

BOARD of SUPERVISORS



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MEMORANDUM

TO: LeeAnn Pelham, Executive Director, Ethics Commission
John Arntz, Director, Department of Elections

FROM: *AS* Alisa Somera, Legislative Deputy Director
Rules Committee

DATE: April 13, 2018

SUBJECT: AMENDED LEGISLATION

The Board of Supervisors' Rules Committee has received the following amended legislation on April 3, 2018, introduced by Supervisor Peskin on March 20, 2018:

File No. 180280

Ordinance amending the Campaign and Governmental Conduct Code to 1) prohibit earmarking of contributions and false identification of contributors; 2) modify contributor card requirements; 3) require disclosure of contributions solicited by City elective officers for ballot measure and independent expenditure committees; 4) require additional disclosures for campaign contributions from business entities to political committees; 5) require disclosure of bundled campaign contributions; 6) extend the prohibition on campaign contributions to candidates for City elective offices and City elective officers who must approve certain City contracts; 7) require committees to file a third pre-election statement prior to an election; 8) remove the prohibition against distribution of campaign advertisements containing false endorsements; 9) allow members of the public to receive a portion of penalties collected in certain enforcement actions; 10) require financial disclosures from certain major donors to local political committees; 11) impose additional disclaimer requirements; 12) permit the Ethics Commission to recommend contract debarment as a penalty for campaign finance violations; 13) create new conflict of interest and political activity rules for elected officials and members of boards and commissions; 14) specify recusal procedures for members of boards and commissions; and 15) establish local behested payment reporting requirements for donors and City officers.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: alisa.somera@sfgov.org.

c: Kyle Kundert, Ethics Commission

1 [Campaign and Governmental Conduct Code - Campaign Finance and Conflict of Interest]
2
3 **Ordinance amending the Campaign and Governmental Conduct Code to 1) prohibit**
4 **earmarking of contributions and false identification of contributors; 2) modify**
5 **contributor card requirements; 3) require disclosure of contributions solicited by City**
6 **elective officers for ballot measure and independent expenditure committees; 4)**
7 **require additional disclosures for campaign contributions from business entities to**
8 **political committees; 5) require disclosure of bundled campaign contributions; 6)**
9 **extend the prohibition on campaign contributions to candidates for City elective offices**
10 **and City elective officers who must approve certain City contracts; 7) require**
11 **committees to file a third pre-election statement prior to an election; 8) remove the**
12 **prohibition against distribution of campaign advertisements containing false**
13 **endorsements; 9) allow members of the public to receive a portion of penalties**
14 **collected in certain enforcement actions; ~~10) require financial disclosures from certain~~**
15 **~~major donors to local political committees; ~~11~~~~ impose additional disclaimer**
16 **requirements; ~~12~~ permit the Ethics Commission to recommend contract debarment**
17 **as a penalty for campaign finance violations; ~~13~~ create new conflict of interest and**
18 **political activity rules for elected officials and members of boards and commissions;**
19 **~~14~~ specify recusal procedures for members of boards and commissions; and ~~15~~**
20 **establish local behested payment reporting requirements for donors and City officers.**

21 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
22 **Additions to Codes** are in *single-underline italics Times New Roman font*.
23 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
24 **Board amendment additions** are in double-underlined Arial font.
25 **Board amendment deletions** are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

1 Section 1. The Campaign and Governmental Conduct Code, Article I, Chapter 1, is
2 hereby amended by revising Sections 1.104, 1.110, 1.114, 1.126, 1.135, 1.161, 1.142, 1.162,
3 1.168, 1.170, adding Sections 1.114.5, 1.124, 1.125, ~~1.158~~, and deleting Section 1.163.5, to
4 read as follows:

5 **SEC. 1.104. DEFINITIONS.**

6 Whenever in this Chapter 1 the following words or phrases are used, they shall mean:

7 * * * *

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

11 * * * *

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

14 * * * *

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

19 * * * *

20 “Prohibited source contribution” shall mean a contribution made (a) in violation of Section
21 1.114, (b) in an assumed name as defined in Section 1.114.5(c), (c) from a person prohibited from
22 contributing under Section 1.126, or (d) from a lobbyist prohibited from contributing under Section
23 2.115(e).

24 “Public appeal” shall mean a request for a payment when such request is made by
25 means of television, radio, billboard, a public message on an online platform, the distribution

1 of 200 or more identical pieces of printed material, the distribution of a single email to 200 or
2 more recipients, or a speech to a group of 20 or more individuals.

3 * * * *

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

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

7 * * * *

8
9 **SEC. 1.110. CAMPAIGN STATEMENTS.**

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

16 * * * *

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

22
23 **SEC. 1.114. CONTRIBUTIONS - LIMITS AND PROHIBITIONS.**

24 (a) LIMITS ON CONTRIBUTIONS TO CANDIDATES. No person other than a
25 candidate shall make, and no campaign treasurer for a candidate committee shall solicit or

1 accept, any contribution which will cause the total amount contributed by such person to such
2 candidate committee in an election to exceed \$500.

3 (b) LIMITS PROHIBITION ON CONTRIBUTIONS FROM CORPORATIONS. No
4 corporation organized pursuant to the laws of the State of California, the United States, or any
5 other state, territory, or foreign country, whether for profit or not, shall make a contribution to a
6 candidate committee, provided that nothing in this subsection (b) shall prohibit such a
7 corporation from establishing, administering, and soliciting contributions to a separate
8 segregated fund to be utilized for political purposes by the corporation, provided that the
9 separate segregated fund complies with the requirements of Federal law including Sections
10 432(e) and 441b of Title 2 of the United States Code and any subsequent amendments to
11 those Sections.

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

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

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

21 (1) General Rule. For purposes of the contribution limits imposed by this
22 Section 1.114 and Section 1.120, the contributions of an entity whose contributions are
23 directed and controlled by any individual shall be aggregated with contributions made by that
24 individual and any other entity whose contributions are directed and controlled by the same
25 individual.

1 (2) Multiple Entity Contributions Controlled by the Same Persons. If two or
2 more entities make contributions that are directed and controlled by a majority of the same
3 persons, the contributions of those entities shall be aggregated.

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

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

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

19 ~~(e) (f) FORFEITURE OF UNLAWFUL CONTRIBUTIONS.~~ In addition to any other
20 penalty, each committee that receives a contribution which exceeds the limits imposed by this
21 Section 1.114 or which does not comply with the requirements of this Section shall pay
22 promptly the amount received or deposited in excess of the permitted amount ~~permitted by this~~
23 ~~Section~~ to the City and County of San Francisco ~~and by~~ delivering the payment to the Ethics
24 Commission for deposit in the General Fund of the City and County; provided that the Ethics
25 Commission may provide for the waiver or reduction of the forfeiture.

1 ~~(f)~~ (g) RECEIPT OF CONTRIBUTIONS. A contribution to a candidate committee or
2 committee making expenditures to support or oppose a candidate shall not be considered
3 received if it is not cashed, negotiated, or deposited, and in addition ~~#~~ is returned to the donor
4 before the closing date of the campaign statement on which the contribution would otherwise
5 be reported, except that a contribution to a candidate committee or committee making
6 expenditures to support or oppose a candidate made before an election at which the
7 candidate is to be voted on but after the closing date of the last campaign statement required
8 to be filed before the election shall not be considered to be deemed received if it is not
9 cashed, negotiated, or deposited, and is returned to the contributor within 48 hours of receipt.
10 For all committees not addressed by this Section 1.114, the determination of when
11 contributions are considered to be received shall be made in accordance with the California
12 Political Reform Act, ~~California Government Code Section 81000, et seq.~~

13
14 **SEC. 1.114.5. CONTRIBUTIONS - DISCLOSURES.**

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

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

24 (2) If a committee collects the information required under this subsection (a) on a form
25 signed by the contributor stating that the contributor has not made a prohibited source contribution,

1 there shall be a rebuttable presumption that the committee has not accepted a prohibited source
2 contribution.

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

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

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

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

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

20 (c) ASSUMED NAME CONTRIBUTIONS.

21 (1) No contribution may be made, directly or indirectly, by any person or combination
22 of persons, in a name other than the name by which they are identified for legal purposes, or in the
23 name of another person or combination of persons.

1 (2) No person may make a contribution to a candidate or committee in his, her, or its
2 name when using any payment received from another person on the condition that it be contributed to a
3 specific candidate or committee.

4 (d) FORFEITURE OF UNLAWFUL CONTRIBUTIONS. In addition to any other penalty, each
5 committee that receives a contribution which does not comply with the requirements of this Section
6 1.114.5 shall pay promptly the amount received or deposited to the City and County of San Francisco
7 by delivering the payment to the Ethics Commission for deposit in the General Fund of the City and
8 County; provided that the Ethics Commission may provide for the waiver or reduction of the forfeiture.

9
10 **SEC. 1.124. ADDITIONAL DISCLOSURE REQUIREMENTS FOR CONTRIBUTIONS**
11 **MADE BY BUSINESS ENTITIES.**

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

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

21 (2) whether the business entity has received funds through a contract or grant from any
22 City agency within the last 24 months for a project within the jurisdiction of the City and County of San
23 Francisco, and if so, the name of the agency that provided the funding, and the value of the contract or
24 grant.

1 **(b) Filing Requirements.** Committees shall provide this information for contributions received
2 from business entities at the same time that they are required to file semiannual or preelection
3 campaign statements with the Ethics Commission.

4
5 **SEC. 1.125. ADDITIONAL DISCLOSURE REQUIREMENTS FOR BUNDLED**
6 **CONTRIBUTIONS.**

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

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

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

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

18 (1) the name, occupation, employer, and mailing address of the person who bundled the
19 contributions;

20 (2) a list of the contributions bundled by that person (including the name of the
21 contributor and the date the contribution was made);

22 (3) if the individual who bundled the contributions is a member of a City board or
23 commission, the name of the board or commission on which that person serves, and the names of any
24 City officers who appointed or nominated that person to the board or commission.

1 (c) **Filing Requirements.** Committees shall provide the information for bundled contributions
2 required by subsection (b) at the same time that they are required to file semiannual or preelection
3 campaign statements with the Ethics Commission. Committees shall be required to provide this
4 information following the receipt of the final contribution that makes the cumulative amount of
5 contributions bundled by a single individual total \$5,000 or more.

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

8
9 **SEC. 1.126. CONTRIBUTION LIMITS PROHIBITION – CONTRACTORS DOING**
10 **BUSINESS WITH THE CITY.**

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

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

17 "Board on which an individual serves" means the board to which the officer was elected and
18 any other board on which the elected officer serves.

19 "City Contractor" means any person who contracts with, or is seeking a contract with, any
20 department of the City and County of San Francisco, a state agency on whose board an appointee of a
21 City elective officer serves, the San Francisco Unified School District, or the San Francisco
22 Community College District, when the total anticipated or actual value of the contract(s) that the
23 person is party to or seeks to become party to with any such entity within a fiscal year equals or
24 exceeds \$100,000.

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

5 (1) the rendition of personal services,

6 (2) the furnishing of any material, supplies or equipment,

7 (3) the sale or lease of any land or building,

8 (4) a grant, loan, or loan guarantee, or

9 (5) a development agreement.

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

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

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

24 ~~(A) the rendition of personal services,~~

25 ~~(B) the furnishing of any material, supplies or equipment,~~

1 ~~(C) the sale or lease of any land or building, or~~

2 ~~(D) a grant, loan or loan guarantee.~~

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

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

9 ~~(1) Shall make any contribution to:~~

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

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

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

15 ~~(2) Whenever the agreement or contract has a total anticipated or actual value of~~
16 ~~\$50,000.00 or more, or a combination or series of such agreements or contracts approved by that same~~
17 ~~individual or board have a value of \$50,000.00 or more in a fiscal year of the City and County~~

18 ~~(3) (c) **Term of Prohibitions.** The prohibitions set forth in subsection (b) shall apply from the~~
19 ~~submission of a proposal for a contract until: At any time from the commencement of negotiations for~~
20 ~~such contract until.;~~

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

22 ~~(B) (2) Six 12 months have elapsed from the date the contract is approved.~~

23 ~~(e) (d) **Prohibition on Receipt of Contribution Soliciting or Accepting Contributions.** No~~
24 ~~individual holding City elective office, candidate for such office, or committee controlled by such~~
25 ~~an individual shall; solicit or~~

1 (1) accept any contribution prohibited by subsection (b); or

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

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

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

13 ~~(e)~~ (f) **Notification.**

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

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

22 (B) **Parties to Executed Contracts.** After the final execution of a contract by a
23 City agency and any required approvals of a City elective officer, the agency that has entered into a
24 contract subject to subsection (b) shall inform any parties to the contract of the prohibition in
25 subsection (b) and the term of such prohibition established by subsection (c).

1 (2) Notification of Ethics Commission. *The City agency seeking to enter into a*
2 *contract subject to subsection (b) shall notify the Ethics Commission, within 30 days of the submission*
3 *of a proposal, on a form or in a format adopted by the Commission, of the value of the desired*
4 *contract, the parties to the contract, and any subcontractor listed as part of the proposal.*

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

11 ~~(2)~~ (4) Notification by Individuals Who Hold City Elective Office. Every
12 individual who holds a City elective office shall, within five business days of the approval of a
13 contract by the officer, a board on which the officer sits, or a board of a state agency on which
14 an appointee of the officer sits, notify the Ethics Commission, on a form *or in a format* adopted
15 by the Commission, of each contract approved by the individual, the board on which the
16 individual serves, or the board of a state agency on which an appointee of the officer sits. An
17 individual who holds a City elective office need not file the form required by this subsection
18 ~~(f)(4)~~ if the Clerk or Secretary of a Board on which the individual serves or a Board of a State
19 agency on which an appointee of the officer serves has filed the form on behalf of the board.
20

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

22 (a) **Supplemental Preelection Statements - General Purpose Committees.** In addition
23 to the campaign disclosure requirements imposed by the California Political Reform Act and
24 other provisions of this Chapter 1, a San Francisco general purpose committee that makes
25 contributions or expenditures totaling \$500 or more during the period covered by the

1 preelection statement, other than expenditures for the establishment and administration of
2 that committee, shall file a preelection statement before any election held in the City and
3 County of San Francisco at which a candidate for City elective office or City measure is on the
4 ballot.

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

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

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

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

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

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

20 (c) **Time for Filing Supplemental Preelection Statements - Ballot Measure Committees and**
21 **Candidate Committees.** In addition to the deadlines established by the Fair Political Practices
22 Commission, ballot measure committees and candidate committees required to file preelection
23 statements with the Ethics Commission shall file a third preelection statement before any election held
24 in the City and County of San Francisco at which a candidate for City elective office or City measure is
25

1 on the ballot, for the period ending six days before the election, no later than four days before the
2 election.

3 ~~(e)~~ (d) The Ethics Commission may require that these statements be filed electronically.
4

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

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

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

23 If any deadline imposed by this Subsection falls on a Saturday, Sunday, or legal
24 holiday, the deadline shall be the next business day.
25

1 (c) DETERMINATION OF ELIGIBILITY. The Executive Director of the Ethics
2 Commission shall review the candidate's declaration and supporting material to determine
3 whether the candidate is eligible to receive public funds under this Chapter. The Executive
4 Director may audit the candidate's records, interview contributors and take whatever steps the
5 Executive Director deems necessary to determine eligibility. At the request of the Executive
6 Director, the Controller shall assist in this review process.

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

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

22 (f) RESUBMISSION. If the Executive Director declines to certify that a candidate is
23 eligible to receive public financing under this Chapter, the Executive Director shall notify the
24 candidate. Notwithstanding Section 1.142(b) of this Chapter, the candidate may, within five
25

1 business days of the date of notification, resubmit the declaration and supporting material. If
2 the candidate does not timely resubmit, the Executive Director's determination is final.

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

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

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

22
23 ***SEC. 1.163.5. DISTRIBUTION OF CAMPAIGN ADVERTISEMENTS CONTAINING***
24 ***FALSE ENDORSEMENTS.***
25

1 ~~(a) **Prohibition.** No person may sponsor any campaign advertisement that is distributed~~
2 ~~within 90 days prior to an election and that contains a false endorsement, where the person acts with~~
3 ~~knowledge of the falsity of the endorsement or with reckless disregard for the truth or falsity of the~~
4 ~~endorsement. A false endorsement is a statement, signature, photograph, or image representing that a~~
5 ~~person expressly endorses or conveys support for or opposition to a candidate or measure when in fact~~
6 ~~the person does not expressly endorse or convey support for or opposition to the candidate or measure~~
7 ~~as stated or implied in the campaign communication.~~

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

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

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

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

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

21 ~~(2) "Internet Advertisement" includes paid internet advertisements such as "banner"~~
22 ~~and "popup" advertisements, paid emails, or emails sent to addresses purchased from another person,~~
23 ~~and similar types of internet advertisements as defined by the Ethics Commission by regulation, but~~
24 ~~shall not include web blogs, listserves sent to persons who have contacted the sender, discussion~~
25 ~~forums, or general postings on web pages.~~

1 (3) *"Sponsor" means to pay for, direct, supervise or authorize the production of*
2 *campaign advertisement.*

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

8
9 **SEC. 1.158. MAJOR DONORS – FINANCIAL DISCLOSURES.**

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

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

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

18 ~~*"Doing business" shall be defined as set forth in Title 2, Section 18230 of the California*~~
19 ~~*Code of Regulations.*~~

20 ~~*"Immediate family" shall be defined as spouse, registered domestic partner, and any*~~
21 ~~*dependent children; "dependent child" shall be defined as set forth in Title 2, Section 18229.1*~~
22 ~~*of the California Code of Regulations.*~~

23 ~~*"Investment" shall be defined as set forth in Section 82034 of the California*~~
24 ~~*Government Code and Title 2, Section 18237 of the California Code of Regulations.*~~

25 (b) ~~**Financial disclosures.**~~

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

4 ~~(A) All investments worth \$10,000 or more in any business entity located~~
5 ~~in or doing business in San Francisco held by the contributor or a member of the contributor's~~
6 ~~immediate family; provided that the following investments do not need to be disclosed:~~

7 ~~(i) government bonds (including municipal bonds), diversified~~
8 ~~mutual funds, or exchange traded funds;~~

9 ~~(ii) bank accounts, savings accounts, money market funds, or~~
10 ~~certificates of deposit;~~

11 ~~(iii) insurance policies;~~

12 ~~(iv) annuities;~~

13 ~~(v) commodities;~~

14 ~~(vi) shares in a credit union;~~

15 ~~(vii) investments in defined-benefit pension funds through a~~
16 ~~government employer; and~~

17 ~~(viii) investments held in a blind trust.~~

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

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

24 ~~(A) For any disclosure required by subsection (b)(1)(A), the disclosure~~
25 ~~shall include the name of business entity, a general description of the business entity, the~~

1 nature of the investment, the date on which the investment was acquired, and the fair market
2 value of the investment. The fair market value of the investment shall be disclosed according
3 to the following ranges: ~~\$10,000-\$100,000, \$100,000-\$1,000,000 or \$1,000,000 or more.~~

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

7 **SEC. 1.161. CAMPAIGN ADVERTISEMENTS.**

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

13 (1) TOP ~~TWO~~ THREE CONTRIBUTORS. The disclaimer requirements for
14 primarily formed independent expenditure committees and primarily formed ballot measure
15 committees set forth in the Political Reform Act with respect to a committee's top ~~two~~ three
16 major contributors shall apply to contributors of ~~\$20,000~~ \$10,000 or more. The Ethics
17 Commission may adjust this monetary threshold to reflect any increases or decreases in the
18 Consumer Price Index. Such adjustments shall be rounded off to the nearest five thousand
19 dollars.

20 (2) WEBSITE REFERRAL. Each disclaimer required by the Political Reform
21 Act or its enabling regulations and by this section shall be followed in the same required
22 format, size and speed by the following phrase: "Financial disclosures are available at
23 sfethics.org." A substantially similar statement that specifies the web site may be used as an
24 alternative in audio communications.

1 (3) MASS MAILINGS AND SMALLER WRITTEN ADVERTISEMENTS. Any
2 disclaimer required by the Political Reform Act and by this section on a mass mailing, door
3 hanger, flyer, poster, oversized campaign button or bumper sticker, or print advertisement
4 shall be printed in at least 12-point font.

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

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

16 * * * *

17
18 **SEC. 1.162. ELECTIONEERING COMMUNICATIONS.**

19 (a) DISCLAIMERS.

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

24 (2) Any disclaimer required by this Section shall be included in or on an
25 electioneering communication in a size, speed or format that complies with the disclaimer

1 requirements for independent expenditures supporting or opposing candidates set forth in the
2 Political Reform Act and its enabling regulations.

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

4 (A) to appear on a mass mailing, door hanger, flyer, poster, oversized
5 campaign button or bumper sticker, or print advertisement shall be printed in at least 12-point
6 14-point font;

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

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

11 (b) REPORTING OBLIGATIONS.

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

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

22 * * * *

23 (E) a legible copy of the electioneering communication, including any
24 electioneering communication distributed through electronic media technologies, and

1 (i) if the communication is a telephone call, a copy of the script
2 and if the communication is recorded, the recording shall be provided; or

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

5
6 **SEC. 1.168. ENFORCEMENT; ADVICE.**

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

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

16 (1) No ~~voter~~ *resident* may commence an action under this §subsection (b) without
17 first providing written notice to the City Attorney of intent to commence an action. The notice
18 shall include a statement of the grounds for believing a cause of action exists. The ~~voter~~
19 *resident* shall deliver the notice to the City Attorney and the Ethics Commission at least 60 days
20 in advance of filing an action. No ~~voter~~ *resident* may commence an action under this
21 §subsection if the Ethics Commission has issued a finding of probable cause that the
22 defendant violated the provisions of this Chapter, or if the City Attorney or District Attorney
23 has commenced a civil or criminal action against the defendant, or if another ~~voter~~ *resident* has
24 filed a civil action against the defendant under this §subsection.

1 (2) A Court may award reasonable attorney's fees and costs to any ~~voter~~ resident
2 who obtains injunctive relief under this ~~S~~subsection (b). If the Court finds that an action
3 brought by a ~~voter~~ resident under this ~~S~~subsection is frivolous, the Court may award the
4 defendant reasonable attorney's fees and costs.

5 (c) STATUTE OF LIMITATIONS.

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

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

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

20 (A) **Fraudulent Concealment.** *If the person alleged to have violated this*
21 *Chapter engages in the fraudulent concealment of his or her acts or identity, this four-year statute of*
22 *limitations shall be tolled for the period of concealment. For purposes of this subsection, “fraudulent*
23 *concealment” means the person knows of material facts related to his or her duties under this Chapter*
24 *and knowingly conceals them in performing or omitting to perform those duties.*

1 (4) **Collection of Fines and Penalties.** A civil action brought to collect fines or
2 penalties imposed under this Chapter shall be commenced within four years after the date on
3 which the monetary penalty or fine was imposed. For purposes of this Section, a fine or
4 penalty is imposed when a court or administrative agency has issued a final decision in an
5 enforcement action imposing a fine or penalty for a violation of this Chapter or the Executive
6 Director has made a final decision regarding the amount of a late fine or penalty imposed
7 under this Chapter. The Executive Director does not make a final decision regarding the
8 amount of a late fine or penalty imposed under this Chapter until the Executive Director has
9 made a determination to accept or not accept any request to waive a late fine or penalty
10 where such waiver is expressly authorized by statute, ordinance, or regulation.

11 * * * *

12 (e) DEBARMENT.

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

17
18 **SEC. 1.170. PENALTIES.**

19 (a) CRIMINAL. Any person who knowingly or willfully violates any provision of this
20 Chapter 1 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by
21 a fine of not more than \$5,000 for each violation or by imprisonment in the County jail for a
22 period of not more than six months or by both such fine and imprisonment; provided, however,
23 that any willful or knowing failure to report contributions or expenditures done with intent to
24 mislead or deceive or any willful or knowing violation of the provisions of Sections 1.114, 1.126,
25 or 1.127 of this Chapter shall be punishable by a fine of not less than \$5,000 for each violation

1 or three times the amount not reported or the amount received in excess of the amount
2 allowable pursuant to Sections 1.114, 1.126, and 1.127 of this Chapter, or three times the
3 amount expended in excess of the amount allowable pursuant to Section 1.130 or 1.140-5,
4 whichever is greater.

5 (b) CIVIL. Any person who intentionally or negligently violates any of the provisions of
6 this Chapter 1 shall be liable in a civil action brought by the ~~civil prosecutor~~ City Attorney for an
7 amount up to \$5,000 for each violation or three times the amount not reported or the amount
8 received in excess of the amount allowable pursuant to Sections 1.114, 1.126, and 1.127 or
9 three times the amount expended in excess of the amount allowable pursuant to Section
10 1.130 or 1.140-5, whichever is greater. In determining the amount of liability, the court may take
11 into account the seriousness of the violation, the degree of culpability of the defendant, and the ability
12 of the defendant to pay.

13 (c) ADMINISTRATIVE. Any person who ~~intentionally or negligently~~ violates any of the
14 provisions of this Chapter 1 shall be liable in an administrative proceeding before the Ethics
15 Commission held pursuant to the Charter for any penalties authorized therein.

16 * * * *

17
18 Section 2. The Campaign and Governmental Conduct Code, Article III, Chapter 2, is
19 hereby amended by revising Section 3.203 and adding Sections 3.207, 3.209, and 3.231 to
20 read as follows:

21 **SEC. 3.203. DEFINITIONS.**

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

23 "Anything of value" shall mean any money or property, private financial advantage, service,
24 payment, advance, forbearance, loan, or promise of future employment, but does not include

1 compensation and expenses paid by the City, contributions as defined herein, or gifts that qualify for
2 gift exceptions established by State or local law.

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

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

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

12 "Fundraising" shall mean:

13 (a) requesting that another person make a contribution;

14 (b) inviting a person to a fundraising event;

15 (c) supplying names to be used for invitations to a fundraiser;

16 (d) permitting one's name or signature to appear on a solicitation for contributions or an
17 invitation to a fundraising event;

18 (e) permitting one's official title to be used on a solicitation for contributions or an invitation to
19 a fundraising event;

20 (f) providing the use of one's home or business for a fundraising event;

21 (g) paying for at least 20% of the costs of a fundraising event;

22 (h) hiring another person to conduct a fundraising event;

23 (i) delivering a contribution, other than one's own, by whatever means to a City elective
24 officer, a candidate for City elective office, or a candidate-controlled committee; or

25 (j) acting as an agent or intermediary in connection with the making of a contribution.

1 "Immediate family" shall mean spouse, registered domestic partner, and dependent children.

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

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

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

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

13
14 **SEC. 3.207. ADDITIONAL CONFLICTS OF INTEREST FOR CITY ELECTIVE**
15 **OFFICERS AND MEMBERS OF BOARDS AND COMMISSIONS.**

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

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

23 (2) No City elective officer or member of a board or commission may, directly or by
24 means of an agent, give, offer, promise to give, withhold, or offer or promise to withhold his or her vote
25 or influence, or promise to take or refrain from taking official action with respect to any proposed or

1 pending matter in consideration of, or upon condition that, any other person make or refrain from
2 making a contribution.

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

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

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

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

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

17 (C) all individuals within the official's jurisdiction.

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

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

22 (B) an official's business entity or real property resulting from the proximity of
23 a project that is the subject of a decision;

1 (C) an official's interests in business entities or real properties resulting from
2 the cumulative effect of the official's multiple interests in similar entities or properties that is
3 substantially greater than the effect on a single interest;

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

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

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

10
11 **SEC. 3.209. RECUSALS.**

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

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

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

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

23 (b) **Recusal Notification.** A member of a City board or commission who is required to file a
24 statement of economic interests pursuant to Article III, Chapter 1 of the Campaign and Governmental

1 Conduct Code shall file a recusal notification form each time the member recuses himself or herself, as
2 required by subsection (a).

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

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

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

10 (A) the member's name;

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

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

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

16 (E) the financial interest causing the recusal.

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

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

22 ~~(2) 1% or more of the matters pending before the board or commission by~~
23 ~~reason of any investments in business entities, any interests in real property or any sources of~~
24 ~~income, the Ethics Commission shall examine the nature and extent of the conflict(s) of~~
25 ~~interest and shall determine whether the member has a significant and continuing conflict of~~

1 interest. If the Ethics Commission so determines, the Ethics Commission may recommend to
2 the official's appointing authority that the official divest or otherwise remove the conflicting
3 interest, and, if the official fails to divest or otherwise remove the conflicting interest within 90
4 days or as the Ethics Commission determines as reasonably practicable, the Ethics
5 Commission may recommend to the official's appointing authority that the official should be
6 removed from office under Charter Section 15.105 or by other means.

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

9
10 **SEC. 3.231. PROHIBITIONS ON POLITICAL ACTIVITY FOR CITY ELECTIVE**
11 **OFFICERS AND MEMBERS OF BOARDS AND COMMISSIONS.**

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

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

20
21 Section 3. Section 1. The Campaign and Governmental Conduct Code, Article III,
22 Chapter 6, is hereby amended by revising Sections 3.600, 3.610, 3.620, and by adding
23 Sections 3.630, 3.640, 3.650, to read as follows:

24 **CHAPTER 6: BEHESTED PAYMENT REPORTING ~~FOR COMMISSIONERS~~**

25 **SEC. 3.600. DEFINITIONS.**

1 Whenever in this Chapter 6 the following words or phrases are used, they shall have
2 the following meanings:

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

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

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

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

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

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

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

23 ~~*“Commissioner” shall mean any member of a board or commission listed in Campaign and*~~
24 ~~*Governmental Conduct Code Section 3.1-103(a)(1); provided, however, that “Commissioner” shall not*~~
25 ~~*include any member of the Board of Supervisors.*~~

1 “Contact” shall be defined as set forth in Section 2.106 of this Code.

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

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

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

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

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

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

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

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

1 "Relative" shall mean a spouse, domestic partner, parent, grandparent, child, sibling, parent-in-
2 law, aunt, uncle, niece, nephew, and first cousin, and includes any similar step relationship or
3 relationship created by adoption.

4
5 **SEC. 3.610. REQUIRED FILING OF BEHESTED PAYMENT REPORTS.**

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

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

23 (2) *if the party, participant or agent makes any Charitable Contribution, or series of*
24 *Charitable Contributions, totaling \$1,000 or more during the three months following the date a final*
25 *decision is rendered in the proceeding, the Commissioner shall file a Behested Payment Report within*

1 ~~30 days of the date on which the Charitable Contribution was made, or if there has been a series of~~
2 ~~Charitable Contributions, within 30 days of the date on which a Charitable Contribution causes the~~
3 ~~total amount of the contributions to total \$1,000 or more; and if the interested party makes any~~
4 ~~behested payment(s) totaling \$1,000 or more during the six months following the date on which a final~~
5 ~~decision is rendered in the matter involving the interested party, the officer shall file a behested~~
6 ~~payment report within 30 days of the date on which the behested payment was made, or if there has~~
7 ~~been a series of behested payments, within 30 days of the date on which the behested payment(s) total~~
8 ~~\$1,000 or more; and~~

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

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

20 (1) name of payor;

21 (2) address of payor;

22 (3) amount of the payment(s);

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

24 (5) the name and address of the payee(s).

25

1 (6) a brief description of the goods or services provided or purchased, if any, and a
2 description of the specific purpose or event for which the payment(s) were made;

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

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

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

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

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

21 (e) **NOTICE.** If an officer solicits or otherwise requests, in any manner other than a public
22 appeal, that any person make a behested payment, the official or his agent must notify that person that
23 if the person makes any behested payment in response to the solicitation or request, the person may be
24 subject to the disclosure and notice requirements in Section 3.620.

1 ***(b) (f) WEBSITE POSTING.*** The Ethics Commission shall make available through its
2 website all ~~B~~behested ~~P~~ayment ~~R~~eports it receives from ~~C~~ommissioners ~~o~~fficers.

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

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

9
10 **SEC. 3.620. FILING BY DONORS.**

11 ***(a) REPORT.*** Any interested party who makes a behested payment, or series of behested
12 payments in a calendar year, of \$1,000 \$10,000 or more must disclose, within 30 days following the
13 date on which the payment(s) totals \$1,000 \$10,000 or more:

14 (1) the proceeding the interested party is or was involved in;

15 (2) the decisions the interested party actively supports or opposes;

16 ~~(3)~~ (2) the outcome(s) the interested party is or was seeking in such proceedings or
17 decisions; and

18 ~~(4)~~ (3) any contact(s) the interested party made in relation to such proceedings or
19 decisions.

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

22
23 **SEC. 3.630. FILING BY RECIPIENTS OF MAJOR BEHESTED PAYMENTS.**

1 (a) MAJOR BEHESTED PAYMENT REPORT. Any person who receives a behested
2 payment, or a series of behested payments, received during a calendar year, totaling \$100,000 or more
3 that was made at the behest of any officer must do the following:

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

7 (2) within 13 months following the date on which the payment(s) or payments total
8 \$100,000 or more, but at least 12 months following the date on which the payment(s) total \$100,000 or
9 more, disclose:

10 (i) all payments made by the person that were funded in whole or in part by the
11 behested payment(s) made at the behest of the officer; and

12 (ii) if the person ~~has actively supported or opposed~~ was an interested
13 party in any City decision(s) involving the officer in the 12 months following the date on which the
14 payment(s) were made:

15 (A) the proceeding the person is or was involved in;
16 (B) the decision(s) the person actively supported or opposed;
17 (C) the outcome(s) the person is or was seeking in such proceedings or
18 decisions; and

19 (D) any contact(s) the person made in relation to such proceedings or
20 decisions.

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

23 (c) NOTICE REQUIRED. If a recipient of a behested payment does not receive the notice, as
24 required under Section 3.620, that a particular payment is a behested payment, the recipient will not be
25 subject to penalties under Section 3.650, as regards that particular payment, for failure to file pursuant

1 to subsection (a) unless it is clear from the circumstances that the recipient knew or should have known
2 that the payment was made at the behest of an officer.

3
4 **SEC. ~~3.620~~ 3.640. REGULATIONS.**

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

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

10
11 **SEC. 3.650. PENALTIES.**

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

14
15 **Section 4. Effective Date and Operative Dates.**

16 (a) Effective Date. This ordinance shall become effective 30 days after enactment.
17 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance
18 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of
19 Supervisors overrides the Mayor's veto of the ordinance.

20 **(b) Operative Dates.**

21 (1) This ordinance's amendments to Sections 1.104, 1.163.5, 1.168, 1.170, and
22 3.203 of the Campaign and Governmental Conduct Code, and additions of Sections 3.207
23 and 3.231 of the Campaign and Governmental Conduct Code, shall become operative on the
24 effective date of this ordinance.

1 (2) This ordinance's amendments to Sections 1.114, 1.126, 1.135, 1.161, 1.162,
2 3.600, 3.610, 3.620 of the Campaign and Governmental Conduct Code, and additions of
3 Sections 1.114.5, 1.124, 1.125, 1.158, 3.209, 3.630, 3.640, and 3.650 of the Campaign and
4 Governmental Conduct Code, shall become operative on January 1, 2019.

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

12
13 Section 6. Severability. If any section, subsection, sentence, clause, phrase, or word
14 of this ordinance, or any application thereof to any person or circumstance, is held to be
15 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
16 shall not affect the validity of the remaining portions or applications of the ordinance. The
17 Board of Supervisors hereby declares that it would have passed this ordinance and each and
18 every section, subsection, sentence, clause, phrase, and word not declared invalid or
19 unconstitutional without regard to whether any other portion of this ordinance or application
20 thereof would be subsequently declared invalid or unconstitutional.

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

24 By: 
25 ANDREW SHEN, Deputy City Attorney

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REVISED LEGISLATIVE DIGEST

(Amended in Board, 4/3/2018)

[Campaign and Governmental Conduct Code - Campaign Finance and Conflict of Interest]

Ordinance amending the Campaign and Governmental Conduct Code to 1) prohibit earmarking of contributions and false identification of contributors; 2) modify contributor card requirements; 3) require disclosure of contributions solicited by City elective officers for ballot measure and independent expenditure committees; 4) require additional disclosures for campaign contributions from business entities to political committees; 5) require disclosure of bundled campaign contributions; 6) extend the prohibition on campaign contributions to candidates for City elective offices and City elective officers who must approve certain City contracts; 7) require committees to file a third pre-election statement prior to an election; 8) remove the prohibition against distribution of campaign advertisements containing false endorsements; 9) allow members of the public to receive a portion of penalties collected in certain enforcement actions; 10) impose additional disclaimer requirements; 11) permit the Ethics Commission to recommend contract debarment as a penalty for campaign finance violations; 12) create new conflict of interest and political activity rules for elected officials and members of boards and commissions; 13) specify recusal procedures for members of boards and commissions; and 14) establish local behested payment reporting requirements for donors and City officers.

Existing Law

1. Campaign contributions: general requirements

State law prohibits "earmarking" campaign contributions - making any contribution to a committee with the understanding that it will be further contributed to another identified candidate committee. Cal. Gov. Code § 85704. State law also requires campaign committees to accurately report campaign contributions. See Cal. Gov. Code § 84211.

2. Campaign contributions: disclosure requirements

Neither state nor local law require (a) with respect to contributions made to ballot measure and independent expenditure committees, the disclosure of whether a City elected official solicited those contributions, or (b) the disclosure of bundled campaign contributions.

State law requires campaign committees to itemize each campaign contribution of \$100 or more, and for each such contribution, the contributor's name, address, occupation, and employer. Cal. Gov. Code § 84211(f).

3. Campaign contributions: prohibitions

Local law prohibits prospective City contractors, seeking certain contracts worth \$50,000 or more, from making campaign contributions to City elective officers who must approve those contracts, from the commencement of negotiations for such contract until either (a) the termination of negotiations for such contract, or (b) six months have elapsed from the date the contract is approved. S.F. Campaign & Gov'tal Conduct Code § 1.126.

4. Campaign statements: pre-election reporting requirements

Certain campaign committees must file two pre-election campaign statements prior to local elections. The first pre-election statement must be filed no later than 40 days before to each election, and must report the committee's fundraising activity and expenditures for the period ending 45 days before the election. The second pre-election statement must be filed no later than 12 days before each election, and must report on the committee's financial activity for the period ending 17 days before the election. S.F. Campaign & Gov'tal Conduct Code § 1.135.

5. False endorsement ordinance

Local law seeks to prohibit the creation and distribution of campaign advertisements that contain false endorsements. Under this provision, a false endorsement is defined as "a statement, signature, photograph, or image representing that a person expressly endorses or conveys support for or opposition to a candidate or measure when in fact the person does not" take such a position. S.F. Campaign & Gov'tal Conduct Code § 1.163.5.

6. Disclaimers for Election-Related Communications (e.g., "Paid for by ...")

State and local law currently requires persons distributing certain election-related communications to include basic information about their funding. Existing law:

- a. requires 12-point type for all disclaimers on mass mailers and smaller print advertisements;
- b. requires independent expenditure and ballot measure committees to report their two top funders who have contributed at least \$20,000; and
- c. allows disclaimers required for audio and video advertisements to be included at either the beginning or the end of those advertisements.

S.F. Campaign & Gov'tal Conduct Code §§ 1.161, 1.162; 2 C.C.R. § 18450.4(b)(3).

7. Campaign finance: private right of action and debarment

Local law authorizes any "voter" to file a civil action to enjoin violations of or compel compliance with the City's campaign finance laws. S.F. Campaign & Gov'tal Conduct Code § 1.168(b). Prior to initiating such action, the voter is required to notify the City Attorney's

Office. If the voter prevails in litigation, the court may award reasonable attorney's fees and costs.

Local law does not explicitly provide for the administrative debarment of a contractor for violation of local campaign finance laws. See S.F. Admin. Code, Ch. 28.

8. Conflict of interest laws for elected officials and members of City boards and commissions

City elected officials and members of City boards and commissions are subject to a range of state and local conflict of interest laws, including the Political Reform Act (Cal. Gov. Code Section 87100, et seq.), California Government Code Section 1090, and the provisions of the City's Government Ethics Ordinance.

Under these laws, City officers are generally required to recuse themselves in the event of a conflict of interest. State law requires certain public officials to offer a specific explanation of the bases for their recusals. See Cal. Gov. Code § 87105; 2 C.C.R. § 18707.

9. Political activity laws for elected officials and members of City boards and commissions

Under state and local law, City elected officials and members of City boards and commissions are restricted from engaging in certain political activities, when such activities would consume City resources. See Cal. Gov. Code § 8314; Cal. Pen. Code § 424; S.F. Campaign & Gov'tal Conduct Code § 3.218(c). State and local law additionally prohibit City officials from accepting bribes. See Cal. Pen. Code § 68; S.F. Campaign & Gov'tal Conduct Code § 3.216(a).

Local law also specifically prohibits City officers from soliciting campaign contributions from other City officers and employees, participating in political activities while in uniform, and engaging in political activities during working hours or on City premises. S.F. Campaign & Gov'tal Conduct Code § 3.230. State law also prohibits appointed City officials, i.e., members of City boards and commissions, from soliciting contributions of more than \$250 from parties appearing before them. See Cal. Gov. Code § 84308.

10. Behested payment reporting

State law requires elected officials – but not members of the City boards and commissions – to file “behested payment” reports when they solicit contributions of \$5,000 from a single source in a calendar year for legislative, governmental, or charitable purposes. Such reports must be filed with the Ethics Commission.

A recently enacted local law (Ord. No. 01-17) would require members of certain City boards and commissions to file behested payment reports for some charitable contributions totaling \$1,000 or more. This ordinance became operative on January 1, 2018.

Amendments to Current Law

1. Campaign contributions: general requirements

The proposed ordinance would clarify that no person may make a campaign contribution to a committee with the understanding that it will be subsequently contributed to another candidate or committee in order to circumvent local campaign contribution limits. See Proposed Section 1.114(c). The proposed ordinance would also explicitly prohibit “assumed name contributions” – that is, campaign contributions made using the name of a person other than the contributor’s own name. See Proposed Section 1.114.5(c).

2. Campaign contributions: disclosure requirements

Proposed Section 1.114.5(b) would require any person making contributions that total \$5,000 or more a single calendar year to a ballot measure or independent expenditure committee, at the behest of a City elected official, to disclose the name of that elected official.

In addition to existing state law requirements, Proposed Section 1.124 would require campaign committees to disclose additional information regarding contributions from business entities that contribute \$10,000 or more in a single election cycle. For such contributions, committees would be required to disclose the names of one of the entities’ principal officers and whether they have received funds through a City contract or grant within the last 24 months.

Proposed Section 1.125 would require committees controlled by a City elected official or a candidate for such office that disclose certain information regarding “bundlers” who have delivered or transmitted contributions totaling \$5,000 or more to those officials and candidates.

3. Campaign contributions: prohibitions

The proposed ordinance would expand the scope of contracts subject to Section 1.126’s ban on campaign contributions to include development agreements. The proposal would increase the threshold for the value of contracts that trigger this prohibition from \$50,000 to \$100,000, and would expand the length of the prohibition from six months to 12 months. The proposal would also add notification requirements regarding this campaign contribution ban.

4. Campaign statements: pre-election reporting requirements

The proposed ordinance would require certain committees to file a third pre-election statement prior to local elections. The third pre-election statement must be filed no later than four days before each election, and must report on the committee’s financial activity for the period ending six days before the election.

5. False endorsement ordinance

The proposal would delete the City's false endorsement ordinance in its entirety.

6. Disclaimers for Election-Related Communications (e.g., "Paid for by ...")

The proposed ordinance would amend Sections 1.161 and 1.162 to require:

- a. 14-point type for disclaimers on mass mailers and smaller print advertisements;
- b. independent expenditure and ballot measure committees to report their three top funders who have contributed at least \$10,000;
- c. disclaimers to be included at the end of audio advertisements; and
- d. disclaimers to be spoken at the end of video advertisements.

7. Campaign finance: private right of action and debarment

The proposed ordinance would authorize any "resident" – instead of any "voter" – to file a civil action to enjoin violations of or compel compliance with the City's campaign finance laws. The proposal would also explicitly authorize the Ethics Commission to, after a hearing on the merits or settlement of an enforcement action, to recommend the debarment of a contractor from future City contracting opportunities.

8. Conflict of interest laws for elected officials and members of City boards and commissions

In addition to existing state and local conflict of interest laws, the Proposed Section 3.207 would prohibit City elected officials and members of City boards or commissions from:

- using their public position or office to seek or obtain anything of value for the private or professional benefit of themselves, their immediate families, or organizations with which they are associated;
- directly or indirectly, giving, offering, promising to give, withholding, or offering or promising to withhold their votes or influence on any proposed or pending matter in exchange for campaign contributions; and
- soliciting or accepting, directly or indirectly, anything of value if it could reasonably be expected to influence the officer's vote, actions, or judgment, or could reasonably be considered a reward for any official action or inaction on the part of the officer.

Proposed Section 3.209 would require all members of City boards and commissions to follow prescribed procedures in the event of a recusal, including notification of the Ethics Commission.

9. Political activity laws for elected officials and members of City boards and commissions

In addition to existing state and local political activity laws, the Proposed Section 3.231 would prohibit:

- City elected officials and members of City boards or commissions from soliciting uncompensated volunteer services from any subordinate employee for political campaigns; and
- members of City boards or commissions from soliciting campaign contributions for the benefit of their appointing authorities.

10. Behested payment reporting

The proposed ordinance would supplant and expand Ordinance No. 01-17. It would require City elected officials and members of City boards and commissions to file behested payment reports with respect to certain charitable contributions of \$1,000 or more. It would also require the donors and recipients of such contributions to file additional disclosures in specified circumstances.

Background Information

The Board of Supervisors may enact amendments to the City's Campaign Finance Reform Ordinance and Government Ethics Ordinances (Article I, Chapter 1 and Article III, Chapter 2 of the San Francisco Campaign and Governmental Conduct Code) if:

- (a) the amendments further the purposes of these Chapters;
- (b) the Ethics Commission approves the proposed amendments in advance by at least a four-fifths vote of all its members;
- (c) the proposed amendments are available for public review at least 30 days before the amendment is considered by the Board of Supervisors or any committee of the Board of Supervisors; and
- (d) the Board of Supervisors approves the proposed amendments by at least a two-thirds vote of all its members.

San Francisco Charter Section 15.102 also authorizes the Ethics Commission to submit these amendments directly to the voters as a ballot measure, if the Ethics Commission chooses to do so by a four-fifths vote.

FILE NO. 180280

This legislation incorporates amendments made by the Board of Supervisors at its April 3, 2018 joint meeting with the Ethics Commission.

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