

Proposition C

Ordinance amending the Campaign and Governmental Conduct Code to require expenditure lobbyists to register with the Ethics Commission and file monthly disclosures regarding their activities.

NOTE: **Unchanged Code text and uncodified text** are in plain font.

Additions to Codes are in *single-underline italics Times New Roman font*.

Deletions to Codes are in *strikethrough italics Times New Roman font*.

Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Findings.

(a) The City and County of San Francisco (“City”) has a long-standing, compelling interest in furthering public disclosure of the identity of lobbyists and of their efforts to influence decision-making regarding local legislative and administrative matters. The City has required this disclosure to protect public confidence in the responsiveness and representative nature of government officials and institutions.

(b) For many years, the City has required lobbyists who directly contact City officials, referred to here as “contact lobbyists,” to register with the Ethics Commission and disclose their lobbying activities. But in addition to contact lobbyists, individuals, businesses, non-profit organizations, labor unions, and trade associations attempt to indirectly influence City officials by urging others to directly lobby those officials. These indirect lobbyists, referred to in this measure as “expenditure lobbyists,” make payments in an attempt to encourage others to directly lobby City officials by urging them to attend legislative hearings to speak on their behalf, by providing them with transportation to public meetings, by using advertising outlets to ask others to call or contact City officials’ offices to make their arguments, or by making donations in exchange for their direct lobbying efforts. Given these efforts, it is often difficult for City officials to know whether the individuals directly approaching them are truly voicing their own opinions or are doing so at the behest of expenditure lobbyists.

(c) For these reasons, and consistent with the City’s past efforts to further the goals of open government and transparency in decision-making, the voters enact this ordinance to impose registration and disclosure requirements on expenditure lobbyists. This approach is not unique to San Francisco. Several other California jurisdictions, including Los Angeles, Sacramento, San Diego, San Jose, and the State of California, have enacted similar expenditure lobbyist regulations.

(d) This ordinance imposes reasonable, narrowly tailored registration and disclosure requirements on expenditure lobbyists, obligating them to reveal information about their efforts to influence decision-making. Since expenditure lobbyists and direct, contact lobbyists both attempt to influence the City’s legislative process, this ordinance imposes the same sorts of registration and disclosure requirements on both types of lobbyists.

Section 2. Article II, Chapter 1 of the Campaign and Governmental Conduct Code is hereby amended by adding Section 2.103 and revising Sections 2.105, 2.106, 2.110, 2.115, 2.116, and 2.130, to read as follows:

SEC. 2.103. AMENDMENT OR REPEAL.

With respect to any provisions of this Chapter regarding regulation of expenditure lobbyists approved by the voters, the Board of Supervisors may amend those provisions if all of the following conditions are met:

(a) The amendment furthers the purposes of this Chapter;

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

(c) The proposed amendment is available for public review at least



30 days before the amendment is considered by the Board of Supervisors or any committee of the Board of Supervisors; and

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

SEC. 2.105. DEFINITIONS.

Whenever used in this Chapter *L*, the following words and phrases shall *have the definitions be defined as* provided in this Section *2.105*:

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

“Candidate” shall have the same meaning as set forth in Section 1.104 of this Code.

“Client” means the person for whom lobbyist services are performed by a lobbyist.

“Contact lobbyist” means any individual who (1) makes five or more contacts in a calendar month with officers of the City and County on behalf of the individual’s employer; or (2) makes one or more contacts in a calendar month with an officer of the City and County on behalf of any person who pays or who becomes obligated to pay the individual or the individual’s employer for lobbyist services. An individual is not a contact lobbyist if that individual is lobbying on behalf of a business of which the individual owns a 20% or greater share.

“Economic consideration” means any payments, fees, reimbursement for expenses, gifts, or anything else of value, provided that “economic consideration” does not include salary, wages or benefits furnished by a federal, state or local government agency.

“Employee” means any person who receives, reasonably expects to receive, or whose employer is obligated to provide, an Internal Revenue Service Form W-2 wage and tax statement.

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

“Expenditure lobbyist” means any person, other than any government entity, or officer or employee of a government entity acting in an official capacity, who, directly or indirectly, makes payments totaling \$2,500 or more in a calendar month to solicit, request, or urge other persons to communicate directly with an officer of the City and County in order to influence local legislative or administrative action. Examples of the types of activities the payment for which can count toward the \$2,500 threshold referred to in the previous sentence include but are not limited to public relations, media relations, advertising, public outreach, research, investigation, reports, analyses, and studies to the extent those activities are used to further efforts to solicit, request or urge other persons to communicate directly with an officer of the City and County. The following types of payments shall not be considered for the purpose of determining whether a person is an expenditure lobbyist: payments made to a registered contact lobbyist or the registered contact lobbyist’s employer for lobbyist services; payments made to an organization for membership dues; payments made by an organization to distribute communications to its members; payments made by a news media organization to develop and distribute its publications; and payments made by a client to a representative to appear in an adjudicatory proceeding before a City agency or department.

“Gift” shall be defined as set forth in the Political Reform Act, Government Code Section 81000 et seq., and the regulations adopted thereunder.

“Lobbyist” means *a contact lobbyist or expenditure lobbyist. any individual who (1) makes five or more contacts in a calendar month with officers of the City and County on behalf of the individual’s employer; or (2) makes one or more contacts in a calendar month with an officer of the City and County on behalf of any person who pays or who becomes obligated to pay the individual or the individual’s employer for lobbyist services. An individual is not a lobbyist if that individual is lobbying on behalf of a business of which the individual owns a 20% or greater share.*

“Lobbyist services” means services rendered for the purpose of influencing local legislative or administrative action, including but not limited to contacts with officers of the City and County of San Francisco.

“Local legislative or administrative action” includes, but is not limited to, the drafting, introduction, consideration, modification, enactment, defeat, approval, veto, granting or denial by any officer of the City and County of any resolution, motion, appeal, application, petition, nomination, ordinance, amendment, approval, referral, permit, license, entitlement to use or contract.

“Measure” shall have the same meaning as set forth in Section 1.104 of this Code.

“Officer of the City and County” means any officer identified in Section 3.203 of this Code, as well as any official body composed of such officers. In addition, for purposes of this Chapter, “officer of the City and County” includes (1) members of the Board of Education, Community College Board, First Five Commission, Law Library Board of Trustees, Local Agency Formation Commission, Health Authority Board, Housing Authority Commission, Parking Authority, Relocation Appeals Board, Successor Agency to the former Redevelopment Agency of the City and County of San Francisco, Oversight Board of the Successor Agency, Successor Agency Commission, Transportation Authority, Workforce Investment San Francisco Board as well as any official body composed of such officers, and any person appointed as the chief executive officer under any such board or commission; (2) the Zoning Administrator, (3) the City Engineer, (4) the County Surveyor, and (5) the Bureau Chief of the Department of Public Works’ Bureau of Street Use and Mapping.

“Person” means an individual, partnership, corporation, association, firm, labor union or other organization or entity, however organized.

“Public hearing” means any open, noticed proceeding.

SEC. 2.106. LOBBYING CONTACTS.

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

(b) The following activities are not “contacts” within the meaning of this Chapter *L*.

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

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

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

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

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

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

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

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

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

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

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

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

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

(14) A person communicating, on behalf of a labor union representing City employees, regarding the establishment, amendment, or interpretation of a collective bargaining agreement or memorandum of understanding with the City, or communicating about a management decision regarding the working conditions of employees represented by a collective bargaining agreement or a memorandum of understanding with the City;

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

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

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

(16) An officer or employee of a nonprofit organization or an organization fiscally sponsored by such a nonprofit organization communicating on behalf of their organization. For purposes of this subsection only, "nonprofit organization" means either an organization with tax exempt status under 26 United States Code Section 501(c)(3), or an organization with tax exempt status under 26 United States Code Section 501(c)(4) whose most recent federal tax filing included an IRS Form 990-N or an IRS Form 990-EZ, or an organization whose next federal tax filing is reasonably likely to include an IRS Form 990-N or

an IRS Form 990-EZ.

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

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

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

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

SEC. 2.110. REGISTRATION AND DISCLOSURES; FEES; TERMINATION OF REGISTRATION.

(a) **REGISTRATION OF LOBBYISTS REQUIRED.** Lobbyists shall register with the Ethics Commission and comply with the disclosure requirements imposed by this Chapter L. Such registration shall occur no later than five business days of qualifying as a lobbyist; but the Contact lobbyists shall register prior to making any additional contacts with an officer of the City and County of San Francisco and expenditure lobbyists shall register prior to making any additional payments to influence local legislative or administrative action.

(b) REGISTRATION.

(1) Contact lobbyists. At the time of initial registration each contact lobbyist shall report to the Ethics Commission the following information:

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

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

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

(4D) Any other information required by the Ethics Commission through regulation, consistent with the purposes and provisions of this Chapter.

(2) Expenditure lobbyists. At the time of initial registration each expenditure lobbyist shall report to the Ethics Commission the following information:

(A) The name, mailing address, e-mail address, and telephone number of the lobbyist;

(B) Expenditure lobbyists that are entities shall provide:

(i) a description of their nature and purpose(s);

(ii) if the expenditure lobbyist is a corporation, the names of the corporation's chief executive officer, chief financial officer, and secretary, any officer who authorized payments to influence local legislative and administrative action, and any person who owns more than 20 percent of the corporation;

(iii) if the expenditure lobbyist is a partnership, the name of each partner if the entity has fewer than 10, or the name of the partner with the greatest ownership interest if the entity has 10 or more partners;

(iv) for any other type of business entity, the name of each person with an ownership interest if the entity has fewer than 10 owners, or the name of the person with the greatest ownership interest in the entity, if the entity has 10 or more owners;

(C) Expenditure lobbyists that are individuals shall provide a description of their business activities; and

(D) Any other information required by the Ethics Commission through regulation, consistent with the purposes and provisions of this Chapter.

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

(1) Contact lobbyists. Each contact lobbyist shall report to the Ethics Commission the following information:

(1A) The name, business address and business telephone number of each person from whom the lobbyist or the lobbyist's



employer received or expected to receive economic consideration to influence local legislative or administrative action during the reporting period;.

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

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

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

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

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

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

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

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

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

(D*iv*) Whenever a lobbyist is required to report a salary of an individual pursuant to this *Subsection (c)(1)*, the lobbyist need only disclose whether the total salary payments made to the individual during the reporting period was less than or equal to \$250, greater than \$250 but less than or equal to \$1,000, greater than \$1,000 but less than or equal to \$10,000, or greater than \$10,000.

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

The following information regarding each *political campaign* contribution shall be submitted to the Ethics Commission:

(A*i*) The amount of the contribution;

(B*ii*) The name of the contributor;

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

(D*iv*) The contributor's occupation;

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

(F*vi*) The committee to which the contribution was

made.

(9I) For each contact at which a person providing purely technical data, analysis, or expertise was present, as described in *Section 2.106(b)(10)*, the name, address, employer and area of expertise of the person providing the data, analysis or expertise.

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

(11K) Any other information required by the Ethics Commission *through regulation*, consistent with the purposes and provisions of this Chapter.

(2) **Expenditure lobbyists.** *Each expenditure lobbyist shall report to the Ethics Commission the following information:*

(A) *The local legislative or administrative action that the lobbyist sought to influence, including, if any, the title and file number of any resolution, motion, appeal, application, petition, nomination, ordinance, amendment, approval, referral, permit, license, entitlement, or contract.*

(B) *The total amount of payments made during the reporting period to influence local legislative or administrative action.*

(C) *Each payment of \$1,000 or more made during the reporting period, including the date of payment, the name and address of each person receiving the payment, a description of the payment, and a description of the consideration for which the payment was made.*

(D) *All campaign contributions of \$100 or more made or delivered by the lobbyist or made at the behest of the lobbyist during the reporting period to an officer of the City and County, a candidate for such office, a committee controlled by such officer or candidate, or a committee primarily formed to support or oppose such officer or candidate, or any committee primarily formed to support or oppose a measure to be voted on only in San Francisco. This report shall include such campaign contributions arranged by the lobbyist, or for which the lobbyist acted as an agent or intermediary.*

The following information regarding each campaign contribution shall be submitted to the Ethics Commission:

(i) *The amount of the contribution;*

(ii) *The name of the contributor;*

(iii) *The date on which the contribution was made;*

(iv) *The contributor's occupation;*

(v) *The contributor's employer, or if self-employed, the name of the contributor's business; and*

(vi) *The committee to which the contribution was made.*

(E) *Any amendments to the lobbyist's registration information required by Subsection (b).*

(F) *Any other information required by the Ethics Commission through regulation, consistent with the purposes and provisions of this Chapter 1.*

(d) **REGISTRATION AND FILING OF DISCLOSURES**

BY ORGANIZATIONS. The Ethics Commission is authorized to establish procedures to permit the registration and filing of *contact* lobbyist disclosures by a business, firm, or organization on behalf of the individual *contact* lobbyists employed by those businesses, firms, or organizations.

(e) **FEES; TERMINATION OF REGISTRATION.**

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

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

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

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

SEC. 2.115. PROHIBITIONS.

(a) **GIFT LIMIT.** No lobbyist shall make gifts to an officer of the City and County that have a fair market value of more than \$25, except for those gifts that would qualify for one of the exemptions under Section 3.216(b) of this Code and its implementing regulations.

(b) **FUTURE EMPLOYMENT.** No lobbyist shall cause or influence the introduction or initiation of any local legislative or administrative action for the purpose of thereafter being employed or retained to secure its granting, denial, confirmation, rejection, passage or defeat.

(c) **FICTITIOUS PERSONS.** No *contact* lobbyist shall contact any officer of the City and County in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

(d) **EVASION OF OBLIGATIONS.** No lobbyist shall attempt to evade the obligations imposed by this Chapter through indirect efforts or through the use of agents, associates or employees.

SEC. 2.116. LOBBYIST TRAINING.

(a) Each *contact* lobbyist must complete a lobbyist training session offered by the Ethics Commission within one year of the lobbyist's

initial registration. Thereafter, *contact* lobbyists shall attend additional training sessions as required by the Executive Director, at his or her discretion.

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

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

SEC. 2.130. EMPLOYMENT OF UNREGISTERED PERSONS.

It shall be unlawful knowingly to pay any *contact* lobbyist to contact any officer of the City and County of San Francisco, if said *contact* lobbyist is required to register under this Chapter and has not done so by the deadlines imposed in this Chapter.

Section 3. Scope of Ordinance. In enacting this ordinance, the voters intend to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions or deletions, in accordance with the “Note” that appears under the official title of the ordinance.

Section 4. Appropriation. There is hereby appropriated \$560,000 from the General Reserve to fund administrative and enforcement costs required to implement this ordinance. Any portion of this appropriation that remains unspent at the end of Fiscal Year 2015-16 shall be carried forward and spent in subsequent years for the same purpose. Additionally, it shall be City policy in all fiscal years following depletion of this original appropriation that the Board of Supervisors shall annually appropriate \$15,000 for this purpose.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The voters hereby declare that they would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

Section 6. Effective and Operative Dates. This ordinance shall become effective 10 days after the Board of Supervisors declares the results of the November 3, 2015 election. This ordinance shall become operative on February 1, 2016.