbay Terminal plans, banning cigarette sales in pharmacies and drug stores, banning chain stores in Chinatown and parts of the Mission, sewer charge pass through for landlords, congestion toll for driving downtown, and the mayor's proposed Tenderloin Quality of Life court. Each of these issues was heavily lobbied at City Hall.

Lobbyists were required to file their reports for the benefit of the public by January 15.

As this testimony is submitted a month later, on February 17, the Commission has not posted a summary report or alerted the public that individual reports are available to be downloaded from the Commission's web site.

It is unsurprising, then, that the news media has not covered what the Commission has not reported.

The third quarter 2008 reports also were untimely in their release. This was particularly troublesome since this quarter coincided with the election to six seats on the Board of Supervisors. The third quarter reports, filed on October 15, 2008, were posted by the Ethics Commission weeks after the November 7 election rather than during the period when they would be of greatest importance to the public.

Importantly, the third quarter 2008 filings show that lobbyist activity reached a near-record level of expenditures, ranking third among all quarters since lobbying reports began in 1995.

When the Commission staff issued its Third Quarter 2008 lobbyist summary, it failed to include the date of when the report was issued. This is inconsistent with good practice and obscures from public view the time staff required to post the information.

A review of the Commission's web site shows that the Commission stopped issuing press releases on lobbyist quarterly reports in August 2004. Prior to that time, there were press releases issued, usually several times each year. The apparent change in policy coincides with the selection of a new Executive Director in July 2004 and may represent a change in the Commission's policy to no longer issue press releases on the lobbyist reports. If so, the Commission may want to reconsider directing staff to reinstate the policy of regular, timely press releases on lobbying activity.

### **Public Accountability: the reason for lobbyist reports**

When reports are filed, the public cannot be assured that the Commission staff is upholding the existing reporting requirements. Filings consistently shows that the commission is not enforcing the law requiring full disclosure requiring of the names of City officials contacted, the measure or decision involved, the outcome sought and the date of the contact.

In the past ten years the Commission staff has initiated just one enforcement action alleging a failure to file as a lobbyist or failure to disclose what the law requires. In that case the Commission did not comment as to whether the lobbyist law has any latent defects not obvious from the public record. Staff should be surveyed on this.

This is unique in the enforcement of city laws, and contrasts sharply with the expectations for enforcement of the disclosure laws on campaign contributions and expenditures.

In effect, San Francisco has the equivalent of a voluntary disclosure system.

The Commission's starting point should be to determine what information should be disclosed and when it should be disclosed.

We recommend that the Commission adopt the following standard:

- **The presumption should be in favor of disclosure rather than exempting categories or contacts.**

For example, lobbyists who pay for an expert to provide information should disclose the name of the expert, the amount paid, the contact, the issue and the outcome sought.

Requests for the status of an action should be reported.

Seeking to influence a permit for building or subdivision should be disclosed.

Lobbying on an MOU or collective bargaining agreement, separate from a negotiation, should be disclosed.

Information provided at the request of a city official should be disclosed by lobbyists.

Communications urging that employees or members of an organization contact city officials on a city decision should not be exempted from disclosure.

Currently these contacts are each proposed to be excluded from public disclosure.

- **Lobbyists should file contemporaneously with the action they seek to influence.**

Current law sets out quarterly reporting requirements, but the Charter language allows the Commission to adopt additional reporting requirements.

Full public disclosure requires notification of lobbying efforts at the time decisions are being made, not months later.

Lobbyists should disclose at a minimum one working day in advance of a pending decision, and also disclose within three working days after a decision with information on who was contacted, the issue, the outcome

sought, and who made the contact, as well as on any political contributions to the officeholder who participates in the decision or an entity affiliated with the officeholder.

Lobbyists also should disclose on the same timetable communications to employees or members of an organization urging them to contact city decision-makers regarding a pending decision.

If the law allows for gifts, lobbyists should disclose any gifts made to city officials on the same timetable.

In the case of both Board and commission votes, this three working day disclosure provides an opportunity for the public to have information before a second, final vote takes place or the measure goes to the Board for action.

- **The Commission should consider requiring lobbyists to disclose contributions and expenditures to organizations that benefit the city, city departments and city officials.**

It is standard practice for lobbyists to contribute or make expenditures to benefit such organizations as Sister City committees and delegations, the city's Host Committee, nonprofits that exist to benefit specific city departments or department employees either directly or through good will such as Friends of the Planning Department, Friends of Recreation and Parks, Friends of the Library and similar groups.

These organizations exist primarily to provide a public benefit but also underwrite such expenses as travel costs for the mayor, receptions, and improvements and offer support for departmental budget allocations.

As the San Francisco Chronicle reported on March 4, 2007:

"Some of the same corporate interests that dominate the Capitol through high-priced lobbyists and campaign donations also bankroll nonprofit organizations that in turn spend tens of thousands of dollars a year entertaining state lawmakers and administration officials far from home -- gifts that otherwise would exceed state limits."

The article further states:

"The spending must be reported by the donor and the recipient, but because nonprofits are not required under federal tax codes to disclose their sources of income -- voters have no easy way of knowing who is actually picking up the tabs for trips that often cost more than \$10,000 per person.

"Corporate executives often accompany officials on the journeys. Sometimes they are participants in the tour or conference agenda; other times they

simply meet up with the delegates while on the road, picking up dinner bills and other expenses along the way.

“Although tax codes do not require nonprofits to disclose their benefactors, some organizations released partial donor lists at The Chronicle's request. Other public documents also shed some light on benefactors, such as state lobbying reports as well as records filed with the state Fair Political Practices Commission.”

“Further, lobbyist reports filed with the state show that some of the same companies got private time with lawmakers and administration officials during foundation tours.

“For instance, a Chevron representative whose name is not required to be included in disclosure forms spent \$44 at Harry's Bar in Rome for Núñez and Assemblyman Lloyd Levine, D-Van Nuys, during a 10-day tour of Italy in 2004 that cost the foundation as much as \$10,380 per person.

“During that period, Chevron spent more than \$260,000 lobbying state officials on a variety of fuel-related issues.

However, in San Francisco such disclosures are not currently required in the city's lobbyist law. Nor does San Francisco's law currently require that the date of contacts be included as the state law does.

- **The Commission should consider requiring public disclosure of past business relationships between city decision makers and registered lobbyists.**

In one case, an elected city official met the requirement that the elective office be a full-time position by selling prior business interests to another party. That entity then registered to lobby the city official on decisions important to its clients.

In a second case, an elected city official was a consultant in a non-city organization that provided services. A business lobbying for city contracts hired the consulting firm to assist it, which then delegated the assignment to the city official. The official voted in favor of the contract. Because the law considered this to be an arms-length transaction, none of the parties were required to disclose the city official in any official city record.

- **The Commission should adopt standards for annual evaluations of the lobbyist law and performance standards for its implementation.**

Currently the Commission has adopted no standard for the public disclosure of lobbyist filings with electronic reporting of summaries or the individual



reports. The result is that the public is denied easy access to important information on influence on city decisions.

The Department should adopt a standard that quarterly summaries of lobbyist filings will be posted within five working days following the quarterly filing date.

Currently the Commission has adopted no standard for facial reviews of lobbyist submissions to determine if all required disclosures are reported. Until such time as a standard is adopted, the Commission should notify "Interested Persons" on its list when individual filer reports have been posted on the Commission's web site and request comment from Interested Persons on the filings. Those comments should be submitted to the Commission at the next regular Commission meeting and calendared for discussion.

The Commission should adopt a standard that lobbyist whose report does not comply with the full disclosures be notified within one working day of determining that fact, and that the name of the lobbyist and a copy of the notification be posted on the Commission's web page the same day.

Currently the Commission has adopted no standard to meet the Charter's requirement of a July annual report on the city's lobbyist law. The Commission's recent view that its minutes over the course of a year meet this requirement lacked the due diligence to be expected of a charter requirement.

The Commission instead should adopt the standard that it will meet the deadline set in the charter and cover the elements needed for city officials and the public to understand how the city's lobbyist law is meeting its goals and what steps could be taken to improve transparency, accountability and timeliness in disclosures.

The Commission should adopt a standard that the July annual lobbyist report include an overview of five California city lobbyist laws and five additional U.S. city lobbyist laws to determine what improvements in transparency and accountability have been implemented since the prior year's report. This is modeled on the city's requirement that the city's contracts for police, fire and Muni workers include a review of other jurisdictions to be benchmarks for new contracts for San Francisco employees.

We are providing an electronic copy of this testimony to your Executive Director. You may find it more useful in linking to the stories below.

Sfgate.com articles based on the San Francisco Ethics Commission lobbyists reports, 1995 to present:

18 stories in first five years 1995-2001.  
No stories in the past five years. 2004-2009

### Lobbyists rake in big bucks to win City's favor

Kandace Bender, Examiner, 07/18/95

A "grass-roots lobbying" coalition that opposes new city taxes and is retained by some of San Francisco's mega-corporations is among the best-funded of The City's influence dealers, according to new disclosure reports. San Franciscans for a Sensible...

### PUSHING THEIR AGENDA

San Francisco Ethics Commission / EXAMINER GRAPHICS, Examiner, 04/30/96

The lobbyists registered at City Hall who brought in the most money during the first three months of 1996, according to recently released reports: Lobbyist / Amount HMS Associates \$119,500 Jack Davis & Associates \$12,000 McCarthy & Schwartz \$11,476 GCA...

### PacTel lobby in S.F. pays off

Rachel Gordon, Examiner, 04/30/96

Pacific Telesis, which is seeking permission from city agencies to erect 200 wireless antennas on San Francisco buildings, spent \$142,603 on City Hall lobbying during the first three months of this year. The company's efforts apparently paid off, with the...

### Pay to City Hall lobbyists surged in past quarter

Marsha Ginsburg, Examiner, 07/31/96

Lobbyists trying to sway city officials to their side of the political fence raked in nearly \$400,000 from their clients in the past quarter, the highest total in the year since The City began tracking the payments. HMS Associates continued to be the...

### S.F. lobbyists' favorite: Katz

Rachel Gordon, Examiner, 11/03/96

Lobbyists registered to do business at City Hall pumped \$288,074 into the coffers of candidates and ballot measures on Tuesday's ballot. The lobbyists are pushing for issues ranging from building a new 49ers stadium to placing cellular phone antennas...

### Ex-Brown aide lobbies his way to new career

Chuck Finnie, Examiner, 08/05/97

Working for businesses chasing city contracts, Mayor Brown's friend and former aide has become The City's second highest-paid lobbyist, public records show. William "Billy" Rutland Jr. collected more than a quarter of a million dollars between Jan. 1 and...

### Brown's Crony No. 2 Lobbyist - Ex-aide raked in \$660,000 in '97 talking up clients to city

Edward Epstein, San Francisco Chronicle, 02/11/98

The first two years of Mayor Willie Brown's administration have been extraordinarily profitable for his friend, lobbyist William Rutland Jr. So profitable, in fact, that since registering as a lobbyist in San Francisco in mid-1996, Rutland has vaulted to...

### Unions in S.F. fail to file reports on lobbying efforts

Chuck Finnie, Examiner, 07/30/98

An interest group considered to be the strongest and most effective at getting its way at City Hall - organized labor - doesn't disclose its lobbying of city officials, despite a 10-year-old law aimed at eliminating back-room deal-making. Union influence...

### Lobbyists slip bucks into board campaigns

Rachel Gordon, Examiner, 10/31/98

San Francisco's registered lobbyists, who do business at City Hall, pumped \$22,000 into the campaign war chests of four incumbent supervisors up for election Tuesday, according to new documents on file with The City's Ethics Commission. The top three...

### Business booming for S.F. lobbyists

Chuck Finnie, Examiner, 01/28/99

The lobbying business has exploded under Mayor Willie Brown as corporate and other interests doubled their spending - to more than \$3.3 million a year - on hired guns at City Hall, records show. The bulk of the money, described alternately as a scourge on...

### Unions drag feet on lobbying disclosures

Chuck Finnie, Examiner, 02/02/99

Labor unions, warned nearly six months ago to start disclosing their lobbying activities, have yet to make public any of their behind-the-scene efforts to sway City Hall decision makers. The government watchdog city Ethics Commission put 57 unions on...

### Money rolls in for mayor's re-election

Gregory Lewis, Examiner, 05/01/99

Although he hasn't formally announced he's running for a second term, Mayor Willie Brown's re-election committee raked in \$3,500 in contributions from lobbyists during the first three months of 1999, according to an Ethics Commission report. Brown, who no...

### Brown friends thrive as lobbyists

Chuck Finnie and Lance Williams, Examiner, 10/20/99

Three close associates of Mayor Willie Brown raked in more than \$2.6 million over the past four years lobbying City Hall - and the mayor himself - on behalf of companies seeking city contracts and permits, city records show. William G. "Billy" Rutland Jr...

L.A. Pals Cash In Big on Connection With Brown

Phillip Matier, San Francisco Chronicle, 10/27/99

When it comes to wheeling and dealing in city contracts, you would be hard pressed to beat the success of Stephen and Jacqueline Besser -- a pair of relative newcomers from Los Angeles with long ties to, who else . . . Mayor Willie Brown. Just last month...

Pay for City Hall Lobbyists Hit Record High Last Quarter

Edward Epstein, San Francisco Chronicle, 02/04/00

The last quarter of 1999 was a record period for lobbyists registered to make clients' cases at San Francisco City Hall, the city Ethics Commission reported yesterday. For the first time since the voter-created commission started making its quarterly...

Lobbyists strike gold at City Hall as Brown spreads welcome mat

Ilene Lelchuk, Examiner, 02/05/00

Lobbying City Hall and Mayor Willie Brown was a booming business in San Francisco last year, when lobbyists earned three times more cash than they raked in four years earlier. The City's contract lobbyists who work for developers, utility companies and...

New Team in Town Vaults to Top of S.F. Lobbying Ranks - Record \$376,000 raked in between April and June

YumWe Wilson, San Francisco Chronicle, 08/07/00

A newly formed team of veteran political consultants wasted no time becoming the highest-paid lobbyists in San Francisco, leading the way in a record-breaking quarter for influence peddling in the city. Barnes, Mosher, Whitehurst and Partners, a firm...

Firm received \$38,000 to lobby S.F. against suit - Firms paid thousands to lobby S.F. on suit - City joined lead-paint poisoning case anyway

Scott Winokur, San Francisco Chronicle, 05/06/01

Chemical companies spent nearly \$38,000 in a futile attempt to stop San Francisco officials from joining a lead-paint poisoning lawsuit that could cost the industry millions in damages, public records show. Lobbying reports for 2000 and the first three...

Supes' plan closes city's back doors - Permit expeditors reined in

Rachel Gordon, San Francisco Chronicle, 12/18/01

Hoping to end an era of special treatment for politically connected "permit expeditors," two San Francisco supervisors yesterday proposed restricting the activities of those hired to help clients maneuver through the City Hall bureaucracy. The measure...

Expeditors at center of building agency probe - Move afoot to require registration with ethics board

Ilene Lelchuk, San Francisco Chronicle, 01/08/04

Mayor-elect Gavin Newsom's plan for a special monitor to conduct an anti-corruption probe of San Francisco's Department of Building Inspection could give momentum to a two-year-old effort to force private permit expeditors who push construction projects...

*Signatories  
(as of 02/25/09):*

Joe Lynn  
Commissioner, 2003 - 2006  
Staff, 1998 - 2003

Bob Planthold  
Commissioner, 2002 - 2004  
Chair, 2003 - 2004  
Vice-Chair, 2002 - 2003

Paul Melbostad  
Commissioner, 1995 - 2003  
Chair, 2002 - 2003

Bob Dockendorff  
Commissioner, 1996 - 2000

Joe Julian  
Commissioner, 1996 - 1997

*Letter also unanimously endorsed by the Harvey Milk LGBT Democratic Club on  
February 24, 2009.*



John  
St.Croix/ETHICS/SFGOV  
02/18/2009 03:54 PM

To sharriman@kvn.com, egusukuma@haasnaja.com,  
eileenhansensf8@yahoo.com, cward@ybca.org,  
jstudley@publicadvocates.org  
cc Mabel Ng/ETHICS/SFGOV@SFGOV, Jon  
Givner/CTYATT@CTYATT  
bcc

Subject Fw: Lobbyist Review

Feedback from Charley Marsteller

John St. Croix  
Executive Director, San Francisco Ethics Commission  
25 Van Ness Avenue, Suite 220  
San Francisco, CA 94102-6053

— Forwarded by John St.Croix/ETHICS/SFGOV on 02/18/2009 03:56 PM —



Charles Marsteller  
<cm\_marsteller@hotmail.com>  
>  
02/18/2009 03:41 PM

To Jack St.Croix <john.st.croix@sfgov.org>  
cc

Subject Lobbyist Review

Dear Jack, can you please pass this brief comment onto the Commissioners re: Lobbyist Ordinance.

Hope all is well with you. Charley

Feb. 18, 2009

Hon.Ethics Commission  
San Francisco, CA

Ladies and Gentlemen:

A table does not stand without four legs. Public Finance of campaigns, enforcement and our various disclosure mechanisms (for campaign finance, political consultants, lobbyists, and SEI's) all combine to ensure ethics in San Francisco.

So thank you for your review of the Lobbyist Ordinance every 10 years.

The staff's revisions have been reviewed by Bob Stern of the Center for Governmental Studies and he views all as OK with the exception of the one proposal which received coverage in the Tuesday, January 27, 2009 issue of the SF Weekly by Joe Eskanazi.

I am sorry but Hotmail is screwing around with their program again and I cannot cut and paste the article for insert at this time.

In closing, there are two types of lobbyists: those who want us to know of their activity and those who do not. Staff resources to identify those who do not want to register and disclose is, in fact, more important than simply reviewing the filings submitted by those who are

compliant with the law.

There are techniques used by those of us who follow public ethics that allow us to ferret out non-disclosure. Your staff need to be trained in such techniques. Staff also must both understand the importance of their function and have a curious mind. They must want to see things that others do not wish them to see.

Certain of us have this instinct; some do not. Proper training helps but it is easy to miscast staff. This is the job of management and why I am urging the appointment of a professional prosecutor to oversee our enforcement division--and this includes those who are failing to register and report their lobbying activities.

Sincerely,

Charles Marsteller  
cm\_marsteller@hotmail.com

Want to do more with Windows Live? Learn "10 hidden secrets" from Jamie. [Learn Now](#)



**Comments and Questions re:  
Proposed Changes to Lobbyist Ordinance  
February 17, 2009  
*Eileen Hansen***

As noted in our Ethics Commission meeting of February 9, 2009, I am greatly disturbed by many of the proposed changes to the Lobbyist Ordinance, San Francisco Campaign and Governmental Conduct Code section 2.100 et seq, as proposed by staff in the memo of February 4, 2009. I appreciate the opportunity to continue the discussion in March, after additional comments have been received.

By far, those attending previously held Interested Persons Meetings and those submitting previous comments have come from the regulated community - lobbyists/consultants who have a vested interest in seeing the Ordinance loosened in their favor. In fact, as was noted by a lobbyist speaking at the February 9 meeting, Jim Sutton (the Mayor's attorney and arguably, the most highly placed and most influential lobbyist in San Francisco, with influence far beyond San Francisco) organized the lobbying community to send written comments and appear at the meeting to speak in support of staff proposals to amend the Lobbyist Ordinance. Indeed, most of the written and oral comments received by the Commission mirrored one another.

Meanwhile, those who seek to "follow the money" of politics and argue for more transparency and a focus on attempting to level the playing field of campaign finance - those who would hope for a strengthening of the Lobbyist Ordinance or at least for stronger monitoring and enforcement of the Ordinance - have not yet been heard.

Toward that end, I will continue to advocate for outreach by the Ethics Commission beyond the historical outreach efforts directed toward the regulated community - and for Interested Persons Meetings with a different focus: that of helping *the public* understand the law and how they can use the law to "open up" politics. Input from such meetings would help balance the perspective provided to staff and Commissioners on any number of issues.

In the absence of broad outreach regarding this issue, I took it upon myself to reach out to small political clubs actively engaged in the politics of San Francisco and to individuals who have been actively involved in the issues contained in the Lobbyist Ordinance. Among those I reached out to, I specifically looked to those who have a history of involvement in creating or enforcing the Ordinance, including former Ethics Commissioners. Five former Commissioners, Paul Melbostad (Commissioner 1995 - 2003; Chair 2002 - 2003), Bob Dockendorff (Commissioner 1996 - 2000), Joe Julian (Commissioner 1996 - 1997), Bob Planthold (Commissioner 2002 - 2004; Vice-Chair 2002

- 2003 and Chair 2003 - 2004), and Joe Lynn (Commissioner 2003 - 2006; Staff 1998 - 2003) are submitting a letter that will provide rationale for the creation of the Lobbyist Ordinance and proposed context for making any changes to the Ordinance. They will also provide historical context with previous media reports related to lobbyists - and I believe all Commissioners and staff would be well served by reviewing these media reports. I would propose utilizing that history and context as we move forward through our discussion.

I find the letter written by the five former Commissioners compelling and instructive. It mirrors my overall question proffered to the staff: why are these changes now being suggested? Toward what end? With what input? Can staff provide examples of cases where problems were discovered that were not sufficiently addressed by the Ordinance? Has the public complained that the Ordinance was not providing the transparency of information they are seeking? With what hope for further accomplishing the original purpose of the Ordinance?

As the current Lobbyist Ordinance Findings clearly articulate:

“The Board of Supervisors finds that public disclosure of the identity and extent of efforts of lobbyists to influence decision-making regarding local legislative and administrative matters is essential to protect public confidence in the responsiveness and representative nature of government officials and institutions. It is the purpose and intent of the Board of Supervisors to impose on lobbyists reasonable registration and disclosure requirements to reveal information about lobbyists’ efforts to influence decision-making regarding local legislative administrative matters.

Corruption and the appearance of corruption in the form of campaign consultants exploiting their influence with City officials on behalf of private interests may erode public confidence in the fairness and impartiality of City governmental decisions. *The City and County of San Francisco has a paramount interest in preventing corruption or the appearance of corruption which could result in such erosion of public confidence. Prohibitions on campaign consultants lobbying current and former clients will protect public confidence in the electoral and governmental processes.* [italics mine] It is the purpose and intent of the people of the City and County of San Francisco in enacting this Chapter to prohibit campaign consultants from exploiting or appearing to exploit their influence with City officials on behalf of private interests.”

Again, I would ask: what is the purpose or need for the proposed amendments to the Lobbyist Ordinance?

I believe the answer to that question must provide the context for *any changes* the Commission might make to the current Ordinance. As we consider each amendment, that question should preface our decision. If we are not able to determine that a proposed change will help “reveal information about lobbyists’ efforts to influence

decision-making regarding local legislative administrative matters” and will help “prevent corruption or the appearance of corruption which could result in such erosion of public confidence,” then the change should not be made.

#### General Questions/Concerns/Requests

- 1) I would ask that all written comments received (including the letter cited above) be distributed to Commissioners as they are received. It was useful to receive the email communications from lobbyists prior to our February 9 meeting and it will be useful to receive additional communications prior to the date of the March 9 meeting, so that we are able to give them due consideration. I trust that staff will consider all comments received as they develop their next proposal; however, the raw communications will provide good background for understanding the basis of staff recommendations. I understand that Commissioners’ comments would not be distributed; however, I would request all other comments be distributed.
  
- 2) There are a number of suggested changes that appear to be more technical in nature. It would be helpful to separate out those recommendations from the more substantive ones.
  
- 3) It would be helpful to have a comparison to Lobbyist Ordinances in other jurisdictions. What is working for them? Where are our differences? The letter from former Commissioners makes this point with regard to nonprofits and I’d like to have a full understanding of the accuracy of this point, as well as obtaining information as to how we might do a better job of enforcing our current Ordinance before we alter it.
  
- 4) I would like to understand how the proposed amendments will assist in enforcing compliance with the existing Ordinance. Specifically, the letter from former Commissioners notes requirements that lobbyists report on specific administrative and legislative decisions, names of decision-makers contacted and results sought from the contact. This is but one area of concern regarding the need for stronger enforcement of the current Ordinance.
  
- 5) The bulleted points in the letter from former Commissioners seem particularly important and I believe that they would be a good jumping off place for our discussion around context for proposed changes. I understand that staff may be unable to respond to every communication they receive. However, the weight of these authors compels me to ask if staff could respond *in full* to their letter. The letter raises a number of questions for me, and I am hoping that those questions can be answered by staff, with public input.

#### Specific Responses to February 4 Staff Memo

- 1) Section 2.105 Definitions  
(d)(1)(A): last line

“...that official *may* qualify as a lobbyist.” Why the use of the word “may”? When would a public official paid to perform lobbyist services by a nongovernmental entity *not* be considered a lobbyist?

2) (d)(1)(K): second line

“...in the presence of a registered lobbyist.” Why are we asking those we are attempting to regulate to attest to the “expert” nature of the person doing the communicating?

3) (d)(1)(O)-(R): last paragraph on page 2

I need to better understand whether subsection (d)(1)(P) should be deleted. I understand that the new subsection (d)(1)(O), if accepted, would address administrative proceedings. However, as noted within the former Commissioners’ letter, I would hope that we would address city permits, and expeditors/experts. This is a point that many in the City are concerned with, and if we are going to amend the Ordinance, I would suggest that capturing this level of activity would find broad support. Rather than deleting this language, I would like to discuss whether it should be kept and potentially expanded.

4) (d)(1)(O)-(R): first full paragraph on page 3

I need to better understand this point. Requesting advice should be acceptable; we cannot control what the requester will do with that advice.

5) (ig) “Lobbyist”

Why is the amount changed from \$3,200 to \$3,000? And, if a lobbyist is registered as a lobbyist but hasn’t received any paying business in three consecutive months but rather has been working to obtain business by continuing informal communications with public officials, they are not then considered a lobbyist? I understand that this level of activity may be considered too difficult to obtain; however, I don’t believe lobbyists no longer consider themselves lobbyists when their paying clients drop down, and we know that lobbyists continue to move in the political world whether they are currently being paid or not.

6) (a) Registration of Lobbyist Required

I support current law; no contacts should be made prior to registering.

7) (b) Registration

The preponderance of complaints from lobbyists regarding the proposed change from quarterly to monthly reporting should be discussed prior to making a decision on this issue, since this proposed change appears to be predicated on implementing monthly disclosures. At this point, I support current law; full information should be disclosed at time of registration.

8) (e) Reregistration Reports

Again, the preponderance of complaints from lobbyists regarding the proposed change from quarterly to monthly reporting begs this question. Updated information provided at the time of reporting seems appropriate. If reregistration includes any changes in core lobbyist information, that should be specified.

9) (d) Lobbyist Disclosures: first paragraph

I support current law; full disclosure and fuller enforcement. Continue to include ballot measure committees.

10) (d) Lobbyist Disclosures: second paragraph

See above re: preponderance of complaints from lobbyists. The former Commissioners' letter suggests filing "contemporaneously with the action they seek to influence" and has several important suggestions under that bullet point. The written communication provided to Commissioners on February 9 from Oliver Luby suggests that instead of monthly reporting, in addition to the current quarterly reporting, "a special supplemental 24-hour reporting requirement be activated during the period of time immediately prior to the government decisions that a lobbyist is trying to influence; essentially, ...that Form 496-type disclosure used in campaign disclosure be designed for the lobbyist disclosure framework." I would suggest a full discussion of these various recommendations, with the focus on how best to require and enforce timely and transparent information.

11) (d) Lobbyist Disclosures: third and fourth paragraphs

I concur with staff recommendations.

12) (e) Fees; Termination of Registration

Of course lobbyists would like to lower fees. What does the non-regulated public have to say about this? I would suggest that fees not be lowered. What are the requirements in other jurisdictions and what does the success of their registration and enforcement look like? Further, what if the Commission terminates the lobbyist's registration for failure to pay? What good would that do? Do we presume that the lobbyist would then no longer lobby? How would we enforce that?

13) Section 2.116. Lobbyist Training

I support required lobbyist training.

14) Section 2.117 Lobbying by Campaign Consultants

I support current law and feel strongly that lobbying by campaign consultants should continue to be banned - and fully enforced. Why would we retreat from this position?

15) Section 2.140: first paragraph

We are moving toward the requirement of electronic reporting and we should hold to that, mandating the need for electronic reporting now.

16) Section 2.140: second paragraph

I would like more information on the reason for this change; I am unclear re: the purpose.

17) Section 2.140: third paragraph

The public is entitled to - and asking for throughout the country - more transparency, rather than less. Toward that end, I believe it is imperative that we provide more reporting, rather than less. I also believe that the Charter mandates a July annual report on the Lobbyist Ordinance. An annual report and regular reports (whether quarterly or monthly), as well as regular press releases, will enable the public to avail themselves of important information.

18) Section 2.140: fourth paragraph

How would "as necessary" be determined for workshops? How will we determine if lobbyists have taken online training? How does this section match with the proposed change in Section 2.116 Lobbyist Training for required lobbyist training?

19) Section 2.145 Administrative and Civil Enforcement and Penalties

I concur with staff recommendations.

20) Section 2.150 Limitation of Actions

While I can support this recommendation, I would like to hear from staff as to why this extension is necessary. What has been our history in this regard?

21) Section 2.160 Electronic Filing of Statements and Reports

If we require electronic reporting as noted in 15) above, then I would support deletion of this section.

There are other recommendations offered by staff that I would support; however, I believe most of those to be more technical in nature, so I have not addressed each of the recommendations contained in the staff memo.

I am happy to provide more information or clarity upon request. Thank you for considering my responses to the staff recommendations for changes to the Lobbyist Ordinance.



John  
St.Croix/ETHICS/SFGOV  
02/10/2009 11:27 AM

To Mabel Ng/ETHICS/SFGOV@SFGOV  
cc  
bcc

Subject Fw: Lobbyist ordinance

History: This message has been forwarded.

John St. Croix  
Executive Director, San Francisco Ethics Commission  
25 Van Ness Avenue, Suite 220  
San Francisco, CA 94102-6053

----- Forwarded by John St.Croix/ETHICS/SFGOV on 02/10/2009 11:30 AM -----



Susan Harriman  
<SHarriman@KVN.com>  
02/10/2009 11:28 AM

To 'John St.Croix' <john.st.croix@sfgov.org>  
cc

Subject Lobbyist ordinance

Jack, listed below are my questions for the staff about the proposed revisions to the lobbyist ordinance.

Why does the staff propose extend the statute of limitations to 5 years? Why does it want to extend the time for collecting fines or penalties for a period up to 4 years?

Why does section 2.150(a) refer to the City Attorney, while subsection (c) refers to the Ethics Commission?

Shouldn't the reporting requirements in 2.140(b) have a time frame? I like the provision that it's "upon request" but believe that we should respond to that request within a set period of time.

What is the purpose behind requiring the "amount of economic consideration received or expected by the lobbyist or the lobbyist's employer from each client for each contact"?

Does the staff agree that the requirement for annual training should exist only if there's a change in the laws, as proposed by Ms Mayo?

Is there an alternative to monthly reportings that would lessen the burden on small firms?

I may forward other questions as I review this more. Thanks.



eileen hansen  
<eileenhansensf8@prodigy.net>

02/09/2009 09:23 PM

Please respond to  
eileenhansensf8@prodigy.net

To "John St.Croix" <john.st.croix@sfgov.org>, mabel ng  
<mabel.ng@sfgov.org>

cc

bcc

Subject Fw: Comments for Ethics Commission

Jack and Mabel,

I received this email late on Monday and am forwarding it to you so that it can be included in your collection of emails (and that of the Commissioners) on this issue.

Thank you,  
Eileen

--- On **Mon, 2/9/09**, JANE M WINSLOW <janewinslo@sbcglobal.net> wrote:  
From: JANE M WINSLOW <janewinslo@sbcglobal.net>  
Subject: Comments for Ethics Commission  
To: "eileenhansenSF8" <eileenhansenSF8@prodigy.net>  
Date: Monday, February 9, 2009, 4:37 PM

Dear Eileen,

I understand the Ethics Commission is meeting this afternoon and I cannot attend. I've left a phone message regarding the following, but am sending to you also, in the hope that you may be able to relay my concerns at the meeting.

I am completely against monthly lobbying reports, at least for a firm as small as mine, 1 person, me. Too much time to report no activity. I also think the plan to put the date of contact and the pay to me serves no public benefit.

I suggest that rather than penalize a small business like mine, the Commission should pursue some of the big, busy lobbyists who are NOT reporting.

Hope all is going well with you, and thank you for forwarding this to the correct person/people.

Sincerely,  
Jane Winslow  
Jane Winslow Consulting  
421-5051





"Carol Gonzalez"  
<carol@gladstoneassociates.com>

02/09/2009 02:42 PM


To <mabel.ng@sfgov.org>

cc "Brett Gladstone" <Brett@gladstoneassociates.com>

bcc

Subject Letter for hearing tonight - Timely

History:

 This message has been forwarded.

Dear Ms. Ng:

Please see Mr. Gladstone's timely letter to you regarding tonight's hearing. Thank you.

Should you have any questions, please feel free to contact this office.

***Carol Gonzalez - Administrative Assistant  
Gladstone & Associates  
Penthouse, 177 Post Street  
San Francisco, CA 94108  
(415) 434-9500 Telephone  
(415) 394-5188 Facsimile  
<mailto:carol@gladstoneassociates.com>***



020909 Ltr to Ethics Commission.pdf

M. BRETT GLADSTONE

GLADSTONE & ASSOCIATES  
ATTORNEYS AT LAW  
PENTHOUSE, 177 POST STREET  
SAN FRANCISCO, CALIFORNIA 94108

TELEPHONE (415) 434-9500  
FACSIMILE (415) 394-5188  
admin@gladstoneassociates.com

February 9, 2009

**VIA US MAIL & E-MAIL TO: mabel.ng@sfgov.org**

Mabel Ng  
Ethics Commission  
25 Van Ness Avenue, Suite 220  
San Francisco, CA 94102-6053

Dear Ms. Ng:

I cannot attend the Ethics Commission hearing tonight and thus I would appreciate your putting this letter before the Commission for its consideration.

I am a small business (a law firm) with two support staff members. Only one is an administrative assistant and the other is a paralegal. I am the only full time attorney. In order to address and comply with amendments to the Lobbyist Ordinance in the last two years, I hired a part time person at the beginning of this year just to look at my billing records, type up contacts with city officials, fill out the forms, and then check all billings to report what we have billed the client for preparing the forms.

First, I object to the staff recommendation that lobbyists file reports on a monthly rather than a quarterly basis. This change, which would quadruple the number of reports required to be filed, would result in additional compliance costs for all lobbyists (either via additional legal fees if the lobbyist pays a firm to prepare its report or additional time spent on compliance for those lobbyists who file their own reports) without any commensurate benefit to the public. Second, the staff is proposing that lobbyists report the dates of each contact which the lobbyist has with a City official or employee. This disclosure requirement would require a lobbyist to keep track of every single contact, even though letters, e-mails and documents sent to City officials, which are all public records, can be obtained by a member of the public through a Sunshine Act request. I believe the public currently receives adequate information regarding a lobbyist's activities by learning that he or she has lobbied a particular City official and the name of the client on whose behalf lobbying was done.

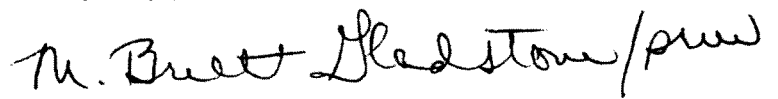
I will have to increase the hours of my newly hired lobbyist reporting assistant by roughly 5 hours a week, or 200 plus a year, to deal with the proposed new amendments, due to the detail required.

GLADSTONE & ASSOCIATES  
ATTORNEYS AT LAW

Mabel Ng  
February 9, 2009  
Page Two

Although I have not researched this yet, I believe some of the new requirements may breach attorneys' duties of confidentiality to his client. Please review that before you vote on this.

Very truly yours,

A handwritten signature in cursive script that reads "M. Brett Gladstone / pmw".

M. Brett Gladstone



Jon Kaufman  
<jon\_kaufman@solem.com>  
02/09/2009 11:40 AM

To mabel.ng@sfgov.org  
cc  
bcc

Subject Lobbyist Reporting Requirements

Dear Ms. Ng,

I understand that this evening the SF Ethics Commission will be considering increased reporting requirements for lobbyists. Please convey this communication to the members of the Commission in case I am unable to attend and testify in person.

I believe the proposed changes will create an unnecessary burden for people attempting to influence government officials on behalf of their clients.

If the problem is that certain individuals are not reporting their activity, this is an enforcement problem. Increasing the frequency of reporting and the detail of each contact will not address this issue. However, it will substantially increase the amount of work that those who do obey the existing requirements will have to perform. I respectfully urge that these changes NOT be adopted. Instead, the Commission should enforce the existing requirements to a greater extent.

Thank you for your consideration.

-----  
Jonathan (Jon) Kaufman  
Solem & Associates  
One Daniel Burnham Court, Suite 100-C  
San Francisco, CA 94109  
Phone: 415.788.7788 x119  
Direct: 415.296.2019  
Fax: 415.788.7858  
Email: [jonk@solem.com](mailto:jonk@solem.com)  
Website: [www.solem.com](http://www.solem.com)

Oliver Luby/ETHICS/SFGOV  
02/09/2009 11:23 AM

To John St.Croix/ETHICS/SFGOV@SFGOV, Mabel  
Ng/ETHICS/SFGOV@SFGOV  
cc Shaista Shaikh/ETHICS/SFGOV@SFGOV  
bcc  
Subject suggestions regarding legislation considered at tonight's  
meeting

Hi,

I wanted to provide some feedback as staff regarding proposed legislation on the agenda for tonight's meeting. I recommend making my comments available at the meeting.

#### 1. Lobbyist Ordinance amendments.

While the proposed amendments contain some positive aspects like lobbyist contact date reporting (an excellent addition), consolidating the types of lobbyists, an effort to increase reporting, mandatory trainings, replacing annual re-registration with a simpler termination provision, and other minor changes, the amendments also propose detrimental changes such as eliminating various aspects of lobbyist reporting (such as a number of important disclosures regarding organization lobbyists, which are now treated as organizations that file on behalf of their lobbyist employees) and ending the ban on lobbyists conducting campaign consulting. In addition, I believe prior draft amendments included a registration amendment provision, requiring disclosure of changes to a lobbyist's core information; this appears to have been eliminated from the current proposal. Moreover, if the amendments are approved as is, lobbyists will be able to make one contact before needing to register whereas they must currently register before making any contacts (see changes to 2.110(a)). Furthermore, the amended text allows the Commission to decide whether to require paper reporting, electronic reporting or both. I believe electronic reporting sans a paper requirement should be mandated unless not ready, in which case paper reporting such be mandated.

Lastly, I agree with members of the public who have said that switching from quarterly to monthly reporting is burdensome. In lieu of that framework, I years ago recommended that a special supplemental 24-hour reporting requirement be activated during the period of time immediately prior to the government decisions that a lobbyist is trying to influence; essentially, I recommend that Form 496-type disclosure used in campaign disclosure be designed for the lobbyist disclosure framework. The problem with only having quarterly disclosure is that lobbyists can influence outcomes and only disclose what they have done after the government decision is already made. While a switch to monthly reporting shrinks the amount of time in which a lobbyist can influence decisions without yet needing to disclose her or his activity, it doesn't eliminate the problem. Twelve reports a year rather than 4 are also more difficult for staff and the public to review and maintain. By contrast, the 24-hour reporting solves the problem of undisclosed influence and, as a supplemental report incorporated into the next quarterly, does not hamper the reviews of a year of disclosures.

In an effort to be brief, I am limited by feedback on the Lobbyist amendments to the above comments. However, I can provide more extensive detailed observations upon request.

#### 2. CFRO Section 1.126 - contractor contribution ban.

I believe the proposed amendments are deeply problematic and antithetical to the purpose of the CFRO and the Commission's mission in general. I recommend against adopted all of the changes proposed by Mgt. Several of the changes are highly detrimental to reform, including exempting grants, ending application of the contribution ban to those contracting with state boards containing appointees, and permitting the Board members and 20 - 49% owners of contractors to make contributions freely. In general, the staff memo's rationale's for the changes appear underdeveloped and unsubstantiated by study or accumulated numeric data. In the 3 page staff memo on the amendments, the bases for recommending the sweeping changes mostly seem to consist of just simple opinion and anecdotal

remarks.

On p. 2, while arguing for ending the ban on contractors negotiating with state agencies run by local appointees (TIDA, Redevelopment, etc.), the memo states, "[S]taff members [of those agencies] have informed Commission staff that the staff reporting requirements in section 1.126 is onerous in light of their limited resources." However, such agencies do not have direct reporting requirements pursuant to 1.126. Only the appointing officer (Mayor, BOS, etc.) has a reporting obligation with the Commission; as a matter of practicality, the agencies with appointees need only inform their appointing officers of the details of their contracts of \$50,000 or more so that the appointing officer can disclose the contract. Moreover, I do not think requirements can be said to be onerous when they appear to be consistently ignored. I have previously reported to you on the apparent lack of compliance with the 1.126 disclosure requirements (see email dated 8/18/08). Since 2006, our website ([http://www.sfgov.org/site/ethics\\_page.asp?id=61990](http://www.sfgov.org/site/ethics_page.asp?id=61990)) indicates that \*only\* the District Attorney, Sheriff, City Attorney, and Treasurer have filed 1.126 contract disclosures with our office, meaning that none of the \$50,000 contacts entered into by Mayoral and Board appointees on state agencies have been properly disclosed. Since it is my understanding that Mgt. has not authorized Campaign Finance staff to conduct special outreach (such as via written courtesy notices) to local elected officials and their state Board appointees about compliance with 1.126 disclosure, it appears that failure of compliance has more to do with the lack of outreach than with the requirements being inherently onerous.

In an effort to be brief, I am limited by feedback on the 1.126 amendments to the above comments. However, I can provide more extensive detailed observations upon request.

Oliver



Evette Davis  
<EDavis@bergdavis.com>  
02/09/2009 11:18 AM

To "john.st.croix@sfgov.org" <john.st.croix@sfgov.org>,  
"Mabel.Ng@sfgov.org" <Mabel.Ng@sfgov.org>  
cc  
bcc

Subject Proposed Changes to Lobbying Rules

I am unable to attend tonight's hearing but I wanted to respectfully submit my strong opposition to the proposed monthly reporting requirements. This kind of reporting requirement is time-consuming for a small firm like mine. We strive to follow all rules and regulations and are happy to register and report our activities on a quarterly basis. But monthly seems unnecessary and burdensome. I suspect there is a motivation here to do something...but if the concern is contact with elected officials, why not make them report who've they've heard from before a vote?

I recognize the futile task of expressing hardship as a lobbying firm since the tide of sentiment is against our work, but the fact is we are professionals who have to get our work done and the reporting is time consuming, especially when you are trying to be accurate and honest. I ask you to please reconsider and leave the requirements as is.

Thanks so much for your consideration,  
Evette Davis

Evette Davis  
BergDavis Public Affairs  
150 Post Street, Suite 740  
San Francisco, CA 94108  
(415) 788-1000 x201  
(415) 788-0123  
[www.bergdavis.com](http://www.bergdavis.com)



Jessica Berg  
<JBerg@bergdavis.com>  
02/09/2009 10:57 AM

To "mabel.ng@sfgov.org" <mabel.ng@sfgov.org>  
cc  
bcc  
Subject Comments on Lobbying Ordinance

Ms. Ng,

Thank you for your time on the phone today. Unfortunately I can not be at tonight's hearing but I did want to express my concern about the proposed changes to the lobbying ordinance. I would ask that you pass these comments along to the commissioners.

Our firm goes to great lengths to make timely and accurate quarterly lobbying reports. This efforts requires our office manger and our bookkeeper to work together to prepare the report and then I review it along with my partner to ensure the report is complete. As you might imagine it takes a fair amount of time and money to generate these reports. To be required to produce these reports on a monthly basis would only increase this burden for those of us who are already so diligent in our filings. I do not see how this increased burden provides any sort of public benefit.

Furthermore, I don't think it would be possible for us to have the information available at the beginning of each month. Like every other business it takes time for us to process our invoices and time logs in order to generate bills, and this information is simply not available at the end of every month making it impossible to comply with the monthly reporting standards.

I am also concerned about the provision requiring the exact date or all contacts with city officials. Again, this increases the burden on our business without any obvious public benefit. It's just more time and more work for our staff.

We are a small, woman-owned business who has operated successfully and honestly in San Francisco for almost a decade. I would suggest that the Ethics Commission would reap more benefit from its efforts if it were to focus on those who simply don't file reports and claim that they are not covered by the ordinance. I see paid attorneys and consultants who oppose our projects coming in and out of city hall quite often and have never once seen these individuals file an ethics report.

Whatever can be done to make reporting more simple and easy should be encouraged. Thank you for your time.

Jessica Berg  
BergDavis Public Affairs  
150 Post Street, Suite 740  
San Francisco, CA 94108  
415-788-1000 ext. 202  
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