

File No. 130374

Committee Item No. 1

Board Item No. \_\_\_\_\_

### COMMITTEE/BOARD OF SUPERVISORS

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Committee: Government Audit and Oversight Date March 13, 2014

Board of Supervisors Meeting Date \_\_\_\_\_

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Completed by: Erica Major Date March 7, 2014

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

1 [Campaign and Governmental Conduct Code - Lobbying Regulations]

2  
3 **Ordinance amending the Campaign and Governmental Conduct Code to expand the**  
4 **definition of a lobbyist; expand the definition of an Officer of the City and County;**  
5 **expand the list of reportable lobbying contacts; hold employers and clients of lobbyists**  
6 **jointly and severally liable for violations of this Ordinance committed by the lobbyist on**  
7 **behalf of that employer or client; enhance lobbyist training, auditing, and record-**  
8 **keeping requirements; require public reports about City Officials who fail to file**  
9 **Statements of Economic Interest; require a public guide to local campaign finance**  
10 **laws; require permit consultants to register with the Ethics Commission and file regular**  
11 **disclosure reports; and require major developers to disclose donations to nonprofits**  
12 **active in the City and County of San Francisco.**

13  
14 **NOTE:** Additions are *single-underline italics Times New Roman*;  
15 deletions are *strike-through italics Times New Roman*.  
16 Board amendment additions are double-underlined;  
17 Board amendment deletions are ~~strikethrough normal~~.

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

19 Section 1. The Campaign and Governmental Conduct Code is hereby amended by  
20 revising Sections 2.105, 2.110, 2.116, 2.135 and 2.145, and adding Sections 2.106, 2.107,  
21 2.125 and 2.136, to read as follows:

22 **SEC. 2.105. DEFINITIONS.**

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

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

13           (b) "Candidate" shall have the same meaning as set forth in Section 1.104 of this  
14 Code.

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

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

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

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

1           ~~—————(B) A person providing oral or written testimony that becomes part of the record of~~  
2 ~~a public hearing; provided, however, that if the person making the appearance or providing testimony~~  
3 ~~has already qualified as a lobbyist under this Chapter and is appearing or testifying on behalf of a~~  
4 ~~client, the lobbyist's testimony shall identify the client on whose behalf the lobbyist is appearing or~~  
5 ~~testifying;~~

6           ~~—————(C) A person performing a duty or service that can be performed only by an~~  
7 ~~attorney, an architect, or a professional engineer licensed to practice in the State of California,~~  
8 ~~including any communication by an attorney in connection with litigation involving the City and~~  
9 ~~County or a claim filed pursuant to Administrative Code Section 10.20-1 et seq.;~~

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

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

16          ~~—————(F) A person providing oral or written information pursuant to a subpoena, or~~  
17 ~~otherwise compelled by law or regulation;~~

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

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

23          ~~—————(I) A person making an oral or written request for a meeting, or any other similar~~  
24 ~~administrative request, if the request does not include an attempt to influence local legislative or~~  
25 ~~administrative action;~~

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

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

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

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

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

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

23 ~~(P) A person appearing as a party or a representative of a party in an~~  
24 ~~administrative adjudicatory proceeding before a City agency or department; and~~

1           ~~(Q) A person communicating, on behalf of a labor union representing City~~  
2 ~~employees, regarding the establishment, amendment, or interpretation of a collective bargaining~~  
3 ~~agreement or memorandum of understanding with the City, or communicating about a management~~  
4 ~~decision regarding the working conditions of employees represented by a collective bargaining~~  
5 ~~agreement or a memorandum of understanding with the City.~~

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

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

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

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

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

16           ~~"Employee" means any person who receives an Internal Revenue Service Form W-2 wage~~  
17 ~~and tax statement.~~

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

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

22           ~~(g) "Lobbyist" means any individual who:~~

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

1 ~~— (2) — on behalf of the persons providing the economic consideration, makes any contact with an~~  
2 ~~officer of the City and County. (1) makes five or more contacts in a calendar month with officers of the~~  
3 ~~City and County on behalf of the individual's employer; or (2) makes one or more contacts in a~~  
4 ~~calendar month with an officer of the City and County on behalf of any person who pays the individual~~  
5 ~~or the individual's employer for lobbyist services.~~

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

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

14 ~~—(j)~~ "Measure" shall have the same meaning as set forth in Section 1.104 of this  
15 Code.

16 ~~—(k)~~ "Officer of the City and County" means any officer identified in *San Francisco*  
17 ~~Administrative Code Section 1.50~~Section 3.203 of this Code, as well as any official body composed  
18 of such officers. In addition, for purposes of this Chapter, "officer of the City and County"  
19 includes (1) members of the Board of Education, Community College Board, First Five  
20 Commission, Law Library Board of Trustees, Local Agency Formation Commission, Health Authority  
21 Board, Housing Authority Commission, Parking Authority, Relocation Appeals Board, Redevelopment  
22 Agency, and Successor Agency to the former Redevelopment Agency of the City and County of San  
23 Francisco, Oversight Board of the Successor Agency, Successor Agency Commission, Transportation  
24 Authority, Workforce Investment San Francisco Board as well as any official body composed of  
25 such officers, and any person appointed as the chief executive officer under any such board or

1 commission; (2) the Zoning Administrator, (3) the City Engineer, (4) the County Surveyor, and  
2 (5) the Bureau Chief of the Department of Public Works' Bureau of Street Use and Mapping.

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

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

6  
7 **SEC. 2.106 LOBBYING CONTACTS**

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

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

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

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

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

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



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

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

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

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

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

14           (10) A person providing purely technical data, analysis, or expertise in the presence  
15 of a registered lobbyist;

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

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

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

23           (14) A person communicating, on behalf of a labor union representing City  
24 employees, regarding the establishment, amendment, or interpretation of a collective bargaining  
25 agreement or memorandum of understanding with the City, or communicating about a management

1 decision regarding the working conditions of employees represented by a collective bargaining  
2 agreement or a memorandum of understanding with the City;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (D) Whenever a lobbyist is required to report a salary of an individual pursuant to this  
24 Subsection, the lobbyist need only disclose whether the total salary payments made to the  
25 individual during the reporting period was less than or equal to \$250, greater than \$250 but

1 less than or equal to \$1,000, greater than \$1,000 but less than or equal to \$10,000, or greater  
2 than \$10,000.

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

11 The following information regarding each political contribution shall be submitted to the  
12 Ethics Commission:

13 (A) The amount of the contribution;

14 (B) The name of the contributor;

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

16 (D) The contributor's occupation;

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

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

20 (9) For each contact at which a person providing purely technical data, analysis, or  
21 expertise was present, as described in ~~Section 2.105(d)(1)(K)~~ 2.106(a)(10), the name, address,  
22 employer and area of expertise of the person providing the data, analysis or expertise.

23 (10) Any amendments to the lobbyist's registration information required by Subsection  
24 (b).

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

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

7 (e) FEES; TERMINATION OF REGISTRATION.

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

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

13 (3) The Ethics Commission shall waive all registration fees for any full-time employee  
14 of a tax-exempt organization presenting proof of the organization's tax-exempt status under  
15 26 U.S.C. Section 501(c)(3) or 501(c)(4).

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

18  
19 **SEC. 2.116. LOBBYIST TRAINING.**

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

24 (b) The Ethics Commission shall make lobbyist training sessions available on its website.  
25

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

4  
5           **SEC. 2.135. FILING UNDER PENALTY OF PERJURY; RETENTION OF**  
6 **DOCUMENTS; AUDITS.**

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

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

18           (c) On an annual basis, the Executive Director shall initiate audits of one or more lobbyists  
19 selected at random. At the request of the Executive Director, the Controller may assist in conducting  
20 these audits. This requirement shall not restrict the authority of the Executive Director or the Ethics  
21 Commission to undertake any other audits or investigations of a lobbyist authorized by law or  
22 regulation.

23  
24           **SEC. 2.136 FALSE INFORMATION; DUTY TO COOPERATE AND ASSIST.**

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

6           (b) Duty to Cooperate and Assist. The Ethics Commission, District Attorney or City Attorney  
7 may request and shall receive from every City officer and employee cooperation and assistance with an  
8 investigation into an alleged violation of this Chapter.

9  
10           **SEC. 2.145. ADMINISTRATIVE AND CIVIL ENFORCEMENT AND PENALTIES.**

11           (a) If any lobbyist fails to submit any information required by this Chapter after any  
12 applicable deadline, the Ethics Commission shall, in addition to any other penalties or  
13 remedies established in this Chapter, impose a late filing fee of \$50 per day after the deadline  
14 until the information is received by the Ethics Commission. The Executive Director of the  
15 Ethics Commission may reduce or waive a late filing fee if the Executive Director determines  
16 that the late filing was not willful and that enforcement will not further the purposes of this  
17 Chapter. If such reduction or waiver equals or exceeds \$500, the Executive Director shall  
18 notify the Commission of his or her determination. Thereafter, any two or more members of  
19 the Commission may cause the reduction or waiver to be calendared for consideration by the  
20 full Commission in open session at the next Commission meeting occurring no sooner than  
21 ten days from the date the Executive Director informs the Commission of the Executive  
22 Director's recommendation. A Commissioner's request that a reduction or waiver be  
23 calendared must be received by the Executive Director no fewer than five days prior to the  
24 date of the meeting, so that the Executive Director may comply with the applicable notice and  
25



1 agenda requirements. The Ethics Commission shall deposit funds collected under this Section  
2 in the General Fund of the City and County of San Francisco.

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

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

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

18 (e) Joint and Several Liability.

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

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

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

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

6  
7           Section 2. The Campaign and Governmental Conduct Code is hereby amended by  
8 amending Section 3.1-104 to read as follows:

9           **SEC. 3.1-104. FILING OFFICER REPORTS.**

10           (a) On or before April 10th of each year, every filing officer shall submit a written  
11 report to the Ethics Commission setting forth the names of those persons who are required to  
12 file an annual statement with that filing officer under this Chapter but have failed to do so, or a  
13 report stating that all such persons have filed.

14           (b) On or before April 10th of each year, the Ethics Commission shall prepare a report setting  
15 forth the names of those persons who are required to file an annual statement with the Ethics  
16 Commission under this Chapter but have failed to do so, or a report stating that all such persons have  
17 filed. On or before May 10th of each year, the Ethics Commission shall prepare a supplemental report  
18 setting forth the names of any persons who are required to file an annual statement with the Ethics  
19 Commission under this Chapter but have failed to do so by May 1st, or a report stating that all such  
20 persons have filed. The Ethics Commission shall make these reports publicly available, including by  
21 posting the reports on its website.

22  
23           Section 3. The Campaign and Governmental Conduct Code is hereby amended by  
24 adding Section 3.302 to read as follows:

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

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

6  
7            Section 4. The Campaign and Governmental Conduct Code is hereby amended by  
8 adding Sections 3.405 and 3.410 to read as follows:

9            **SEC. 3.405. DEFINITIONS.**

10           “Contact” means any communication, oral or written, including communication made through  
11 an agent, associate or employee.

12           “Client” means the person for whom permit consulting services are performed by a permit  
13 consultant.

14           “Permit consultant” is any individual who receives or is promised compensation to provide  
15 permit consulting services. This includes any employee who receives salary attributable to time spent  
16 on permit consulting services. This does not include:

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

19           (2) The contractor who will be responsible for all construction activity associated with  
20 the requested permit.

21           “Permit consulting services” means any contact with the Department of Building Inspection,  
22 the Entertainment Commission, the Planning Department, or the Department of Public Works to help a  
23 permit applicant obtain a permit.

24  
25           **SEC. 3.410. PERMIT CONSULTANT REGISTRATION AND DISCLOSURES.**

1           (a) REGISTRATION OF PERMIT CONSULTANTS REQUIRED. Permit consultants shall  
2 register with the Ethics Commission and comply with the disclosure requirements imposed by this  
3 Chapter. Such registration shall occur no later than five business days after providing permit  
4 consulting services, but the permit consultant shall register prior to providing any further permit  
5 consulting services.

6           (b) REGISTRATION. At the time of initial registration each permit consultant shall report  
7 to the Ethics Commission the following information:

8           (1) The name, business address, e-mail address, and business telephone number of the  
9 permit consultant;

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

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

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

16          (c) PERMIT CONSULTANT DISCLOSURES. For each calendar month, each permit  
17 consultant shall submit the following information no later than the fifteenth calendar day following the  
18 end of the month:

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

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

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

3 \_\_\_\_\_ (B) The date of each contact;

4 \_\_\_\_\_ (C) A description of the permit sought or obtained, including the application  
5 number for the permit; and

6 \_\_\_\_\_ (D) The client on whose behalf the contact was made.

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

12 \_\_\_\_\_ (4) Any amendments to the permit consultant's registration information required by  
13 Subsection (b).

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

16  
17 Section 5. The Campaign and Governmental Conduct Code is hereby amended by  
18 adding Article 3, Chapter 5, consisting of Sections 3.500, 3.510, and 3.520, to read as follows:

19  
20 **CHAPTER 5. DEVELOPER DISCLOSURES**

21 Sec. 3.500

Findings

22 Sec. 3.510

Definitions

23 Sec. 3.520

Required Disclosure

24  
25 **SEC 3.500. FINDINGS.**

1           The Board of Supervisors finds that public disclosure of the donations that developers make to  
2 nonprofit organizations that may communicate with the City regarding development projects is  
3 essential to protect public confidence in the fairness and impartiality of City land use decisions. The  
4 Board further finds that disclosure is essential to allow the public to fully and fairly evaluate the City's  
5 land use decisions. It is the purpose and intent of this Chapter to impose reasonable disclosure  
6 requirements to provide the public with information about these donations.

7  
8           **SEC 3.510. DEFINITIONS**

9           "Developer" shall mean any entity responsible for developing the project.

10          "Donation" shall mean any gift of money, property, goods or services.

11          "Nonprofit organization" shall mean any corporation formed pursuant to California  
12 Corporations Code Sections 5000 et seq. for any public or charitable purpose, and/or any organization  
13 described within 26 United States Code Section 501(c), that within the past two years has attempted to  
14 influence City legislative or administrative action.

15  
16          **SEC 3.520. REQUIRED DISCLOSURE**

17          (a) Any developer of a project for which the Planning Commission has certified an  
18 Environmental Impact Report shall, within 30 days of the date of certification, report the following  
19 information to the Ethics Commission:

20                 (1) The developer's name, business address, e-mail address and business telephone  
21 number.

22                 (2) The Environmental Impact Report case number and a description of the project.

23                 (3) The date the Planning Commission certified the Environmental Impact Report.

24                 (4) The name, business address, business telephone number and website of any  
25 nonprofit organization to whom the developer has made cumulative donations of \$5,000 or more since

1 the date one year before the application for environmental review of the project was filed with the  
2 Planning Department.

3 (5) For each nonprofit organization reported pursuant to Subsection (a)(4), the date and  
4 amount of each donation the developer made to the nonprofit during the reporting period.

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

7 (b) After a developer files a report required by Subsection (a), the developer shall file four  
8 quarterly reports, according to the following schedule: The developer shall file a report on April 15 for  
9 the period starting January 1 and ending March 31; on July 15 for the period starting April 1 and  
10 ending June 30; on October 15 for the period starting July 1 and ending September 30; and on January  
11 15 for the period starting October 1 and ending December 31. Each quarterly report shall include:

12 (1) The developer's name, business address, and business telephone number.

13 (2) The Environmental Impact Report case number and a description of the project.

14 (3) The date the Planning Commission certified the Environmental Impact Report.

15 (4) The name, business address, business telephone number and website of any nonprofit  
16 organization to whom the developer has made cumulative donations of \$5,000 or more since the date  
17 one year before the application for environmental review of the project was filed with the Planning  
18 Department.

19 (5) For each nonprofit organization reported pursuant to Subsection (b)(4), the date and  
20 amount of each donation the developer made to the nonprofit during the reporting period.

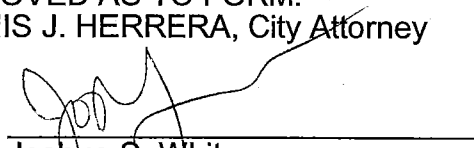
21 (6) Any other information required by the Ethics Commission consistent with the  
22 purposes and provisions of this Chapter.

23  
24 Section 6. Effective Date. This ordinance shall become effective 30 days from the  
25 date of passage.

1 Section 7. In enacting this ordinance, the Board intends to amend only those words,  
2 phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams,  
3 or any other constituent part of the Campaign and Governmental Conduct Code that are  
4 explicitly shown in this ordinance as additions, deletions, Board amendment additions, and  
5 Board amendment deletions in accordance with the "Note" that appears under the official title  
6 of the ordinance.

7  
8 APPROVED AS TO FORM:  
9 DENNIS J. HERRERA, City Attorney

10 By:

  
11 Joshua S. White  
12 Deputy City Attorney

13 n:\legana\as2013\1300406\00842461.docx



## LEGISLATIVE DIGEST

[Campaign and Governmental Conduct Code - Lobbying Regulations]

**Ordinance amending the Campaign and Governmental Conduct Code to expand the definition of a lobbyist; expand the definition of an Officer of the City and County; expand the list of reportable lobbying contacts; hold employers and clients of lobbyists jointly and severally liable for violations of this Ordinance committed by the lobbyist on behalf of that employer or client; enhance lobbyist training, auditing, and record-keeping requirements; require public reports about City Officials who fail to file Statements of Economic Interest; require a public guide to local campaign finance laws; require permit consultants to register with the Ethics Commission and file regular disclosure reports; and 9) require major developers to disclose donations to nonprofits active in the City and County of San Francisco.**

### Existing Law

The Campaign and Governmental Conduct Code ("C&GCC") requires individuals who lobby City officers and certain managerial employees to register with the Ethics Commission, complete a lobbyist training session, file regular reports about their lobbying activity, and maintain records substantiating their reports. It also requires designated City officials to file Statements of Economic Interest with the Ethics Commission.

Current law does not require reporting about permit expediting if it involves contacts with City employees, as opposed to officers. It also does not require developers who are seeking City approvals for projects to disclose donations to non-profits that are active in the City.

Current law does not obligate City officers and employees to assist the Ethics Commission, District Attorney or City Attorney with investigations into violations of this ordinance.

Specific provisions that would be amended by the proposed ordinance are summarized below.

#### Definition of a "lobbyist" (C&GCC § 2.105)

A lobbyist is defined as anyone who makes lobbying contacts and receives \$3,000 or more within three months for lobbyist services.

#### Definition of an "Officer of the City and County" (C&GCC § 2.105)

An Officer of the City and County includes members of certain boards and commissions, but does not include members of the First Five Commission, Law Library Board of Trustees, Local Agency Formation Commission, Health Authority Board, Housing Authority Commission,

Parking Authority, Relocation Appeals Board, Successor Agency to the former Redevelopment Agency of the City and County of San Francisco, Oversight Board of the Successor Agency, Successor Agency Commission, or Workforce Investment San Francisco Board. Nor does an Officer of the City and County include any person appointed as the chief executive officer under any board or commission.

Attorney exemption (C&GCC § 2.105)

Communications by a licensed attorney, who is acting in that capacity, are exempt from the definition of lobbying contacts and are not subject to reporting requirements.

Contract exemptions (C&GCC § 2.105)

Communications in connection with bidding on contracts with the City, negotiating the terms of a contract, or the administration of a contract, are exempt from the definition of lobbying contacts and are not subject to reporting requirements. This exemption applies regardless of whether the communication is by the contractor or a third party.

Lobbyist training (C&GCC §§ 2.116)

Lobbyists are required to complete a training session offered by Ethics within one year of registering as a lobbyist.

Audits and recordkeeping (C&GCC § 2.135)

Lobbyists are required to retain for five years all documents necessary to substantiate the registration and disclosure reports filed with Ethics. Current law does not require auditing of lobbyists.

Administrative and Civil Enforcement and Penalties (C&GCC § 2.145)

Current law does not hold the client or employer of a lobbyist liable for all violations of this ordinance committed by the lobbyist in connection with acts or omissions undertaken on behalf of that client or employer.

Public Report of City Officials Who Fail to File Form 700s (C&GCC § 3-1.103)

Elected officials, other department heads, and members of most decision-making City Boards and Commissions are required to file Form 700 Statements of Economic Interest with the Ethics Commission by April 1<sup>st</sup> of each year.

Public Guide for Contributors

Current law does not require the Ethics Commission to publish a guide about local law regarding campaign contributions.

Permit Consultants (C&GCC §§ 3.400-3.410)

Permit-related lobbying is subject to the Lobbyist Ordinance only if it involves communication with a City officer, the Zoning Administrator, the City Engineer, the County Surveyor, or the Bureau Chief of the Department of Public Works' Bureau of Street Use and Mapping. It is not subject to regulation or disclosure if it involves communication with other City employees.

Developer Disclosures

Current law does not require developers of major City projects to disclose donations to nonprofit organizations.

Amendments to Current Law

The proposal would amend the Campaign and Governmental Conduct Code as follows:

Definition of a "lobbyist" (C&GCC § 2.105)

The ordinance would expand the definition of lobbyist, and distinguish between outside consultants and employees. For outside consultants, "lobbyist" would be defined as a person who makes one or more contacts for any level of consideration. For employees making contacts on behalf of their employers, "lobbyist" would be defined as anyone who makes five or more lobbying contacts in a calendar month on behalf of their employer.

Definition of an "Officer of the City and County" (C&GCC § 2.105)

The ordinance would expand the definition of Officer of the City and County to include members of the First Five Commission, Law Library Board of Trustees, Local Agency Formation Commission, Health Authority Board, Housing Authority Commission, Parking Authority, Relocation Appeals Board, Successor Agency to the former Redevelopment Agency of the City and County of San Francisco, Oversight Board of the Successor Agency, Successor Agency Commission, and Workforce Investment San Francisco Board. The ordinance would also expand the definition of Officer of the City and County to include any person appointed as the chief executive officer under any board or commission.

Contract exemptions (new C&GCC § 2.106)

The ordinance would limit the contract exemptions to communications by the contractor, or its officers, employees or subcontractors. Communications by outside consultants and independent contractors in connection with bidding on contracts, negotiating the terms of a contract, or the administration of a contracts, would no longer be exempt from the definition of a contact.

Attorney exemption (new C&GCC § 2.106; new § 2.107)

The ordinance would eliminate the attorney exemption and clarify that the ordinance is not intended to regulate the practice of law.

Lobbyist training (C&GCC § 2.116)

The ordinance would require the Ethics Commission to make lobbyist training available on-line and require lobbyists to file statements certifying that they completed the training.

Audits and recordkeeping (C&GCC § 2.135)

The ordinance would require lobbyists to retain for auditing any invitations the lobbyist sends to political fundraisers for City officers, candidates, and ballot measures. It would also require the Executive Director to conduct a random audit of at least one lobbyist per year.

Duty to cooperate and assist (new C&GCC § 2.136)

The ordinance would establish a duty for City officers and employees to assist the Ethics Commission, District Attorney or City Attorney with any investigation into violations of this ordinance.

Administrative and Civil Enforcement and Penalties (C&GCC § 2.145)

The ordinance would establish that the client or employer of a lobbyist shall be jointly and severally liable for all violations of this ordinance committed by the lobbyist in connection with acts or omissions undertaken on behalf of that client or employer.

Public Report of City Officials Who Fail to File Form 700s (C&GCC § 3-1.104)

The ordinance would require the Ethics Commission to post on its website by April 10<sup>th</sup> of each year a report listing City officials who failed to file Form 700s by the April 1<sup>st</sup> deadline. It would also require a supplemental report by May 10<sup>th</sup> of each year.

Public Guide for Contributors (new C&GCC § 3.302)

The ordinance would require the Ethics Commission to publish a guide for campaign contributors describing local law regarding contribution limits, reporting requirements, and rules regarding who may contribute to committees.

Permit Consultants (C&GCC §§ 3.400-3.410)

The ordinance would require permit consultants (aka permit expeditors) to register with the Ethics Commission and file regular reports about their permit-related contacts with officers or employees in the Department of Building Inspection, the Entertainment Commission, the Planning Department, or the Department of Public Works.

Developer Disclosures (C&GCC §§ 3.500-3.520)

The ordinance would require developers of major City projects to disclose certain nonprofit donations to the Ethics Commission. Any developer of a project for which the Planning Commission certifies an Environmental Impact Report would be required to report donations of \$5,000 or more made during the reporting period to nonprofits active within the City.

President, District 3  
BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-7450  
Fax No. 554-7454  
TDD/TTY No. 544-5227

DAVID CHIU  
邱信福  
市參事會主席

PRESIDENTIAL ACTION

Date: 2/20/2014

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,  
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. \_\_\_\_\_  
(Primary Sponsor)

Title. \_\_\_\_\_

Transferring (Board Rule No. 3.3)

File No. 130374 Chiu  
(Primary Sponsor)

Title. Lobbying Regulations

From: Rules Committee

To: Government Audit & Oversight Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor \_\_\_\_\_

Replacing Supervisor \_\_\_\_\_

For: \_\_\_\_\_ Meeting  
(Date) (Committee)

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
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*David Chiu*  
David Chiu, President  
Board of Supervisors

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.  
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ 130374 ]
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative**

**Sponsor(s):**

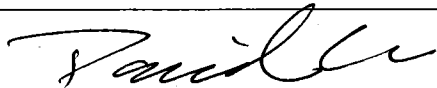
Supervisor David Chiu

**Subject:**

Campaign and Governmental Conduct Code - Lobbying Regulations

**The text is listed below or attached:**

See attached.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only: