



# San Francisco Ethics Commission

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Date: December 6, 2021

To: Members of the Ethics Commission

From: Pat Ford, Senior Policy and Legislative Affairs Counsel  
Michael Canning, Policy Analyst

Re: **AGENDA ITEM 6 – Discussion and possible action on proposal regarding a possible June 2022 ballot measure to prohibit certain City officials from soliciting behested payments from interested parties.**

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## Summary

In November 2020, the Commission unanimously approved a recommendation to prohibit all City officers and designated employees from soliciting behested payments from interested parties. The recommendation was detailed in Staff's Phase I report as part of the Commission's conflict of interest review project. Since that time, the Board of Supervisors has considered, but not passed, an ordinance to enact this recommendation. The draft ballot measure attached as Attachment 2 largely mirrors the ordinance that has been considered by the Board. The chart attached as Attachment 1 summarizes the provisions of the draft ballot measure.

## Action Requested

Staff recommends that the Commission vote to place the draft measure on the ballot for the June 7, 2022 election.

### I. Background

In January of 2020, the U.S. Department of Justice announced a federal corruption case against Mohammed Nuru, then the Director of the Department of Public Works, and Nick Bovis, a local businessman.<sup>1</sup> Since that time, the Department of Justice has brought additional charges against several City officers, employees, and contractors.

A recurring theme in these charges has been the alleged use of behested payments in ways that give rise to serious ethical concerns, including pay-to-play and bribery. In particular, Mohammed Nuru allegedly solicited payments from Recology executives to nonprofits with the intent that the payments would

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<sup>1</sup> U.S. v. Mohammed Colin Nuru and Nick James Bovis, Case No. 3:20-cr-00028, Criminal Complaint and Affidavit of FBI Special Agent James A. Folger in Support of Criminal Complaint (N.D. Cal. 2020).

influence his official actions.<sup>2</sup> The payments were made through various nonprofits that Nuru either controlled or could otherwise could direct payments from, and much of the money was allegedly used in ways that conferred personal benefits on Nuru and other City officials, including expensive DPW holiday parties.<sup>3</sup> These behested payments are problematic because Recology is a City contractor doing business with the Department of Public Works and because the Director of Public Works plays a major role in the process for setting garbage collection rates that Recology can charge City ratepayers. This creates a significant danger of pay-to-play or outright bribery when an official solicits a behested payment from a person who has official matters pending before that official. This is the same reason that gifts and political contributions are restricted in such situations.

Nuru also allegedly discussed behested payments as a method for bribing an Airport Commissioner for favorable treatment on a City contract bid: Nuru was recorded saying to the individuals seeking the contract “[w]e’ll let you know which groups she wants” (to receive the behested payments).<sup>4</sup> Similarly, the Department of Justice alleges that senior building inspector Bernard Curran provided favorable treatment to clients of permit expeditor Rodrigo Santos because of donations that were made to Curran’s preferred nonprofit.<sup>5</sup>

In addition, Staff conducted independent research on behested payments in San Francisco and identified instances in which behested payments created clear ethical problems. Staff reviewed a set of behested payment filings (FPPC Form 803) filed by then-District 2 Supervisor Mark Farrell. During the period reviewed by Staff, April 2015 to June 2018, Farrell behested \$882,500 to Parks Alliance.<sup>6</sup> Staff found four separate instances in which Farrell solicited behested payments from lobbyists and their clients on the same day or sometime after a lobbying contact that sought to influence Farrell’s actions on City legislation. Because of these attempts to influence Farrell, the lobbyists and their clients were restricted sources, and Farrell was prohibited from accepting gifts from them. However, City law does not expressly prohibit officials from asking restricted sources to make behested payments, creating a loophole in City ethics laws that creates dangers for pay-to-play and bribery.

Behested payments have been widely reported to give rise to ethics problems in other jurisdictions as well. As discussed in the Phase I report, behested payments were an alleged tool used by officials in Los Angeles who were charged by the Department of Justice with crimes of public corruption. At least one

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<sup>2</sup> *U.S. v. John Francis Porter*, Case No. 3-21-mju-70609 MAG, Criminal Complaint and Affidavit of Special Agent with IRS Criminal Investigations Mark Twitchell. The federal complaints identify these payments as bribes because they were made with the intent to influence the official acts of a government official. *See also U.S. v. Paul Fredrick Giusti*, Case No. 3-20-71664 MAG, Criminal Complaint and Affidavit of IRS Special Agent Mark Twitchell in Support of Criminal Complaint (N.D. Cal. 2020) at ¶ 13.

<sup>3</sup> *See* SAN FRANCISCO EXAMINER, Joe Fitzgerald Rodriguez, [Lefty O’Doul’s charity used city contractor donations to pay for Public Works party](#), Feb. 5, 2020.

<sup>4</sup> *U.S. v. Mohammed Colin Nuru and Nick James Bovis*, Case No. 3 20 70028, Criminal Complaint and Affidavit of FBI Special Agent James A. Folger in Support of Criminal Complaint (N.D. Cal. 2020) at ¶ 62.

<sup>5</sup> DEPARTMENT OF JUSTICE, U.S. ATTORNEY’S OFFICE, NORTHERN DISTRICT OF CALIFORNIA, [Former San Francisco Senior Building Inspector And Former San Francisco Building Inspection Commission President Charged With Building-Permit Fraud](#), August 20, 2020.

<sup>6</sup> *See* Chart 1, attached to [Phase I Report: Behested Payments](#), a spreadsheet created by Ethics Commission Staff using data from Mark Farrell’s Form 803 disclosures during the review period.

California state legislator, former State Senator Ron Calderon, has been convicted on corruption charges that involved the use of behested payments.

Additionally, it is important to note that the Controller recommended in June of 2020 that officials be prohibited from soliciting behested payments from interested parties. In its second deliverable as part of its public integrity review project, the Controller found that behested payments create ethical dangers and should be prohibited when the person being solicited has a matter before the official.<sup>7</sup>

## **II. Behested Payment Legislation**

In September of 2020, Supervisor Matt Haney introduced File 201132 to create a rule prohibiting officials from soliciting behested payments in certain situations. After the Commission unanimously recommended a similar but stronger rule in November 2020, Staff began engaging with Supervisor Haney's office to encourage amendments to strengthen the legislation and bring it more into line with the Commission's recommendation. The process resulted in some positive amendments, and a new version of the legislation was substituted in March 2021. However, the process stalled after that time, and the legislation was not heard at Committee until September of this year.

On September 13<sup>th</sup>, File 201132 was first heard at the Rules Committee, which is chaired by Supervisor Aaron Peskin, a cosponsor of the legislation. The legislation was heard at Rule four times between September 13<sup>th</sup> and October 18<sup>th</sup>. Staff engaged with Supervisor Peskin's office, and Supervisor Peskin introduced several amendments to strengthen the legislation, including an amendment to apply the rule to elected officials, which had previously been lacking in the ordinance. Supervisor Peskin's office also continued to engage with stakeholders, including nonprofit representatives and City departments. Many of the amendments he introduced respond to concerns of stakeholders.

However, on October 18<sup>th</sup> the legislation was continued to the call of the chair, meaning that there was no certain date for the legislation to be heard again at committee. By late November, no action had been taken on the legislation. At this time, Staff discussed with both Supervisors Haney and Peskin the future prospects of the legislation and how to move it forward, including the possibility of the Commission placing the legislation on the ballot as a ballot measure. Since that time, the Rules Committee has heard the item twice more, once on November 29<sup>th</sup> and once on December 6<sup>th</sup>, with additional amendments being made at both meetings.

## **III. Recommendation**

At this time, Staff recommends that the Commission vote to place the behested payment legislation on the June 7, 2022 ballot as a ballot measure. The Commission has the power under the City Charter to place legislation directly on the ballot through a vote of four or more commissioners.<sup>8</sup> Staff believes that this action will result in the behested payment legislation being enacted in the most expeditious and effective manner.

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<sup>7</sup> PUBLIC INTEGRITY REVIEW, [PRELIMINARY ASSESSMENT: GIFTS TO DEPARTMENTS THROUGH NON-CITY ORGANIZATIONS LACK TRANSPARENCY AND CREATE "PAY-TO-PLAY" RISK](#), City and County of San Francisco, Office of the Controller (June 29, 2020).

<sup>8</sup> San Francisco Charter § 15.102.

First, the recommendations should be enacted expeditiously, and a June 2022 vote may be the soonest that this could happen. File 201132 was first introduced in September of 2020, and fourteen months later has still not been passed into law. The need for this legislation has been known for over a year, with the Controller's recommendation in June 2020 and the Commission's recommendation in November 2020. The two-year anniversary of the federal corruption probe becoming public will occur in January, and it is important to demonstrate clear progress on known ethics issues at this time. This is critical to creating a positive tone at the top when it comes to ethics and beginning to restore public trust in City government.

Second, if the behested payment legislation fails to pass the Board of Supervisors or is vetoed by the mayor, a ballot initiative is the only alternative for the Commission to seek enactment of the recommendations. It is not clear at this time whether the legislation in its current form will pass the Board or, if the legislation does not garner a veto-proof majority from the Board, whether the Mayor will veto it. The Commission's ballot measure power was created for exactly this purpose: when needed legislation cannot be passed legislatively.

Third, File 201132 has benefitted from continued stakeholder engagement and refinement during the Board's process, and this progress is reflected in the version that Staff recommends to the Commission. The draft ballot measure attached as Attachment 2 incorporates the amendments made by Supervisor Peskin, which serve the central purposes of the Commission's recommendation while also addressing concerns that have been raised. These improvements will not be lost by placing the legislation on the ballot.

Finally, the Commission has the power to withdraw a measure from the ballot after it has voted to place it there. If the Board of Supervisors and Mayor were to subsequently enact the legislation in a form that the Commission approved of, the Commission could vote to withdraw the measure. The Commission would have until early March to withdraw the measure. Thus, placing the legislation on the ballot would not foreclose the Board from continuing to act on the legislation. It would, however, establish a clear path toward it being enacted, if not by the Board, then by the voters.

# ATTACHMENT 1



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## Attachment 1: Summary of Draft Measure Provisions

Section Number	Summary	Details
<b>Report Recommendations</b>		
3.203	Creates definition of <i>affiliate</i> .	This concept mirrors the same terms as it is used in the campaign finance context and is important to apply the rule to solicitations from individuals who are doing business with a department through a business entity.
3.203	Creates definition of <i>attempt to influence</i> .	This concept is a component of the definition of <i>interested party</i> , which is central to the prohibition in 3.215. This definition largely mirrors the definition that currently exists in Ethics Commission regulations. It contains several exceptions for communications that, while they may have the purpose of influencing legislative or administrative actions, do not rise to the level that the person should be considered an interested party. This includes a new exception that was added as part of the Board's stakeholder engagement process: speaking at a public rally or forum. The definition also omits the language from the regulation "or otherwise attempts to influence" that stakeholders felt was too broad.
3.203	Creates definition of <i>city contractor</i> .	This concept is the same as is currently used in the contractor contribution rule. It is important to clarify who is a City contractor, and thus an interested party, for purposes of the rule in 3.215.
3.203	Creates definition of <i>interested party</i> .	This concept is core to the prohibition in 3.215: officials may not solicit behested payments from someone who is an interested party for them. This is: <ol style="list-style-type: none"><li>1. Those involved in certain administrative proceedings,</li><li>2. City contractors,</li><li>3. Any person who has attempted to influence the employee or officer in</li></ol>

		<p>any legislative or administrative action,</p> <ol style="list-style-type: none"> <li>4. Contact or expenditure lobbyists registered to lobby the official's department, and</li> <li>5. Permit consultants who have reported any contacts with the official's department in the last 12 months.</li> </ol> <p>This definition exempts:</p> <ol style="list-style-type: none"> <li>1. Any nonprofits the Charter to support a City arts department (there are two),</li> <li>2. Any federal or state government agency, or</li> <li>3. An individual, solely because they are an uncompensated board member of a nonprofit organization that is an interested party.</li> </ol> <p>These carve outs from the definition were requested by stakeholders and do not significantly weaken the measure's effect.</p>
3.203	Adds other new definitions, amends existing definitions, and moves definitions from 3.600 to 3.203.	Definitions necessary for the execution of 3.215 are added, existing definitions are amended, and any relevant definitions from 3.600 will be moved to 3.203.
3.215	Prohibits elected officials, appointed department heads, commissioners, and designated employees from soliciting behested payments from interested parties	<p>This prohibition applies to behested payments from any interested party, as defined above. The rule sets time periods during which behested payments cannot be solicited. The periods differ by the type of interested party, but are generally set at twelve months:</p> <ol style="list-style-type: none"> <li>1. Administrative proceedings: during the proceeding and for 12 months after a final decision is rendered,</li> <li>2. Contracts: from the submission of a proposal under either negotiations terminate or 12 months after the contract's term expires,</li> <li>3. Attempts to influence: 12 months after each attempt to influence,</li> <li>4. Lobbyists: anytime the lobbyist is registered to lobby the official's department, and</li> </ol>

		<p>5. Permit consultants: 12 months after the last reported contact with an official in the official's department.</p> <p>The rule also covers indirect solicitation, which occurs when a City officer or employee directs or otherwise urges another person to solicit a behested payment from an identifiable interested party or set of interested parties. This prevents individuals from working around the rule by using an intermediary.</p> <p>The rule exempts public appeals, which are requests that are made broadly to the public and therefore do not raise ethical concerns.</p>
3.600, 3.640, & 3.650	Moves to Article III, Chapter 2.	The behested payment rules would be moved to Article III, Chapter 2, which contains the City's other rules on ethics and conflicts of interest. Any definitions from Article III, Chapter 6 that are not already covered in in Chapter 2, would be moved to 3.203. Provisions on behested payment penalties and regulations are not needed because Article III, Chapter 2 contains such provisions.
3.610, 3.620, & 3.630	Removed due to no longer being applicable.	The prohibition in 3.215 would prohibit the types of behested payments currently required to be reported under City law: behested payments solicited from interested parties. With these payments being prohibited, these reporting requirements would become obsolete as there would no longer be any reportable behested payments. State behested payment reporting (Form 803) would still be required for all elected officials.



# ATTACHMENT 2

1 [Initiative Ordinance - Campaign and Governmental Conduct Code - Behested Payments]

2  
3 **Motion ordering submitted to the voters, at an election to be held on June 7, 2022, an**  
4 **ordinance amending the Campaign and Governmental Conduct Code to prohibit**  
5 **elected officials, department heads, commissioners, and designated employees from**  
6 **soliciting behested payments from interested parties and to expand the definition of**  
7 **interested party to include City contractors, and persons seeking to influence City**  
8 **officers and employees, registered contact lobbyists, and permit consultants.**

9  
10 MOVED, That pursuant to Charter Section 15.102, the Ethics Commission hereby  
11 submits the following ordinance to the voters of the City and County of San Francisco, at an  
12 election to be held on June 7, 2022.

13  
14 **Ordinance amending the Campaign and Governmental Conduct Code to prohibit**  
15 **elected officials, department heads, commissioners, and designated employees from**  
16 **soliciting behested payments from interested parties and to expand the definition of**  
17 **interested party to include City contractors, and persons seeking to influence City**  
18 **officers and employees, registered contact lobbyists, and permit consultants.**

19 NOTE: **Unchanged Code text and uncodified text** are in plain font.  
20 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
21 **Deletions to Codes** are in ~~italics Times New Roman font~~.  
22 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections or  
23 parts of tables.

24 Be it ordained by the People of the City and County of San Francisco:  
25

1 Section 1. Article III, Chapter 2 of the Campaign and Governmental Conduct Code is  
2 hereby amended by revising Section 3.203 and by adding 3.215, to read as follows:

3 **SEC. 3.203. DEFINITIONS.**

4 Whenever in this Chapter 2 the following words or phrases are used, they shall mean:

5 "Affiliate" shall mean any member of an entity's board of directors or any of that entity's  
6 principal officers, including its chairperson, chief executive officer, chief financial officer, chief  
7 operating officer, and any person with an ownership interest of more than 10% in the entity.

8 "Agent" shall mean any person who represents a party in connection with a proceeding  
9 involving a license, permit, or other entitlement for use be defined as set forth in Title 2, Section  
10 18438.3 of the California Code of Regulations, as amended from time to time.

11 "Appointed department head" shall mean any department head who is required to file a  
12 Statement of Economic Interests as set forth in Section 3.1-103(b)(1) of this Code, except for the  
13 Assessor-Recorder, City Attorney, District Attorney, Mayor, Public Defender, Sheriff, and Treasurer.

14 \* \* \* \*

15 "At the behest of" shall mean under the control or at the direction of, in cooperation,  
16 consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior  
17 consent of.

18 "Attempt to influence" means any communication with a City officer or employee made for the  
19 purpose of supporting, promoting, influencing, modifying, opposing, delaying or advancing a  
20 governmental decision. Notwithstanding the foregoing, the following shall not be deemed to be an  
21 attempt to influence an officer or employee in any legislative or administrative action: communications  
22 that (a) involve only routine requests for information such as a request for publicly available  
23 documents; (b) are made as a panelist or speaker at a conference or similar public event for  
24 educational purposes or to disseminate research and the subject matter does not pertain to a specific  
25 action or proceeding; (c) are made while attending a general informational meeting, seminar, or

1 similar event; (d) are made to the press; (e) involve an action that is solely ministerial, secretarial,  
2 manual or clerical; (f) constitute oral or written public comment that becomes part of the record of a  
3 public hearing or (e) constitute speech at a public forum or rally, if the person does not have a  
4 financial interest in the matter that is the subject of the person's speech.

5 "Behested payment" shall mean a payment that is made at the behest of an officer, or an agent  
6 thereof, and that is made principally for a legislative, governmental, or charitable purpose.

7 \* \* \* \*

8 "City Contractor" shall be defined as set forth in Section 1.126 of this Code, except only with  
9 respect to contracts with any department of the City and County of San Francisco.

10 \* \* \* \*

11 "Commissioner" shall mean any member of a City board or commission, excluding the Board  
12 of Supervisors, who is required to file a Statement of Economic Interests as set forth in Section 3.1-  
13 103(a)(1) of this Code.

14 \* \* \* \*

15 "Department head" shall mean any department head who is required to file a Statement of  
16 Economic Interests as set forth in Section 3.1-103(b)(1) of this Code.

17 "Designated employee" shall mean any employee of the City and County of San Francisco  
18 required to file a Statement of Economic Interests under Article III, Chapter 1 of this Code.

19 "Elected official" shall mean Assessor-Recorder, City Attorney, District Attorney, Mayor,  
20 Public Defender, Sheriff, Treasurer, or member of the Board of Supervisors.

21 \* \* \* \*

22 "Grant" shall mean an agreement with a government agency, non-profit organization or  
23 private entity to fund City projects or programs, under which the grantor imposes restrictions on the  
24 City's spending of the grant funds.

25 \*\*\*\*\*

1 "Interested party" shall mean:

2 (a) any party, participant or agent of a party or participant involved in a proceeding regarding  
3 administrative enforcement, a license, a permit, or other entitlement for use, before an officer or any  
4 board or commission (including the Board of Supervisors) on which the officer sits (1) an officer, (2)  
5 any board or commission (including the Board of Supervisors) on which the officer sits, (3) the  
6 department of the officer, or (4) the department of the designated employee;

7 (b) (1) any City Contractor contracting with or seeking to contract with the designated  
8 employee's or officer's department, or any affiliate of such a City Contractor, or (2) for members of  
9 the Board of Supervisors, any City Contractor, or any affiliate of such a City Contractor, if the Board  
10 of Supervisors approves the City Contractor's agreement with the City;

11 (c) any person who attempted to influence the employee or officer in any legislative or  
12 administrative action;

13 (d) any contact or expenditure lobbyist, as defined under Article II, Chapter 1 of this Code,  
14 who has registered as a contact or expenditure lobbyist with the Ethics Commission, if the contact  
15 lobbyist or expenditure lobbyist is registered to lobby the designated employee's or officer's  
16 department; or

17 (e) any permit consultant, as defined under Article III, Chapter 4 of this Code, who has  
18 registered as a permit consultant with the Ethics Commission, if the permit consultant has reported any  
19 contacts with the designated employee's or officer's department to carry out permit consulting services  
20 during the prior 12 months.

21 "Interested party" shall not include: (a) any nonprofit organization that Article V of the Charter has  
22 authorized to support an arts and culture department; (b) any federal or State government agency; or  
23 (c) an individual, solely because the individual is an uncompensated board member of a nonprofit  
24 organization that is an interested party.

1 For the purposes of subsection (b) only, “interested party” shall not include: (a) a person providing a  
2 grant to the City or a City department; or (b) with respect to members of the Board of Supervisors, a  
3 City Contractor, or affiliate of a City contractor, if the Board of Supervisors did not approve the City  
4 Contractor’s agreement with the City.

5  
6 “License, permit, or other entitlement for use” shall mean professional, trade, or land use  
7 licenses, permits, or other entitlements to use property or engage in business, including professional  
8 license revocations, conditional use permits, rezoning of property parcels, zoning variances, tentative  
9 subdivision and parcel maps, cable television franchises, building and development permits, private  
10 development plans, and contracts (other than labor or personal employment contracts and  
11 competitively bid contracts where the City is required to select the highest or lowest qualified bidder),  
12 as set forth in California Government Code Section 84308, as amended from time to time.

13 \* \* \* \*

14 “Payment” shall mean a monetary payment or the delivery of goods or services.

15 “Participant” shall mean any person who is not a party but who actively supports or opposes  
16 (by lobbying in person, testifying in person, or otherwise acting to influence) a particular decision in a  
17 proceeding involving a license, permit, or other entitlement for use and who has a financial interest in  
18 the decision, be defined as set forth in California Government Code Section 84308 and Title 2, Section  
19 18438.4 of the California Code of Regulations, as amended from time to time.

20 “Party” shall mean any person who files an application for, or is the subject of, a proceeding  
21 involving a license, permit, or other entitlement for use, be defined as set forth in California  
22 Government Code Section 84308, as amended from time to time.

23 “Payment” shall mean a monetary payment or the delivery of goods or services.

24 “Permit consulting services” shall be defined as set forth in Article III, Chapter 4 of this Code.

25 “Person” shall be defined as set forth in Section 1.104 of this Code.

1       “Public appeal” shall mean a request for a payment when such request is made by means of  
2 television, radio, billboard, a public message on an online platform, the distribution of 200 or more  
3 identical pieces of printed material, the distribution of a single email to 200 or more recipients, or a  
4 speech to a group of 20 or more individuals.

5       \* \* \* \*

6  
7       **SEC. 3.215. BEHESTED PAYMENTS.**

8       (a) **PROHIBITION.** Elected officials, appointed department heads, commissioners, and  
9 designated employees shall not directly or indirectly solicit any behested payment from any interested  
10 party in the following circumstances:

11       (1) **Administrative proceedings.** If the interested party is a party, participant, or agent  
12 of a party or participant in a proceeding before the elected official’s, appointed department head’s,  
13 commissioner’s, or designated employee’s department regarding administrative enforcement, a license,  
14 a permit, or other entitlement for use, the prohibition set forth in this subsection (a) shall apply:

15               (A) during the proceeding; and

16               (B) for twelve months following the date on which a final decision is rendered in  
17 the proceeding.

18       (2) **Contracts.** If the interested party is (a) a City Contractor, or an affiliate of a City  
19 Contractor, who is a party to or is seeking a contract with the elected official’s, appointed department  
20 head’s, commissioner’s, or designated employee’s department, or (b) for members of the Board of  
21 Supervisors, a City Contractor or affiliate of a City Contractor contracting with a City department  
22 pursuant to an agreement that the Board of Supervisors approved, the prohibition set forth in this  
23 subsection (a) shall apply from the submission of a proposal until the later of:

24               (A) the termination of negotiations for the contract; or

25               (B) twelve months following the end of the contract’s term.

1                   (3) **Persons seeking to influence.** If the interested party is a person who attempted to  
2 influence the elected official, appointed department head, commissioner, or designated employee in any  
3 legislative or administrative action, the prohibition set forth in this subsection (a) shall apply for 12  
4 months following the date of each attempt to influence.

5                   (4) **Lobbyists.** Elected officials, appointed department heads, commissioners, and  
6 designated employees may not solicit any behested payment from a contact lobbyist or expenditure  
7 lobbyist who has registered as a lobbyist with the Ethics Commission, if the contact lobbyist or  
8 expenditure lobbyist is registered to lobby the designated employee's or officer's department.

9                   (5) **Permit consultants.** Elected officials, appointed department heads, commissioners,  
10 and designated employees may not solicit any behested payment from a permit consultant who has  
11 registered with the Ethics Commission, if the permit consultant has reported any contacts with the  
12 designated employee's or officer's department to carry out permit consulting services during the prior  
13 12 months.

14                  (b) **INDIRECT SOLICITATION.** For the purposes of this Section 3.215, a City officer or  
15 employee is indirectly soliciting a behested payment when the City officer or employee directs or  
16 otherwise urges another person to solicit a behested payment from an identifiable interested party or  
17 set of interested parties.

18                  (c) **EXCEPTION – PUBLIC APPEALS.** This Section 3.215 shall not apply to public appeals.

19                  (d) **REGULATIONS.** The Ethics Commission may adopt rules, regulations, and guidelines for  
20 the implementation of this Section 3.215. The Ethics Commission shall adopt rules, regulations or  
21 guidelines defining and illustrating “interested party” and when a payment is made “at the behest of”  
22 a City officer or designated employee.



1           Section 2. Article III, Chapter 6 of the Campaign and Governmental Conduct Code is  
2 hereby amended by deleting Sections 3.600, 3.610, 3.620, 3.630, 3.640, and 3.650, to read  
3 as follows:

4           **~~SEC. 3.600. DEFINITIONS.~~**

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

7           ~~“Agent” shall be defined as set forth in Title 2, Section 18438.3 of California Code of~~  
8 ~~Regulations, as amended from time to time.~~

9           ~~“At the behest of” shall mean under the control or at the direction of, in cooperation,~~  
10 ~~consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior~~  
11 ~~consent of.~~

12           ~~“Behested payment” shall mean a payment that is made at the behest of an officer, or an agent~~  
13 ~~thereof, and that is made principally for a legislative, governmental, or charitable purpose.~~

14           ~~“Contact” shall be defined as set forth in Section 2.106 of this Code.~~

15           ~~“Financial interest” shall be defined as set forth in the California Political Reform Act~~  
16 ~~(California Government Code Section 87100 et seq.), any subsequent amendments to these Sections,~~  
17 ~~and its implementing regulations.~~

18           ~~“Interested party” shall mean any party, participant or agent of a party or participant involved~~  
19 ~~in a proceeding regarding administrative enforcement, a license, a permit, or other entitlement for use~~  
20 ~~before an officer or any board or commission (including the Board of Supervisors) on which the officer~~  
21 ~~sits.~~

22           ~~“License, permit, or other entitlement for use” shall be defined as set forth in California~~  
23 ~~Government Code Section 84308, as amended from time to time.~~

24           ~~“Officer” shall mean the Mayor, City Attorney, District Attorney, Treasurer, Sheriff, Assessor-~~  
25 ~~Recorder, Public Defender, a Member of the Board of Supervisors, or any member of a board or~~

1 ~~commission who is required to file a Statement of Economic Interests, including all persons holding~~  
2 ~~positions listed in Section 3.1-103(a)(1) of this Code.~~

3 ~~“Payment” shall mean a monetary payment or the delivery of goods or services.~~

4 ~~“Participant” shall be defined as set forth in California Government Code Section 84308 and~~  
5 ~~Title 2, Section 18438.4 of California Code of Regulations, as amended from time to time.~~

6 ~~“Party” shall be defined as set forth in California Government Code Section 84308, as~~  
7 ~~amended from time to time.~~

8 ~~“Public appeal” shall mean a request for a payment when such request is made by means of~~  
9 ~~television, radio, billboard, a public message on an online platform, the distribution of 200 or more~~  
10 ~~identical pieces of printed material, the distribution of a single email to 200 or more recipients, or a~~  
11 ~~speech to a group of 20 or more individuals.~~

12 ~~“Relative” shall mean a spouse, domestic partner, parent, grandparent, child, sibling, parent-~~  
13 ~~in-law, aunt, uncle, niece, nephew, and first cousin, and includes any similar step relationship or~~  
14 ~~relationship created by adoption.~~

15  
16 **~~SEC. 3.610. REQUIRED FILING OF BEHESTED PAYMENT REPORTS.~~**

17 ~~(a) **FILING REQUIREMENT.** If an officer directly or indirectly requests or solicits any~~  
18 ~~behested payment(s) from an interested party, the officer shall file the behested payment report~~  
19 ~~described in subsection (b) with the Ethics Commission in the following circumstances:~~

20 ~~(1) if the interested party makes any behested payment(s) totaling \$1,000 or more~~  
21 ~~during the pendency of the matter involving the interested party, the officer shall file a behested~~  
22 ~~payment report within 30 days of the date on which the behested payment was made, or if there has~~  
23 ~~been a series of behested payments, within 30 days of the date on which the behested payment(s) total~~  
24 ~~\$1,000 or more;~~

1                   ~~(2) if the interested party makes any behested payment(s) totaling \$1,000 or more~~  
2 ~~during the six months following the date on which a final decision is rendered in the matter involving~~  
3 ~~the interested party, the officer shall file a behested payment report within 30 days of the date on which~~  
4 ~~the behested payment was made, or if there has been a series of behested payments, within 30 days of~~  
5 ~~the date on which the behested payment(s) total \$1,000 or more; and~~

6                   ~~(3) if the interested party made any behested payment(s) totaling \$1,000 or more in the~~  
7 ~~12 months prior to the commencement of a matter involving the interested party, the officer shall file a~~  
8 ~~behested payment report within 30 days of the date the officer knew or should have known that the~~  
9 ~~source of the behested payment(s) became an interested party.~~

10               ~~(b) **BEHESTED PAYMENT REPORT.** The behested payment report shall include the~~  
11 ~~following:~~

- 12                   ~~(1) name of payor;~~  
13                   ~~(2) address of payor;~~  
14                   ~~(3) amount of the payment(s);~~  
15                   ~~(4) date(s) the payment(s) were made;~~  
16                   ~~(5) the name and address of the payee(s);~~  
17                   ~~(6) a brief description of the goods or services provided or purchased, if any, and a~~  
18 ~~description of the specific purpose or event for which the payment(s) were made;~~  
19                   ~~(7) if the officer or the officer's relative, staff member, or paid campaign staff, is an~~  
20 ~~officer, executive, member of the board of directors, staff member or authorized agent for the recipient~~  
21 ~~of the behested payment(s), such individual's name, relation to the officer, and position held with the~~  
22 ~~payee;~~  
23                   ~~(8) if the payee has created or distributed 200 or more substantially similar~~  
24 ~~communications featuring the officer within the six months prior to the deadline for filing the behested~~  
25

1 ~~payment report, a brief description of such communication(s), the purpose of the communication(s), the~~  
2 ~~number of communication(s) distributed, and a copy of the communication(s); and~~

3 ~~(9) if in the six months following the deadline for filing the behested payment report, the~~  
4 ~~payee has created or distributed 200 or more substantially similar communications featuring the~~  
5 ~~officer, the officer shall file an amended payment report that discloses a brief description of such~~  
6 ~~communication(s), the purpose of the communication(s), the number of communication(s) distributed,~~  
7 ~~and a copy of the communication(s).~~

8 ~~(c) **AMENDMENTS.** If any of the information previously disclosed on a behested payment~~  
9 ~~report changes during the pendency of the matter involving the interested party, or within six months of~~  
10 ~~the final decision in such matter, the officer shall file an amended behested payment report.~~

11 ~~(d) **PUBLIC APPEALS.** Notwithstanding subsection (a), no officer shall be required to report~~  
12 ~~any behested payment that is made solely in response to a public appeal.~~

13 ~~(e) **NOTICE.** If an officer solicits or otherwise requests, in any manner other than a public~~  
14 ~~appeal, that any person make a behested payment, the official or his agent must notify that person that~~  
15 ~~if the person makes any behested payment in response to the solicitation or request, the person may be~~  
16 ~~subject to the disclosure and notice requirements in Section 3.620.~~

17 ~~(f) **WEBSITE POSTING.** The Ethics Commission shall make available through its website all~~  
18 ~~behested payment reports it receives from officers.~~

19  
20 **~~SEC. 3.620. FILING BY DONORS.~~**

21 ~~(a) **REPORT.** Any interested party who makes a behested payment, or series of behested~~  
22 ~~payments in a calendar year, of \$10,000 or more must disclose, within 30 days following the date on~~  
23 ~~which the payment(s) totals \$10,000 or more:~~

24 ~~(1) the proceeding the interested party is or was involved in;~~  
25

1                   ~~(2) the outcome(s) the interested party is or was seeking in such proceedings or~~  
2 ~~decisions; and~~

3                   ~~(3) any contact(s) the interested party made in relation to such proceedings or~~  
4 ~~decisions.~~

5                   ~~(b) NOTICE. Any person who makes a behested payment must notify the recipient that the~~  
6 ~~payment is a behested payment, at the time the payment is made.~~

7  
8                   **~~SEC. 3.630. FILING BY RECIPIENTS OF MAJOR BEHESTED PAYMENTS.~~**

9                   ~~(a) MAJOR BEHESTED PAYMENT REPORT. Any person who receives a behested~~  
10 ~~payment, or a series of behested payments, received during a calendar year, totaling \$100,000 or more~~  
11 ~~that was made at the behest of any officer must do the following:~~

12                   ~~(1) within 30 days following the date on which the payment(s) total \$100,000 or more,~~  
13 ~~notify the Ethics Commission that the person has received such payment(s) and specify the date on~~  
14 ~~which the payment(s) equaled or exceeded \$100,000;~~

15                   ~~(2) within 13 months following the date on which the payment(s) or payments total~~  
16 ~~\$100,000 or more, but at least 12 months following the date on which the payment(s) total \$100,000 or~~  
17 ~~more, disclose:~~

18                   ~~(i) all payments made by the person that were funded in whole or in part by the~~  
19 ~~behested payment(s) made at the behest of the officer; and~~

20                   ~~(ii) if the person was an interested party in any City decision(s) involving the~~  
21 ~~officer in the 12 months following the date on which the payment(s) were made:~~

22                   ~~(A) the proceeding the person is or was involved in;~~

23                   ~~(B) the decision(s) the person actively supported or opposed;~~

24                   ~~(C) the outcome(s) the person is or was seeking in such proceedings or~~  
25 ~~decisions; and~~

~~(D) any contact(s) the person made in relation to such proceedings or decisions.~~

~~(b) **EXCEPTION.** Subsection (a) does not apply if the entity receiving the behested payment is a City department.~~

~~(c) **NOTICE REQUIRED.** If a recipient of a behested payment does not receive the notice, as required under Section 3.620, that a particular payment is a behested payment, the recipient will not be subject to penalties under Section 3.650, as regards that particular payment, for failure to file pursuant to subsection (a) unless it is clear from the circumstances that the recipient knew or should have known that the payment was made at the behest of an officer.~~

~~**SEC. 3.640. 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 persons to electronically submit information required to fulfill their obligations under this Chapter 6.~~

~~**SEC. 3.650. 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) of this Code.~~

Section 3. Amendment or Repeal. Any amendment or repeal of Section 1 of this Ordinance, or any of its provisions, shall be governed by Campaign and Governmental Conduct Code Section 3.204.

1           Section 4. Scope of Ordinance. In enacting this ordinance, the People of the City and  
2 County of San Francisco intend to amend only those words, phrases, paragraphs,  
3 subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other  
4 constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions  
5 or deletions, in accordance with the "Note" that appears under the official title of the  
6 ordinance.

7  
8           Section 5. Effective and Operative Dates.

9           (a) Effective Date. The effective date of this ordinance shall be ten days after the date  
10 the official vote count is declared by the Board of Supervisors.

11           (b) Operative Dates. The operative date of this ordinance shall be thirty days after the  
12 effective date of this ordinance.