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JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: May 5, 2009
To: Members, Ethics Commission
From: John St. Croix, Executive Director
By: Mabel Ng, Deputy Executive Director
Re: Supplemental Memo II re Proposed Changes to Lobbyist Ordinance

This memorandum incorporates the remaining decision points of the March 4, 2009 staff memo and the April 7, 2009 supplemental memo regarding proposed changes to the Lobbyist Ordinance. Because all outstanding decision points are set forth below, staff recommends that the Commission replace the April 7 memo with this memo, plus the new 5.1.09 mark-up version of the legislation, for its consideration of the Lobbyist Ordinance at the May 11, 2009 meeting. The mark-up incorporates all changes approved by the Commission to date, as well as the proposed changes recommended by staff in this memo.

Part I of this memo sets out the remaining decision points from the March 4, 2009 memo. Based on the Commission’s brief discussion of these decision points at its April meeting, we have added further explanations for staff’s proposals.

Part II of this memo replicates the six proposed new amendments that were set forth in the April 7, 2009 supplemental memo. Three of the proposals stem from the discussions at the March 9, 2009 meeting. The fourth proposal recommends the deletion of a provision requiring lobbyists to provide written notification of a gift to the recipient of the gift. The fifth proposal sets forth the operative date of the amendments. The sixth proposal recommends that the Commission urge the Board of Supervisors to consider promptly the proposed amendments.

Part III of this memo replicates the proposed technical amendments that appeared in the March 4, 2009 memo, as requested at the March 9, 2009 meeting. Staff has made a few minor modifications to its prior recommendations, which are marked in underlined bold italic text. The Commission may take action on these technical items separately or as a whole.

Part IV of this memo sets out the actions that the Commission took at its March 9 and April 13, 2009 meetings.

Part I. Remaining Decision Points from March 4, 2009 Memo

Section 2.145(b). Administrative Enforcement and Penalties. *(page 29, lines 15-24; this is a technical change.)* Staff proposes to amend section 2.145 to provide that any person who knowingly or negligently violates the Ordinance shall be liable in an administrative proceeding before the Ethics Commission pursuant to Charter section C3.699-13. This amendment does not make any substantive change to the Ordinance, but merely sets forth the enforcement standards more explicitly. Currently, the Ordinance provides that the Commission may enforce the Ordinance pursuant to Charter section C3.699-13. That Charter section allows the Commission to impose penalties and issue corrective orders when it “determines on the basis of substantial evidence . . . that a violation has occurred.” The Charter, and the current Lobbyist Ordinance by extension, allows the Commission to enforce violations regardless of whether they are purposeful, knowing or negligent. The proposed amendment attempts to clarify that existing standard. Staff’s proposal also tracks similar language in current section 1.170 of the Campaign Finance Reform Ordinance, which provides, “Any person who intentionally or negligently violates any of the provisions of this Chapter shall be liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter. . . .”

At the April 13 meeting, Anita Mayo expressed concern that staff’s proposal effectively would prohibit filers from amending their filings to correct inadvertent mistakes. The proposal does not prevent lobbyists from correcting negligent filing errors. But it permits staff to exercise discretion to take enforcement action when necessary, with appropriate consideration of the filer’s specific intent.

Decision Point 36a: Shall the Ordinance be amended to state that any person who negligently or knowingly violates the Ordinance shall be liable in an administrative proceeding before the Ethics Commission pursuant to Charter section C3.699-13?

Section 2.145(c). Civil Enforcement and Penalties. *(page 30, lines 1-4; this is a substantive change.)* Staff proposes to increase the maximum civil penalties for violations of the Ordinance from \$1,000 to \$5,000 per violation. This change would bring the Ordinance’s civil enforcement provisions into line with the civil enforcement provisions in the Campaign Finance Reform Ordinance and the City’s conflict of interest laws (Article III of the Campaign and Governmental Conduct Code), both of which allow the City Attorney to seek penalties up to \$5,000 per violation. Staff believes that the City Attorney should have discretion to seek civil penalties up to \$5,000 for violations of the Ordinance. At the April 13 meeting, Commissioner Gusukuma asked whether a negligent violation of the Ordinance could subject a person or entity to a civil action. Under current law, the answer is yes.

Staff also proposes to delete “or three times the amount given or received in excess of the gift limit” in this section. Staff believes that this language is unnecessary, particularly in light of the restricted source gift rule, because most violations of the Ordinance do not involve excessive gifts.

Decision Point 37: *Shall the Ordinance be amended to allow civil fines for up to \$5,000 per violation?*

Section 2.145(e). (Joint and Several Liability). *(page 30, lines 10-14; this is a substantive change.)* Staff also proposes to impose joint and several liability on lobbyists and their employers for violations of the Ordinance. The amended Ordinance will impose a number of obligations and restrictions, including filing responsibilities, on individual lobbyists. At interested persons meetings, staff learned that some individual lobbyists will ask their firms to file reports on their behalf. In order to distribute fairly the legal burdens between firms and individual employees, and to ensure that the Commission can enforce violations of the Ordinance without significant administrative difficulties, staff proposes imposing liability on both the individual filer and the filer’s employing firm.

Decision Point 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.)* Current section 2.150(a) combines civil and administrative actions; staff believes that the two types of action should be set forth in separate subsections. Subsection (a) discusses civil actions and provides that a civil action is brought when the City Attorney files the action in a court of law. Subsection (b) sets forth administrative action by the Ethics Commission. In response to Commissioner Harriman’s concerns, 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?*

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Part II. New Proposed Amendments

New Section 2.105(d)(1)(R): add on page 7, lines 5-6: at the March 9 Commission meeting, Commissioners discussed whether an individual communicating on behalf of himself or herself is making a “contact” under the Ordinance. Under staff’s interpretation of its March 9 proposal, a lobbyist communicating with a City officer on behalf of herself, and not on behalf of a client, is not making a contact. Staff believes that the exception is implicit in its proposal, based on the definition of a lobbyist as an individual who receives economic consideration and who, on behalf

of the person providing economic consideration, makes any contact with a City officer to influence a legislative or administrative action. Requiring individuals to disclose their communications with public officials on their own behalf does not advance the public policy goals of the Lobbyist Ordinance. To avoid any confusion, staff proposes making this exception explicit in the law by adding the following exception to the definition of “contact.”

(R) An individual communicating on behalf of herself or himself, and not on behalf of the individual's client, employer or any other person.

Decision Point 40: *Shall the Ordinance be amended to include an exception to state explicitly that an individual communicating on behalf of himself or herself with a City officer is not making a “contact” under the Ordinance?*

New Section 2.105(d)(2): add on page 7, lines 7-15: at the March 9 meeting, the Commission considered adding subsection 2.105(d)(2), which would list communications that are not “contacts” for the purpose of qualifying as a lobbyist, but are “contacts” for the purpose of lobbyist disclosures. Under staff’s interpretation, an individual providing oral information under section 2.105(d)(2)(A) or requesting the status of an action under section 2.105(d)(2)(B) is not making a contact for the purposes of qualifying as a lobbyist. However, an individual who has already qualified as a lobbyist and who provides oral information under section 2.105(d)(2)(A) or requests the status of an action under section 2.105(d)(2)(B) would be required to report such communications if they are made to influence local legislative or administrative action. In addition, in light of the Commission’s comments regarding section 2.105(d)(1)(R), staff recommends also including language regarding participation at an interested persons meeting. Staff proposes the following language, which will be inserted in the draft Ordinance on page 7:

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

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

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

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

Decision Point 41: *Shall the Ordinance be amended to include language in proposed section 2.105(d)(2) to provide that an individual providing oral information under section 2.105(d)(2)(A), requesting the status of an action under section 2.105(d)(2)(B), or participating in a public interested persons meeting under section 2.105(d)(2)(C) is not making a contact for the purpose of qualifying as a lobbyist, but would be making a contact for the purpose of disclosure if the individual is already a lobbyist?*

New Section 2.110(c)(9). Lobbyist Disclosures: add on page 18, lines 8-10: at the March 9 meeting, the Commission discussed whether the Ordinance should require lobbyists to disclose

the names of experts who accompany them to meetings with City officers. If the Commission wishes to include such a requirement, it could do so by inserting subsection 2.110(c)(9) to require lobbyists to report the following information in their disclosures:

(9) For each contact at which a person providing purely technical data, analysis, or expertise was present, as described in section 2.105(d)(1)(K), the name, address, employer and area of expertise of the person providing the data, analysis or expertise.

Decision Point 42: *Shall the Ordinance be amended to require lobbyists to disclose information regarding experts who accompany them to meetings with City officers?*

Section 2.125 Notification of Beneficiaries of Gifts. *(page 26, line 24 – page 27, line 5.)*

Current law requires a lobbyist to create a written record of any gifts that the lobbyist has provided to any City officer. Under existing law, lobbyists must then provide these written records to the recipients of any gifts. Since, in general, lobbyists may not provide gifts to City officers that exceed \$25 in value, staff believes that this provision is no longer necessary.

NOTE: The previous staff memo identified this recommendation as a technical change. Staff believes that this change should be made with the Commission's full consideration.

Decision Point 43: *Shall the Ordinance be amended to remove the requirement that lobbyists must notify the recipient of a gift that he or she has, in fact, received a gift?*

Effective Date of Amendments: Staff recommends that the Commission approve language establishing a reasonable effective date for the Lobbyist Ordinance that would provide the staff with flexibility to accommodate any unforeseen technical problems. Staff proposes the following language:

The operative date of this ordinance shall be January 1, 2010, unless the Ethics Commission approves a resolution establishing a later operative date for the ordinance. The Ethics Commission may not establish an operative date for the ordinance less than 60 days from the date of the resolution's adoption.

The suggested language would appear in the ordinance submitted to the Board of Supervisors that contains all of the amendments approved by the Commission. It would not appear in the final codified Lobbyist Ordinance as it will appear in the Campaign and Governmental Conduct Code. Nor would this language suggest, in any way, that the existing provisions of the Lobbyist Ordinance are not effective during the period between the Board's adoption of the amendments and the amendments' operative date.

Decision Point 44: *Shall the amendments become effective on January 1, 2010, unless the Commission takes further action?*

Submission to the Board of Supervisors: When the Commission concludes its consideration of amendments to the Lobbyist Ordinance, the Commission may wish to send the proposal to the Board of Supervisors (“Board”) with a request that the Board consider and enact the amendments as soon as possible. If the Board does not promptly approve the amendments to the Lobbyist Ordinance, staff may not have a sufficient period of time to implement the Ordinance before January 1, 2010, especially if further amendments are made by the Board.

Decision Point 45: *Shall the Commission send its amendments to the Board of Supervisors with a request that the Board consider and approve the amendments as soon as possible?*

Part III. Proposed Technical Changes to Lobbyist Ordinance

Technical Change 1:

Section 2.100 Findings *(page 1, line 14 – page 2, line 6; staff had previously proposed technical changes.) Staff had previously proposed modifications and deletions to this section to conform section 2.100(b) to recommended changes in section 2.117. However, because the Commission did not agree to make the recommended changes to section 2.117, section 2.110 remains unchanged except for staff’s proposal to change the word “paramount” to “compelling” on page 1, line 25.*

Section 2.105 Definitions

Technical Change 2:

(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).

Technical Change 3:

(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.~~ **The changes would incorporate the San Francisco Campaign Finance Reform Ordinance’s (“CFRO’s”) definition of “candidate” by referencing section 1.104(a) of CFRO. CFRO currently uses the following definition:**

“Candidate” shall mean any individual listed on the ballot for election to any City elective office or who otherwise has taken affirmative action to seek nomination or election to such office. The term “candidate” shall also mean the candidate’s campaign committee.

S.F. Campaign & Gov'tal Conduct Code § 1.104(a). Staff recommends that both the Lobbyist Ordinance and the CFRO use the same definition for the same term.

Technical Change 4:

(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.

Technical Change 5:

(d)(1)(A) (page 3, lines 10-15; this is a technical change): The exception in current section (d)(1)(A) 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.

Technical Change 6:

(d)(1)(NM) (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.

Technical Change 7:

(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).

Technical Change 8:

(jh) “Lobbyist services.” (page 10, lines 6-10; 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 **instead of amending this provision of the Ordinance.**

Technical Change 9:

(ki) “Local legislative or administrative action.” (page 10, lines 11-17; these are technical changes.) Staff proposes that “local legislative or administrative action” should **explicitly** include decisions about City contracts. **Staff interprets the current Ordinance to include decisions regarding contracts, but further clarification may benefit the public's understanding of this term.** 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, **or as a representative of a party,** in an administrative adjudicatory proceeding before a City agency or department would not be making a contact.

Technical Change 10:

(lj) “Measure.” (page 10, lines 18-19; these are technical changes.) Staff proposes to amend the definition of “measure” to describe more accurately initiatives and recalls. **The changes would incorporate CFRO's definition of “measure” into the Lobbyist Ordinance by referencing section 1.104(l) of CFRO. CFRO currently uses the following definition:**

“Measure” shall mean any City, San Francisco Unified School District or San Francisco Community College District referendum, recall or ballot proposition, whether or not it qualifies for the ballot.

S.F. Campaign & Gov'tal Conduct Code § 1.104(l). Staff recommends that both the Lobbyist Ordinance and the CFRO use the same definition for the same term.

Technical Change 11:

(n) “Payments to influence local legislative or administrative action.” (page 11, lines 3-19; 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.

Technical Change 12:

(o) “Person.” (page 11, lines 20-21; 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.

Technical Change 13:

Section 2.110 Registration and Disclosures, Fees; Termination of Registration (page 21, lines 6-8). Staff proposes technical changes to section 2.110(e)(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. Staff previously proposed a technical change to section 2.110(e)(3) to restrict the types of non-profit organizations eligible for a waiver of lobbyist registration fees to 501(c)(3) organizations instead of both 501(c)(3) and 501(c)(4) non-profits. Upon further consideration, staff recommends no changes to the types of organizations whose employees are subject to a waiver of fees. Staff recommends that the current practice continue, allowing employees of either 501(c)(e) or 501(c)(4) organizations to present proof of their tax-exempt status in order to obtain a fee waiver.

Technical Change 14:

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.

Technical Change 15:

Section 2.140. Powers and Duties of the Ethics Commission. (page 27, line 18 – page 29, line 3; these are both technical and substantive changes.) The March 4, 2009 memo did not discuss this technical change, which would correct the reference to the Charter from section C3.699-9 to section 15.102, on page 29, line 3. Changes, if any, to current sections 2.140(a)-(d) are discussed under Decision Points 31, 32, 33, 34, 35 and 35a.

Technical Change 16:

Section 2.145. Administrative and Civil Enforcement and Penalties. (page 29, line 6 – page 30, line 16; these are technical and substantive changes.) The March 4, 2009 memo did not discuss the technical changes, which are:
(1) linguistic changes to section 2.145(a) on page 29, lines 7-14;
(2) deletion of the words “upon reasonable notice” in section 2.145(d) on page 30, line 6.
Several of the proposed changes to section 2.145 are discussed as part of Decision Points 36, 36a, 37 and 38.

Technical Change 17:

Section 2.150. Limitation of Actions. (page 30, line 17 – page 31, line 13; these are technical and substantive changes.) The March 4, 2009 memo did not discuss the technical changes, which are linguistic changes on page 30, lines 18-21. (The substantive changes are part of Decision Point 39 set forth in Part I of this memo.)

Technical Change 18:

Section 2.160. Electronic Filing of Statements and Reports. *(page 32, lines 1-19; these are technical changes.)* Staff proposes to delete ~~this section~~ **subsection (a)**, which authorizes the Commission to require the electronic submission of lobbyist reports. Such authorization is now set forth in section 2.140. **Staff also proposes to delete current subsection (b) because it has been incorporated into section 2.140(a); and subsection (c) because section 2.145 provides for a \$50 late fee, which now covers late electronic reporting.**

Part IV. Summary of Changes Approved at March 9 and April 13, 2009 Meetings

Decision Point 1. Section 2.105(d)(1)(C): on page 4, lines 3-8, the Commission approved amending the Ordinance to provide that a communication by a professional engineer licensed to practice in the State of California is not a contact under the Ordinance, when the communication is one that only a licensed engineer can make.

Decision Point 2. Section 2.105(d)(1)(E): on page 4, lines 12-14, the Commission approved amending the Ordinance to state that providing oral information to a City officer in response to a request from that officer is not a contact for the purpose of determining whether the person providing the information qualifies as a lobbyist. But a person who otherwise qualifies as a lobbyist must report such a communication as a contact. This change has been incorporated into proposed new section 2.105(d)(2)(A), discussed above in Decision Point 41 on pages 4-5 of this memo. Providing written information in response to a request made by a City officer would continue to be an exception to the definition of "contact" in the Ordinance.

Decision Point 3. Section 2.105(d)(1)(I): on page 5, lines 1-3, the Commission approved amending the Ordinance to provide that a communication seeking the status of an action is not a contact for the purposes of qualifying as a lobbyist. A person who otherwise qualifies as a lobbyist must report the communication as a contact if it is a communication to influence local legislative or administrative action under section 2.105(d)(2)(B). This change has been incorporated into proposed new section 2.105(d)(2)(A), discussed above in Decision Point 41.

Decision Point 4. Section 2.105(d)(1)(K): on page 5, lines 8-10, the Commission approved amending the Ordinance 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.

Decision Point 5. Section 2.105(d)(1)(O): on page 6, lines 4-6, the Commission approved amending the Ordinance to provide 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.

Decision Point 6. Section 2.105(d)(1)(P): on page 6, lines 7-8, the Commission approved amending the Ordinance to provide 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.

Decision Point 7. Section 2.105(d)(1)Q): on page 6, line 23 – page 7, line 4, the Commission approved amending the Ordinance to state 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.

Decision Point 8. Section 2.105(d): the Commission approved amending the Ordinance to provide that, unless representing a client, 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.

This language has been incorporated into proposed section 2.105(d)(2)(C), on page 7, lines 13-15, and is part of Decision Point 41 of this memo.

Decision Point 9. Section 2.105(e) “Economic consideration”: on page 7, lines 16-18, the Commission approved amending the Ordinance so that the term “economic consideration” does not include salary, wages or benefits from a federal, state or local agency.

Decision Points 10 and 11. Section 2.105(g) “Lobbyist”: on page 7, line 23 – page 10, line 5, the Commission approved amending the Ordinance so that there is a single category of lobbyists, and that a lobbyist be defined 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.

Decision Point 12. Section 2.110(a) Registration of Lobbyist Required: On page 12, lines 4-11, the Commission approved amending the Ordinance to require any individual who qualifies as a lobbyist to register with the Ethics Commission no later than five business days after qualifying as a lobbyist and, in any event, prior to making any additional contacts with any City officer. The approved language reads: *“Lobbyists shall register with the Ethics Commission and comply with the disclosure requirements imposed by this Chapter. Such registration shall occur no later than five business days of qualifying as a lobbyist, but the lobbyist shall register prior to making any additional contacts with an officer of the City and County of San Francisco.”*

Decision Point 13. Section 2.110(b). Registration: On page 12, line 12 – page 15, line 24, the Commission approved amending the Ordinance to streamline information that must be reported when an individual registers as a lobbyist;

Decision Point 14. Section 2.110(c) Reregistration Reports: On page 16, lines 1-3, the Commission approved amending the Ordinance to dispense with reregistration reports.

Decision Point 15, 16, 17. Section 2.110(c) Lobbyist Disclosures: On page 16, lines 4-12, the Commission approved amending the Ordinance to require lobbyists to disclose activities on a monthly basis, and a Commission policy to revisit the frequency and timing of filing requirements within six months of the date of implementation of an electronic filing system;

Decision Point 18. Section 2.110(c)(3): Lobbyist Disclosures: On page 16, line 18, the Commission approved amending the Ordinance to require lobbyists to disclose the dates of their contacts with City officers.

Decision Point 19. Section 2.110(c)(1), (2), (4), (5), (6), (7), (9), (10) and (11) Lobbyist Disclosures. On page 16, line 13 – page 18, line 14, the Commission approved amending the Ordinance to require lobbyists to disclose information such as the local legislative or administrative action that they sought to influence, including, if any, the time and file number of any resolution, motion, appeal, application, entitlement, or contact, and the outcome sought by the client, as well as the economic consideration received or expected by the lobbyist from each client during the reporting period.

Decision Point 20. Section 2.110(c)(8). Lobbyist Disclosures. On page 17, line 15 – page 18, line 7, the Commission approved amending the Ordinance to require 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, including the amount and date of the contribution, name and street address of the contributor, contributor’s occupation and employer, or if self-employed, the name of the contributor’s business, and the committee to which the contribution was made.

Decision Point 21. Section 2.110(c)(8). Lobbyist Disclosures. On page 17, lines 19-21, the Commission rejected a proposed amendment to delete the requirement that lobbyists report contributions to any ballot measure committee that is not controlled by a City elective officer.

Decision Point 22. Section 2.110(d). Registration and Filing by Organizations. On page 20, lines 14-17, the Commission approved amending the Ordinance to authorize the Commission to establish procedures to permit organizations to register and submit disclosure reports on behalf of their lobbyist employees.

Decision Point 23. Section 2.110(e). Fees; Termination of Registration. On page 20, line 18 – page 21, line 5, the Commission approved amending the Ordinance to lower the registration fee for lobbyists to \$100 per year.

Decision Points 24, 25 and 26. Section 2.110(f) Client Authorization Statements; 2.110(g) Client Termination Statements; 2.110(h) Lobbyist Termination Statements. On page 21, line 11 – page 22, line 17, the Commission approved amending the Ordinance to delete the requirements of client authorization statements, client termination statements, and lobbyist termination statements.

Decision Point 27. Section 2.115(a) Gift Limit. On page 22, line 19 – page 23, line 2, the Commission approved amending the Ordinance to prohibit lobbyists from making gifts worth more than \$25 to City officers and employees, and to incorporate the regulatory exceptions to the restricted source gift rule under C&GC section 3.216(b).

Decision Point 28. Section 2.116. Lobbyist Training. On page 23, lines 12-15, the Commission approved amending the Ordinance to require lobbyists to undergo a training during the first year of registration and thereafter as necessary as determined by the Executive Director.

Decision Point 29. Section 2.117. On page 23, line 16 – page 26, line 4, the Commission voted not to amend this section, which bars any campaign consultant from lobbying his or her current or former client. Staff made minor clarifying corrections to section 2.117, adding the word “business” before “addresses” and “telephone numbers” on page 24, lines 13 and 18; the word “current” before “client” on page 24, line 14; and changing the word “consultant” to “consulting” on page 25 line 9.

Decision Point 30. Section 2.135. Filing Under Penalty of Perjury; Retention of Documents. The Commission did not take action on staff’s recommendation in this decision point, which would have required a lobbyist, upon request, to provide to the Ethics Commission his or her books, papers and documents, or other materials related to the lobbyist’s activities within ten business days. Staff made a few clarifying changes to the language in current section 2.135, which appears on page 27, lines 10-17.

Decision Point 31. Section 2.140 Powers and Duties of the Ethics Commission. In subsection 2.140(a), on page 27, lines 18-20, the Commission approved amending the Ordinance so that the section reads, “The Ethics Commission shall prescribe the format for the submission of all information required by this Chapter.”

Decision Point 32. Section 2.140. Powers and Duties of the Ethics Commission. In current subsections 2.140(b), (c), and (d), on page 27, line 21 – page 28, line 8, the Commission approved amending the Ordinance 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.

Decision Points 33 and 34. Section 2.140. Powers and Duties of the Ethics Commission. In proposed subsections 2.140 (b) and (c), on page 28, lines 9-16, the Commission approved amending the Ordinance to state that upon request of 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; and that upon the request of the Board of Supervisors or the Mayor, the Commission shall file a report to with the Board and the Mayor on the implementation of the Ordinance.

Decision Point 35. Section 2.140. Powers and Duties of the Ethics Commission. In proposed subsections 2.140(b) and (c), on page 28, lines 9-16, the Commission approved amending the

Ordinance to require the Commission to provide reports regarding lobbyist activities or the implementation of the Lobbyist Ordinance within 30 days of the receipt of a request.

Non-Decision Point 35a. Section 2.140. Powers and Duties of the Ethics Commission. In current subsection 2.140(j), on page 29, lines 4-5, the Commission did not agree to delete the requirement that the Commission conduct quarterly workshops concerning the laws relating to lobbying, but stated that the availability of online training would satisfy this requirement.

Decision Point 36. Section 2.145. Administrative and Civil Enforcement and Penalties. In subsection 2.145(b), on page 29, lines 22-24, the Commission approved amending the Ordinance to permit the Commission to issue warning letters regarding potential violations of the Ordinance.

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