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LEE ANN PELHAM
EXECUTIVE DIRECTOR

Date: March 11, 2019
To: Members of the Ethics Commission
From: Pat Ford, Senior Policy Analyst
Re: AGENDA ITEM 5 - Staff Policy Report

Summary: This memorandum provides updates on ongoing policy projects, pending local legislation, and other operational projects involving the Policy Division to assist the Commission, the public, and Staff in engaging with the Commission's policy work.

Action Requested: No action is required by the Commission, as this item is for informational purposes only.

This memo provides an operational update on the Commission's policy projects. Section I provides status reports about ongoing policy projects that the Commission has identified as policy priorities as part of its Policy Prioritization Plan.

Section II provides information about ongoing operations and projects that, while not a part of the Commission's Policy Prioritization Plan, regularly require the attention and resources of the Policy Division.

I. Policy Prioritization Plan – Status of Ongoing Initiatives

The following sections describe the status of the Commission's current policy priorities.

A. Review of the City's Public Financing System

As part of the first phase of the Commission's review of the City's public campaign financing program, Policy presented draft regulations and a draft ordinance at the November 2018 meeting aimed at making the program more effective and workable. The Commission approved the regulations at the November meeting and approved an amended version of the ordinance at its regularly scheduled February meeting. In collaboration with the City Attorney's office, Staff finalized a version of the approved ordinance. Supervisor Mar agreed to introduce the ordinance before the Board at its March 12th meeting. Staff is also in communication with other members of the Board to provide information about the ordinance and the Commission's review process that produced it and to encourage support of the ordinance. Policy is also continuing to assist in the implementation of newly operative regulations concerning public financing, collaborating internally with auditors to examine

Qualifying Requests and Matching Requests procedures, and collaborating with the Audits Division and the Engagement and Compliance Division to update and improve the written resources that are available to program participants.

Staff is now engaged in the second phase of the public financing review process. The second phase examines more fundamental components of the program, including the levels of funding available to candidates, the matching funds ratios, qualification requirements, and the overall format of the program (which is currently a hybrid model, involving an initial grant followed by matching funds). Policy recently conducted two interested persons meetings to solicit public input on this phase of the review. The first meeting was held on March 4th and the second on March 8th. Staff will be reviewing these comments and incorporating them into the review process. Staff is also working with Supervisor Gordon Mar's office, as Supervisor Mar has expressed interest in being a part of the review project. Staff anticipates that the second phase of the review will culminate in an ordinance being proposed to the Commission.

This phase of the review also includes production of the public financing report required by Campaign and Governmental Conduct Code section 1.156 after each election in which candidates received public financing. This report appears under Agenda Item 4 and will be transmitted to the Mayor and the Board of Supervisors.

B. Review of Campaign Finance Reform Ordinance Regulations

This project seeks to update and improve existing regulations and develop regulations to clarify new provisions of the Code created by the Anti-Corruption and Accountability Ordinance. Policy presented a list of recommendations as to how the regulations could be improved at the Commission's December meeting. Due to a focus on the public financing review project, Policy plans to draft regulations embodying these recommendations for presentation for the Commission's consideration at the regularly scheduled April 2018 meeting.

C. Paid Online Political Communications

The Commission has identified research and a possible legislative proposal regarding paid online political communications as its third policy priority. As reported at the Commission's last meeting, Staff have been tracking the development of this nationwide issue over several months, engaging with subject matter experts and reviewing the developing field of literature on this topic. Work on this priority project over the next quarter will include developing additional content for the Commission's website as an effective way to help inform the public about the law regarding these advertisements. Policy staff will pursue this in conjunction with the Engagement and Compliance Division.

II. Miscellaneous Policy Administrative Projects

A. Pending San Francisco Legislation

1. Initiative Ordinance – “Sunlight on Dark Money Initiative” (Mar)

On March 1st, five members of the Board of Supervisors submitted an initiative ordinance to the Department of Elections for placement on the November 2019 ballot. An initiative that is signed by at least four supervisors may be placed directly onto the ballot without any vote by the Board or a

committee thereof. Supervisor Gordon Mar is listed as the lead proponent of the initiative. If approved by the voters, this ordinance would:

- Expand the prohibition on corporations contributing to candidate committees to also cover contributions by limited liability partnerships (LLPs) and all limited liability corporations (LLCs) (currently, only certain LLCs are prohibited from contributing to candidates);
- Prohibit persons with a financial interest in certain land use matters from contributing to any candidate who is running for Mayor, Supervisor, or City Attorney or any candidate who currently holds one of those offices;
- Require departments that review land use matters to notify all persons with a financial interest in certain land use matters of the contribution prohibition;
- Expand current disclaimer rules to require certain committees to list the names of up to fifteen contributors (current law only requires three contributors to be listed);
- Increase the required font size for certain disclaimers from 12 point to 14 point and require that disclaimers in audio and video advertisements occur at the beginning of the advertisement rather than the end; and
- Create an additional report for independent expenditures aside from the FPPC Form 496 (the 496 is due within 24 hours of making an independent expenditure, and the new report would be due within two to five days, depending on the timing of the expenditure in relation to the election date).

Although this initiative ordinance does not require a vote of the Board of Supervisors, it will be the subject of a hearing before the election. Staff is reviewing the implications of these potential changes to City law and will be submitting written comment for the hearing.

2. Legislation Affecting the Public Financing Program (No File Number) (Mar)

At the February 12th meeting of the Board of Supervisors, Supervisor Mar announced that he would introduce an ordinance making amendments to the City's public financing program. Supervisor Mar has not yet introduced such an ordinance. Staff has met with members of Supervisor Mar's staff to discuss the Supervisor's proposals. Supervisor Mar has agreed to introduce the ordinance approved by the Commission at its February meeting, and Supervisor Mar's office is engaging with Staff in the second phase of the review of the public financing program.

B. Trustee Election Disclosures Implementation

Policy is collaborating with other divisions to operationalize systems and processes for financial disclosures in certain trustee elections. In 2018, the Board of Supervisors and the Mayor approved amendments to the Administrative Code to institute financial disclosure reporting by candidates and third parties making expenditures in elections for members of the Retirement Board, Health Service Board, and Retiree Health Care Trust Fund Board. Previously, these races involved no reporting. Staff are working to implement these changes to the law, including designating forms for filers to use, developing

educational materials, and designing training programs. Policy is advising on the legal requirements of the new code sections in order to inform these processes.

C. Form 700 E-Filing For All

Policy is assisting other divisions in converting all Form 700 filing to electronic format. Currently, only elected and appointed officials and department heads file the Form 700 in electronic format, and City employees file in paper form with their respective departments. Staff will likely bring a regulation to the Commission require e-filing by all filers and will engage with bargaining units in regards to this change in filing requirements.

D. ACAO Implementation

Policy is collaborating with all other divisions to implement the provisions of the Anti-Corruption and Accountability Ordinance (ACAO) that became operative on January 1, 2019. This process includes new disclosure forms, updates to the Commission's website and candidate guides, and development of regulations to provide more clarity about the new law.