

1 [Application of City's conflict of interest laws to City officers.]

2
3 **Ordinance amending the San Francisco Campaign and Governmental Conduct Code by**
4 **amending sections 3.222 and 3.224 to clarify the application of prohibitions to City**
5 **officers, and by adding sections 3.201 and 3.203 to name the Government Ethics**
6 **Ordinance, to permit waiver of contracting prohibition, and to define "officer."**

7 NOTE: Additions are single-underline italics Times New Roman;
8 deletions are ~~strike-through italics Times New Roman~~.
9 Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby
12 amended by amending Sections 3.222 and 3.224, to read as follows:

13 SEC. 3.222. PROHIBITING ~~MEMBERS OF BOARDS AND COMMISSIONS~~ OFFICERS
14 FROM CONTRACTING WITH THE CITY AND COUNTY.

15 (a) Definitions. For purposes of this Section, the following definitions shall apply:

16 ~~(1) Board or Commission. The term "board or commission" means an appointed board or~~
17 ~~commission created by Charter or ordinance of the City and County, but does not include advisory~~
18 ~~boards or commissions.~~

19 ~~(2) Business. The term "business" means any corporation, partnership, sole~~
20 ~~proprietorship, firm, enterprise, franchise, association, organization, or other legal entity or~~
21 ~~undertaking organized for economic gain.~~

22 ~~(3) City and County. The term "City and County" includes any commission, board,~~
23 ~~department, agency, committee, or other organizational unit of the City and County of San~~
24 ~~Francisco.~~

1 (34) Contract. The term "contract" means any agreement *to which the City and County is*
2 *a party*, other than a grant *funded in whole or in part by the City and County* or an agreement for
3 employment *with the City and County* in exchange for salary and benefits.

4 (45) Subcontract. The term "subcontract" means a contract to perform any work that a
5 primary contractor has an agreement with the City and County, the San Francisco
6 Redevelopment Agency, the San Francisco Housing Authority, the San Francisco Unified School
7 District, or the San Francisco Community College District to perform.

8 (b) Prohibition. *No member of a board or commission of the City and County shall, d* During
9 his or her term of office, no officer shall enter, submit a bid for, negotiate for, or otherwise attempt
10 to enter, any contract or subcontract with the City and County, the San Francisco
11 Redevelopment Agency, the San Francisco Housing Authority, the San Francisco Unified
12 School District, or the San Francisco Community College District, where the amount of the
13 contract or the subcontract exceeds \$10,000.

14 (c) Exceptions. This Section shall not apply to the following contracts or subcontracts:

15 (1) A contract or subcontract with a nonprofit organization;

16 (2) A contract or subcontract with a business with which an officer a member of a board
17 or commission is affiliated unless the officer member exercises management and control over
18 the business. A member exercises management and control if he or she is:

19 (A) An officer or director of a corporation;

20 (B) A majority shareholder of a closely held corporation;

21 (C) A shareholder with more than five percent beneficial interest in a publicly traded
22 corporation;

23 (D) A general partner or limited partner with more than 20 percent beneficial interest
24 in the partnership; or

1 (E) A general partner regardless of percentage of beneficial interest and who
2 occupies a position of, or exercises management or control of the business;

3 (3) A contract or subcontract ~~with the City and County~~ entered into before a member of
4 a board or commission commenced his or her service; ~~or~~

5 (4) An agreement to provide property, goods or services to the City and County at
6 substantially below fair market value; or

7 (5) A settlement agreement resolving a claim or other legal dispute.

8 (d) Waiver. The Ethics Commission may waive the prohibitions in this section for any officer
9 who, by law, must be appointed to represent any profession, trade, business, union or association.

10 (de) Limitation. Failure of a member of a board or commission an officer to comply with
11 this Section shall not be grounds for invalidating any contract with the City and County.

12 SEC. 3.224. PROHIBITION ON REPRESENTING PRIVATE PARTIES BEFORE
13 OTHER CITY OFFICERS AND EMPLOYEES— COMPENSATED ADVOCACY.

14 (a) Prohibition. No officer of the City and County shall directly or indirectly receive any
15 form of compensation to communicate orally, in writing, or in any other manner on behalf of
16 any other person with any other officer or employee of the City and County with the intent to
17 influence a government decision.

18 (b) Exceptions. This section shall not apply to any communication by: (1) an officer of
19 the City and County on behalf of the City and County; (2) an officer of the City and County on
20 behalf of a business, union, or organization of which the officer is a member or full-time
21 employee; (3) an associate, partner or employee of an officer of the City and County, unless it
22 is clear from the totality of the circumstances that the associate, partner or employee is merely
23 acting as an agent of the City and County officer; or (4) a City officer in his or her capacity as
24 a licensed attorney engaged in the practice of law, which includes representing clients in
25 communications with the City Attorney's Office, District Attorney's Office, Public Defender's

1 Office, attorneys in the Tax Collector's Office or Sheriff's Office, outside legal counsel hired by
2 the City, representatives of the City who are named in a pending litigation matter or witnesses
3 or potential witnesses in a pending litigation matter.

4 (c) Waiver. The Ethics Commission may waive the prohibitions in this section for any
5 ~~member of a City board or commission officer~~ who, by law, must be appointed to represent any
6 profession, trade, business, union or association.

7 Section 2. The San Francisco Campaign and Governmental Conduct Code is hereby
8 amended by adding Sections 3.201 and 3.203, to read as follows:

9 SEC. 3.201. CITATION

10 This Chapter may be cited as the San Francisco Government Ethics Ordinance.

11 SEC. 3.203. DEFINITIONS.

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

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

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

19
20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By: 
23 JON GIVNER
24 Deputy City Attorney
25



City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 091013

Date Passed: November 24, 2009

Ordinance amending the San Francisco Campaign and Governmental Conduct Code by amending sections 3.222 and 3.224 to clarify the application of prohibitions to City officers, and by adding sections 3.201 and 3.203 to name the Government Ethics Ordinance, to permit waiver of contracting prohibition, and to define "officer."

November 17, 2009 Board of Supervisors - PASSED, ON FIRST READING

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

November 24, 2009 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 11/24/2009 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Gavin Newsom

Date

12-3-09