

**DRAFT LANGUAGE
FOR AMENDED BEHESTED PAYMENTS DISCLOSURE REPORTING**

Proposed for Inclusion in Ethics Commission's 2017 Anti-Corruption and Accountability Ordinance
11/3/2017

CHAPTER 6: BEHESTED PAYMENT REPORTING

SEC. 3.600. DEFINITIONS.

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

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

"At the behest of" means under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of.

"Behested Payment" shall mean a payment or series of payments that is made at the behest of an official, a committee controlled by an official, or an agent thereof, and that is made principally for a legislative, governmental, or charitable purpose, as such purposes are defined under California Government Code Section 81000, *et seq.*

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

"Official" shall mean any individual holding City elective office, as such term is defined in Article I, Chapter One, Section 1.104 of this Code, or any member of a board or commission who is required to file a Statement of Economic Interest, including all persons listed in Campaign and Governmental Conduct Code Section 3.1-103(a)(I).

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

SEC. 3.610. REQUIRED FILING OF BEHESTED PAYMENT REPORTS.

(a) **FILING REQUIREMENT.** If a behested payment totaling \$1,000 or more is made at the behest of an official, the official shall file a Behested Payment Report with the Ethics Commission within 30 days of the payment.

(b) **NOTICE.** If an official solicits or otherwise requests that any person make a behested payment, the official or his agent must notify that person that, if the person makes any behested payment in response to the solicitation or request, the person will be subject to the disclosure and notice requirements in Section 3.611 of this Chapter.

(c) **WEBSITE POSTING.** The Ethics Commission shall make available through its website all Behested Payment Reports it receives from officials.

SEC. 3.611. FILING BY DONORS

(a) If a person who makes a behested payment totaling \$1,000 or more has or recently had a matter pending before the official who requests the behested payment, the person must disclose, within 30 days of the payment and in such form as may be prescribed by the Commission, what the matter is and what outcome the person is or was seeking.

(b) Any person who makes a behested payment must notify the recipient of such behested payment, at the time the payment is made, that the recipient is subject to the disclosure requirements in section 3.612 and 3.613 of this Chapter.

SEC. 3.612. FILING BY BEHESTED PAYMENT RECIPIENTS

(a) Any person who receives a behested payment totaling \$1,000 or more must disclose, within 30 days of receipt of the payment and in such form as may be prescribed by the Commission, the following:

1. Whether the official who requested that the behested payment be made, or such official's family member, staff member, or campaign staff member, is an officer, director, board member, staff member or authorized agent for the recipient of the behested payment; and
2. Whether the recipient of the behested payment has hosted or supported an event or created or distributed literature featuring the official within the last twelve months; and
3. Whether the recipient of the behested payment will host or support an event or create or distribute literature featuring the official during the twelve months following the date of the payment.

(b) Any recipient of a behested payment who does not receive the notice required under Section 3.611 of this Chapter will not be subject to penalties under Section 3.630 of this Chapter for failure to file pursuant to Subsection (a), unless it is clear from the circumstances that the recipient had actual knowledge that the payment was made at the behest of an official.

SEC. 3.613. MAJOR BEHESTED PAYMENT RECIPIENTS

(a) Any person who receives, during any calendar year, behested payments totaling \$100,000 or more that were made at the behest of any single official must, in such form as may be prescribed by the Commission and within 30 days of the receipt of the behested payment that makes the total amount of behested payments received by the person at the behest of the official, do the following:

1. report expenditures made by the person that were funded in whole or in part by the behested payments;
2. if the person is an organization, report the name, address, occupation, and employer of the organization's five largest contributors at the time the organization received the behested payment that caused the total amount of behested payments made to the organization at the official's behest to reach \$100,000; and
3. disclose whether the person has paid any other person to communicate with an official in an attempt to influence any matter pending before the City and, if so, what City matters it sought to influence and the outcomes sought.

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

(c) Any recipient of a behested payment who does not receive any notice required under Section 3.611 of this Chapter will not be subject to penalties under Section 3.630 of this Chapter for failure to file pursuant to Subsection (a), unless it is clear from the circumstances that the recipient had actual knowledge that the payments were made at the behest of an official.

SEC. 3.620. REGULATIONS.

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

(b) The Ethics Commission may, by regulation, require parties to electronically submit any information required to fulfill their obligations under this Chapter 6.

SEC. 3.630. PENALTIES.

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