ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 12 OF THE SAN JOSE MUNICIPAL CODE TO AMEND CHAPTERS 12.10 AND 12.12 TO: INCREASE THE REVOLVING DOOR PROHIBITION TO TWO YEARS; AMEND THE DEFINITION OF A LOBBYIST; CREATE EXEMPTIONS TO THE REQUIREMENTS OF THE LOBBYIST ORDINANCE; PROHIBIT OR REQUIRE DISCLOSURE OF COMPENSATION CONTINGENT ON THE RESULT OF A PROPOSED GOVERNMENT ACTION; REQUIRE MORE SPECIFIC DISCLOSURES IN THE LOBBYIST QUARTERLY REPORT; IMPOSE INTEREST ON THE QUARTERLY REPORT LATE FILING FEE; ADD A NEW PART TO REQUIRE ELECTED OFFICIALS TO DISCLOSE CONTACTS WITH LOBBYISTS ON ANY MATTER BEFORE THE CITY COUNCIL OR REDEVELOPMENT AGENCY BOARD; AND MAKE OTHER TECHNICAL AND CLARIFYING CHANGES

WHEREAS, the City of San José has paramount interests in ensuring fair and impartial governmental decisions, identifying the true voice of those who exert political pressure on government decisions, reducing corruption and the appearance of corruption in the decision-making process, promoting integrity in public office, enhancing transparency and public confidence in City government, and protecting each citizen's right to representation; and

WHEREAS, the City Council finds that restricting former officials and designated employees from unfairly profiting from or otherwise trading upon the contacts, associations and special knowledge they acquired during their tenure meets the City's stated interests; and

WHEREAS, the City Council finds that prohibiting or requiring disclosure of compensation contingent on the result of a proposed governmental action meets the City's stated interests; and

WHEREAS, the City Council finds that broadening the definition of lobbyist, and imposing reasonable registration and disclosure requirements on lobbyists meets the City's stated interests; and

WHEREAS, the City Council finds that requiring elected officials to disclose contacts with registered lobbyists related to a legislative or administrative action before voting on the action meets the City's stated interests;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Chapter 12.10 of Title 12 of the San José Municipal Code is amended in its entirety, to be numbered, entitled and to read as follows:

CHAPTER 12.10
REVOLVING DOOR RESTRICTIONS

12.10.010 Purpose

The purposes of this Chapter are:

A. To assure the independence, impartiality and integrity of City and Agency officials and designated employees in making governmental decisions and taking governmental actions ~~and decisions~~.

B. To prevent such former officials and designated employees from using their positions with the City or Agency for personal gain.

C. To prevent private for-profit business entities from obtaining a real or perceived unfair advantage in dealing with the City or Agency by hiring former officials and designated employees.

12.10.020 Definitions

For purposes of this Chapter, the terms below ~~shall~~ have the following meaning:

A. "Agency ~~o~~Official" ~~shall~~ means the chairperson and members of the Board of Directors of the Redevelopment Agency of the City of San José.

B. "City ~~o~~Official" ~~shall~~ means the Mayor and City Councilmembers.

C. "Commission" ~~shall~~ means any body created by the City Council or Agency Board whose members are required to file statements of economic interest pursuant to the Political Reform Act of 1974 as amended (Gov. Code §§ 81000 *et seq.).*

D. "Employee" ~~shall~~ has~~ve~~ the same meaning as set out in Title 20 of the Code of Federal Regulations § 404.1007(b).

E. "Nonprofit organization" ~~shall~~ means an entity which would qualify as such under the Federal Internal Revenue Code and has engaged in programs or projects which have received financial or other formal support from the City Council or Redevelopment Agency board within the past five years.

F. "Transitional services" ~~shall~~ means services involving technical or specialized knowledge required to complete a project or to provide temporary consulting services to the City or the Agency.

G. "Work" ~~shall~~ means any activity for which compensation is received from any source, including compensation received as an independent contractor. Work includes the supervision or direction of others performing work, except as provided in Section 12.10.050. Work for the City or Agency also includes any

action of any sort whatsoever taken in one's official capacity. Service by a City or Agency ~~o~~Official or designated employee on any type of board, committee or similar body as a representative of the City or Agency is deemed to be work for the City or Agency.

12.10.030 Prohibitions for Former Officials and Designated Employees

No City or Agency Official or designated employee, for ~~For one (1) year~~ two (2) years ~~immediately following the~~ after terminating ~~termination of the~~ City or Agency office or employment, ~~no former City or Agency official or designated employee shall~~ may:

A. Work on any legislative or administrative matter on which the official or employee worked on behalf of the City or Agency during the twelve (12) months prior to termination of service, or which was within the former City or Agency ~~o~~Official's or designated employee's area of job responsibility. ~~For example, "w~~Work on any legislative or administrative matter" includes, but is not limited to, providing advice or recommending any action with regard to a City or Agency legislative or administrative matter such as a project involving land use, development, or public works ~~project~~. Legislative matters include City Council, Agency Board and City board or commission actions related to ordinances, resolutions, agreements, permits or licenses.

B. Represent anyone else on any matter, whether or not for compensation, before the City Council, Redevelopment Agency Board, any commission thereof, any individual member of the City Council, Redevelopment Agency Board, or commission, or any staff of the City or Agency.

C. Receive any gift or payment which would be prohibited under ~~Part 5 of this~~ Chapter 12.08 from any person who was, in any way, involved in or affected by the work of the official or employee during the twelve (12) months prior to the termination of service.

12.10.040 Prohibition for Former Commission Members

~~A former~~ No member of a commission may, for two (2) years after leaving the commission, ~~shall not~~ represent anyone else, whether or not for compensation, before the commission on which the former member served~~, for a period of one (1) year immediately following the termination of service on that commission~~. No other provisions of this Chapter ~~shall~~ apply to persons serving on a commission who are not otherwise City or Agency ~~o~~Officials or designated employees.

12.10.050 Exceptions

The following ~~work shall~~persons are not ~~be~~ subject to the prohibitions of Section 12.10.030:

A. ~~As a~~An employee or volunteer of a nonprofit organization, as defined in Section 12.10.020.E.;

B. ~~As a~~An employee of a government entity;

C. ~~As a~~An independent contractor of the City or Agency where it has been determined that it is in the best interest of the City or Agency to retain the former official or employee to provide transitional services. Such determination ~~shall~~will be made by the person or body authorized to enter into such a contract. In such event, the City or Agency ~~shall~~will contract directly with the former official or employee. The rate of compensation for such services ~~shall~~must not exceed the former official's or employee's rate of pay, including benefits, at the time City or Agency service terminated.

12.10.060 Applicability

A. The provisions of this Chapter ~~shall not apply~~will not ~~be applied to~~ prevent a former City or Agency ~~o~~Official or designated employee from testifying as a percipient witness in any legal proceeding.

B. The provisions of this Chapter ~~shall not apply~~will not ~~be applied to~~ prevent a former City or Agency ~~officer~~ Official or designated employee from working as a supervisor of a person or persons performing work that would be prohibited by this Chapter, so long as the supervisor is screened from any personal participation in the work and receives no part of the fee therefrom.

12.10.070 Waiver

The City Council or Redevelopment Agency Board of Directors may waive the prohibitions of Section 12.10.030 ~~, upon full disclosure of the facts surrounding the proposed activity,~~ if the Council or Board finds that such waiver is in the best interest of the City or Agency and that such waiver is ~~not in~~consistent with the purposes of this Chapter as set forth in Section 12.10.010.

12.10.080 Enforcement

A. The City Attorney may conduct inquiries or investigate complaints of violations of this Chapter. The City Attorney may seek judicial ~~or injunctive~~ relief ~~in the courts~~ to enjoin violations of or to compel compliance with the provisions of this Chapter.

B. A City or Agency ~~o~~Official, designated employee or person who is subject to the provisions of this Chapter may request a formal written opinion from the City Attorney and may reasonably rely on such advice in order to comply with the requirements of this Chapter. Before such opinion is rendered, such official or

employee ~~shall~~must fully cooperate with the City Attorney in disclosing facts and information in order to prepare the formal opinion.

C. Any person may file a complaint with the City Clerk alleging a violation of this Chapter with the Elections Commission.

D. The City Attorney may put persons on notice of a potential violation of the requirements of this Chapter, whether or not a complaint is filed with the Elections Commission.

12.10.090 Penalties

Violations of this Chapter may result in civil penalties of up to Five Thousand Dollars ($5,000) for each violation. The City of San Jose or the Redevelopment Agency ~~shall be~~ are entitled to recover from any former City or Agency ~~o~~Official or designated employee the monetary value of any compensation or thing of value provided to such person in violation of the provisions of this Chapter.

SECTION 2. Chapter 12.12 of Title 12 of the San José Municipal Code is amended in its entirety to be numbered, entitled and to read as follows:

CHAPTER 12.12

SAN JOSE MUNICIPAL LOBBYING

Part 1

Title, ~~and~~ Purpose, Application, and Exemptions

12.12.010 Title, ~~and~~ Purpose, and ~~Applicability~~Application

A. This Chapter ~~shall~~will be known as the San José Municipal Lobbying Ordinance.

B. ~~Purpose and Goals: This Chapter is intended to achieve the following purposes and goals~~The purposes of this Chapter are:

1. To guarantee to the residents of the City that the City of San José (City) continues the highest ethical work environment for the residents of the City and the City's elected officials and employees.

2. In the spirit of open and transparent government, to allow the public to know and better understand the relationship between its elected officials, lobbyists, and lobbyist's clients.

3. To enhance public confidence and trust with respect to lobbyist activities and City practices.

4. To ensure that the requirements of this Chapter and their implementation are responsive to the goal of making it easy to do business with the City.

5. To bring about clarity and certainty about applicable provisions among stakeholders.

6. To establish a policy that sets clear standards of conduct.

7. To maintain the citizen's constitutional right to petition government for redress of grievances and not to limit the public's access to their elected officials.

C. Any person who engages in lobbying activity must comply with the provisions of this Chapter.

12.10.020 ~~Exceptions~~ Exemptions

The following persons are exempt from the requirements of this Chapter:

A. A public official acting in his or her official capacity.

B. A person engaged solely in publication or broadcasting of news items, editorials, or commentary which directly or indirectly urges governmental action.

C. A person hired by the City or Agency for work performed on behalf of the City or Agency, or a person who prepares documents for approval by the City under the California Environmental Quality Act of 1970, as amended and Title 21 of the San Jose Municipal Code, or a person who has been specifically invited by the City Council or Redevelopment Agency or any committee thereof, or by any board or commission, or any committee of a board or commission, or by any officer or employee of the City or the Redevelopment Agency charged by law with the duty of conducting a hearing or making a decision, for the purpose of giving testimony in aid of the body or person extending the invitation or invited to attend a meeting such as a City or Agency task force or department committee meeting to provide information or assistance requested by City or Agency staff.

D. ~~A person who, without additional compensation and not as part of, or in the ordinary course of his or her regular employment, appears to present the position of an employer or organization such as a taxpayers' association or trade association when that employer, association or organization has one or more of its officers, employees or representatives already registered as a lobbyist under the provisions of this Chapter.~~ The owner of a business whose attempts to influence governmental action are on behalf of the business and:

1. The owner or business has not made or solicited contributions for the elected official contacted, or a candidate or independent expenditure committee at the behest of the elected official contacted, in an amount

over one thousand dollars ($1,000) within the last twelve (12) months in a City election;

2. The owner or business has not retained a person to engage in lobbying activity on behalf of the owner or business; or

3. Officers or employees of the business have not engaged in lobbying activity on behalf of the owner or business.

E. A person whose attempts to influence governmental action are limited to:

1. Publicly appearing at a public meeting, public hearing, or other official proceeding open to the public;

2. Preparing, processing or submitting documents or writings in connection with the governmental action for use at a public meeting, public hearing, or other official proceeding open to the public.

F. Any person whose sole activity includes one or more of the following:

1. to submit a bid on a competitively bid contract;

2. to submit a written response to a request for proposals or qualifications;

3. to participate in an oral interview for a request for proposals or qualifications; or,

4. to negotiate the terms of a contract or agreement with the City, once the City has authorized either by action of the City Council, City Manager, or voters, entering an agreement with that Person, whether that Person has

been selected pursuant to a bid, request for proposals or qualifications, or by other means of selection recognized by law.

G. A person who meets with City Officials solely to lodge “whistleblower” complaints relating to improper governmental activity such as gross mismanagement, waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

H. A person who meets with the City Attorney or City Clerk regarding any claim or litigation matter, negotiation of any agreements where the City is a party or the requirements or interpretation of this Chapter.

I. Uncompensated members or uncompensated members of the board of directors of non-profit organizations.

J. Members of neighborhood associations, Neighborhood Advisory Committees or Project Area Committees.

K. Persons whose communications are solely related to:

1. The establishment, amendment, administration, implementation or interpretation of a collective bargaining agreement or a memorandum of agreement between the City and a recognized employee organization.

2. Management decisions as to the working conditions of represented employees that clearly relate to the terms of a collective bargaining agreement or memorandum of agreement between the City and a recognized employee organization.

3. Proceedings before the City of San Jose Civil Service Commission.

L. ~~L.~~ A person whose communications with City Officials are solely in connection with the administration of an existing contract or agreement between the person and the City or Redevelopment Agency.

M. Compensated officers or employees of a nonprofit organization with tax exempt status under Section 501(c)(3) of the Internal Revenue Code whose attempts to influence governmental action are on behalf of the organization.

Part 2

Definitions

12.12.100 Definitions

For purposes of this Chapter, the following definitions ~~shall be~~are applicable. Other terms used and not defined in this Chapter ~~shall~~ have the meanings set forth in this Title, and terms used and not defined in this Title have the meanings set forth in the California Political Reform Act of 1974, as amended.

~~**12.12.110 Activity Expense**~~

~~"Activity Expense" means any payment made by a lobbyist to or directly benefiting any City official, City official-elect or member of such official's or official-elect's immediate family and domestic partners. Activity expenses include gifts, honoraria, consulting fees, salaries and any other form of compensation, but do not include campaign contributions.~~

12.12.1~~1~~~~2~~0 At the Behest

"At the behest" means at the specific direction of, or at the personal request or suggestion of, or with the express prior consent of, any elective City ~~o~~Official, City ~~o~~Official-~~e~~Elect or candidate for elective City office.

12.12.12~~3~~0 City Official

"City Official" includes the Mayor and Members of the City Council;~~,~~ any appointee of the City Council;~~,~~ Mayoral or Council staff member;~~,~~ Redevelopment Agency Board Member;~~,~~ members of the Planning Commission, Appeals Hearing Board, Civil Service Commission;~~,~~ any City representative to any joint powers authority to which the City is a party;~~,~~ the City Manager and his or her Assistant City Manager and Deputy City Managers; ~~and~~ the Executive Director of the Agency and his or her Assistant and Deputies; ~~and~~ City ~~and Agency~~ department heads; and Agency division heads.

12.12.13~~4~~0 City Official-Elect

"City ~~o~~Official-~~e~~Elect" means a person who has been elected to a City office but has not yet been sworn in to office.

12.12.14~~5~~0 Client

"Client" means a person who compensates a ~~lobbyist~~person for representation.

12.12.15~~6~~0 Contact or Contacting

"Contact or contacting" means ~~any~~ attendance at a meeting with a City Official or City Official-Elect, or any direct communication with a City Official or City Official-Elect, whether oral~~ly~~, electronic~~ally~~ or in writing, including ~~without limitation~~, but not limited to~~,~~ communication through an agent, associate or employee, for the purpose of ~~influencing or attempting to influence legislative or administrative action~~engaging in lobbying activity.

12.12.16~~7~~0 Compensated or Compensation

"Compensated or Compensation" means any economic consideration for services rendered or to be rendered in the future, including, without limitation, payment, distribution transfer, loan advance, deposit, other rendering of money, property, services or anything else of value.promises to perform or provide services, contractual arrangements, contingency fees, success fees, bonuses or awards

12.12.17~~8~~0 Lobbying Activity

"Lobbying Activity" means influencing or attempting to influence a City Official or City ~~o~~Official-~~e~~Elect with regard to a legislative or administrative action of the City or Redevelopment Agency.

A. "Influencing" means the purposeful communicationcontacting, either directly or indirectly through agents, for the purpose of promoting, supporting, modifying, opposing, causing the delay or abandonment of conduct, or otherwise intentionally affecting the official actions of ~~a~~the City ~~o~~Official or City ~~o~~Official-~~e~~Elect, by any means, including, but not limited to~~,~~ providing, preparing, processing, or submitting or using persuasion, information, incentives, statistics, studies or analyses.

B. "Legislative action" means the drafting, introduction, consideration, modification, enactment or defeat of any resolution, ordinance, amendment thereto, report, nomination or other action of the Mayor, City Council, Redevelopment Agency of the City, or City board or commission, or task force or any joint powers authority of which the City is a party.

C. "Administrative action" means the proposal, drafting, development, consideration, advocacy, recommendation, adoption, amendment or approval of any rule, regulation, agreement, or contract, permit, license or hiring action.

12.12.1~~9~~8~~0~~0 Lobbyist

"Lobbyist", unless exempt under Section ~~12.12.300~~ 12.12.020 means:

A. ~~Lobbyist (Contract).~~Contract Lobbyist: Any entity, including an individual, ~~who~~ that engages in lobbying activity on behalf of one or more clients (acting individually or through agents, associates, employees or contractors) and who has received or has entered into an agreement for compensation of one thousand dollars ($1,000) or more ~~("threshold compensation")~~ for any services which include~~s~~ engaging in lobbying during any consecutive three (3) month period.

B. ~~In House Lobbyist~~In-House Lobbyist: Any entity, including a business, corporation, association, political action committee, or any other organization if its owners, officers, or employees have engaged in lobbying activity on its behalf and whose aggregate time engaging in lobbying activity total ten (10) hours or more in a consecutive twelve (12) month period.

~~1.An individual who is an officer or employee of an organization or association which has a membership and for which the officer or employee is compensated for purposes of advancing the goals or mission of the umbrella organization or association, such as a trade association, and who engages in lobbying on its behalf in an aggregate amount of 20 hours or more within any three (3) month period; or~~

~~2An individual who is an owner of a business or employed by an business or organization and who is compensated more than one thousand dollars ($1,000) in a month beyond reimbursement for their reasonable travel, meals or incidental expenses for engaging specifically in lobbying and whose duties as an employee include lobbying on behalf of his or her employer and who engages in lobbying~~

~~on its behalf in an aggregate amount of 20 hours or more within any three (3) month period.~~

C. Expenditure Lobbyist~~.~~: A person who makes payments or incurs expenditures in the aggregate amount of five thousand dollars ($5,000) or more during any calendar year in connection with carrying out public relations, advertising or similar activities with the intent of soliciting or urging, directly or indirectly, other persons to communicate directly with any City ~~o~~Official in order to attempt to influence a legislative or administrative action. The five thousand dollars ($5,000) threshold ~~shall~~does not include:

1. Compensation paid to contract lobbyists or employees for lobbying activity; or

2. Dues ~~payments~~, donations, or other economic consideration paid to an organization, regardless of whether the dues~~payments~~, donations or other economic consideration are used in whole or in part ~~to~~for ~~lobby~~lobbying activity.

12.12.~~20~~190 Lobbyist Fundraising Activity

"Fundraising Activity" means soliciting a contribution; hosting or sponsoring a fundraising event; or hiring a fundraiser or contractor to conduct any event designed for political fundraising at which contributions for any City ~~o~~Official, candidate for elective City office or any controlled committee of an elected City ~~o~~Official or candidate for City office or for any political action committee, political party or candidate for elective office of a governmental organization are solicited, delivered or made.

12.12.2~~1~~00 Person

"Person" means any individual, business entity, trust, corporation, association, committee, or any other organization or group of persons acting in concert.

Part 3

~~Exceptions~~Compensation to Lobbyists

~~12.12.300~~ Exceptions

~~The following persons are exempt from the requirements of this Chapter:~~

~~B.A public official acting in his or her official capacity.~~

~~B. A person engaged solely in publication or broadcasting of news items, editorials, or commentary which directly or indirectly urges governmental action.~~

~~C. A person hired by the City or Agency for work performed on behalf of the City or Agency, or a person who prepares documents for approval by the City under the California Environmental Quality Act of 1970, as amended and Title 21 of the San Jose Municipal Code, or a person who has been specifically invited by the City Council or Redevelopment Agency or any committee thereof, or by any board or commission, or any committee of a board or commission, or by any officer or employee of the City or the Redevelopment Agency charged by law with the duty of conducting a hearing or making a decision, for the purpose of giving testimony in aid of the body or person extending the invitation or invited to attend a meeting such as a City or Agency task force or department committee meeting to provide information or assistance requested by City or Agency staff.~~

~~D. A person who, without additional compensation and not as part of, or in the ordinary course of his or her regular employment, appears to present the position of an employer or organization such as a taxpayers' association or trade association when that employer, association or organization has one or more of its officers, employees or representatives already registered as a lobbyist under the provisions of this Chapter.~~

~~E. A person whose attempts to influence governmental action are limited to:~~

~~1. Publicly appearing at a public meeting, public hearing, or other official proceeding open to the public;~~

~~2. Preparing, processing or submitting documents or writings in connection with the governmental action for use at a public meeting, public hearing, or other official proceeding open to the public.~~

~~F. Any person whose sole activity includes one or more of the following:~~

~~5.to submit a bid on a competitively bid contract;~~

~~6.to submit a written response to a request for proposals or qualifications;~~

~~7.to participate in an oral interview for a request for proposals or qualifications; or,~~

~~8.to negotiate the terms of a contract or agreement with the City, once the City has authorized either by action of the City Council, City Manager, or voters, entering an agreement with that Person, whether that Person has been selected pursuant to a bid, request for proposals or qualifications, or by other means of selection recognized by law.~~

~~G. A person who meets with City Officials solely to lodge "whistleblower" complaints relating to improper governmental activity such as gross mismanagement, waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.~~

~~H. A person who meets with the City Attorney or City Clerk regarding any claim or litigation matter, negotiation of any agreements where the City is a party or the requirements or interpretation of this Chapter.~~

~~I. Uncompensated members or uncompensated members of the board of directors of non-profit organizations.~~

~~J. Members of neighborhood associations, Neighborhood Advisory Committees or Project Area Committees.~~

~~K. Persons whose communications are solely related to:~~

~~1. The establishment, amendment, administration, implementation or interpretation of a collective bargaining agreement or a memorandum of agreement between the City and a recognized employee organization.~~

~~2. Management decisions as to the working conditions of represented employees that clearly relate to the terms of a collective bargaining agreement or memorandum of agreement between the City and a recognized employee organization.~~

~~3. Proceedings before the City of San Jose Civil Service Commission.~~

~~L. A person whose communications with City Officials are solely in connection with the administration of an existing contract or agreement between the person and the City or Redevelopment Agency.~~

12.12.300 Contingent Compensation and Lobbying Activity

A. No person may accept compensation for lobbying activity when the compensation is directly dependent on the result of legislative or administrative action(s) that are the subject of the lobbying activity.

B. A person may accept compensation for engaging in lobbying activity when the compensation depends on both:

1. The result of legislative or administrative action(s) that are the subject of the lobbying activity, and

2. Additional condition(s) or event(s) which are not the subject of the lobbying activity.

C. A person engaged in lobbying activity may accept compensation for services, other than lobbying activity, when the compensation directly depends on the result of legislative or administrative action(s) that are the subject of the lobbying activity.

D. A person engaged in lobbying activity may accept compensation for services, other than lobbying activity, when the compensation depends on both:

1. The result of legislative or administrative actions that are the subject of the lobbying activity, and

2. Additional condition(s) or event(s) which are not the subject of the lobbying activity.

12.12.310 Disclosure of Contingent Compensation

A. A person engaged in lobbying activity must disclose any agreement, arrangement, or understanding regarding compensation for services set forth in Section 12.12.300.B, C, and D.

B. Except as provided in Subsection C, a person engaged in lobbying activity must file with the City Clerk within one (1) business day before any lobbying activity, the following information:

1. Name, address, and telephone number of the person engaged in lobbying activity.

2. Name and address of the source of compensation.

3. A brief description of the legislative or administrative action the person engaged in lobbying activity is seeking to influence.

4. If compensation can be calculated at the time of the disclosure, the compensation within the following ranges: ($0-$500), ($501-$1,000), ($1,001-$10,000), ($10,001-$100,000), ($100,001-$200,000), ($200,001-$300,000), ($300,001-$400,000), and (over $400,000).

5. If compensation cannot be calculated at the time of the disclosure, a brief description of the basis for determining the compensation, and any legislative or administrative action(s) and/or additional condition(s) or event(s) that must occur before the person engaged in lobbying activity is entitled to receive compensation.

C. A person engaged in lobbying activity that is not yet required to register as a lobbyist as defined under Section 12.12.180 may file the disclosure form concurrent with the registration report.

12.12.320 Separate Written Agreements

A person engaged in lobbying activity may have separate written agreements for

lobbying activity and other services related to the same project or issue.

12.12.330 Exemptions

Sections 12.12.300 and 12.12.310 do not apply to compensation for services by an attorney licensed to practice law in the State of California who represents a party or potential party in pending or actual litigation or administrative enforcement proceeding brought by or against the City.

12.12.330 Effective Date

The effective ~~is~~date of this Part is August ___, 2007 and applies only to compensation arrangements entered into on or after the effective date.

Part 4
Requirements

12.12.400 Registration with City Clerk

A. A Lobbyist is required to register with the City Clerk no later than ten (10) days after qualifying as a lobbyist as defined in this Chapter. A Lobbyist who meets the threshold requirements of one or more of the categories (Contract Lobbyist, In-House Lobbyist or Expenditure Lobbyist) is only required to register once.

B. A Lobbyist ~~shall~~must renew ~~his or her~~the registration by January 15 of each year. ~~unless status as a lobbyist has terminated.~~

C. ~~After initial registration,~~ The annual registration renewal ~~shall~~will not be required if a declaration attesting to the termination of lobbying ~~services~~activity within the City has been filed with the City Clerk no later than January 15.

12.12.410 ~~Required~~ Lobbyist Registration ~~Information~~Report

A. ~~The initial~~ A Lobbyist who meets the threshold requirements of one or more of the categories (Contract Lobbyist, In-House Lobbyist, or Expenditure Lobbyist) must fill out one registration report with all the applicable information including the following:

~~for lobbyists shall~~

1. ~~contain then~~Name;~~,~~

2. ~~b~~Business address;

3. ~~, t~~Telephone and fax numbers;

4. ~~of all persons required to register under this Chapterincluding the n~~Names of all owners if the Lobbyist is a ~~of~~ sole proprietorship~~s~~ ~~and~~ or partnership~~s~~ of fewer than five (5) persons.

5. ~~If the registrant is a corporation, it shall also include the n~~Names of the officers and agent for service of process, if any, if the Lobbyist is a corporation.

~~C.~~ 6. ~~Any business or organization registering under this Chapter shall also describe~~ If applicable, a description of the nature of~~its~~ , ~~business or organization~~ the business, corporation, association, committee or any other organization in sufficient detail to inform the reader of ~~the~~ its nature and purpose.~~of the business.~~

~~D.~~ B. All Contract Lobbyists must also provide the following information for each client:

1. ~~The n~~Name, business address, telephone number of each client,

2. ~~the n~~Nature of each client's business,

3. ~~and a~~A brief description of the ~~item(s) of~~ legislative or administrative action(s) the lobbyist ~~is~~ seek~~sing~~ to influence on behalf of ~~the~~ each client, ~~;~~ and

~~the~~

4. ~~n~~Name of each person employed or retained by the lobbyist to engage in lobbyist activity on behalf of each client.

C. All In-House Lobbyists must also provide the following information:

1. Names of each owner, officer and employee conducting lobbying activities on its behalf, and

2. A brief description of the legislative or administrative action(s) the lobbyist seeks to influence.

D. All Expenditure Lobbyists must also provide the following information:

1. Names of all owners, officers and employees conducting lobbying activities; and

2. A brief description of the legislative or administrative action(s) the lobbyist seeks to influence.

~~2.Lobbyist information shall also include the names of all owners, officers and employees conducting lobbying activities and a brief description of the item(s) of~~

~~legislative or administrative action the lobbyist is seeking to influence.~~

~~1.Expenditure lobbyist information shall also include a brief description of the legislative or administrative action the lobbyist is seeking to influence.~~

~~Lobbyists who are individuals, including In House Lobbyists, shall also describe the nature of the business, organization or association which employs or compensates the lobbyist and include a brief description of the legislative or administrative action the lobbyist is seeking to influence.~~

12.12.420 Additional Required Information and Disclosures

The ~~initial~~ lobbyist registration report ~~shall~~must also contain the following information:

A. Campaign and officeholder contributions that a lobbyist made, delivered or acted as an intermediary for, to an elected City ~~o~~Official or candidate for City Office made during the preceding calendar quarter. A person is an "intermediary" for a contribution if the recipient of the contribution would consider th~~e~~at person to be the contributor without the disclosure of the identity of the true source of the contribution. Also, a lobbyist acts as an "intermediary" if the lobbyist makes a contribution on behalf of another person, and that other person is acknowledged as the contributor, and the lobbyist is reimbursed for the contribution.

B. Campaign and officeholder contributions made at the behest of an elected City ~~o~~Official or candidate to any other elected public official or candidate for public office during the preceding calendar quarter.

C. All Independent Expenditures made for or on behalf of a City ~~o~~Official or candidate for City office made during the preceding calendar quarter.

D. Fundraising Activity for any City ~~o~~Official, candidate for elective City office or any controlled committee of the elected City ~~o~~Official or candidate for City office or for

any political action committee, political party or candidate for elective office of a governmental organization made at the behest of a City ~~o~~Official during the preceding calendar quarter. Required information and disclosures ~~shall~~must include the name of the City ~~o~~Official, candidate, committee or party on whose behalf the lobbyist engaged in fundraising activities, or delivered or acted as intermediary for one or more contributions. The information and disclosures ~~shall~~must also include the name of the City ~~o~~Official requesting the Fundraising Activity, the date of the Fundraising Activity, the name of the contributors and the amount of contributions raised, delivered and/or made in connection with which the lobbyist acted as an intermediary.

E. Donations to for profit or nonprofit organizations made at the behest of a City ~~o~~Official or candidate for elective City office of any contribution or payment of more than one thousand dollars ($1,000) in the aggregate made during the preceding calendar quarter.

F. Payments received for services as a consultant or in any other capacity for services rendered to any City department or Redevelopment Agency, City ~~o~~Official, or any City ~~o~~Official-elect, their controlled committees or officeholder committees.

G. Contacts made with City ~~o~~Officials or City ~~o~~Officials-~~e~~Elect during the preceding calendar quarter for the purpose of influencing or attempting to influence legislative or administrative action. Contact information ~~shall~~must include a brief description of the item(s) of legislative or administrative action the lobbyist is seeking to influence and the number of contacts in the following ranges: (1), (2-5), (6-10) or (11 or more).

H. Activity expenses such as payments that directly benefit any City ~~o~~Official, City ~~o~~Official-~~e~~Elect or member of his or her immediate family or domestic partner made during the preceding calendar quarter. Activity expenses include gifts as

defined by Chapter 12.08, honoraria, consulting fees, salaries and other forms of compensation, but do not include campaign contributions.

12.12.430 Quarterly Reports

A. ~~For each calendar quarter following the quarter in which the lobbyist was required to register, the~~All lobbyists must file a quarterly report for every calendar quarter during which they retain that status with the City Clerk not later than fifteen (15) calendar days after the end of the qualifying quarter~~ on March 31, June 30, September 30 and December 31~~, whether or not any lobbying activities have occurred during such period. Electronic reporting may also be permitted by the City Clerk.

B. Each quarterly report ~~shall~~must contain the same information as required to be disclosed in the ~~initial~~ registration report, for those activities occurring in that quarter. If a lobbyist has terminated all lobbying activities during such quarter, the lobbyist may file a declaration of termination with the quarterly report. The final quarterly report ~~shall~~ must include disclosure of any lobbying activities during the quarter of termination.

C. Each quarterly report for Contract Lobbyists ~~(Contract) shall~~must indicate the total ~~economic~~ compensation promised or received from each client listed during the reporting period for lobbying~~st~~ ~~services~~activity ~~in accordance~~ within the following ranges: ($0-500), ($50~~0~~1 - $1,000), ($1,001 - $10,000), ($10,001 - $100,000), ($100,001 - $200,000), ($200,001 - $300,000), ($300,001 - $400,000),and (Over $~~1~~400,00~~0~~1).

D. Each quarterly report must indicate whether the lobbyist has any agreement, arrangement, or understanding regarding compensation for services set forth in Section 12.12.300.B, C, and D for those activities occurring in that quarter and

identify the name of the person that filed the disclosure form and the date it was filed with the City Clerk.

E. Quarterly reports ~~shall~~must be filed by April 15, July 15, October 15 and January 15 for the prior calendar quarter, and are delinquent thereafter.

~~E.~~F. Records pertaining to the registration and quarterly reports ~~shall~~must be preserved by the lobbyist for inspection and audit by the City for a period of five (5) years from the date of production.

12.12.440 ~~Registration~~ Fees

~~Persons subject to the registration requirements of this Chapter shall pay an annual fee as set forth in the schedule of fees, established by resolution of the City Council. Individuals within the same business entity who qualify as lobbyists under the provisions of Section 12.12.190 are each subject to this fee. Persons, or individuals within the same business entity, registering for the first time on or after June 30 of a given year shall pay a reduced registration as set forth in the schedule of fees.~~

~~A.The applicable registration fee is due at the time of registration or registration renewal. Payment will be deemed delinquent thereafter. Delinquency fees as set forth in the schedule of fees may be assessed as specified in subsection C below, if payment occurs after the due date.~~

~~B.In addition to the annual fee, each registrant shall pay a fee per client for whom lobbying is undertaken for compensation in excess of five hundred dollars ($500.00) as set forth in the schedule of fees. The fees for clients as of the date of initial registration shall be submitted with the registration. The fees for subsequent clients will be due and submitted at the time of submission of the relevant quarterly report as required in this Chapter. Lobbyists for umbrella organizations or associations such as a trade association will not be assessed a~~

~~client fee based solely on compensation derived from fees paid by members based on their membership with such organization or association.~~

~~C.A fine as set forth in the schedule of fees for delinquent fees, up to a maximum of 100% of the unpaid fees, will be assessed until the registration fees and the fines are paid in full.~~

~~D.A fine for delinquent quarterly reports as set forth in the schedule of fees will be assessed until the quarterly reports are filed with the City Clerk.~~

A. All fees and interest referenced in this Section are set forth in the schedule of fees established by resolution of the City Council.

B. All lobbyists are required to register, including Expenditure Lobbyists or Contract Lobbyists that work for an In-House Lobbyist, and pay an annual registration fee at the time of registration or registration renewal. If the lobbyist registers for the first time on or after June 30 of a given year, the lobbyist may pay a reduced registration fee. If the fee is not paid at the time of registration or registration renewal, a late registration fee will be assessed on a daily basis until the registration fee is paid in full. In no event will the late registration fee exceed one hundred percent (100%) of the unpaid registration fee.

C. Every Contract Lobbyist must pay a fee for each client for whom lobbying activity is undertaken for compensation and the compensation is greater than five hundred dollars ($500) per client. The fee for each client must be paid on an annual basis with the registration or registration renewal. After the registration or registration renewal, the fee for any new client must be paid with the quarterly report immediately following the quarter when the lobbyist is compensated and the compensation is greater than five hundred dollars ($500). (Lobbyists for organizations representing a group of organizations or associations such as trade associations will not be assessed a fee for each client if the compensation to the

lobbyist is derived from fees or dues members pay for their membership in the organization or association.)

D. Any lobbyist who fails to file a quarterly report or files a quarterly report after the report is due under Section 12.12.430 will be assessed a late filing fee. Interest calculated on a monthly basis or a fraction thereof will accrue on the late filing fee from the date the fee is due to the date the fee is paid. If more than one fee is due, interest will accrue separately upon each fee.

E. Failure to pay any fees and interest assessed in this Section may be enforced as a personal obligation of the lobbyist.

Part 5

~~Enforcement and Prohibitions~~Prohibited Activities

~~12.12.500 Noncompliance - Order to Show Cause~~

~~A. Upon the written request of any City Official, the City Clerk shall issue an order to show cause to any unregistered person.~~

~~B. Such order shall specify a time and place where such person shall appear to provide evidence satisfactory to the Elections Commission that he or she has complied with the registration requirement or is exempt from registration.~~

~~C. If the Elections Commission determines that such person is subject to registration and he or she fails to register within seven (7) days of that determination, such person shall be barred from appearing before City Council or the Redevelopment Agency Board except at a public hearing on his or her own behalf or on oral petition. Such debarment shall be in effect for three (3) months from the date of such determination or until registration, whichever is later.~~

~~12.12.510.~~ 12.12.500 ~~Prohibitions~~Prohibited Activities

~~It shall be unlawful for any lobbyist to~~No person engaged in lobbying activity may commit any ~~one~~ of the following acts:

A. Engage in any activity on behalf of a client ~~as a lobbyist~~ or accept compensation ~~as a lobbyist~~for lobbying activity unless such lobbyist is registered and has filed the information required by this Chapter.

B. Do~~ing~~ any act ~~with the express purpose and intent of~~to place~~ing~~ any City ~~o~~Official or immediate family member of a City ~~o~~Official under his or her personal or financial obligation~~, such as a loan or similar obligation, to such lobbyist~~.

C. Intentionally deceive or attempt to deceive a City ~~o~~Official as to any material fact which is pertinent to any pending or proposed legislative or administrative action.

D. Contact any public official in the name of any non-existent person or in the name of any existing person~~,~~ except with the consent of such existing person.

E. Represent, either directly or indirectly, orally or in writing that ~~the lobbyist~~he or she can control or obtain the vote or action of any City ~~o~~Official.

F. Perform services for a client on a matter including any legislative action or administrative action for a period of ~~one (1) year~~two (2) years after which the lobbyist had performed services on such matter as a consultant for the City of San Jose or Redevelopment Agency.

G. Contact any City or Agency employee, or members of an evaluation team or panel for a City or Redevelopment Agency Request for Proposal or Request for Qualifications concerning a City or Redevelopment Agency Request for Proposal or Request for Qualifications, other than a City or Agency designated contact

person, during the period of time from the release to prospective proposers of the Request for Proposal or Request for Qualification until a recommendation is made public by the City or Agency.

~~12.12.520 Lobbyist Recommendation Prohibition~~

~~City Officials are prohibited from suggesting, advising or recommending that a person obtain the services of a lobbyist or recommend the name of a particular lobbyist to facilitate favorable legislative or administrative action by the City or Redevelopment Agency with regard to such person's matter pending before the City or Redevelopment Agency.~~

~~12.12.530 Compliance and Training~~

~~A. The City Clerk shall oversee compliance with this Chapter, including the creation of all forms and explanatory materials.~~

~~B. A training workshop shall be established for elected City officers and lobbyists on City ethics ordinances and a code of ethics for lobbyists. The City Clerk shall establish a program of required attendance on a regular basis not less than once every three (3) years. Training workshops shall be provided to newly elected City officials.~~

~~12.12.540 Enforcement~~

~~A. The City Attorney may investigate complaints of violations of this Chapter. The City Attorney may seek judicial or injunctive relief in the courts to enjoin violations of or to compel compliance with the provisions of this Chapter.~~

~~B. Any person may file a complaint with the City Clerk alleging a violation of this Chapter with the Elections Commission.~~

~~C. The City Attorney or the City Clerk may put lobbyists on notice of a potential violation of the requirements of this Chapter, whether or not a complaint is filed with the Elections Commission.~~

~~12.12.550~~ Penalties

~~In addition to the fines which may be assessed pursuant to Section 12.12.440, violations of this Chapter may result in civil penalties of up to five thousand dollars ($5,000) for each violation or the amount of the compensation received for the lobbying activity, whichever is greater may be assessed by the Elections Commission or a court of law.~~

Part 6
Compliance, Training, and Enforcement

~~12.12.530~~ 12.12.600 Compliance and Training

A. The City Clerk ~~shall~~ oversees compliance with this Chapter, including the creation of all forms and explanatory materials.

B. A training workshop ~~shall~~ will be established for elected City officers and lobbyists on City ethics ordinances and a code of ethics for lobbyists. The City Clerk ~~shall~~ establishes a program of required attendance on a regular basis not less than once every three (3) years. Training workshops ~~shall~~ will be provided to newly elected City ~~o~~Officials.

~~12.12.540~~ 12.12.610 Enforcement

A. The City Attorney may investigate complaints of violations of this Chapter. The City Attorney may seek judicial or injunctive relief in the courts to enjoin violations of or to compel compliance with the provisions of this Chapter.

B. Any person may file a complaint with the City Clerk alleging a violation of this Chapter with the Elections Commission.

C. The City Attorney or the City Clerk may put lobbyists on notice of a potential violation of the requirements of this Chapter, whether or not a complaint is filed with the Elections Commission.

~~12.12.500~~12.12.620 Noncompliance - Order to Show Cause

A. Upon the written request of any City Official, the City Clerk ~~shall~~will issue an order to show cause to any unregistered person.

B. Such order ~~shall~~must specify a time and place where such person ~~shall~~must appear to provide evidence satisfactory to the Elections Commission that he or she has complied with the registration requirement or is exempt from registration.

C. If the Elections Commission determines that such person is subject to registration and he or she fails to register within seven (7) days of that determination, such person ~~shall~~will be barred from appearing before City Council or the Redevelopment Agency Board except at a public hearing on his or her own behalf or on oral petition. Such debarment ~~shall~~will be in effect for three (3) months from the date of such determination or until registration, whichever is later.

~~12.12.550~~ 12.12.630 Penalties

~~In addition to the fines which may be assessed pursuant to Section 12.12.440,~~ Each violation~~s~~ of this Chapter may result in civil penalties of up to five thousand dollars ($5,000) ~~for each violation~~ or the amount of the compensation received for the lobbying

activity, whichever is greater may be assessed by the Elections Commission or a court of law.

Part 7
Prohibition for City Officials

~~12.12.520~~ 12.12. 700 ~~Lobbyist Recommendation Prohibition~~ Prohibition for City Officials

City Officials are prohibited from suggesting, advising or recommending that a person obtain the services of a lobbyist or recommend the name of a particular lobbyist to facilitate favorable legislative or administrative action by the City or Redevelopment Agency with regard to such person's matter pending before the City or Redevelopment Agency.

Part 8
Disclosure of Contacts with Registered Lobbyists by Elected Officials

12.12.800 Disclosure of Contacts with Registered Lobbyists

Before taking any legislative or administrative action, the Mayor, each Member of the City Council, the Chair and each member of the San José Redevelopment Agency Board of Directors must disclose all contacts with a registered lobbyist about the action.

12.12.810 Disclosure Notice

Contacts with a registered lobbyist must be disclosed by memorandum addressed to the City Council or Redevelopment Agency Board with a copy to the City Clerk or Secretary of the Agency Board in advance of a meeting where a legislative action or administrative action is pending or scheduled to be discussed, or by oral disclosure at the meeting before discussion of the action on the meeting agenda.

12.12.820 Disclosure Notice Content

The disclosure notice must include the following:

A. Name of registered lobbyist(s);

B. Date(s) of each contact;

C. Identification and description of the agenda item; and

D. Summary of the substance of the each contact.

PASSED FOR PUBLICATION of title this _____ day of _____, 2007, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk