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LEEANN PELHAM
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Date: November 9, 2020

To: Members of the Ethics Commission

From: Pat Ford, Senior Policy and Legislative Affairs Counsel

Re: **AGENDA ITEM 7 – Discussion and possible action on monthly Staff Policy Report, including consideration of policy prioritization plan.**

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. The Policy Prioritization Plan is included as Attachment 1.

Action Requested: That the Commission review the updates provided in this report and approve Staff's proposed ongoing Policy Prioritization Plan.

Section I of this memorandum provides status reports about ongoing policy projects that the Commission has identified as policy priorities as part of its Policy Prioritization Plan (PPP). Section II provides information about ongoing operations and projects that, while not a part of the Commission's Policy Prioritization Plan, regularly require ongoing attention and resources of the Policy Division.

I. Policy Prioritization Plan – Summary of Current Projects and Proposed Projects

This section describes the two policy projects that the Commission identified as priorities at its September 2020 meeting.

A. Review of Conflict of Interest Code and Regulations

At its September 9, 2020 meeting, the Commission identified a review of the City's conflict-of-interest rules as a policy priority. This review is particularly timely in light of the ongoing investigations into alleged corrupt activity by City officials and contractors. The project will involve the review of various ethics rules, including those regarding gifts, behested payments, recusals, incompatible activities, and post-employment restrictions.

Staff is undertaking this project in at least two phases. The first phase focusses on behested payments, which are payments made by someone at the request of a public official or employee, usually to a nonprofit organization. Staff hosted two groups of stakeholders at interested persons meetings held on October 13th and 15th. Staff has been internalizing the guidance and feedback received during those meetings,

performing research into the ethical issues surrounding behested payments, and working with Supervisor Haney's office on draft legislation regarding behested payments. Staff's findings and recommendations for this phase of the project are set forth as Agenda Item 6. Subject to the Commission's discussion and action on Agenda Item 6, Staff will continue to work with Supervisor Haney's office on the legislation.

After Phase I of the project is complete, Staff will initiate a second phase of the project, which will focus on gift rules. State and local law restricts gifts made to City officials and employees. The ongoing corruption investigations have brought potential issues with these gift laws to light. Staff will follow the same process as Phase I: Staff will initiate interested persons meetings to seek guidance and feedback from stakeholders, Staff will conduct research into ethical issues involved with gifts, and Staff will draft a report containing Staff's findings and recommendations following this review.

Subject to further developments in the corruption investigations, including additional reports issued by the Controller's office, further developments in the criminal cases against former City officials and contractors, and any information learned through media reports, Staff may initiate additional phases of the project to study and address emerging issues.

B. Biennial Review of City's Designated Employee Form 700 Filers

As described in the October policy report, Staff is assisting the Clerk of the Board of Supervisors, the City Attorney, and the Department of Human Resources in the City's biennial review of the list of City employees who must file the Form 700 Statement of Economic Interests. State law requires that this review be done every two years by the "code reviewing body," which in San Francisco is the Bard of Supervisors.¹ Each department separately reviews its list of filers and submits changes to the Clerk of the Board.

At this stage, the City Attorney's office has drafted the ordinance that combines the various changes to departments' lists of Form 700 filers. The ordinance was introduced by President Yee and is currently on a 30-day hold. The Department of Human Resources Employee Relations Division has scheduled a meet-and-confer session for the ordinance to be held Thursday, November 12th at 2pm. Staff will participate in the meet-and-confer process to provide subject matter expertise about the Form 700 filing.

II. Miscellaneous Policy Administrative Projects

Policy has been engaged on a number of items during the last month that do not fall within the policy projects identified under the Policy Prioritization Plan. This work includes: research and advice to Staff and the regulated community regarding the laws administered by the Commission, legislative affairs, and media relations.

¹ Cal. Gov. Code § 87306(b). *See also* Campaign & Gov. Conduct Code § 3.1-100 et seq. (containing lists of designated City positions that must file the Form 700).

In particular, Policy provided election-related assistance to fellow Staff in the final weeks of the election period. This included advice regarding campaign finance and disclaimer rules and administration of the public financing program.

Policy Prioritization Plan (PPP)

Active Policy Projects

Priority	Project	Impact	Urgency/ Timeliness	Project Timeframe
1	<p>Conflict of Interest Code and Regulations Review (Art III, Ch II):</p> <p>This project entails a review of all relevant codes and regulations and identify potential changes to improve program outcomes amidst multiple ongoing corruption investigations in the City. Conflict-of-interest rules, including gift and behested payment rules, that are located in other chapters of the Code will also be examined.</p> <p>Phase I: Behested Payments Phase II: Gifts</p>	9	10	12 Months
2	<p>Biennial Conflict of Interest Code Review:</p> <p>This project entails collaboration with the Clerk of the Board, the City Attorney, and the Department of Human Resources to lead the City's biennial review of designated employee Form 700 filers.</p>	7	9	6-9 Months

Potential Policy Projects

Project	Impact	Urgency/ Timeliness	Staff Commitment & Project Timeframe
<p>Permit Consultant Program Review (Art III, Ch IV):</p> <p>This project would entail a review of relevant codes and regulations pertaining to the regulation of Permit Consultants (Permit Expeditors) and identify potential changes to improve program outcomes.</p>	5	6	3-6 Months
<p>Lobbying Code and Regulations Review (Art II, Ch I):</p> <p>This project would entail a review of relevant codes and regulations pertaining to the regulation of lobbyists (including contact lobbyists and expenditure lobbyists) and identify potential changes to improve program outcomes.</p>	6	5	6-9 Months

Policy Prioritization Plan (PPP)

<p>Online Political Advertisement Project</p> <p>This project would explore issues related to online political advertising and identify any areas where legislative, regulatory, or programmatic improvements are needed.</p>	5	4	6-9 Months
<p>Campaign Consultant Program Review (Art I, Ch V):</p> <p>This project would entail a review of relevant codes and regulations pertaining to the regulation of campaign consultants and identify potential changes to improve program outcomes.</p>	3	5	3-6 Months
<p>Major Developer Program Review (Art III, Ch V):</p> <p>This project would entail a review of relevant codes and regulations pertaining to the regulation of certain payments by major developers and identify potential changes to improve program outcomes.</p>	4	3	3-6 Months
<p>Slate Mailer Project</p> <p>This project would explore the benefits, costs, feasibility, and legality of ending slate mailer disclosure filings with the Department of Elections and instituting slate mailer disclosure filings with the Ethics Commission.</p>	3	3	9-12 Months