



San Francisco Ethics Commission

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Date: August 8, 2022

To: Members of the Ethics Commission

From: Michael Canning, Acting Senior Policy Analyst

Re: **AGENDA ITEM 6 – Presentation, discussion, and possible action on legislative proposals from the Board of Supervisors and the Mayor regarding City behested payment rules.**

Summary

This memo provides an analysis of legislative proposals by the Board of Supervisors and the Mayor to amend the City's behested payment rules that took effect earlier this year. Amendments have been proposed by those offices to clarify and narrow the scope of existing law based on feedback they have received that the law is overly broad and challenging to implement.

Action Requested

Staff recommends adoption of the proposed legislation, if the modifications in Attachment 1 are incorporated, so that the City's behested rules remain strong, yet have improved clarity and workability to support compliance with the law.

Implementation Background

On January 23, 2022, a new behested payments law took effect in San Francisco following its unanimous adoption by the Board of Supervisors on December 24, 2021. Behested payments are payments made at the behest of a government official to a third party.

The ordinance was adopted by the Board in the wake of public policy concerns raised by recent U.S. Department of Justice criminal corruption charges against multiple City officers, employees, and contractors. Among the charges were allegations of numerous instances in which individuals seeking favorable outcomes from City government provided things of value to City officials, or made payments to third parties at the officials' behest, in an attempt to influence the actions of those officials.

The Board's action followed the first phase of a comprehensive, multi-phased review by the Ethics Commission of the City's ethics laws to ensure that the types of conduct alleged in the criminal complaints are appropriately prohibited and deterred by City law. Where that policy review identified weaknesses in the laws, the Commission has sought to address those weaknesses by identifying ways to strengthen the laws. The first phase of the Commission's project addressed provisions regarding [behested payments](#). The [behested payments legislation enacted by the Board in December 2021](#) built on the Commission's recommendations to address demonstrated shortcomings and help

prevent future acts of corruption like those alleged in the ongoing federal corruption investigation. The legislation was also spurred by the Controller's September 24, 2020 report, which also recommended that behested payments be the subject of a new ethics law in light of the recent corruption allegations. The December 2021 legislation prohibits City officers and employees who are required to file the From 700 Statement of Economic Interests from soliciting behested payments from those who have official business before their department or who have otherwise sought to influence them.

Separate legislation to address policy issues involving [gifts made directly to City officials](#), [gifts made through City departments](#), and [other essential ethics provisions](#) have been under consideration by the Ethics Commission as a potential ballot measure and regulation amendments based on work the Commission conducted as part of the second and third phases of its ethics and conflict of interest review project. Consideration of those proposals is ongoing.

City's December 2021 Law Created Ban on Solicitation of Behested Payments from "Interested Parties"

As adopted, [the new Behested Payments Ordinance \(Ordinance No. 20113\)](#) amended the San Francisco Campaign and Governmental Conduct Code to prohibit elected officials and other officials and employees specified in the law from soliciting behested payments from any person who is an "interested party" to them as local law defines that term. Prior to that legislation, City law allowed behested payments to be solicited from an "interested party" subject to specific public disclosure requirements. Effective January 23, 2022, City law prohibits elected officials, commissioners, department heads and other designated City employees with decision-making responsibilities from seeking behested payments from any of the following:

- a party, participant (or agent of a party or participant) involved in a proceeding regarding administrative enforcement, a license, a permit, or other entitlement for use, before the City official or their board, commission, or department;
- an organization that is contracting or seeking to contract with the City official's board, commission, or department, including the directors, officers, and major shareholders of that organization;
- a person who has attempted to influence the City official in any legislative or administrative action;
- a contact lobbyist or expenditure lobbyist who has registered with the Ethics Commission to lobby the City official's board, commission, or department; or
- a permit consultant who has registered with the Ethics Commission, if the permit consultant has reported any contacts with the City official's board, commission, or department to carry out permit consulting services during the prior 12 months.

June Behested Payments Ballot Measure Approved by San Francisco Voters

As had been the case since they were first established in 2017, the City's behested payments provisions could be legislatively amended by a simple majority vote of the Board of Supervisors. However, this changed following voter approval of Proposition E on the June 7, 2022 ballot. Prop. E was submitted to the Elections Department on January 18, 2022 by Supervisors Peskin, Chan, Walton, Preston and Mar. As noted in the [June Voter Information Pamphlet](#), the measure was proposed to prevent members of the Board of Supervisors from seeking behested payments from contractors if

the Board had approved their contracts, and to change the legislative amendment process to require proposed amendments be approved by both a majority vote of the Ethics Commission and a two-thirds vote of the Board of Supervisors. These changes only impact legislative amendments and do not change the ability of voters to make changes through the ballot measure process. San Francisco voters passed Prop. E with 69 percent of the vote.

The passage of Prop. E means that all future legislative amendments to the behested payment rules must be approved by both a majority vote of the Ethics Commission and a two-thirds vote of the Board of Supervisors.

Consideration of Current Legislative Proposals

As discussed during the Commission’s [regular meeting on July 8](#) and the [special meeting on July 27](#), additional legislative proposals have been introduced since voters adopted Proposition E in June. On June 14 two ordinances were introduced to address various issues regarding behested payments, some of which also have been the subject of ongoing guidance and advice. One of these ordinances was introduced by Supervisor Peskin ([File #220539](#)) and another was introduced by Mayor Breed ([File #220733](#)). Versions of Mayor Breed’s ordinance were also introduced as potential ballot measures.

With passage of Prop E, this legislation is now subject to a vote of both the Ethics Commission and the Board of Supervisors as a prerequisite for enactment. This means any new legislative ordinances considered for action by the Board of Supervisors are “subject to approval in advance by the Ethics Commission, and must be approved by a supermajority of at least eight votes at the Board of Supervisors.”

A preliminary analysis of legislation from Supervisor Peskin and Mayor Breed was presented in the [Staff memo dated July 22](#) and discussed during the Commission’s special meeting on July 27. As also discussed the July meeting, on July 26, Supervisor Peskin’s office issued a revised version his original legislation that he developed in consultation with the Mayor’s office (see **Attachment 2**). On August 2, the Mayor withdrew her behested payments ordinance from the November ballot.

On August 4, Staff met with staff from the Mayor’s Office and Supervisor Peskin to further discuss the revised approaches proposed by their offices, and alternative approaches proposed by our office following the Commission’s July discussion. The revised provisions proposed by our office at that meeting were designed to balance the interests of improved clarity and workability while also retaining core behested payments prohibitions.

As of the posting of this memo, possible amendments discussed at the August 4 meeting were being reviewed by those offices with the goal of providing further revised legislation for the August 12 Commission meeting. Should a new version be provided prior to that time, Staff will make it available at that time.

Until that time, the summary and analysis below reviews the provisions as contained in the July 26 Peskin legislation and the Staff recommendations provided to both offices in response. The rationale for these recommendations is detailed in **Attachment 1** and summarized in the next section.

Summary and Analysis of July 26 Proposals

As noted above, the jointly prepared July 26 legislation from Supervisor Peskin and Mayor Breed appears in **Attachment 2** and combines elements of initial approaches from both offices. As shown below in **Table 1**, Staff has identified nine proposals within this legislation for the Commission’s

consideration. Of the nine, Staff recommends that seven be modified prior to Commission approval and recommends that two others not be adopted by the Commission.

Additional minor clarifications in the proposed text that Staff agrees would improve the City's behested payment rules, such as clarifying the definition of 'grant' and making various formatting changes are not included in **Attachment 1** or the following table.

Table 1: Summary of Staff Recommendations for Ethics Commission Action

Staff Recommendation:	July 26 Proposals:
Support only if modified	Proposal #1: Change to the length of time a contractor is an interested party Proposal #2: Removal of the attempt to influence prong Proposal #3: Use of the State's definition of proceeding Proposal #4: Creation of an exception for competitively secured program solicitations Proposal #5: Creation of an exception for the acquisition of community benefits through City contracts Proposal #6: Creation of a waiver process Proposal #7: Changes regarding Ethics Commission regulations
Reject	Proposal #8: Changes regarding the ability of the Ethics Commission to issue penalties Proposal #9: Change to exempt all payments less than \$1,000

Recommended Next Steps

Based on Staff discussions with Supervisor Peskin and the Mayor's Office, it is likely that a further revised version of the legislation that incorporates some of these Staff recommendations may be issued the week of August 8. Should that occur, Staff will be prepared to highlight those changes at the August 12 meeting and would again invite the Mayor's Office and Supervisor Peskin to also participate in the Commission's discussion. If a revised version is issued that incorporates feedback from Staff and otherwise meets with the Commission's approval, Staff recommends the Commission vote to approve the legislation and send it back to the Board of Supervisors for additional action.

If additional consideration is needed following the Commission's August 12 deliberations, Staff would continue to engage with the Mayor's office, the Board of Supervisors, and other stakeholders on any further issues and bring back revised amendments to the Commission's next meeting on September 9 for possible action at that time.

Attachments:

Attachment 1: Analysis of July 26 Legislative Proposals

Attachment 2: Text of July 26 Legislation from the Supervisor Peskin and Mayor

ATTACHMENT 1

Attachment 1: Consideration of Current Legislative Proposals

This attachment describes, analyzes, and provides Ethics Commission Staff recommendations on proposals contained in the July 26 legislation put forward by Supervisor Peskin in consultation with the Mayor's office (see **Attachment 2**).

July 26 Proposal: #1

Change to the length of time a contractor is an interested party

Description of Change: Under current behested payments law, a City Contractor remains an interested party until the end of the contract's term. The proposed legislation would change this so that the contractor stops being an interested party 12 months from the date the contract is approved. The proposed language change to Section 3.620(a)(2)(B) reads as follows:

~~12~~twelve months ~~from the date the contract is approved~~following the end of the contract's term.

This change is based on the rationale that there are some City contracts with long terms (20, 50, 100 years) and that it is not necessary for contractors with these long-term contracts to remain interested parties for the duration of their contract, as City officials are not actively making decisions that impact the contractor after the contract has been approved.

Impact: City officials can continue to take actions on City contracts for more than a year after the contract was first approved. Decisions regarding the renewal or extension of a contract can be upcoming, as can other material amendments to the terms of a contract. Consideration of these amendments, renewals, or extensions, can involve City officials making decisions similar to those that occur during the initial approval process. If the City Contractor should be an interested party when their contract is being considered for approval and for a time following that approval, it would stand that they should also be an interested party for a time following any amendments, extensions, or renewals to the contract. As drafted, this change would make it so that a contract is no longer an interested party 12 months after their contract is approved, even if material changes have recently been made to the contract.

Recommendation: Modify the proposal to shorten the time a City contractor is an interested party, by specifying that City Contractors whose contracts go more than five years without being materially amended, extended, or renewed are no longer interested parties. This change would ensure that contractors remain interested parties for 12 months following the end of their contract, except in the case of a contract that has gone five years without being materially amended, in which case that contractor ceases to be an interested party at the end of that five year period.

Draft change to Section 3.620(a)(2)(B):

~~12~~twelve months following the end of the contract's term if the interested party is a City Contractor, however this shall cease to apply if the contract has not been materially amended, extended, or renewed for five years; or-

July 26 Proposal: #2

Removal of the attempt to influence prong

Description of Change: Under current law, attempting to influence a City officer or designated employee on a legislative or administrative action, makes the person an interested party for that City officer or designated employee. This is accomplished through subsection (c) of the definition of interested party and Section 3.620(a)(3), as follows:

Current definition of interested party:

(c) any person who attempted to influence the employee or officer in any legislative or administrative action, provided that “attempt to influence” shall be defined as set forth in Section 3.216(b)(1) of this Code and the Ethics Commission’s regulations implementing Section 3.216(b)(1), and shall not include (1) oral or written public comment that becomes part of the record of a public hearing, (2) speaking at a public forum or rally, or (3) communications made via email, petition or social media;

Current Section 3.620(a)(3):

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

This proposed legislation would remove the attempt to influence prong entirely, by striking out the language above.

Impact: This change would remove a major prong of the definition of interested party. The ‘attempt to influence’ prong of what makes someone an interested party covers important relationships that are not addressed by the other four prongs. For example, the contractor prong makes anyone that is holding or seeking a contract with the City official’s department an interested party. So, if that contractor were to attempt to influence an officer or designated employee in that department, it wouldn’t matter since they are already an interested party under the contractor prong. However, if someone else were to attempt to influence a City official about that contract, they would not necessarily already be an interested party under the contractor prong. Without an ‘attempt to influence’ prong, a person could contact a City officer or designated employee and push them vote against awarding a competitor’s contract or urge them to support a friend’s contract, and then be asked by that official to make a behested payment to that City official’s favored charity. Having persons who advocate for or against the passage of specific contracts not be interested parties for the City officials they attempt to influence would greatly diminish the City’s behested payment rules.

Additionally, the current ‘attempt to influence’ prong is important for ensuring that entities that hire lobbyists to influence City officials on their behalf are considered interested parties. The lobbyist prong in subsection (d) of the definition of ‘interested party’ makes any contact or expenditure lobbyist who is registered to lobby a City official’s department an interested party for that official. However, the lobbyist prong does not make the person who hired the lobbyist an interested party; that is what is currently captured by the ‘attempt to influence’ prong of the definition. Having someone who has hired a lobbyist to attempt to influence a City official not be considered an interested party for that City official would severely weaken the City’s behested

payment rules and create opportunities for the type of quid pro quo exchanges the rules are intended to prevent.

Recommendation: Modify the attempt to influence prong only if the proposed change is revised to 1) make a party an interested party if they have attempted to influence the approval, denial, extension, or material amendment of a City contract and 2) make persons who hire lobbyists also an interested party.

Draft language for making a party an interested party if they have attempted to influence a contract:

▪ **Draft change to subsection (b) of interested party:**

(b)(1) any City Contractor contracting with or seeking to contract with the designated employee's or officer's department, or any affiliate of such a City Contractor, except for the purpose of any person providing a grant to the City or a City department, ~~and~~ (2) as pertains to members of the Board of Supervisors, any City Contractor, or any affiliate of such a City Contractor, if the Board of Supervisors approves the City Contractor's agreement with the City, except for the purpose of any person providing a grant to the City or a City department and (3) any person who attempted to influence the designated employee or officer regarding the approval, denial, extension, or material amendment of a City contract, provided that "attempt to influence" shall be defined as set forth in Section 3.216(b)(1) of this Code and the Ethics Commission's regulations implementing Section 3.216(b)(1), and shall not include (1) oral or written public comment that becomes part of the record of a public hearing, (2) speaking at a public forum or rally, or (3) communications made via email, petition or social media;

Note: Replacing the words 'any person' with 'the purpose of' above regarding the grant exception, provides an unrelated, yet beneficial, clarification regarding how the grant exception operates. This language was in the Mayor's earlier proposal, and Staff recommend the Commission support it being included in the legislation going forward.

▪ **Draft change to Section 3.620(a)(2):**

(2) **Contracts.** If the interested party is a City Contractor, or an affiliate of a City Contractor, who is a party to or is seeking a contract with the ~~officer elected official's, department head's, commissioner's,~~ or designated employee's department or is a person who attempted to influence the officer or designated employee regarding a City contract, the prohibition set forth in this subsection (a) shall apply from the submission of a proposal until the later of:

- (A) the termination of negotiations for the contract; or
- (B) ~~12~~twelve months following the end of the contract's term if the interested party is a City Contractor, however this shall cease to apply once the contract has not been materially amended, extended, or renewed for five years; or-
- (C) 12 months following the attempt to influence if the person is an interested party due to an attempt to influence regarding the City contract.

Draft language for making persons who hire lobbyists interested parties:

- **Draft change to subsection (c) of interested party:**
(c)(d) any contact or expenditure lobbyist, as defined under Article II, Chapter 1 of this Code, who has registered as a contact or expenditure lobbyist with the Ethics Commission, if the contact lobbyist or expenditure lobbyist is registered to lobby the designated employee's or officer's department, or any person or any affiliate of any person for whom lobbyist services are performed by such a lobbyist; or
- **Draft change to Section 3.620(a)(3):**
(4)(5) Lobbyists. Officers Elected officials, department heads, commissioners, and designated employees may not solicit any behested payment from a contact lobbyist or expenditure lobbyist who has registered as a lobbyist with the Ethics Commission, if the contact lobbyist or expenditure lobbyist is registered to lobby the designated employee's or officer's department, or any person or any affiliate of any person for whom lobbyist services are performed by such a lobbyist.

July 26 Proposal: #3

Use of the State's definition of proceeding

Description of Change: This proposed change would create a definition of 'proceeding' as set forth in [Section 18438.2](#) of the state regulations from the Fair Political Practices Commission (FPPC). The term 'proceeding' is not currently defined for the City's behested payment rules in Chapter 6 of the Campaign and Governmental Conduct Code. The proposed definition also includes language specifying that proceedings are not ministerial actions. The proposed definition would read as follows:

"Proceeding" shall be defined as set forth in 2 California Code of Regulations Section 18438.2, as amended from time to time, and shall not include a ministerial action such as the issuance of a first-in-time/first-in-right license, permit, or other entitlement for use, as may be the case when a member of the public seeks permission from a City department to use public space.

The definition set forth in 2 California Code of Regulations [Section 18438.2](#) reads as follows:

- (a) For purposes of Government Code Section 84308, a "proceeding involving a license, permit or other entitlement for use" includes any proceeding to grant, deny, revoke, restrict, or modify a license, permit or other entitlement for use.
- (b) A proceeding involving a license, permit or other entitlement for use is "pending before" an agency:
 - (1) When the application has been filed, the proceeding has been commenced, or the issue has otherwise been submitted to the jurisdiction of an agency for its determination or other action;

- (2) It is the type of proceeding where the officers of the agency are required by law to make a decision, or the matter has been otherwise submitted to the officers of the agency for their decision; and
- (3) The decision of the officer or officers with respect to the proceeding will not be purely ministerial.

Impact: Part (a) of the definition from Section 18438.2 would have little impact as it aligns with a common-sense understanding of what should be considered a proceeding involving a license, permit, or other entitlement for use, specifically that it includes any proceeding to grant, deny, revoke, restrict, or modify the license, permit, or other entitlement for use. Similarly, the part of the definition in (b)(1) provides clarity regarding when the item becomes pending before an agency.

However, the language found in part (b)(2) would unduly narrow the City's behested payment rule if applied. The City's behested payment rule currently applies to decisions made by designated employees, not just City officers. This change would define proceeding as only items where 'the officers of the agency' are required to make or are otherwise making the decision; this would exclude decisions made by City officials who are not elected officials, commissioners, or department heads. The language in part (b)(3) of Section 18438.2, specifies that proceedings exclude matters that are purely ministerial, which is not inherently problematic, but it again refers only to decisions made by an officer or officers.

Applying the state's definition of 'proceeding' could severely weaken the City's behested payment rules by making it possible for City officers and designated employees to be personally and substantially involved in the issuance of many types of City licenses, permits, or other entitlements for use, but, because those approvals were not issued by an "officer," the parties, participants, or agents involved would not be considered interested parties for these City officers and designated employees.

This change would re-open concerns about pay-to-play corruption such as the type allegedly engaged in by former-Department of Building Inspection (DBI) official, Bernard Curran. In 2021, a [federal complaint](#) was filed alleging Curran solicited payments to his favored local non-profit athletic association from individuals who were seeking approvals from DBI. Under the current law that went into effect in January 2022, Curran would have been prohibited from soliciting these behested payments because the individuals were the subjects of building inspections. But, the proposed change would allow that conduct to continue. Curran was a designated employee, not a City officer, and many of his governmental actions would therefore not be considered a 'proceeding' under the newly proposed definition. This change would fail to address situations like Curran's, where City officials are meaningfully engaged in governmental decisions regarding licenses, permits, or other entitlements for use and are then able to solicit payments from the parties involved those decisions.

Recommendation: Support using the State's definition of proceeding only if changes are made to specify that 1) proceedings make the party an interested party for all officers and designated employees within the department, 2) being involved in a license, permit, or other entitlement for use only makes the party an interested party for the officers or designated employees that were personally and substantially involved in the decision, 3) if the item is awarded in a purely ministerial manner it does make the party an interested party at all.

○ **Draft change to subsection (a) of interested party:**

(a) any party, participant or agent of a party or participant involved in (1) a proceeding regarding *either* administrative enforcement, *or regarding* a license, ~~a~~ permit, or other entitlement for use before *any officer within the department of the officer or designated employee* or (2) a governmental decision regarding either administrative enforcement or regarding a license, permit, or other entitlement for use in which the officer or designated employee was personally and substantially involved. This subsection shall not apply to any license, permit, or other entitlement for use that is issued on a ministerial basis; ~~(1) an officer, (2) any board or commission (including the Board of Supervisors) on which the officer sits, (3) the department of the officer, or (4) the department of the designated employee;~~

○ **Draft change to Section 3.620(a)(1):**

(1) Administrative proceedings. If the interested party is a party, participant, or agent of a party or participant in (1) a proceeding before *any officer within the department of the officer elected official's, department head's, commissioner's,* or designated employee's department regarding *either* administrative enforcement, or *regarding* a license, ~~a~~ permit, or other entitlement for use, *or (2) a governmental decision regarding either administrative enforcement or regarding a license, permit, or other entitlement for use in which the officer or designated employee was personally and substantially involved* the prohibition set forth in this subsection (a) shall apply:

- (A) during the *pendency of the proceeding or governmental decision;* and
- (B) for *12* months following the date on which a final decision is rendered ~~in the proceeding~~.

This revised language would clarify and simplify the administrative proceedings prong of what makes a party an interested party. This would be accomplished by specifying that:

- 1) only items before an officer in a department would be considered proceedings and would make the party an interested party for all officers and designated employees in the department;
- 2) other items not before an officer would make the party an interested party for only the officers and designated employees who were personally and substantially involved with the item; and
- 3) items awarded in a purely ministerial fashion would not make the party an interested party for any officials or designated employees.

July 26 Proposal: #4

Creation of an exception for competitively secured program solicitations

Description of Change: This change would create a new exception that would allow solicitations to interested parties, as long as they are ‘made under and authorized program for charitable donations...to nonprofit 501(c)(3) organizations and schools.’ This change is intended to allow the San Francisco Public Utilities Commission’s (SFPUC) Social Impact Partnership (SIP) program and similar programs to continue operating as they had prior to January 23, 2022. If the Board of Supervisors does not adopt an ordinance authorizing such programs before December 31, 2024, they would not be allowed to continue operating until they are authorized by the Board. The new exception is proposed to read as follows:

(d) EXCEPTION – COMPETITIVELY SECURED PROGRAM SOLICITATIONS. This Section 3.620 shall not apply to solicitations made under an authorized program for charitable donations of time and/or money from interested parties to nonprofit 501(c)(3) organizations or public schools. For purposes of this subsection (d), an authorized program is a process for soliciting donations through a competitively procured contract, which program either (i) existed on or before January 23, 2022, such as the San Francisco Public Utilities Commission Social Impact Partnership program, or (ii) is authorized by the Board of Supervisors by ordinance. For a contract that includes an authorized program excepted under this subsection (d), all solicitations under such program related to the award, approval, execution, administration, modification, or enforcement of that contract by City officers or employees are likewise excepted. Any program under (i) above may proceed as it existed on or before January 23, 2022 until the earlier of (A) the Board of Supervisors adopts an ordinance authorizing a program involving donations through a competitively procured contract, as provided by (ii) above, or (B) December 31, 2024.

Impact: Staff agrees that preventing the operation of City programs, such as the SIP program, which generate charitable donations to nonprofit organizations and schools as one element of a competitively procured contract is not the intent of the City’s behested payment rules. In concept, the continued operation of the SIP program, and similar programs, is not at odds with the City’s behested payment rules. Staff agree that the language of the behested payments law should be amended for improved clarity.

The language stating ‘all solicitations under such program related to the award, approval, execution, administration, modification, or enforcement of that contract by City officers or employees are likewise excepted’ can be read to be overly broad and potentially redundant to what is already described earlier in the exception.

Additionally, it is unclear why existing programs need to be excused from authorization by the Board of Supervisors until the end of 2024. The SIP program is currently paused, and it is unclear what harm would be associated with leaving it paused until the Board of Supervisors can pass an ordinance to authorize the program.

Recommendation: Support the addition of an exception for competitively secured program solicitations if changes are made to clarify the exception and existing programs are not

automatically approved. The revised draft language below would accomplish this recommendation.

- **Draft change to Section 3.620(d):**

(d) EXCEPTION – COMPETITIVELY SECURED PROGRAM SOLICITATIONS. This Section 3.620 shall not apply to solicitations made under an authorized program for charitable donations of time and/or money from interested parties to nonprofit 501(c)(3) organizations or public schools. For purposes of this subsection(d), an authorized program is a process for soliciting donations through a competitively procured contract, including the award, approval, execution, administration, modification, or enforcement of that contract by City officers or employees, which program is authorized by the Board of Supervisors by ordinance.

July 26 Proposal: #5

Creation of an exception for the acquisition of community benefits through City contracts

Description of Change: This change would create an exception for City officers or designated employees to discuss, negotiate, and/or secure community benefits connected with the City's acquisition of real property. The proposed new exception reads as follows:

(f) EXCEPTION – CITY PROPERTY. Nothing in this Section 3.620 is intended to prevent any officer or designated employee from discussing, negotiating, and/or securing the provision of community benefits or other consideration in connection with the City's acquisition of real property.

Impact: As with the acquisition of charitable donations through competitively procured contracts, Staff agrees that allowing City officials to discuss, negotiate, and secure community benefits through a City contract is not at odds with the City's behested payment rules. However, the language as drafted could be further clarified to 1) specify exactly what is being exempted (instead of using the language about 'nothing being intended') and 2) make the exception apply more generally to community benefits that are acquired through a City contract (not just those dealing with the City's acquisition of real property) as the Mayor's earlier legislation had proposed.

Recommendation: Support the addition of an exception for benefits acquired with the acquisition of City property, if changes are made to specify what solicitations are being exempted. The draft language below also incorporates the more general exceptions for community benefits from the Mayor's legislation.

- **Draft change to Section 3.620(e):**

(e) EXCEPTION – CONTRACTED BENEFITS. This Section 3.620 shall not apply to solicitations made in connection with the negotiation or administration of a City contract if the payment solicited directly relates to the terms of, or performance under, the contract. This would include the acquisition of

community benefits through a City contract. City contracts include but are not limited to development agreements, agreements for the development or use of public property, or agreements for the City's acquisition of real property.

July 26 Proposal: #6

Creation of a waiver process

Description of Change: This change would create an exception if the Board of Supervisors approves a waiver by resolution. The new exception is proposed to read as follows:

(f) EXCEPTION – WAIVER. The Board of Supervisors may issue an advance waiver of the requirements of this Section 3.620, by resolution. A proposed resolution that seeks a waiver shall summarize the purpose of the solicitation(s) and shall endeavor to identify any interested parties to whom the solicitation(s) would be directed and a statement as to why those persons are believed to qualify as interested parties to the officers and designated employees in question. The Board of Supervisors may grant a waiver under this subsection (f) only upon finding that the waiver would not create an appearance of impropriety and would be in the public interest. Waivers granted under this subsection (f) shall apply prospectively for six months, unless the approving resolution specifies a shorter duration, and shall have no effect as to past solicitations.

Impact: This change would allow the Board of Supervisors to exempt solicitations that would otherwise be prohibited under City law. While a potential overuse of this waiver process is partially mitigated by the public nature of Board resolutions, there are still several aspects of this proposal that raise concerns.

As drafted, the Board would only be required to ‘endeavor to identify’ any interested parties that may be solicited as a result of the waiver. This language is very broad and would have the effect of providing a free pass to City officials to solicit payments from any of their interested parties, without any guarantee of transparency.

The exception as drafted states that waivers granted using this exception ‘shall have no effect as to past solicitations.’ Staff understands this to mean that waivers cannot be issued retroactively, but this should be further clarified. Not allowing retroactive waiver approvals is important to keeping the City’s behested payment rules strong, as retroactive waivers would severely undermine the incentives City officials have to comply with these rules. Retroactive approvals are not uncommon with the Board of Supervisors, as Staff documented in the Commission’s [report on Gifts to City Departments](#). More than half of Board accept-and-expend requests are approved retroactively. This would suggest that if allowed, many waivers would likely be requested and potentially approved retroactively, at which point public input would likely have a diminished impact.

Additionally, while the Board’s resolutions are public documents, that does not mean they are easily accessible by the public. As documented in the Commission’s [report on Gifts to City Departments](#), finding Board resolutions, such as those regarding the accept-and-expend process,

requires the public to navigate a legislative tracking website that can be challenging and to know exactly which search terms to use.

Recommendation: Support the waiver exception only if it is changed to:

- 1) require the interested parties to be identified prior to the solicitation;
- 2) more explicitly state that the waivers cannot be issued retroactively after the solicitation has already occurred; and
- 3) add a requirement that the Board of Supervisors shall publicly disclose all such waivers on DataSF within 30 days of approval.

○ **Draft change to Section 3.620(f):**

(f) **EXCEPTION – WAIVER.** The Board of Supervisors may issue an advance waiver of the requirements of this Section 3.620, by resolution. A proposed resolution that seeks a waiver shall summarize the purpose of the solicitation(s) and shall identify any interested parties to whom the solicitation(s) would be directed and a statement as to why those persons are believed to qualify as interested parties to the officers and designated employees in question. The Board of Supervisors may grant a waiver under this subsection (f) only upon finding that the waiver would not create an appearance of impropriety and would be in the public interest. Waivers granted under this subsection (f) shall apply prospectively for six months, unless the approving resolution specifies a shorter duration, shall have no effect as to past solicitations, and may not be approved retroactively after the solicitations have occurred. Within 30 days of being approved by the Board of Supervisors, the Clerk of the Board shall publish information regarding the resolution to a dataset of all approved waiver resolutions on DataSF.

July 26 Proposal: #7

Changes regarding Ethics Commission regulations

Description of Change: The change would amend Section 3.640 regarding regulations to require the Ethics Commission to adopt rules, regulations, and guidelines for the implementation of Chapter 6 by a certain date. The revised section as proposed reads as follows:

SEC. 3.640. REGULATIONS.

(a) The Ethics Commission ~~may~~shall adopt rules, regulations, and guidelines for the implementation of this Chapter 6. ~~The Ethics Commission shall adopt rules, regulations or guidelines, including with respect to~~ defining and illustrating “interested party” and when a payment is made “at the behest of” a City officer or designated employee, on or before January 1, 2023. Except as stated below in Section 3.650, failure to meet the aforementioned deadline shall have no impact on the operation of this Chapter.

Impact: Under current law, the Ethics Commission ‘may’ adopt regulations regarding Chapter 6, this change would make it a requirement for the Commission to do so by the start of 2023. The language also specifies that failure to meet the January 2023 deadline would have no impact on the operation of the Chapter, with the exception of the penalty language proposed in Section

3.650 (see Proposal #8) that states penalties may not be applied until after January 2023 or 60 days after the Ethics Commission has adopted regulations, whichever is sooner.

Requiring the Commission to issue revised and expanded regulations regarding Chapter 6 does not raise any substantial concerns, however linking the publishing of those regulations to the Commission's ability to pursue penalties for violations of City law would unnecessarily limit the Commission's ability to perform its Charter-mandated duties (see Proposal #8).

Recommendation: Support the changes to Section 3.640 regarding regulations only if the language referencing the penalties section is removed. The revised draft language would read as follows:

SEC. 3.640. REGULATIONS.

(a) The Ethics Commission ~~may~~shall adopt rules, regulations, and guidelines for the implementation of this Chapter 6. ~~The Ethics Commission shall adopt rules, regulations or guidelines, including with respect to~~ defining and illustrating "interested party" and when a payment is made "at the behest of" a City officer or designated employee, on or before January 1, 2023. Failure to meet the aforementioned deadline shall have no impact on the operation of this Chapter.

July 26 Proposal: #8

Changes regarding the ability of the Ethics Commission to issue penalties

Description of Change: The change would amend Section 3.650 regarding penalties, so that this penalties section for behested payments rules does not become effective until January 1, 2023 or 60 days after the Commission adopts regulations regarding Chapter 6, whichever is sooner. The revised section is proposed to read as follows:

SEC. 3.650. PENALTIES.

Effective January 1, 2023 or 60 days after the Ethics Commission has adopted regulations pursuant to Section 3.640(a), whichever is sooner, a~~Any officer or designated employee~~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.

Impact: This change would have the effect of preventing the Ethics Commission from having the ability to enforce City laws through the issuance of administrative penalties, as specified in the City's Charter ([C3.699-13\(c\)\(3\)](#)). While this provision would be temporary under the proposed changed, establishing that limitation would set a precedent suggesting that new rules do not need to be followed and that the Ethics Commission cannot be trusted to fairly enforce City laws through the appropriate application of penalties.

This change would potentially lead to confusion among City officials. The rules contained in Chapter 6 are currently subject to penalties, this change would remove the penalties, only for them to come back just months later. This could lead to unnecessary confusion regarding what rules need to be followed and what the potential consequences are for not complying with City ethics rules.

Recommendation: Reject all proposed changes to Section 3.650 regarding penalties as they are an undue and unnecessary restriction on the five-member Commission’s charter authority to levy administrative enforcement penalties when warranted by the facts and the law. To ensure its administrative enforcement process is fair and objective, the Commission and its staff follow standards established in the Commission’s Enforcement Regulations, provide due process for all potential respondents, and apply prosecutorial discretion factors that have been publicly adopted by the Ethics Commission.

July Proposal: #9

Change to exempt all payments less than \$1,000

Description of Change: This change would amend the definition of ‘payment’ so that the rule is narrowed to only apply to behested payments valued at \$1,000 or more within a 12-month period. The revised definition would read as follows:

“Payment” shall mean a monetary payment or the delivery of goods or services with a value of \$1,000 or more, or a series of payments within a 12-month period that in the aggregate total \$1,000 or more.

Impact: Under current law, there is no value limitation on what constitutes a payment. This change would allow a City officer or designated employee to solicit a behested payment from an interested party, so long as the aggregate total value of such payment does not exceed \$1,000 in a 12-month period. Such solicitations are currently prohibited, regardless of the value of the payment.

This change would substantially weaken the City’s existing behested payment rules. Primarily, it would do little to address the appearance of impropriety, as it remains troubling anytime a City official is soliciting payments from an interested party, regardless of the value of that solicitation. These smaller payments can also still add up across different interested parties, such that they could appear to be influencing the City officials that are soliciting such payments. For example, as observed in the [federal complaint against Bernard Curran](#), persons seeking favorable inspection approvals from Curran were encouraged to make donations to Curran’s favored non-profit athletic association. These checks to the athletic association were typically for amounts of \$500 to \$1,500, placing some of them below the proposed \$1,000 limit. If a City official were to be regularly soliciting behested payments of \$999 from different interested parties, that official could end up raising a large quantity of money from these interested parties in a short amount of time.

Much of the concerns regarding the current behested payment rules are based on the perception that they are limiting the ability of City departments to raise funds necessary to perform vital City functions, due to the funders being interested parties. This change would not address that concern, as payments less than \$1,000 are not likely meaningful for most City programs that operate with much larger budgets.

Additionally, this change would potentially unduly complicate compliance and generate confusion among City officials and the public. City officials would need to track these small dollar behested payment solicitations to interested parties and monitor them to avoid crossing this \$1,000

threshold. Having a clear prohibition on these types of solicitations, regardless of amount, is simpler for compliance. As feedback by City officials has repeatedly underscored, unnecessary recordkeeping requirements can be overly burdensome and do not always promote the goals the requirements are intended to achieve.

Recommendation: Reject changing the definition of payment to limit it to payments greater than \$1,000.

ATTACHMENT 2

[Campaign and Governmental Conduct Code - Behested Payments Exceptions]

Ordinance amending the Campaign and Governmental Conduct Code to modify the rules concerning behested payment solicitations, by 1) excepting solicitations made under certain types of City programs to solicit, request, and contractually obligate charitable donations through competitively procured contracts; 2) providing that the receipt of a non-discretionary license, permit, or other entitlement for use does not make a person an interested party; 3) providing that attempting to influence an legislative or administrative action does not make a person an interested party; 4) excepting solicitations made in connection with the City's acquisition of real property; 5) shortening the restriction as to solicitations from City contractors; 6) excepting payments less than \$1,000; 7) authorizing the Board of Supervisors to grant waivers by resolution; and 8) making other clarifying changes; and 9) suspending enforcement until no later than January 1, 2023.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in *~~striketrough italics Times New Roman font~~*.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~striketrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

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

SEC. 3.610. DEFINITIONS.

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

3 “Affiliate” shall be defined as set forth in Section 1.126 of this Code.

4 “Agent” shall mean any person who represents a party in connection with a
5 proceeding involving a license, permit, or other entitlement for use as set forth in Title 2,
6 Section 18438.3 of the California Code of Regulations, as amended from time to time.

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

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

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

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

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

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

21 “Designated employee” shall mean any employee of the City and County of San
22 Francisco required to file a Statement of Economic Interests under Article III, Chapter 1 of this
23 Code.

24 “Elected official” shall mean Assessor-Recorder, City Attorney, District Attorney,
25 Mayor, Public Defender, Sheriff, Treasurer, or member of the Board of Supervisors.

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

4 “Grant” shall mean an agreement with a government agency, non-profit organization
5 or private entity to fund or provide goods or services to assist with City projects or programs,
6 under which the grantor imposes restrictions on the City’s spending of the grant ~~funds~~.

7 “Interested party” shall mean:

8 (a) any party, participant or agent of a party or participant involved in a proceeding
9 regarding administrative enforcement, a license, a permit, or other entitlement for use before
10 (1) an officer, (2) any board or commission (including the Board of Supervisors) on which the
11 officer sits, (3) the department of the officer, or (4) the department of the designated
12 employee; except for any license, permit, or other entitlement for use that is issued on a ministerial
13 basis;

14 (b) (1) any City Contractor contracting with or seeking to contract with the designated
15 employee’s or officer’s department, or any affiliate of such a City Contractor, except for any
16 person providing a grant to the City or a City department, and (2) as pertains to members of
17 the Board of Supervisors, any City Contractor, or any affiliate of such a City Contractor, if the
18 Board of Supervisors approves the City Contractor’s agreement with the City, except for any
19 person providing a grant to the City or a City department;

20 ~~(c) any person who attempted to influence the employee or officer in any legislative~~
21 ~~or administrative action, provided that “attempt to influence” shall be defined as set forth in~~
22 ~~Section 3.216(b)(1) of this Code and the Ethics Commission’s regulations implementing~~
23 ~~Section 3.216(b)(1) with respect to legislative actions, and shall not include (1) oral or written~~
24 ~~public comment that becomes part of the record of a public hearing; (2) speaking at a public~~
25 ~~forum or rally, or (3) communications made via email, petition or social media; or (4)~~

1 ~~communications with a City employee or officer regarding a grant from that person to the City,~~
2 ~~including any communications with respect to the City's use of the grant for a particular~~
3 ~~purpose;~~

4 ~~(c)(d)~~ any contact or expenditure lobbyist, as defined under Article II, Chapter 1 of
5 this Code, who has registered as a contact or expenditure lobbyist with the Ethics
6 Commission, if the contact lobbyist or expenditure lobbyist is registered to lobby the
7 designated employee's or officer's department; or

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

12 "Interested party" shall not include: (a) any nonprofit organization that Article V of the
13 Charter has authorized to support an arts and culture department; (b) any federal or State
14 government agency; (c) an individual, solely because the individual is an uncompensated
15 board member of a nonprofit organization that is an interested party; or (d) as pertains to
16 members of the Board of Supervisors, a City Contractor, or affiliate of a City Contractor, if the
17 Board of Supervisors did not approve the City Contractor's agreement with the City.

18 "License, permit, or other entitlement for use" shall mean professional, trade, or land
19 use licenses, permits, or other entitlements to use property or engage in business, *issued in the*
20 *discretion of the administering agency*, including professional license revocations, conditional use
21 permits, rezoning of property parcels, zoning variances, tentative subdivision and parcel
22 maps, cable television franchises, building and development permits, private development
23 plans, and contracts (other than labor or personal employment contracts and competitively bid
24 contracts where the City is required to select the highest or lowest qualified bidder), as set
25 forth in California Government Code Section 84308, as amended from time to time. *For*

1 purposes of Section 3.620, “license, permit, or other entitlement for use” shall not include licenses,
2 permits, or other entitlements for use that involve little or no discretion, merely apply a checklist or
3 objective criteria to the facts as presented, and/or are issued over-the-counter or “as-of-right”.

4 “Officer” shall mean any commissioner, department head, or elected official.

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

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

14 “Payment” shall mean a monetary payment, or the delivery of goods or services, with
15 a value of \$1,000 or more, or a series of payments within a 12-month period that in the
16 aggregate total \$1,000 or more.

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

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

20 “Proceeding” shall be defined as set forth in 2 California Code of Regulations Section
21 18438.2, as amended from time to time, and shall not include a ministerial action such as the issuance
22 of a first-in-time/first-in-right license, permit, or other entitlement for use, as may be the case when a
23 member of the public seeks permission from a City department to use public space.

24 “Public appeal” shall mean a request for a payment when such request is made by
25 means of television, radio, billboard, a public message on an online platform, the distribution

1 of 200 or more identical pieces of printed material, the distribution of a single email to 200 or
2 more recipients, or a speech to a group of 20 or more individuals.

3 "Relative" shall mean a spouse, domestic partner, parent, grandparent, child, sibling,
4 parent-in-law, aunt, uncle, niece, nephew, and first cousin, and includes any similar step
5 relationship or relationship created by adoption.
6

7 **SEC. 3.620. PROHIBITING ELECTED OFFICIALS, DEPARTMENT HEADS,**
8 **COMMISSIONERS, AND DESIGNATED EMPLOYEES FROM SOLICITING BEHESTED**
9 **PAYMENTS FROM INTERESTED PARTIES.**

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

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

18 (A) during the proceeding; and

19 (B) for 12~~twelve~~ months following the date on which a final decision is rendered
20 in the proceeding.

21 (2) **Contracts.** If the interested party is a City Contractor, or an affiliate of a City
22 Contractor, who is a party to or is seeking a contract with the ~~officer elected official's,~~
23 ~~department head's, commissioner's,~~ or designated employee's department, the prohibition set
24 forth in this subsection (a) shall apply from the submission of a proposal until the later of:

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

1 (B) ~~12~~^{twelve} months from the date the contract is approved following the end of
2 the contract's term.

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

7 (3)(4) **Lobbyists.** *Officers* ~~Elected officials, department heads, commissioners,~~ and
8 designated employees may not solicit any behested payment from a contact lobbyist or
9 expenditure lobbyist who has registered as a lobbyist with the Ethics Commission, if the
10 contact lobbyist or expenditure lobbyist is registered to lobby the designated employee's or
11 officer's department.

12 (4)(5) **Permit consultants.** *Officers* ~~Elected officials, department heads,~~
13 ~~*commissioners,* and designated employees may not solicit any behested payment from a permit~~
14 ~~consultant who has registered with the Ethics Commission, if the permit consultant has~~
15 ~~reported any contacts with the designated employee's or officer's department to carry out~~
16 ~~permit consulting services during the prior 12 months.~~

17 (b) **INDIRECT SOLICITATION.** For the purposes of this Section 3.620, a City officer
18 or employee is indirectly soliciting a behested payment when the City officer or employee
19 directs or otherwise urges another person to solicit a behested payment from an identifiable
20 interested party or parties.

21 (c) **EXCEPTION – PUBLIC APPEALS.** This Section 3.620 shall not apply to public
22 appeals.

23 (d) **EXCEPTION – COMPETITIVELY SECURED PROGRAM SOLICITATIONS.** *This*
24 *Section 3.620 shall not apply to solicitations made under an authorized program for charitable*
25 *donations of time and/or money from interested parties to nonprofit 501(c)(3) organizations or public*

1 *schools. For purposes of this subsection (d), an authorized program is a process for soliciting*
2 *donations through a competitively procured contract, which program either (i) existed on or before*
3 *January 23, 2022, such as the San Francisco Public Utilities Commission Social Impact Partnership*
4 *program, or (ii) is authorized by the Board of Supervisors by ordinance. For a contract that includes*
5 *an authorized program excepted under this subsection (d), all solicitations under such program related*
6 *to the award, approval, execution, administration, modification, or enforcement of that contract by City*
7 *officers or employees are likewise excepted. Any program under (i) above may proceed as it existed on*
8 *or before January 23, 2022 until the earlier of (A) the Board of Supervisors adopts an ordinance*
9 *authorizing a program involving donations through a competitively procured contract, as provided by*
10 *(ii) above, or (B) December 31, 2024.*

11 **(fe) EXCEPTION – CITY PROPERTY.** *Nothing in this Section 3.620 is intended to prevent*
12 *any officer or designated employee from discussing, negotiating, and/or securing the provision of*
13 *community benefits or other consideration in connection with the City’s acquisition of real property.*

14 **(f) EXCEPTION – WAIVER.** *The Board of Supervisors may issue an advance*
15 *waiver of the requirements of this Section 3.620, by resolution. A proposed resolution that*
16 *seeks a waiver shall summarize the purpose of the solicitation(s) and shall endeavor to*
17 *identify any interested parties to whom the solicitation(s) would be directed and a statement*
18 *as to why those persons are believed to qualify as interested parties to the officers and*
19 *designated employees in question. The Board of Supervisors may grant a waiver under this*
20 *subsection (f) only upon finding that the waiver would not create an appearance of impropriety*
21 *and would be in the public interest. Waivers granted under this subsection (f) shall apply*
22 *prospectively for six months, unless the approving resolution specifies a shorter duration, and*
23 *shall have no effect as to past solicitations.*

1
2 **SEC. 3.640. REGULATIONS.**

3 (a) The Ethics Commission ~~may~~shall adopt rules, regulations, and guidelines for the
4 implementation of this Chapter 6. ~~The Ethics Commission shall adopt rules, regulations or~~
5 ~~guidelines, including with respect to~~ defining and illustrating “interested party” and when a
6 payment is made “at the behest of” a City officer or designated employee, on or before
7 January 1, 2023. Except as stated below in Section 3.650, failure to meet the aforementioned
8 deadline shall have no impact on the operation of this Chapter.

9 * * * *

10
11 **SEC. 3.650. PENALTIES.**

12 Effective January 1, 2023 or 60 days after the Ethics Commission has adopted
13 regulations pursuant to Section 3.640(a), whichever is sooner, ~~a~~Any officer or designated
14 employee~~party~~ who fails to comply with any provision of this Chapter 6 is subject to the
15 administrative process and penalties set forth in Section 3.242(d) of this Code.

16
17 Section 2. Effective Date. This ordinance shall become effective 30 days after
18 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
19 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
20 of Supervisors overrides the Mayor’s veto of the ordinance.

21
22 Section 3. Prerequisites for Enactment; Super-Majority Vote Requirement. Consistent
23 with ~~In the event the People approve Proposition E,~~ which was approved at the June 7, 2022
24 election, the enactment of this ordinance will be subject to the provisions of Proposition E that
25 authorize amendments to Article III, Chapter 6 of the Campaign and Governmental Conduct

Code only if they are recommended by the Ethics Commission and approved by a supermajority of at least eight votes at the Board of Supervisors.

Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the “Note” that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/
MANU PRADHAN
Deputy City Attorney

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