



ETHICS COMMISSION

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LEEANN PELHAM
EXECUTIVE DIRECTOR

Date: February 14, 2018

To: Members, San Francisco Ethics Commission

From: Pat Ford, Policy Analyst
Kyle Kundert, Senior Policy Analyst

Re: **Agenda Item 4 – Revised Staff memorandum introducing revised version of the 2017 Anti-Corruption and Accountability Ordinance (“ACAO”)**

Summary: This memorandum introduces a revised version of the proposed 2017 San Francisco Anti-Corruption and Accountability Ordinance (“ACAO”) based on legislative feedback received following its referral to the Board of Supervisors.

Action Requested: Staff recommends that the Commission adopt the revised ACAO proposed and presented in Attachment 1 and vote to place the ordinance on the ballot for the June 5, 2018 election.

Section I of this memorandum provides an update on the procedural history of the Ordinance since its approval by the Commission at its regular meeting on November 27, 2017. Section II summarizes the main concerns about the Ordinance that have been expressed by members of the Board of Supervisors and explains the amendments that Staff proposes to address these concerns. This revised ordinance appears as Attachment 1. Section III summarizes a recent proposal by Supervisor Peskin to require financial disclosures by all major donors. The text of this proposal is appears as Attachment II.

I. Update on the Progress of the Ordinance Since Approval by the Commission

On November 27, 2017, the Commission voted 4-1 to approve the Anti-Corruption and Accountability Ordinance (the “Ordinance”) and recommend it to the Board of Supervisors (the “Board”) for final passage into law. Staff transmitted the text of the Ordinance to the Clerk of the Board on November 30th. When the Board returned from recess on January 9, 2018, the Ordinance was assigned to the Rules Committee and placed on a thirty-day hold. Through a request by the Chair and Vice Chair, the Commission obtained a waiver of the thirty-day rule from Board President London Breed so that formal discussion of the Ordinance could begin as soon as possible.

After Staff provided a budget impact estimate for the Ordinance that exceeded \$200,000, the Ordinance was transferred from the Rules Committee to the Budget and Finance Committee

(the “Committee”).¹ The Committee held its first hearing on the Ordinance on February 1st, and Executive Director Pelham, Kyle Kundert, and Pat Ford presented the Ordinance and answered questions. In addition to the members of the Committee (Supervisors Cohen, Fewer, and Stefani), the hearing was attended by Supervisors Peskin and Tang, who provided additional comments on the Ordinance. Members of the public, including representatives of the non-profit community, also provided comment during the hearing.

At the request of Chair Keane, Staff met with Vice Chair Chiu and Commissioner Renne on February 6 to discuss the concerns expressed at the Budget and Finance Committee and assess whether any amendments might be appropriate to address concerns raised at the hearing.

II. Main Criticisms Expressed by Members of the Board

A. Section 1.114.5(a) – Contributor Card Requirement

Section Summary
Section 1.114.5(a) would require committees to collect a signed contributor card from any contributor giving \$100 or more to the committee. The card would include the name, address, and employment of the contributor. By signing the card, a contributor would be also be attesting that the contribution does not violate certain restrictions on contributions (e.g. the \$500 contribution limit, lobbyist restrictions, and City contractor restrictions). Any committee that collects a signed contributions card will benefit from a rebuttable presumption that the corresponding contribution does not violate those particular restrictions.
Criticism
<ul style="list-style-type: none"> This requirement is too burdensome on committees and contributors. It will suppress contributions by small donors.
Proposed Amendment
<ul style="list-style-type: none"> Attachment 1 proposes to amend the section to make the contributor card voluntary, rather than mandatory. Collecting a signed contribution card would still trigger the presumption that the contribution does not constitute a prohibited source contribution. This provides a tool for committees to perform due diligence on contribution sources without creating a legal requirement that could suppress small contributions.

B. Section 1.125 – Disclosure of Bundling

Section Summary

¹Subsequent budget impact analysis that incorporates the use more economical filing systems (e.g. DocuSign) have shown that the impact will likely be closer to \$160,000.

Section 1.125 would require a committee to file a disclosure form whenever it receives \$5,000 or more in contributions in a single year that were bundled by a single person. Bundling is delivering or transmitting a contribution other than one’s own, with exceptions for candidates, campaign staff, and volunteers. The disclosure form would state which contributions were bundled, who the bundler was, and whether the bundler had attempted to influence the candidate within the last twelve months.

Criticism

- The disclosure regarding whether the bundler has attempted to influence the candidate in the last twelve months is ambiguous. “Attempt to influence” is not defined.

Proposed Amendment

- Attachment 1 proposes to delete the disclosure regarding *attempts to influence* so that committees only need to disclose which contributions were bundled and by whom. This would still allow the public to see who is bundling for a particular candidate and to make connections between that activity and any subsequent benefit bestowed on the bundler by the candidate.

C. Section 1.127 – Contributions by Persons with a Financial Interest in a Land Use Matter

Section Summary

Section 1.127 would prohibit parties with a financial interest in a land use matter pending before a City department from making a contribution to the Mayor, the City Attorney, a member of the Board of Supervisors, or a candidate for any of these offices. An exception would allow such persons to make an otherwise prohibited contribution if the person with a financial interest in a land use matter is a 501(c)(3) organization that is wholly or substantially funded by the City and the land use matter concerns the provision of housing, healthcare, or other social welfare services to low-income City residents.

Criticism

- There is no clear basis for the mayor, city attorney, and members of the board of supervisors to be singled out in this prohibition as having a strong nexus to land use decisions.
- There should be an overall project threshold that a project must meet in order for interested parties to be subject to the contribution restriction.
- The notice requirements are too burdensome. They require City departments and parties filing applications to make various filings with the Ethics Commission that will be unnecessarily complex.
- The definition of *land use matter* is arbitrary; it excludes some land use decisions that should be included, and includes others that should not. For example, it fails to distinguish between the various types of discretionary reviews.
- The definition of *developer* is arbitrary and does not reflect real world land use transactions.

Proposed Amendment

- Attachment 1 proposes to strike this provision from the Ordinance entirely. Considering the highly diffuse and technical nature of land use decision making in the City, a contribution restriction based on participation in a land use matter would likely be better executed through a separate process that can properly address the various concerns raised by members of the Board. Staff recommends that these issues and approaches continue to be explored and refined to identify how they might be addressed legislatively in the future.

D. Section 3.207 – Conflict of Interest Provisions

Section Summary

Section 3.207 would add various new conflict-of-interest provisions to City law. These include:

- (1) no City official may use his position to seek a personal benefit for himself, his family, or an organization with which he is associated;
- (2) no City elected official may promise an official action in exchange for a contribution; and,
- (3) no City elected official may accept (and no person may offer or give) anything of value if it could be reasonably expected to influence the official’s official actions.

Criticism

- The definition of “anything of value” is too broad. Including the words “property, favor, service” goes too far. There should have to be a monetary value to any item that constitutes “anything of value.”
- When referring to an organization with which an official is “associated,” the Ordinance should not include an organization for which the official or his family member is an “authorized representative or agent.” This could capture volunteers, and the rule should only apply if the official or his family member is a paid employee or independent contractor for the organization.

No Proposed Amendment

- Attachment 1 makes no change to Section 3.207.
- Although the term *anything of value* is broad, the impact of that breadth is restricted by the fact that a conflict only exists if the receipt of anything of value “could *reasonably* be expected to influence [an] officer’s ... official actions” It is not reasonable to expect that an item of *de minimis* value would influence an official’s vote or judgment, and, therefore, this

activity would not constitute a conflict of interest. This *reasonableness* inquiry, and not merely whether anything of value was given or accepted, is the core of the analysis behind Section 3.207(a)(3).

- The definition of *associated* should include organizations for which an official (or her family member) serves in an unpaid capacity. If this term were narrowed to only include groups that pay an official or the official’s family member for services, this would allow for conduct that clearly goes against the intent of Section 3.207(a)(1). For example, under the narrowed “paid work only” definition of *associated*, an official would not be prohibited from using her public position to obtain something of value for an organization for which that official serves as an unpaid director.

E. Section 3.209 – Repeated Recusals

Section Summary
Section 3.209 would create a procedure for the Ethics Commission to review instances in which a board or commission member recuses herself repeatedly from board or commission matters. The procedure would be triggered by three or more recusals within one year, or recusal from 1% or more of the body’s matters in a given year. The Ethics Commission would review the recusals and issue a written determination as to whether “the official has a significant and continuing conflict of interest.” The Ethics Commission may recommend to the official’s appointing authority that the official remove the conflict the interest and, if the conflict is not removed, be removed from office.
Criticism
<ul style="list-style-type: none"> • This provision would punish board and commission members for properly recusing themselves. It would have the perverse consequence of inhibiting proper recusals. • It is not clear what constitutes a <i>matter</i> for purposes of calculating the number of matters in which an official recuses herself. Sometimes the same general matter comes before a commission in different forms and at different stages. This should be counted as one <i>matter</i>. • It is not clear how the Commission will discover and track recusals by board and commission members.
Proposed Amendment
<ul style="list-style-type: none"> • Attachment 1 proposes to amend the section to narrow the circumstances that trigger review, such that only repeated recusals by a City Board or Commission member stemming from the same financial or property interest would initiate review by the Commission. • Attachment 1 also amends the section to create a notification procedure. A member of a board or commission would file a recusal notification with the Commission within fifteen days of the meeting in which the member recused himself. The disclosure would require the

member to state the personal interest that necessitated the recusal. This would allow the Commission to track recusals and personal interests for purposes of review.

- Both amendments track the statutory language in place in Los Angeles, where a workable recusal review process is in operation.

F. Section 3.600 *et seq.* – Behested Payment Disclosures

Section Summary

Chapter 6 of Article 3 already requires some degree of behested payment reporting by City Officials that goes beyond the requirements of state law. The Ordinance would amend these requirements to:

- (1) expand the reporting requirement to apply when a person making a behested payment actively supports or opposes a decision by the official who requested the payment, regardless of whether the donor has a financial interest in the decision;
- (2) require officials to disclose (a) whether the organization receiving a behested payment spends money to distribute communications featuring the official, and (b) whether the official, her relative, or her staff member are affiliated with the recipient organization;
- (3) require donors to disclose what matter before the official the donor is a party to or is actively supporting or opposing;
- (4) require certain recipients of behested payments to disclose how behested funds are spent;
- (5) create an exception for when a behest is made through a public communication; and
- (6) require elected officials, and not only members of boards and commissions, to file under local rules.

Criticism

- These changes are not necessary. Local behested payment reporting only became operative on January 1, 2018. Allow these new rules to be in effect for longer before making changes.
- The proposed rules go too far by also including behested payments where the donor is not a party or participant to matter before the official (a concept borrowed from California Government Code Section 84308), but merely actively supports or opposes an official decision in which they have no financial interest. This is especially troubling considering that testimony at a public proceeding (such as public comment at a commission meeting) could mean that a person actively supports or opposes a government decision.

Proposed Amendment

- Attachment 1 proposes to amend Section 3.600 so that a person can only be considered an interested party for actively supporting or opposing a government decision if the person has a financial interest in the decision. This would mean that a person who engages in public comment or otherwise tries to affect the outcome of a government decision would not be

considered an interested party if they have no financial interest in the outcome. If such a person were to make a payment at the behest of an official who is responsible for making the decision, this activity would not trigger disclosure under the Ordinance. If, on the other hand, the person did have a financial interest in the decision, the behested payment and the financial interest would have to be disclosed. This amendment preserves the core function of disclosing conduct that carries a risk of pay-to-play while avoiding any chilling effect on civic participation.

III. Proposal by Supervisor Peskin – Major Donor Financial Disclosures

Following consideration of the Ordinance by the Committee, Staff received a proposal by Supervisor Peskin that would create a new disclosure requirement for major donors. Under the proposal, any person who contributes \$10,000 or more to a committee that files statements with the Commission would have to also file a statement listing the person’s major financial holdings. This proposal is attached here as Attachment 2 for the Commission’s review and consideration. Because of the recentness of this proposal, Staff has not had the full opportunity to analyze its implications. However, there are certain aspects of the proposal that the Commission should consider at the outset.

A. Implementation Timeline

Supervisor Peskin has expressed the desire for this proposal to become operative in time for the June 2018 election. It is highly unlikely that staff would be able to implement electronic filing of a new disclosure form in such a short time. Without implementing electronic filing, the proposed disclosure would have little informational value because all filings would have to be made on paper and the public would not be able to access the disclosures online.

B. Burden on Contributions – Constitutional Concerns

The proposal would require major donors to disclose their financial interests over \$10,000 within twenty-four hours of making contributions to a single committee totaling \$10,000. For certain donors, this could be an impracticable requirement. This is especially true for corporate donors and individuals with many holdings. If this requirement creates a high burden that chills political speech without a sufficient government interest, it could fail under a constitutional challenge. Staff wishes to engage the City Attorney’s office to review this aspect of the proposal.

C. Retroactive Effect

The proposal states that it will be retroactive to January 1, 2018. Regulated parties would have ten days after the ordinance becomes effective to file financial disclosures if they made contributions totaling \$10,000 to a committee since January 1st. Although Staff has not had the opportunity to review whether the proposal may legally include retroactive applicability, this feature is different from how other disclosure requirements have gone into effect and warrants further review by the Commission and the City Attorney.

D. Usefulness of Data

While there is obvious value in knowing the financial holdings of major donors, that value is dependent on also knowing which candidates or ballot measures the major donor's political payments are used to support or oppose. As written, the proposal will require all major donors to file financial disclosure but does not create any explicit connection between the major donor and a recipient committee or independent expenditure committee. This problem will be exacerbated by the fact that major donors and independent committees are often separated by multiple intermediary committees. In order to establish a connection between a major donor's financial holdings and his or her support of a candidate or ballot measure, one would need to trace the money back through these intermediary committees. Nothing in the proposal would facilitate this process of tracing back to the original source of political funds.

Recommendation

Staff recommends that the Commission adopt the changes proposed above and presented in Attachment 1 and vote to place the ordinance directly on the ballot for the June 5, 2018 election.

FILE NO.

ORDINANCE NO.

1 [Initiative Ordinance - Campaign and Governmental Conduct Code - Campaign Finance and
2 Conflict of Interest]

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

20
21 **MOVED, That pursuant to Charter section 15.102, the Ethics Commission hereby**
22 **submits the following ordinance to the voters of the City and County of San Francisco, at an**
23 **election to be held on June 5, 2018.**

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

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

25 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, 1.114, 1.126, 1.135, 1.168, 1.170, adding
3 Sections 1.114.5, 1.124, 1.125, and deleting Section 1.163.5, to read as follows:

4 **SEC. 1.104. DEFINITIONS.**

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

6 * * * *

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

10 * * * *

11 "Business entity" shall mean a limited liability company (LLC), corporation, limited
12 partnership, or limited liability partnership.

13 * * * *

14 "Prohibited source contribution" shall mean a contribution made (a) in violation of Section
15 1.114, (b) in an assumed name as defined in Section 1.114.5(c), (c) from a person prohibited from
16 contributing under Section 1.126, or (d) from a lobbyist prohibited from contributing under Section
17 2.115(e).

18 * * * *

19 "Resident" shall mean a resident of the City and County of San Francisco.

20 "Solicit" shall mean personally request a contribution for any candidate or committee, either
21 orally or in writing.

22 * * * *

23
24 **SEC. 1.114. CONTRIBUTIONS - LIMITS AND PROHIBITIONS.**
25

1 (a) LIMITS ON CONTRIBUTIONS TO CANDIDATES. No person other than a
 2 candidate shall make, and no campaign treasurer for a candidate committee shall solicit or
 3 accept, any contribution which will cause the total amount contributed by such person to such
 4 candidate committee in an election to exceed \$500.

5 (b) LIMITS PROHIBITION ON CONTRIBUTIONS FROM CORPORATIONS. No
 6 corporation organized pursuant to the laws of the State of California, the United States, or any
 7 other state, territory, or foreign country, whether for profit or not, shall make a contribution to a
 8 candidate committee, provided that nothing in this subsection (b) shall prohibit such a
 9 corporation from establishing, administering, and soliciting contributions to a separate
 10 segregated fund to be utilized for political purposes by the corporation, provided that the
 11 separate segregated fund complies with the requirements of Federal law including Sections
 12 432(e) and 441b of Title 2 of the United States Code and any subsequent amendments to
 13 those Sections.

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

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

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

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

1 individual and any other entity whose contributions are directed and controlled by the same
2 individual.

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

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

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

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

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

1 Commission for deposit in the General Fund of the City and County; provided that the Ethics
 2 Commission may provide for the waiver or reduction of the forfeiture.

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

15
 16 **SEC. 1.114.5. CONTRIBUTIONS - DISCLOSURES.**

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

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

1 (2) If a committee collects the information required under this subsection (a) on a form
 2 signed by the contributor stating that the contributor has not made a prohibited source contribution,
 3 there shall be a rebuttable presumption that the committee has not accepted a prohibited source
 4 contribution.

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

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

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

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

18 (c) ASSUMED NAME CONTRIBUTIONS.

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

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

1 (d) FORFEITURE OF UNLAWFUL CONTRIBUTIONS. In addition to any other penalty, each
 2 committee that receives a contribution which does not comply with the requirements of this Section
 3 1.114.5 shall pay promptly the amount received or deposited to the City and County of San Francisco
 4 by delivering the payment to the Ethics Commission for deposit in the General Fund of the City and
 5 County; provided that the Ethics Commission may provide for the waiver or reduction of the forfeiture.

6
 7 **SEC. 1.124. ADDITIONAL DISCLOSURE REQUIREMENTS FOR CONTRIBUTIONS**
 8 **MADE BY BUSINESS ENTITIES.**

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

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

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

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

1 **SEC. 1.125. ADDITIONAL DISCLOSURE REQUIREMENTS FOR BUNDLED**
2 **CONTRIBUTIONS.**

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

5 "Bundle" shall mean delivering or transmitting contributions, other than one's own or one's
6 spouse's, except for campaign administrative activities and any actions by the candidate that a
7 candidate committee is supporting.

8 "Campaign administrative activity" shall mean administrative functions performed by paid or
9 volunteer campaign staff, a campaign consultant whose payment is disclosed on the committee's
10 campaign statements, or such campaign consultant's paid employees.

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

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

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

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

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

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

3
4 **SEC. 1.126. CONTRIBUTION LIMITS PROHIBITION – CONTRACTORS DOING**
5 **BUSINESS WITH THE CITY.**

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

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

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

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

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

24 (1) the rendition of personal services,

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

1 (3) the sale or lease of any land or building.

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

3 (5) a development agreement.

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

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

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

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

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

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

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

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

24 **(b) Prohibition on Contributions.** No City Contractor or affiliate of a City Contractor
 25 may make any contribution to: person who contracts with the City and County of San Francisco, a state

1 ~~agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School~~
 2 ~~District, or the San Francisco Community College District,~~

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

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

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

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

9 ~~(2) Whenever the agreement or contract has a total anticipated or actual value of~~
 10 ~~\$50,000.00 or more, or a combination or series of such agreements or contracts approved by that same~~
 11 ~~individual or board have a value of \$50,000.00 or more in a fiscal year of the City and County~~

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

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

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

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

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

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

23 ~~at any time from the formal submission of the contract to the individual until the termination of~~
 24 ~~negotiations for the contract or six months have elapsed from the date the contract is approved. For~~

1 ~~the purpose of this subsection, a contract is formally submitted to the Board of Supervisors at the time~~
 2 ~~of the introduction of a resolution to approve the contract.~~

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

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

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

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

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

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

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

7 ~~(2)~~ (4) Notification by Individuals Who Hold City Elective Office. Every
 8 individual who holds a City elective office shall, within five business days of the approval of a
 9 contract by the officer, a board on which the officer sits, or a board of a state agency on which
 10 an appointee of the officer sits, notify the Ethics Commission, on a form or in a format adopted
 11 by the Commission, of each contract approved by the individual, the board on which the
 12 individual serves, or the board of a state agency on which an appointee of the officer sits. An
 13 individual who holds a City elective office need not file the form required by this subsection
 14 ~~(f)(4)~~ if the Clerk or Secretary of a Board on which the individual serves or a Board of a State
 15 agency on which an appointee of the officer serves has filed the form on behalf of the board.

16
 17 **SEC. 1.135. SUPPLEMENTAL PRE-ELECTION STATEMENTS.**

18 (a) **Supplemental Preelection Statements - General Purpose Committees.** In addition
 19 to the campaign disclosure requirements imposed by the California Political Reform Act and
 20 other provisions of this Chapter 1, a San Francisco general purpose committee that makes
 21 contributions or expenditures totaling \$500 or more during the period covered by the
 22 preelection statement, other than expenditures for the establishment and administration of
 23 that committee, shall file a preelection statement before any election held in the City and
 24 County of San Francisco at which a candidate for City elective office or City measure is on the
 25 ballot.

1 (b) **Time for Filing Supplemental Preelection Statements - General Purpose**

2 **Committees.**

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

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

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

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

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

16 (c) **Time for Filing Supplemental Preelection Statements - Ballot Measure Committees and**
 17 **Candidate Committees.** In addition to the deadlines established by the Fair Political Practices
 18 Commission, ballot measure committees and candidate committees required to file preelection
 19 statements with the Ethics Commission shall file a third preelection statement before any election held
 20 in the City and County of San Francisco at which a candidate for City elective office or City measure is
 21 on the ballot, for the period ending six days before the election, no later than four days before the
 22 election.

23 (e) (d) The Ethics Commission may require that these statements be filed electronically.
 24
 25

1 ~~SEC. 1.163.5. DISTRIBUTION OF CAMPAIGN ADVERTISEMENTS CONTAINING~~
 2 ~~FALSE ENDORSEMENTS.~~

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

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

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

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

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

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

23 ~~(2) "Internet Advertisement" includes paid internet advertisements such as "banner"~~
 24 ~~and "popup" advertisements, paid emails, or emails sent to addresses purchased from another person,~~
 25 ~~and similar types of internet advertisements as defined by the Ethics Commission by regulation, but~~

1 ~~shall not include web blogs, listserves sent to persons who have contacted the sender, discussion~~
 2 ~~forums, or general postings on web pages.~~

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

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

10
 11 **SEC. 1.168. ENFORCEMENT; ADVICE.**

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

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

21 (1) No ~~voter~~ resident may commence an action under this ~~§~~subsection (b) without
 22 first providing written notice to the City Attorney of intent to commence an action. The notice
 23 shall include a statement of the grounds for believing a cause of action exists. The ~~voter~~
 24 resident shall deliver the notice to the City Attorney and the Ethics Commission at least 60 days
 25 in advance of filing an action. No ~~voter~~ resident may commence an action under this

1 Subsection if the Ethics Commission has issued a finding of probable cause that the
 2 defendant violated the provisions of this Chapter, or if the City Attorney or District Attorney
 3 has commenced a civil or criminal action against the defendant, or if another ~~voter~~ resident has
 4 filed a civil action against the defendant under this Subsection.

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

9 (c) STATUTE OF LIMITATIONS.

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

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

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

24 (A) **Fraudulent Concealment.** If the person alleged to have violated this
 25 Chapter engages in the fraudulent concealment of his or her acts or identity, this four-year statute of

1 limitations shall be tolled for the period of concealment. For purposes of this subsection, "fraudulent
 2 concealment" means the person knows of material facts related to his or her duties under this Chapter
 3 and knowingly conceals them in performing or omitting to perform those duties.

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

14 * * * *

15 (e) DEBARMENT.

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

20
 21 **SEC. 1.170. PENALTIES.**

22 (a) **CRIMINAL.** Any person who knowingly or willfully violates any provision of this
 23 Chapter 1 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by
 24 a fine of not more than \$5,000 for each violation or by imprisonment in the County jail for a
 25 period of not more than six months or by both such fine and imprisonment; provided, however,

1 that any willful or knowing failure to report contributions or expenditures done with intent to
 2 mislead or deceive or any willful or knowing violation of the provisions of Sections 1.114, 1.126,
 3 or 1.127 of this Chapter shall be punishable by a fine of not less than \$5,000 for each violation
 4 or three times the amount not reported or the amount received in excess of the amount
 5 allowable pursuant to Sections 1.114, 1.126, and 1.127 of this Chapter, or three times the
 6 amount expended in excess of the amount allowable pursuant to Section 1.130 or 1.140-5,
 7 whichever is greater.

8 (b) CIVIL. Any person who intentionally or negligently violates any of the provisions of
 9 this Chapter 1 shall be liable in a civil action brought by the ~~civil prosecutor~~ City Attorney for an
 10 amount up to \$5,000 for each violation or three times the amount not reported or the amount
 11 received in excess of the amount allowable pursuant to Sections 1.114, 1.126, and 1.127 or
 12 three times the amount expended in excess of the amount allowable pursuant to Section
 13 1.130 or 1.140-5, whichever is greater. In determining the amount of liability, the court may take
 14 into account the seriousness of the violation, the degree of culpability of the defendant, and the ability
 15 of the defendant to pay.

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

19 * * * *

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

24 **SEC. 3.203. DEFINITIONS.**

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

1 "Anything of value" shall mean any money or property, favor, service, payment, advance,
2 forbearance, loan, or promise of future employment, but does not include compensation and expenses
3 paid by the City, contributions as defined herein, or gifts that qualify for gift exceptions established by
4 State or local law.

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

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

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

13 "Fundraising" shall mean:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (2) No City elective officer or member of a board or commission may, directly or by
 25 means of an agent, give, offer, promise to give, withhold, or offer or promise to withhold his or her vote

1 or influence, or promise to take or refrain from taking official action with respect to any proposed or
 2 pending matter in consideration of, or upon condition that, any other person make or refrain from
 3 making a contribution.

4 (3) No person may offer or give to an officer, directly or indirectly, and no City elective
 5 officer or member of a board or commission may solicit or accept from any person, directly or
 6 indirectly, anything of value if it could reasonably be expected to influence the officer's vote, official
 7 actions, or judgment, or could reasonably be considered as a reward for any official action or inaction
 8 on the part of the officer. This subsection (a)(3) does not prohibit a City elective officer or member of a
 9 board or commission 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
 25

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 recuses himself
18 or herself, as required by subsection (a) during any 365 day period from acting on:

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

21 (2) 1% or more of the matters pending before the board or commission by reason of any
22 investments in business entities, any interests in real property or any sources of income, the Ethics
23 Commission shall examine the nature and extent of the conflict(s) of interest and shall determine
24 whether the member has a significant and continuing conflict of interest. If the Ethics Commission so
25 determines, the Ethics Commission may recommend to the official's appointing authority that the

1 official divest or otherwise remove the conflicting interest, and, if the official fails to divest or otherwise
 2 remove the conflicting interest, the Ethics Commission may recommend to the official's appointing
 3 authority that the official should be removed from office under Charter Section 15.105 or by other
 4 means.

5 (d) Exception. The requirements of this Section 3.209 shall not apply to the members of the
 6 Board of Supervisors.

7
 8 **SEC. 3.231. PROHIBITIONS ON POLITICAL ACTIVITY FOR CITY ELECTIVE**
 9 **OFFICERS AND MEMBERS OF BOARDS AND COMMISSIONS.**

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

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

18
 19 Section 3. Section 1. The Campaign and Governmental Conduct Code, Article III,
 20 Chapter 6, is hereby amended by revising Sections 3.600, 3.610, 3.620, and by adding
 21 Sections 3.630, 3.640, 3.650, to read as follows:

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

23 **SEC. 3.600. DEFINITIONS.**

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

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

4 "Agent" shall be defined as set forth in Title 2, Section 18438.3 of California Code of
 5 Regulations, as amended from time to time.

6 "At the behest of" shall mean under the control or at the direction of, in cooperation,
 7 consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior
 8 consent of.

9 ~~"Auctioneer" shall mean any person who is engaged in the calling for, the recognition of, and~~
 10 ~~the acceptance of, offers for the purchase of goods at an auction.~~

11 "Behested payment" shall mean a payment that is made at the behest of an officer, or an agent
 12 thereof, and that is made principally for a legislative, governmental, or charitable purpose.

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

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

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

24 "Contact" shall be defined as set forth in Section 2.106 of this Code.

25

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

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

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

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

16 "Payment" shall mean a monetary payment or the delivery of goods or services.

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

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

21 "Public appeal" shall mean a request for a payment when such request is made by means of
 22 television, radio, billboard, a public message on an online platform, the distribution of 500 or more
 23 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, first cousin, and includes any similar step relationship or relationship
 3 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).

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 ~~Behested Payment Reports~~ it receives from ~~Commissioners officers~~.

3 ~~(e) 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 or more must disclose, within 30 days following the date on
13 which the payment(s) totals \$1,000 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) the outcome(s) the interested party is or was seeking in such proceedings or
17 decisions; and

18 (4) 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 any City decision(s)
13 involving the officer in the 12 months following the date on which the payment(s) were made:

14 (A) the proceeding the person is or was involved in;

15 (B) the decision(s) the person actively supported or opposed;

16 (C) the outcome(s) the person is or was seeking in such proceedings or
17 decisions; and

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

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

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

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 and Operative Dates. This ordinance shall become effective 30
 16 days after enactment. This ordinance shall become operative on January 1, 2019.
 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
 21 Section 5. Appropriation. There is hereby appropriated \$158,900 from the General
 22 Reserve to fund administrative and enforcement costs required to implement this ordinance,
 23 which shall be appropriated and made available 30 days after the Board of Supervisors
 24 declares the results of the June 5, 2018 election. Any portion of this appropriation that
 25 remains unspent at the end of Fiscal Year 2018-19 shall be carried forward and spent in

1 subsequent years for the same purpose. Additionally, it shall be City policy in all fiscal years
2 following depletion of this original appropriation that the Board of Supervisors shall annually
3 appropriate \$5,000 for this purpose, to be adjusted annually to reflect changes in the
4 California Consumer Price Index and rounded off to the nearest \$100.

5
6 Section 6. Amendment or Repeal. The Board of Supervisors may amend this
7 ordinance, without further voter approval, if all of the following conditions are met:

8 (a) the amendment furthers the purposes of this ordinance;

9 (b) the Ethics Commission approves the proposed amendment in advance by at least
10 a four-fifths vote of all its members;

11 (c) the proposed amendment is available for public review at least 30 days before the
12 amendment is considered by the Board of Supervisors or any committee of the Board of
13 Supervisors; and

14 (d) the Board of Supervisors approves the proposed amendment by at least a two-
15 thirds vote of all its members.

16
17 Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
18 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
19 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
20 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
21 additions, and Board amendment deletions in accordance with the "Note" that appears under
22 the official title of the ordinance.

23
24 Section 8. Severability. If any section, subsection, sentence, clause, phrase, or word
25 of this ordinance, or any application thereof to any person or circumstance, is held to be

1 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
2 shall not affect the validity of the remaining portions or applications of the ordinance. The
3 Board of Supervisors hereby declares that it would have passed this ordinance and each and
4 every section, subsection, sentence, clause, phrase, and word not declared invalid or
5 unconstitutional without regard to whether any other portion of this ordinance or application
6 thereof would be subsequently declared invalid or unconstitutional.

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

10 By: 
11 ANDREW SHEN
12 Deputy City Attorney

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FILE NO.

1 [Initiative Ordinance - Campaign and Governmental Conduct Code - Campaign Finance and
2 Conflict of Interest]

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

20
21 MOVED, That pursuant to Charter section 15.102, the Ethics Commission hereby
22 submits the following ordinance to the voters of the City and County of San Francisco, at an
23 election to be held on June 5, 2018.

24
25

1 Ordinance amending the Campaign and Governmental Conduct Code to 1) prohibit
 2 earmarking of contributions and false identification of contributors; 2) modify
 3 contributor card requirements; 3) require disclosure of contributions solicited by City
 4 elective officers for ballot measure and independent expenditure committees; 4)
 5 require additional disclosures for campaign contributions from business entities to
 6 political committees; 5) require disclosure of bundled campaign contributions; 6)
 7 extend the prohibition on campaign contributions to candidates for City elective offices
 8 and City elective officers who must approve certain City contracts; ~~7) prohibit~~
 9 ~~campaign contributions to members of the Board of Supervisors, candidates for the~~
 10 ~~Board, the Mayor, candidates for Mayor, City Attorney, candidates for City Attorney,~~
 11 ~~and their controlled committees, from any person with pending or recently resolved~~
 12 ~~land use matters; 87)~~ require committees to file a third pre-election statement prior to
 13 an election; ~~98)~~ remove the prohibition against distribution of campaign
 14 advertisements containing false endorsements; ~~409)~~ allow members of the public to
 15 receive a portion of penalties collected in certain enforcement actions; ~~4410)~~ permit the
 16 Ethics Commission to recommend contract debarment as a penalty for campaign
 17 finance violations; ~~4211)~~ create new conflict of interest and political activity rules for
 18 elected officials and members of boards and commissions; ~~4312)~~ specify recusal
 19 procedures for members of boards and commissions; and ~~4413)~~ establish local
 20 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.

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

2 Section 1. The Campaign and Governmental Conduct Code, Article I, Chapter 1, is
3 hereby amended by revising Sections 1.104, 1.114, 1.126, 1.135, 1.168, 1.170, adding
4 Sections 1.114.5, 1.124, 1.125, ~~1.127~~, and deleting Section 1.163.5, to 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 *“Developer” shall mean the individual or entity that is the project sponsor responsible for filing*
16 *a completed Environmental Evaluation Application with the Planning Department (or other lead*
17 *agency) under the California Environmental Quality Act (Public Resources Code Section 21000 et*
18 *seq.) for a project. For any project sponsor that is an entity, “developer” shall include all of its*
19 *constituent individuals or entities that have decision-making authority regarding any of the entity’s*
20 *major decisions or actions. By way of example and without limitation, if the project sponsor is a*
21 *limited liability company, each of its members is considered a developer for purposes of the*
22 *requirements of this Chapter, and similarly if the project sponsor is a partnership, each of its general*
23 *partners is considered a developer for purposes of the requirements of this Chapter. If the owner or*
24 *agent that signs and submits the Environmental Evaluation Application will not be responsible for*
25 *obtaining the entitlements or developing the project, then for purposes of the requirements of this*

1 Chapter 1 the developer shall be instead the individual or entity that is responsible for obtaining the
2 entitlements for the project.

3 * * * *

4 “Financial interest” shall mean (a) an ownership interest of at least 10% or \$1,000,000 in the
5 project or property that is the subject of the land use matter; (b) holding the position of director or
6 principal officer, including President, Vice-President, Chief Executive Officer, Chief Financial Officer,
7 Chief Operating Officer, Executive Director, Deputy Director, or member of Board of Directors, in an
8 entity with at least 10% ownership interest in that project or property; or (c) being the developer of
9 that project or property.

10 * * * *

11 “Land use matter” shall mean (a) any request to a City elective officer for a Planning Code or
12 Zoning Map amendment, or (b) any application for an entitlement that requires a discretionary
13 determination at a public hearing before a board or commission under the San Francisco Building
14 Code, the Planning Code, or the California Environmental Quality Act (California Public Resources
15 Code Section 21000 et seq.). “Land use matter” shall not include discretionary review hearings before
16 the Planning Commission.

17 * * * *

18 “Prohibited source contribution” shall mean a contribution made (a) in violation of Section
19 1.114, (b) in an assumed name as defined in Section 1.114.5(c), (c) from a person prohibited from
20 contributing under Section 1.126, or (d) from a person prohibited from contributing under Section
21 1.127, or (e) (d) from a lobbyist prohibited from contributing under Section 2.115(e).

22 * * * *

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

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

1 * * * *

2
3 **SEC. 1.114. CONTRIBUTIONS - LIMITS AND PROHIBITIONS.**

4 (a) LIMITS ON CONTRIBUTIONS TO CANDIDATES. No person other than a
5 candidate shall make, and no campaign treasurer for a candidate committee shall solicit or
6 accept, any contribution which will cause the total amount contributed by such person to such
7 candidate committee in an election to exceed \$500.

8 (b) LIMITS PROHIBITION ON CONTRIBUTIONS FROM CORPORATIONS. No
9 corporation organized pursuant to the laws of the State of California, the United States, or any
10 other state, territory, or foreign country, whether for profit or not, shall make a contribution to a
11 candidate committee, provided that nothing in this subsection (b) shall prohibit such a
12 corporation from establishing, administering, and soliciting contributions to a separate
13 segregated fund to be utilized for political purposes by the corporation, provided that the
14 separate segregated fund complies with the requirements of Federal law including Sections
15 432(e) and 441b of Title 2 of the United States Code and any subsequent amendments to
16 those Sections.

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

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

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

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

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

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

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

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

24 ~~(e) (f)~~ FORFEITURE OF UNLAWFUL CONTRIBUTIONS. In addition to any other
 25 penalty, each committee that receives a contribution which exceeds the limits imposed by this

1 Section 1.114 or which does not comply with the requirements of this Section shall pay
 2 promptly the amount received or deposited in excess of the permitted amount ~~permitted by this~~
 3 ~~Section~~ to the City and County of San Francisco ~~and~~ by delivering the payment to the Ethics
 4 Commission for deposit in the General Fund of the City and County; provided that the Ethics
 5 Commission may provide for the waiver or reduction of the forfeiture.

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

18
 19 **SEC. 1.114.5. CONTRIBUTIONS - DISCLOSURES.**

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

1 ~~of the contributor's business; and a signed attestation from the contributor that the contribution does~~
2 ~~not constitute a prohibited source contribution.~~

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

6 (2) If a committee ~~that~~ collects the information required under this subsection (a) ~~on a~~
7 ~~form signed by the contributor stating and collects a signed attestation, or its electronic equivalent, that~~
8 the contributor has not made a prohibited source contribution, there shall be a rebuttable presumption
9 that the committee has not accepted a prohibited source contribution.

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

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

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

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

23 (c) ASSUMED NAME CONTRIBUTIONS.

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

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

7 (d) FORFEITURE OF UNLAWFUL CONTRIBUTIONS. In addition to any other penalty, each
8 committee that receives a contribution which does not comply with the requirements of this Section
9 1.114.5 shall pay promptly the amount received or deposited to the City and County of San Francisco
10 by delivering the payment to the Ethics Commission for deposit in the General Fund of the City and
11 County; provided that the Ethics Commission may provide for the waiver or reduction of the forfeiture.

12
13 **SEC. 1.124. ADDITIONAL DISCLOSURE REQUIREMENTS FOR CONTRIBUTIONS**
14 **MADE BY BUSINESS ENTITIES.**

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

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

23 (2) whether the business entity has received funds through a contract or grant from any
24 City agency within the last 24 months for a project within the jurisdiction of the City and County of San
25

1 Francisco, and if so, the name of the agency that provided the funding, and the value of the contract or
2 grant.

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

6
7 **SEC. 1.125. ADDITIONAL DISCLOSURE REQUIREMENTS FOR BUNDLED**
8 **CONTRIBUTIONS.**

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

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

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

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

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

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

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

4 ~~(4) whether, during the 12 months prior to the date of the final contribution that makes~~
5 ~~the cumulative amount of contributions bundled by a single individual total \$5,000 or more, the person~~
6 ~~who bundled the contributions attempted to influence the City elective officer who controls the~~
7 ~~committee in any legislative or administrative action and if so, the legislative or administrative action~~
8 ~~that the contributor sought to influence and the outcome sought.~~

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

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

16
17 **SEC. 1.126. CONTRIBUTION ~~LIMITS~~ PROHIBITION – CONTRACTORS DOING**
18 **BUSINESS WITH THE CITY.**

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

21 “Affiliate” means any member of an entity’s board of directors or any of that entity’s principal
22 officers, including its chairperson, chief executive officer, chief financial officer, chief operating officer,
23 any person with an ownership interest of more than 10% in the entity, and any subcontractor listed in
24 the entity’s bid or contract.

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

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

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

- 13 (1) the rendition of personal services,
- 14 (2) the furnishing of any material, supplies or equipment,
- 15 (3) the sale or lease of any land or building,
- 16 (4) a grant, loan, or loan guarantee, or
- 17 (5) a development agreement.

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

21 ~~(1) "Person who contracts with" includes any party or prospective party to a contract,~~
 22 ~~as well any member of that party's board of directors, its chairperson, chief executive officer, chief~~
 23 ~~financial officer, chief operating officer, any person with an ownership interest of more than 20 percent~~
 24 ~~in the party, any subcontractor listed in a bid or contract, and any committee, as defined by this~~
 25 ~~Chapter that is sponsored or controlled by the party, provided that the provisions of Section 1.114 of~~

~~this Chapter governing aggregation of affiliated entity contributions shall apply only to the party or prospective party to the contract.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (A) **Prospective Parties to Contracts.** The City agency seeking to enter into a
 24 contract subject to subsection (b) shall inform any ~~Any~~ prospective party to a contract ~~with the City~~
 25 ~~and County of San Francisco, a state agency on whose board an appointee of a City elective officer~~

1 ~~erves, the San Francisco Unified School District, or the San Francisco Community College District~~
 2 ~~shall inform each person described in Subsection (a)(1)~~ of the prohibition in §subsection (b) and of
 3 the duty to notify the Ethics Commission, as described in subsection (f)(2), ~~by the commencement of~~
 4 ~~negotiations~~ by the submission of a proposal for such contract.

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

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

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

19 ~~(2)~~ (4) Notification by Individuals Who Hold City Elective Office. Every
 20 individual who holds a City elective office shall, within five business days of the approval of a
 21 contract by the officer, a board on which the officer sits, or a board of a state agency on which
 22 an appointee of the officer sits, notify the Ethics Commission, on a form or in a format adopted
 23 by the Commission, of each contract approved by the individual, the board on which the
 24 individual serves, or the board of a state agency on which an appointee of the officer sits. An
 25 individual who holds a City elective office need not file the form required by this subsection

1 ~~(f)(4)~~ if the Clerk or Secretary of a Board on which the individual serves or a Board of a State
2 agency on which an appointee of the officer serves has filed the form on behalf of the board.

3
4 ~~**SEC. 1.127. CONTRIBUTION LIMITS – PERSONS WITH LAND USE MATTERS**~~
5 ~~**BEFORE A DECISION-MAKING BODY.**~~

6 ~~*(a) Definitions. For purposes of this Section 1.127, the following phrases shall mean:*~~

7 ~~*“Affiliated entities” means business entities directed and controlled by a majority of the same*~~
8 ~~*persons, or majority owned by the same person.*~~

9 ~~*“Prohibited contribution” is a contribution to (1) a member of the Board of Supervisors, (2) a*~~
10 ~~*candidate for member of the Board of Supervisors, (3) the Mayor, (4) a candidate for Mayor, (5) the*~~
11 ~~*City Attorney, (6) a candidate for City Attorney, or (7) a controlled committee of a member of the*~~
12 ~~*Board of Supervisors, the Mayor, the City Attorney, or a candidate for any of these offices.*~~

13 ~~*(b) Prohibition on Contributions. No person, or the person’s affiliated entities, with a*~~
14 ~~*financial interest in a land use matter before the Board of Appeals, Board of Supervisors, Building*~~
15 ~~*Inspection Commission, Commission on Community Investment and Infrastructure, Historic*~~
16 ~~*Preservation Commission, Planning Commission, Port Commission, or the Treasure Island*~~
17 ~~*Development Authority Board of Directors shall make any prohibited contribution at any time from a*~~
18 ~~*request or application regarding a land use matter until 12 months have elapsed from the date that the*~~
19 ~~*board or commission renders a final decision or ruling or any appeals from that decision or ruling*~~
20 ~~*have been finally resolved.*~~

21 ~~*(c) Prohibition on Soliciting or Accepting Contributions. No member of the Board of*~~
22 ~~*Supervisors, candidate for member of the Board of Supervisors, the Mayor, candidate for Mayor, the*~~
23 ~~*City Attorney, candidate for City Attorney, or controlled committees of such officers and candidates*~~
24 ~~*shall:*~~

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

1 ~~(2) solicit any contribution prohibited by subsection (b) from a person who the~~
2 ~~individual knows or has reason to know has a financial interest in land use matter.~~

3 ~~(d) **Exceptions.** The prohibitions set forth in subsections (b) and (c) shall not apply if:~~

4 ~~(1) the land use matter concerns only the person's primary residence;~~

5 ~~(2) the person with a financial interest in the land use matter is a nonprofit organization~~
6 ~~with tax exempt status under 26 United States Code Section 501(c)(3), and the land use matter solely~~
7 ~~concerns the provision of health care services, social welfare services, permanently affordable housing,~~
8 ~~or other community services funded, in whole or in substantial part, by the City to serve low-income~~
9 ~~San Francisco residents; or~~

10 ~~(e) **Forfeiture of Prohibited Contributions.** In addition to any other penalty, each member of~~
11 ~~the Board of Supervisors, candidate for member of the Board of Supervisors, the Mayor, candidate for~~
12 ~~Mayor, City Attorney, candidate for City Attorney, or controlled committees of such officers and~~
13 ~~candidates, who solicits or accepts any contribution prohibited by subsection (b) shall pay promptly the~~
14 ~~amount received or deposited to the City and County of San Francisco by delivering the payment to the~~
15 ~~Ethics Commission for deposit in the General Fund of the City and County; provided, that the~~
16 ~~Commission may provide for the waiver or reduction of the forfeiture.~~

17 ~~(f) **Notification.**~~

18 ~~(1) **Prospective Parties to Land Use Matters.** The agency responsible for the initial~~
19 ~~review of any land use matter shall inform any person with a financial interest in a land use matter~~
20 ~~before the Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on~~
21 ~~Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission,~~
22 ~~Port Commission, or the Treasure Island Development Authority Board of Directors, of the prohibition~~
23 ~~in subsection (b) and of the duty to notify the Ethics Commission, described in subsection (f)(2), upon~~
24 ~~the submission of a request or application regarding a land use matter.~~

1 ~~(2) **Persons with a Financial Interest in a Land Use Matter.** Any person with a~~
2 ~~financial interest in a land use matter before the Board of Appeals, Board of Supervisors, Building~~
3 ~~Inspection Commission, Commission on Community Investment and Infrastructure, Historic~~
4 ~~Preservation Commission, Planning Commission, Port Commission, or the Treasure Island~~
5 ~~Development Authority Board of Directors, within 30 days of submitting a request or application, shall~~
6 ~~file with the Ethics Commission a report including the following information:~~

7 ~~(A) the board, commission, or department considering the land use matter;~~
8 ~~(B) the location of the property that is the subject of the land use matter;~~
9 ~~(C) if applicable, the file number for the land use matter; and~~
10 ~~(D) if applicable, the names of the individuals who serve as the person's~~
11 ~~chairperson, chief executive officer, chief financial officer, and chief operating officer, or as a member~~
12 ~~of the person's board of directors.~~

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

15 (b) **Supplemental Preelection Statements - General Purpose Committees.** In addition
16 to the campaign disclosure requirements imposed by the California Political Reform Act and
17 other provisions of this Chapter I, a San Francisco general purpose committee that makes
18 contributions or expenditures totaling \$500 or more during the period covered by the
19 preelection statement, other than expenditures for the establishment and administration of
20 that committee, shall file a preelection statement before any election held in the City and
21 County of San Francisco at which a candidate for City elective office or City measure is on the
22 ballot.

23 (b) **Time for Filing Supplemental Preelection Statements - General Purpose**
24 **Committees.**

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

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

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

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

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

14 **(c) Time for Filing Supplemental Preelection Statements - Ballot Measure Committees and**
 15 **Candidate Committees.** In addition to the deadlines established by the Fair Political Practices
 16 Commission, ballot measure committees and candidate committees required to file preelection
 17 statements with the Ethics Commission shall file a third preelection statement before any election held
 18 in the City and County of San Francisco at which a candidate for City elective office or City measure is
 19 on the ballot, for the period ending six days before the election, no later than four days before the
 20 election.

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

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

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. 1.168. ENFORCEMENT; ADVICE.**

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

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

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

1 has commenced a civil or criminal action against the defendant, or if another ~~voter~~ resident has
 2 filed a civil action against the defendant under this ~~§~~ subsection.

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

7 (c) STATUTE OF LIMITATIONS.

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

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

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

22 (A) **Fraudulent Concealment.** If the person alleged to have violated this
 23 Chapter engages in the fraudulent concealment of his or her acts or identity, this four-year statute of
 24 limitations shall be tolled for the period of concealment. For purposes of this subsection, “fraudulent
 25

1 concealment” means the person knows of material facts related to his or her duties under this Chapter
 2 and knowingly conceals them in performing or omitting to perform those duties.

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

13 * * * *

14 (e) DEBARMENT.

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

19
 20 **SEC. 1.170. PENALTIES.**

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

1 mislead or deceive or any willful or knowing violation of the provisions of Section 1.114, ~~1.126,~~
 2 or 1.127 of this Chapter shall be punishable by a fine of not less than \$5,000 for each violation
 3 or three times the amount not reported or the amount received in excess of the amount
 4 allowable pursuant to Section 1.114, ~~1.126, and 1.127~~ of this Chapter, or three times the
 5 amount expended in excess of the amount allowable pursuant to Section 1.130 or 1.140-~~5~~,
 6 whichever is greater.

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

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

18 * * * *

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

23 **SEC. 3.203. DEFINITIONS.**

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

25

1 “Anything of value” shall mean any money or property, favor, service, payment, advance,
 2 forbearance, loan, or promise of future employment, but does not include compensation and expenses
 3 paid by the City, contributions as defined herein, or gifts that qualify for gift exceptions established by
 4 State or local law.

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

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

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

13 “Fundraising” shall mean:

- 14 (a) requesting that another person make a contribution;
- 15 (b) inviting a person to a fundraising event;
- 16 (c) supplying names to be used for invitations to a fundraiser;
- 17 (d) permitting one’s name or signature to appear on a solicitation for contributions or an
 18 invitation to a fundraising event;
- 19 (e) permitting one’s official title to be used on a solicitation for contributions or an invitation to
 20 a fundraising event;
- 21 (f) providing the use of one’s home or business for a fundraising event;
- 22 (g) paying for at least 20% of the costs of a fundraising event;
- 23 (h) hiring another person to conduct a fundraising event;
- 24 (i) delivering a contribution, other than one’s own, by whatever means to a City elective
 25 officer, a candidate for City elective office, or a candidate-controlled committee; or

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

2 “Immediate family” shall mean spouse, registered domestic partner, and dependent children.

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

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

9 “Solicit” shall mean personally requesting a contribution for any candidate or committee,
10 either orally or in writing.

11 “Subordinate employee” shall mean an employee of any person whose official City
12 responsibilities include directing or evaluating the performance of the employee or any of the
13 employee’s supervisors.

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

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

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

24 (2) No City elective officer or member of a board or commission may, directly or by
25 means of an agent, give, offer, promise to give, withhold, or offer or promise to withhold his or her vote

1 or influence, or promise to take or refrain from taking official action with respect to any proposed or
2 pending matter in consideration of, or upon condition that, any other person make or refrain from
3 making a contribution.

4 (3) No person may offer or give to an officer, directly or indirectly, and no City elective
5 officer or member of a board or commission may solicit or accept from any person, directly or
6 indirectly, anything of value if it could reasonably be expected to influence the officer's vote, official
7 actions, or judgment, or could reasonably be considered as a reward for any official action or inaction
8 on the part of the officer. This subsection (a)(3) does not prohibit a City elective officer or member of a
9 board or commission 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, ~~including a member of~~
13 ~~the Board of Supervisors,~~ who has a conflict of interest under Sections 3.206 or 3.207, or who must
14 recuse himself or herself from a proceeding under California Government Code Section 84308, shall,
15 in the public meeting of the board or commission, upon identifying a conflict of interest immediately
16 prior to the consideration of the matter, do all of the 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 recuses himself
18 or herself, as required by subsection (a) during any 365 day period from acting on:

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

21 (2) 1% or more of the matters pending before the board or commission by reason of any
22 investments in business entities, any interests in real property or any sources of income, the Ethics
23 Commission shall examine the nature and extent of the conflict(s) of interest and shall determine
24 whether the member has a significant and continuing conflict of interest. If the Ethics Commission so
25 determines, the Ethics Commission may recommend to the official's appointing authority that the

1 official divest or otherwise remove the conflicting interest, and, if the official fails to divest or otherwise
2 remove the conflicting interest, the Ethics Commission may recommend to the official's appointing
3 authority that the official should be removed from office under Charter Section 15.105 or by other
4 means.

5 (d) **Exception.** The requirements of this Section 3.209 shall not apply to the members of the
6 Board of Supervisors.

7 (b) **Repeated Recusals.** If a member of a City board or commission, including a member of the
8 Board of Supervisors, recuses himself or herself, as required by subsection (a), in any 12-month period
9 from discussing or acting on:

10 (1) three or more separate matters; or

11 (2) 1% or more of the matters pending before the officer's board or commission,
12 the Commission shall determine whether the official has a significant and continuing conflict of
13 interest. The Commission shall publish its written determination, including any discussion of the
14 official's factual circumstances and applicable law, on its website. Thereafter, if the Commission
15 determines that the official has a significant and continuing conflict of interest, the official shall
16 provide the Commission with written notification of subsequent recusals resulting from the same
17 conflicts of interest identified in the written determination. With respect to such officials, the
18 Commission may recommend to the official's appointing authority that the official divest or otherwise
19 remove the conflicting interest, and, if the official fails to divest or otherwise remove the conflicting
20 interest, the Commission may recommend to the official's appointing authority that the official should
21 be removed from office under Charter Section 15.105 or by other means.

22
23 **SEC. 3.231. PROHIBITIONS ON POLITICAL ACTIVITY FOR CITY ELECTIVE**
24 **OFFICERS AND MEMBERS OF BOARDS AND COMMISSIONS.**

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

4 (b) Fundraising for Appointing Authorities. No member of a board or commission may
 5 engage in fundraising on behalf of (1) the officer’s appointing authority, if the appointing authority is a
 6 City elective officer; (2) any candidate for the office held by the officer’s appointing authority; or (3)
 7 any committee controlled by the officer’s appointing authority. For the purposes of this subsection,
 8 “member of a board or commission” shall not include a member of the Board of Supervisors.

9
 10 Section 3. Section 1. The Campaign and Governmental Conduct Code, Article III,
 11 Chapter 6, is hereby amended by revising Sections 3.600, 3.610, 3.620, and by adding
 12 Sections 3.630, 3.640, 3.650, to read as follows:

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

14 **SEC. 3.600. DEFINITIONS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 “Relative” shall mean a spouse, domestic partner, parent, grandparent, child, sibling, parent-in-
 16 law, aunt, uncle, niece, nephew, first cousin, and includes any similar step relationship or relationship
 17 created by adoption.

18
 19 **SEC. 3.610. REQUIRED FILING OF BEHESTED PAYMENT REPORTS.**

20 (a) **FILING REQUIREMENT.** ~~If a Commissioner directly or indirectly requests or solicits~~
 21 ~~any Charitable Contribution(s), or series of Charitable Contributions, from any party, participant or~~
 22 ~~agent of a party or participant involved in a proceeding regarding administrative enforcement, a~~
 23 ~~license, a permit, or other entitlement for use before the Commissioner’s board or commission, the~~
 24 ~~Commissioner shall file a Behested Payment Report with the Ethics Commission in the following~~
 25 ~~circumstances: If an officer directly or indirectly requests or solicits any behested payment(s) from an~~

1 interested party, the officer shall file the behested payment report described in subsection (b) with the
 2 Ethics Commission in the following circumstances:

3 (1) ~~if the party, participant or agent makes any Charitable Contribution, or series of~~
 4 ~~Charitable Contributions, totaling \$1,000 or more while the proceeding is pending, the Commissioner~~
 5 ~~shall file a Behested Payment Report within 30 days of the date on which the Charitable Contribution~~
 6 ~~was made, or if there has been a series of Charitable Contributions, within 30 days of the date on~~
 7 ~~which a Charitable Contribution causes the total amount of the contributions to total \$1,000 or more;~~
 8 ~~if the interested party makes any behested payment(s) totaling \$1,000 or more during the pendency of~~
 9 ~~the proceeding matter involving the interested party or a decision that the interested party is actively~~
 10 ~~supporting or opposing, the officer shall file a behested payment report within 30 days of the date on~~
 11 ~~which the behested payment was made, or if there has been a series of behested payments, within 30~~
 12 ~~days of the date on which the behested payment(s) total \$1,000 or more;~~

13 (2) ~~if the party, participant or agent makes any Charitable Contribution, or series of~~
 14 ~~Charitable Contributions, totaling \$1,000 or more during the three months following the date a final~~
 15 ~~decision is rendered in the proceeding, the Commissioner shall file a Behested Payment Report within~~
 16 ~~30 days of the date on which the Charitable Contribution was made, or if there has been a series of~~
 17 ~~Charitable Contributions, within 30 days of the date on which a Charitable Contribution causes the~~
 18 ~~total amount of the contributions to total \$1,000 or more; and if the interested party makes any~~
 19 ~~behested payment(s) totaling \$1,000 or more during the six months following the date on which a final~~
 20 ~~decision is rendered in the proceeding matter involving the interested party or a decision that the~~
 21 ~~interested party is actively supporting or opposing, the officer shall file a behested payment report~~
 22 ~~within 30 days of the date on which the behested payment was made, or if there has been a series of~~
 23 ~~behested payments, within 30 days of the date on which the behested payment(s) total \$1,000 or more;~~
 24 and

1 (3) ~~if the party, participant or agent made any Charitable Contribution, or series of~~
 2 ~~Charitable Contributions, totaling \$1,000 or more in the 12 months prior to the commencement of a~~
 3 ~~proceeding, the Commissioner shall file a Behested Payment Report within 30 days of the date the~~
 4 ~~Commissioner knew or should have known that the source of the Charitable Contribution(s) became a~~
 5 ~~party, participant or agent in a proceeding before the Commissioner’s board or commission. if the~~
 6 ~~interested party made any behested payment(s) totaling \$1,000 or more in the 12 months prior to the~~
 7 ~~commencement of a ~~proceeding-matter~~ involving the interested party-or a decision that the interested~~
 8 ~~party actively supports or opposes, the officer shall file a behested payment report within 30 days of the~~
 9 ~~date the officer knew or should have known that the source of the behested payment(s) became an~~
 10 ~~interested party.~~

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

13 (1) name of payor;

14 (2) address of payor;

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

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

17 (5) the name and address of the payee(s),

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

20 (7) if the officer or the officer’s relative, staff member, or paid campaign staff, is an
 21 officer, executive, member of the board of directors, staff member or authorized agent for the recipient
 22 of the behested payment(s), such individual’s name, relation to the officer, and position held with the
 23 payee;

24 (8) if the payee has created or distributed 200 or more substantially similar
 25 communications featuring the officer within the six months prior to the deadline for filing the behested

1 payment report, a brief description of such communication(s), the purpose of the communication(s), the
 2 number of communication(s) distributed, and a copy of the communication(s); and

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

8 (c) **AMENDMENTS.** If any of the information previously disclosed on a behested payment
 9 report changes during the pendency of the ~~proceeding matter~~ involving the interested party ~~or a~~
 10 ~~decision that the interested party actively supports or opposes~~, or within six months of the final decision
 11 in such ~~proceeding matter~~, the officer shall file an amended behested payment report.

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

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

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

20 (e) **PENALTIES.** A Commissioner who fails to comply with this Section 3.610 is subject to the
 21 administrative process and penalties set forth in Section 3.242(d).

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

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SEC. 3.620. FILING BY DONORS.

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

- (1) the proceeding the interested party is or was involved in;
- (2) the decisions the interested party actively supports or opposes;
- (3) the outcome(s) the interested party is or was seeking in such proceedings or decisions; and
- (4) any contact(s) the interested party made in relation to such proceedings or decisions.

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

SEC. 3.630. FILING BY RECIPIENTS OF MAJOR BEHESTED PAYMENTS.

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

- (1) within 30 days following the date on which the payment(s) total \$100,000 or more, notify the Ethics Commission that the person has received such payment(s) and specify the date on which the payment(s) equaled or exceeded \$100,000;
- (2) within 13 months following the date on which the payment(s) or payments total \$100,000 or more, but at least 12 months following the date on which the payment(s) total \$100,000 or more, disclose:

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

3 (ii) if the person has actively supported or opposed any City decision(s)
4 involving the officer in the 12 months following the date on which the payment(s) were made:

5 (A) the proceeding the person is or was involved in;

6 (B) the decision(s) the person actively supported or opposed;

7 (C) the outcome(s) the person is or was seeking in such proceedings or
8 decisions; and

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

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

13 (c) NOTICE REQUIRED. If a recipient of a behested payment does not receive the notice, as
14 required under Section 3.620, that a particular payment is a behested payment, the recipient will not be
15 subject to penalties under Section 3.650, as regards that particular payment, for failure to file pursuant
16 to subsection (a) unless it is clear from the circumstances that the recipient knew or should have known
17 that the payment was made at the behest of an officer.

18
19 **SEC. ~~3.620~~ 3.640. REGULATIONS.**

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

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

1 **SEC. 3.650. PENALTIES.**

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

4
 5 Section 4. Effective and Operative Dates. This ordinance shall become effective 30
 6 days after enactment. This ordinance shall become operative on January 1, 2019.
 7 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance
 8 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of
 9 Supervisors overrides the Mayor’s veto of the ordinance.

10
 11 Section 5. Appropriation. There is hereby appropriated \$158,900 from the General
 12 Reserve to fund administrative and enforcement costs required to implement this ordinance,
 13 which shall be appropriated and made available 30 days after the Board of Supervisors
 14 declares the results of the June 5, 2018 election. Any portion of this appropriation that
 15 remains unspent at the end of Fiscal Year 2018-19 shall be carried forward and spent in
 16 subsequent years for the same purpose. Additionally, it shall be City policy in all fiscal years
 17 following depletion of this original appropriation that the Board of Supervisors shall annually
 18 appropriate \$5,000 for this purpose, to be adjusted annually to reflect changes in the
 19 California Consumer Price Index and rounded off to the nearest \$100.

20
 21 Section 6. Amendment or Repeal. The Board of Supervisors may amend this
 22 ordinance, without further voter approval, if all of the following conditions are met:

- 23 (a) the amendment furthers the purposes of this ordinance;
 24 (b) the Ethics Commission approves the proposed amendment in advance by at least
 25 a four-fifths vote of all its members;

1 (c) the proposed amendment is available for public review at least 30 days before the
2 amendment is considered by the Board of Supervisors or any committee of the Board of
3 Supervisors; and

4 (d) the Board of Supervisors approves the proposed amendment by at least a two-
5 thirds vote of all its members.

6
7 Section 57. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
8 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
9 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
10 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
11 additions, and Board amendment deletions in accordance with the “Note” that appears under
12 the official title of the ordinance.

13
14 Section 68. Severability. If any section, subsection, sentence, clause, phrase, or word
15 of this ordinance, or any application thereof to any person or circumstance, is held to be
16 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
17 shall not affect the validity of the remaining portions or applications of the ordinance. The
18 Board of Supervisors hereby declares that it would have passed this ordinance and each and
19 every section, subsection, sentence, clause, phrase, and word not declared invalid or
20 unconstitutional without regard to whether any other portion of this ordinance or application
21 thereof would be subsequently declared invalid or unconstitutional.

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

25 By: _____

ANDREW SHEN
Deputy City Attorney

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From: [Hepner, Lee \(BOS\)](#)
To: [Kundert, Kyle \(ETH\)](#); [Ford, Patrick \(ETH\)](#); [Pelham, Leeann \(ETH\)](#)
Cc: [Peskin, Aaron \(BOS\)](#)
Subject: File 180001 - Proposed amendments for inclusion in Ethics Commission packet
Date: Tuesday, February 13, 2018 2:58:08 PM
Attachments: [File 180001 - updated proposed Amendments 2-9-2018 - clean.pdf](#)

Kyle and Pat – thanks again for taking the time to walk through the attached amendments. I acknowledge that many of them are now potentially moot and many others were explained to the point of satisfaction. Nevertheless, I’m forwarding the attached for inclusion in the legislative file for proper notice and consideration by the Ethics Commission at this Friday’s regularly-scheduled meeting.

Please also include this email transmittal in the file for purposes of providing a modicum of context to these proposals.

Thanks,
Lee

Lee Hepner
Legislative Aide
Supervisor Aaron Peskin
Office: (415) 554-7450
Direct: (415) 554-7419

FILE 18001 – PROPOSED AMENDMENTS:**Page 3, lines 6-7:**

“Financial interest” shall mean (a) an ownership interest of at least 10% or \$1,000,000 in the project or property that is the subject of the land use matter; or (b) holding the position of director or principal officer, including President, Vice-President, Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Executive Director, Deputy Director, or member of Board of Directors (except for uncompensated members of the Board of Directors of a tax exempt nonprofit organization), in an entity with at least 10% ownership interest in that project or property; ~~“or (c) being the developer of that project or property.”~~

Page 3, lines 9-14:

“Land use matter” shall mean (a) any request to a City elective officer for a Planning Code or Zoning Map amendment, or (b) any application for an entitlement that requires a discretionary determination at a public hearing before a board or commission under the San Francisco Building Code, the Planning Code, or the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.) and which has a value or construction cost of \$1,000,000 or more. This term shall not include an ordinance or resolution; provide that, “land use matter” shall include any ordinance or resolution that applies only to a single project or property or includes an exception for a single project or property. “Land use matter” shall not include discretionary review hearings before the Planning Commission.

Page 6, lines 18-24:

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

Page 7, lines 10-13

(1) In addition to the requirements in subsection (a), any person making contributions that total \$5,000 or more in a single calendar year at the behest of a City elective officer to a ballot measure committee or committee making independent expenditures at the behest of a City elective officer must disclose the name of the City elective officer who requested the contribution within 60 days of making the contribution and on a form provided by the Ethics Commission.

Page 7, lines 18-24

INSERT NEW SUBSECTION (3)

(3) No person shall make a contribution to a candidate or committee in his, her, or its name on behalf of another person on the condition of a reciprocal contribution to any third party individual or organization.

Page 9, lines 21-25:

DEL subsection (4): “whether, during the 12 months prior to the date of the final contribution that makes the cumulative amount of contributions bundled by a single individual total \$5,000 or more, the person who bundled the contributions attempted to influence the City elective officer who controls the committee in any legislative or administrative action and if so, the legislative or administrative action that the contributor sought to influence and the outcome sought.”

Page 10, lines 13-16:

“Affiliate” means any member of an entity’s board of directors, except for uncompensated members of the board of directors of a tax-exempt nonprofit organization, or any of that entity’s principal officers, including its chairperson, chief executive officer, chief financial officer, chief operating officer, any person with an ownership interest of more than 10% in the entity, and any subcontractor listed in the entity’s bid or contract.

Page 10, line 19:

“City Contractor” means any person who contracts with, or is seeking a contract with or has applied for a contract with, any department of the City and County of San Francisco”

Page 11, line 2:

ADD: “mutually executed” after “any amendment or modification to an agreement or contract”

Page 13, line 1:

REQUEST AMENDMENT: Insert a rebuttable presumption requirement if a donor attests that they are *not* a City Contractor, similar to the rebuttable presumption for prohibited contributors. [Note there is already a threshold dollar amount for that contract or grant.]

Page 14, lines 1-4:

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

Page 14, lines 5-10:

Any prospective party to a contract subject to subsection (b) shall, by the submission of a proposal for such contract, inform any member of that party's board of directors, **except for uncompensated members of the board of directors of a tax exempt nonprofit organization**, and any of that party's principal officers, including its chairperson, chief executive officer, chief financial officer, chief operating officer, any person with an ownership interest of more than 10% in the party, and any subcontractor listed in the party's bid or contract of the prohibition in subsection (b).

Page 15, line 5-12:

(b) Prohibition on Contributions. No person, or the person's affiliated entities, with a financial interest in a land use matter before the Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission, Port Commission, or the Treasure Island Development Authority Board of Directors shall make any prohibited contribution at any time from a request or application regarding a land use matter until 12 months have elapsed from the date that the board or commission renders a final decision or ruling or any appeals from that decision or ruling have been finally resolved. **For**

purposes of this subsection (b), “finally resolved” shall mean the expiration of time to file for, or exhaustion of, all available administrative appeals processes or other administrative remedies.

Page 15, line 16:

ADD: “knowingly” after “shall”

Page 15, line 22 through Page 16, line 2:

(2) the person with a financial interest in the land use matter is a nonprofit organization with tax exempt status under 26 United States Code Section 501(c)(3), and the land use matter solely concerns the provision of health care services, social welfare services, permanently affordable housing, or other community services funded, in whole or in substantial part, by the City to serve low-income San Francisco residents; or

Page 16, line 2:

DEL: “; or”

Page 23, line 5:

ADD: “intentionally or negligently”

Page 23, line 15:

DEL: “property, favor, service”

Page 24, line 5:

(b) inviting a person to a fundraising event, except by means of mass mailing or other public transmittal;

Page 24, lines 24-25:

“Solicit” shall mean personally requesting a contribution for any candidate or committee, either orally or in writing. For purposes of this Chapter, “solicit” shall not include requests for contribution to a candidate or committee in

the form of a mass electronic mailing or by other public electronic transmittal.

Page 27, line 12, through Page 28, line 2:

~~(b) Repeated Recusals. If a member of a City board or commission, including a member of the Board of Supervisors, recuses himself or herself, as required by subsection (a), in any 12-month period from discussing or acting on:~~

~~(1) three or more separate matters; or~~

~~(2) 1% or more of the matters pending before the officer's board or commission, the Commission shall determine whether the official has a significant and continuing conflict of interest. The Commission shall publish its written determination, including any discussion of the official's factual circumstances and applicable law, on its website. Thereafter, if the Commission determines that the official has a significant and continuing conflict of interest, the official shall provide the Commission with written notification of subsequent recusals resulting from the same conflicts of interest identified in the written determination. With respect to such officials, the Commission may recommend to the official's appointing authority that the official divest or otherwise remove the conflicting interest, and, if the official fails to divest or otherwise remove the conflicting interest, the Commission may recommend to the official's appointing authority that the official should be removed from office under Charter Section 15.105 or by other means.~~

Page 28, lines 22-24:

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

Page 29, line 22, through Page 30, line 2

~~*Interested party" shall mean (i) any party, participant or agent of a party or participant involved in a proceeding regarding administrative enforcement, a license, a permit, or other entitlement for use before an officer or any board or commission (including the Board of Supervisors on which the officer sits, or (ii) any person who actively supports or opposes a governmental decision by an officer or any board or commission (including the Board of Supervisors) on which the officer sits.*~~

Page 31, lines 11-12:

*...the proceeding involving the interested party **or a decision that the interested party is actively supporting or opposing**, the officer shall file a behested payment report...*

Page 31, lines 22-23:

*...the proceeding involving the interested party **or a decision that the interested party is actively supporting or opposing**, the officer shall file a behested payment report...*

Page 32, lines 7-8:

*...the proceeding involving the interested party **or a decision that the interested party is actively supporting or opposing**, the officer shall file a behested payment report...*

Page 31, lines 10-14:

*if the interested party makes any behested payment(s) totaling \$1,000 or more during the pendency of the proceeding involving the interested party or a decision that the interested party is actively supporting or opposing, the officer shall file a behested payment report within 30 days of the date on which **the officer should have known** the behested payment was made, or if there has been a series of behested payments, within 30 days of the date on which **the officer should have known** the behested payment(s) total**ed** \$1,000 more;*

Page 31, lines 20-25

*if the interested party makes any behested payment(s) totaling \$1,000 or more during the six months following the date on which a final decision is rendered in the proceeding involving the interested party or a decision that the interested party is actively supporting or opposing, the officer shall file a behested payment report within 30 days of the date on which **the officer should have known** the behested payment was made, or if there has been a series of behested payments, within 30 days of the date on which **the officer should have known** the behested payment(s) total**ed** \$1,000 or more;*

Page 34, lines 2-13:

SEC. 3.620. FILING BY DONORS.

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

- (1) the proceeding the interested party is or was involved in;
- (2) the decisions the interested party actively supports or opposes;
- (3) the outcome(s) the interested party is or was seeking in such proceedings or decisions; and
- (4) any contact(s) the interested party made in relation to such proceedings or decisions.

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

Page 34, line 15 through Page 35, line 17:

SEC. 3.630. FILING BY RECIPIENTS OF MAJOR BEHESTED PAYMENTS.

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

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

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

(i) all payments made by the person that were funded in whole or in part by the behested payment(s) made at the behest of the officer a description of the specific purpose for which the donor provided the funds, and of the specific purpose for which the recipient used or intends to use the funds; and

(ii) if the person or entity has actively supported or opposed any City decision(s) involving the officer in the 12 months following the date on which the payment(s) were made:

(A) the proceeding the person or entity is or was involved in;

(B) the decision(s) the person or entity actively supported or opposed;

(C) the outcome(s) the person or entity is or was seeking in such proceedings or decisions; and

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

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

(c) NOTICE REQUIRED. If a recipient of a behested payment does not receive the notice, as required under Section 3.620, that a particular payment is a behested payment, the recipient will not be subject to penalties under Section 3.650, as regards that particular payment, for failure to file pursuant to subsection (a) unless it is clear from the circumstances that the recipient knew or should have known that the payment was made at the behest of an officer.

REQUEST NEW SECTION – Filing by Major Contributors:

For donations by a person (or entity? LLC? General partnership?) to any committee of over \$25,000, require disclosure by the person or principal officers of the following: all investments (stocks, bonds and other interests) in which the person's ownership interest is less than 10%; investments, income and assets of business entities or trusts in which the person's ownership interest is 10% or greater; interests in real property; and income, loans & business positions.

Member, Board of Supervisors
District 3



City and County of San Francisco

AARON PESKIN
佩斯金 市參事

February 13, 2018

San Francisco Ethics Commission
25 Van Ness Ave, Ste. 220
San Francisco, CA 94102

Commission President Keane:

I hereby write to urge your Commission's prompt consideration and approval of new disclosure requirements for major donors (>\$10k) to independent, non-candidate controlled expenditure committees. The proposal, enclosed herewith, would require major donors to submit 24-hour reports of their business investments over a certain dollar value and percentage ownership of entities that do business in San Francisco. It would also require real-time disclosure of the top three sources of funding for any advertisement in any format.

As we have seen over and over again in recent years, large dollar donations play an outsized role in our political landscape. When a large dollar donor makes their contribution, frequently in the tens of thousands of dollars, that donor expects a return on their investment. This is not about any single donor, but rather about a much larger problem in this City and country, and that is the rapidly eroding separation between the private corporate sector and the government institutions charged with regulating it for public benefit. This corrosive Wall Street mentality routinely puts profit over people.

At a minimum, the people of this City deserve to know *why* major donors to independent expenditure committees are making those contributions. A window into their investments in businesses that seek to extract private value from City Hall will provide part of that picture.

I am readily available to answer any questions or concerns that this may raise, and appreciate your prompt consideration of this proposal, so that the Board of Supervisors may in turn enact and implement this critical reform.

Sincerely,

A handwritten signature in blue ink, appearing to read "Aaron Peskin".

Aaron Peskin

Encl.

Cc: Director Leann Pelham
Deputy City Attorney Andrew Shen

FACT SHEET: LEGISLATIVE PROPOSAL – DISCLOSURES BY MAJOR DONORS:

- **Definition of “Major Donor”** = individuals or entities who make contributions over \$10,000 to any Committee
- **Disclosure requirement:** Require disclosure by all individuals & principal officers of entities that are not a tax-exempt 501(c)(3) nonprofit of the following:
 - 1) All investments worth \$10,000 or more in any business entity located in or doing business in SF held by the contributor or a member of the contributor’s immediate family
 - 2) All business entities located in or doing business in SF in which the contributor holds the position of director, officer, partner, trustee, employee, or any position of management
- **24-hour disclosure:** disclosures shall be made to the Ethics Department within 24 hours of the date on which a donation of \$10k+ is made to any committee, or at the point that a series of donations by the same individual or entity exceeds \$10k
- **Real-time disclosure of top-3 funders:** All advertisements must include disclosure in the advertisement of the top 3 sources of funding of any committee that sponsored the advertisement
- **Retroactive to January 1, 2018:** all regulated parties would have a set period of time to come into compliance with the regulation.

[Campaign and Governmental Conduct Code – Major Donor Disclosures of Business Interests]

Ordinance amending the Campaign and Governmental Conduct Code to 1) require disclosure by major donors of their financial interests, and 2) modify disclaimer requirements in audio and video campaign advertisements.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font. **Additions to Codes** are *single-underline italics Times New Roman*; **Deletions to Codes** are ~~*strikethrough italics Times New Roman*~~. **Board amendment additions** are double underlined Arial font. **Board amendment deletions** are ~~strikethrough Arial font~~.

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

Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby amended by adding Section 1.1XX., and revising Sections 1.161 and 1.162, to read as follows:

SEC. 1.1XX. MAJOR DONORS - FINANCIAL DISCLOSURES.

(a) Definitions. *For the purposes of this Section 1.1XX:*

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

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

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

“Doing business” shall be defined as set forth in Title 2, Section 18230 of the California Code of Regulations.

“Immediate family” shall be defined as spouse, registered domestic partner, and any dependent children; “dependent child” shall be defined as set forth in Title 2, Section 18229.1 of the California Code of Regulations.

“Investment” shall be defined as set forth in Section 82034 of the California Government Code and Title 2, Section 18237 of the California Code of Regulations.

(b) Financial disclosures.

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

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

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

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

(iii) insurance policies;

(iv) annuities;

(v) commodities;

(vi) shares in a credit union;

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

(viii) investments held in a blind trust;

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

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

(A) For any disclosure required by subsection (b)(1)(A), the disclosure shall include the name of business entity, a general description of the business entity, the nature of the investment, the date on which the investment was acquired, and the fair market value of the investment. The fair market value of the investment shall be disclosed according to the following ranges: \$10,000-\$100,000, \$100,000-\$1,000,000 or \$1,000,000 or more.

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

(c) **Late fees; penalties.**

(1) **Late filing fees.** For any person who fails to submit any information required by this Section 1.1XX after the applicable deadline, the Ethics Commission shall, in addition to any other penalties or remedies established in this Chapter, impose a late filing fee of \$50 per day after the deadline until the information is received by the Ethics Commission. The Executive Director of the Ethics Commission may reduce or waive a late filing fee if the Executive Director determines that the late filing was not willful and that enforcement will not further the purposes of this Section. The Ethics Commission shall deposit funds collected under this Section in the General Fund of the City and County of San Francisco.

(2) **Penalties.** Any person who knowingly or negligently violates this Chapter may be liable in an administrative proceeding before the Ethics Commission pursuant to Charter Section C3.699-13. In addition to the administrative penalties set forth in the Charter, the Ethics Commission may issue warning letters regarding potential violations of this Chapter.

Section 2. The San Francisco Campaign and Governmental Conduct Code is hereby amended by adding

SEC. 1.161. CAMPAIGN ADVERTISEMENTS.

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

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

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

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

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

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

* * * *

SEC. 1.162. ELECTIONEERING COMMUNICATIONS.

(a) DISCLAIMERS.

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

(2) Any disclaimer required by this Section shall be included in or on an electioneering communication in a size, speed or format that complies with the disclaimer requirements for independent expenditures supporting or opposing candidates set forth in the Political Reform Act and its enabling regulations.

(3) Notwithstanding subsection (a)(2), any disclaimer required by this Section:
(A) to appear on a mass mailing, door hanger, flyer, poster, oversized campaign button or bumper sticker, or print advertisement, shall be printed in at least 12 point font;

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

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

* * * *

Section 2. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance. Applicability of the ordinance shall be retroactive to January 1, 2018, and regulated parties shall have 10 days from the effective date of the ordinance to bring themselves into compliance.

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

By: _____
ATTORNEY'S NAME
Deputy City Attorney