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Date: February 8, 2021

To: Members of the Ethics Commission

From: Pat Ford, Senior Policy and Legislative Affairs Counsel

Re: **AGENDA ITEM 10 – Discussion of 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: That the Commission review the updates provided in this report.

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

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.

As discussed in prior Policy Reports, 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.

At its November 2020 meeting, the Commission unanimously approved staff's recommendation to amend the Campaign and Governmental Conduct Code to prohibit all City officers and designated employees (those who file the Form 700) from soliciting

behested payments from interested parties. This recommendation is similar to, but goes further than, legislation sponsored by Supervisor Matt Haney (File No. 201132).

After the Commission's November meeting, Staff transmitted a letter to the Clerk of the Board requesting that the Commission's vote and the Staff report on behested payments be added to the record for File No. 201132. Since that time, Staff has not been able to get confirmation from Supervisor Haney's office as to when the Supervisor will request that the ordinance be heard at the Rules Committee nor as to whether the changes necessary to bring the ordinance into line with the Commission's full recommendation will be made. Staff will continue to advocate for both steps on the part of Supervisor Haney, but may soon explore whether an alternate sponsor is needed to move the legislation forward.

After Phase I of the project is complete, and subject to the status of hiring an 1822 Policy Analyst as described in Section II below, Staff will initiate a second phase of the project, which will focus on gift rules. State and local laws restrict 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 previous Policy Reports, State law requires that every two years the City review the list of City employees who must file the Form 700 Statement of Economic Interests.¹ Each department separately reviews its list of filers and submits changes for inclusion in a single ordinance to be considered by the Board of Supervisors.

Staff participated in a meet-and-confer session organized by the Department of Human Resources Employee Relations Division on November 12th. The Employee Relations Division continued to respond to questions and concerns from employee bargaining units after the meeting, and the meet-and-confer process formally ended on December 8th. The Board of Supervisors approved the ordinance on January 12th, and Mayor signed it on January 22nd. The changes contained in the ordinance will become operative on February 21st. Staff will assist department filing officers as needed to ensure that they are complying with the revised filer lists.

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

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).

advice to Staff and the regulated community regarding the laws administered by the Commission, legislative affairs, and media relations.

In recent weeks, much of the Policy Division's time has been devoted to the hiring process for the 1822 Policy Analyst. The sooner the Policy analyst begins work, the sooner this person can be trained and begin work on the second phase of the conflict-of-interest project. Staff will provide more updates on this process at the Commission's next meeting.