



San Francisco Ethics Commission

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Date: December 2, 2022

To: Members of the Ethics Commission

From: Michael Canning, Senior Policy Analyst

Re: **AGENDA ITEM 8 – Discussion and possible action regarding request for waiver of post-employment restrictions for Phillip Wong.**

Summary and Action Requested

This memo provides background and analysis to assist the Commission in determining whether to grant a post-employment waiver to Phillip Wong. The Commission should evaluate Mr. Wong's waiver request and, as required by city law, consider if granting Mr. Wong's waiver would create the potential for undue influence or unfair advantage. Based on its review of Mr. Wong's request and applicable law, Staff recommends that the Commission not approve the waiver.

Background

On November 24, Phillip Wong sent a formal request to the Commission asking that certain post-employment restrictions of the Campaign and Governmental Conduct Code (C&GCC) be waived. Mr. Wong is a current City employee with the Office of Economic and Workforce Development (OEWD) and wishes to assume a new director position with BRIDGE Housing. Mr. Wong's detailed waiver request is included as **Attachment 1**. The facts included in this memorandum are drawn from Mr. Wong's written request.

Mr. Wong first contacted Staff about this matter on September 28, following guidance he stated he received from the City Attorney's Office that several one-year and permanent post-employment restrictions would apply and that a waiver from the Ethics Commission would be required if he wanted to pursue this employment opportunity. Following several communications with Mr. Wong, on October 31, Staff provided Wong with informal advice that confirmed a waiver from the Commission would be required if he were to pursue the director position with BRIDGE Housing and offered guidance on how to formally request such a waiver. A copy of Staff's informal advice to Mr. Wong is included here as **Attachment 2**.

Applicable Law

The City has rules for all officers and employees that restrict what former City officials can do after they leave City service. These rules include a permanent restriction on representing any other person (except the City) before any court or government agency in connection with particular matters in which the former City official was personally and substantially involved and a one-year restriction on

communicating with the former City official's former department with the intent to influence a government decision.

Both the permanent restriction on representation and the one-year post-employment communication ban further the purpose of the Campaign and Governmental Conduct Code, which per [Section 3.200](#) is chiefly to “promote fairness and equity for all residents and to maintain public trust in governmental institutions.” The law seeks to ensure “that public officers and employees [are] independent, impartial, and responsible to the people and that public office and employment [is] not [] used for personal gain.” The Code also asserts that government decisions by City officers and employees “should be, and should appear to be, made on a fair and impartial basis.”

Permanent Restriction on Representation in Particular Matters

[Section 3.234\(a\)\(1\)](#) of the C&GCC prohibits former employees from representing any other person (except the City) before any court or government agency in connection with particular matter in which the former employee was personally and substantially involved in as a City employee, with intent to influence. Ethics Commission [Regulation 3.234-1](#) outlines the scope of this restriction and provides guidance on determining whether this permanent ban applies to certain activities.

This permanent restriction on representation furthers the goals of the Campaign and Governmental Conduct Code by ensuring that former City officers and employees cannot switch sides and begin representing a non-City entity in matters they had been personally and substantially involved in as a City official. Without this rule, a City employee could leave a position where they had been representing the City in a legal dispute or in the administration of a contract, and then accept employment with other side of that legal dispute or with the City Contractor and continue working on the same matter they had been working on as a City official.

This sort of switching sides raises several concerns that the prohibition is intended to address. One is the risk that the former City official would have access to proprietary information that could be applied in their new role to disadvantage the City. Another concern is that this situation could give the new employer an unfair advantage, as they are able to leverage the knowledge, resources, and connections of the former City official to their advantage. This sort of “revolving door” could also lead to undue influence and unfair advantage if other City officials begin to see these non-City entities as prospective employers and begin to seek favor with them while still representing the City.

One-Year Restriction on Communicating with Former Department

[Section 3.234\(a\)\(2\)](#) of the C&GCC prohibits former employees from, with the intent to influence a government decision, communicating on behalf of any other person (except the City) with any officer or employee of the department for which the former employee served, for one year following the termination of their employment with the City. Ethics Commission [Regulation 3.234-2](#) outlines the scope of this restriction and provides guidance on determining whether this one-year ban applies.

This one-year post-employment communication ban furthers the goals of the Campaign and Governmental Conduct Code by ensuring that former City officers and employees cannot use their recent position with a department to unduly influence or appear to influence the actions of that department. Without this rule, officials and employees would be able to leave City service and immediately begin communicating with their former departments to affect decisions in favor of their new employer. This outcome would exemplify the “revolving door” issue arising from the public-to-private movement of individuals.

The one-year post-employment communication ban is designed as a modest but fundamental safeguard to support the fairness of governmental decision making and to preserve the public’s trust in the integrity of governmental decisions. The rule contemplates that former City officers and employees, in light of their recent positions with the City, may be able to exert or appear to exert undue influence over other City officers or employees to secure favorable outcomes for their non-governmental employer or clients. This ‘revolving door’ to non-governmental service gives rise to issues of unfair advantage because former City officers and employees can have unique knowledge and access that can uniquely advantage the ability of their new employer or clients to secure beneficial outcomes in a way not available to other entities or organizations in the same field who also may seek opportunities to do business with government.

Waiver Authority of the Ethics Commission

[Section 3.234\(c\)\(1\)](#) of the C&GCC grants the Commission the ability to waive the permanent restriction on representation in particular matters and the one-year restriction on communicating with former department, “if the Commission determines that granting a waiver would not create the potential for undue influence or unfair advantage.”

Ethics Commission [Regulation 3.234-4](#) further outlines the process for submitting and potentially approving post-employment waivers. The regulation specifies that the Commission “shall not approve any request for a waiver from the permanent or one-year bans made under subsection 3.234(c)(1) unless the Commission makes a finding that granting such a waiver would not create the potential for undue influence or unfair advantage.” When determining the granting of such a waiver would create the potential for undue influence or unfair advantage, the regulation specifies that the Commission may consider:

- the nature and scope of the communications the individual will have with his or her former department, board, commission, office, or unit of government;
- the subject matter of such communications;
- the former position held by the officer or employee;
- the type of inside knowledge that the individual may possess; and
- any other factors the Commission deems relevant.

When considering waiver requests, the Commission should consider whether granting a waiver would further the purposes of the Campaign and Governmental Conduct Code. The Commission may

grant a waiver only if it finds that a waiver “would not create the potential for undue influence or unfair advantage.”

Waiver requests are evaluated based on the facts that are provided in the request. These facts allow the Commission to evaluate whether a waiver is appropriate and must therefore be complete and accurate. Any waiver that the Commission grants is limited to the facts provided, and, should the facts change, the requestor should seek an updated waiver from the Commission.

Facts Presented in the Request

In his waiver request, Mr. Wong describes his current role with the City and the role he would like to assume with BRIDGE Housing. Mr. Wong is currently a project manager with the City’s Office of Workforce Development (OEWD). Wong has worked for OEWD in different capacities since 2013 and has been in his current role as a project manager tasked with implementing the City’s development agreement projects since 2016.

One of the projects Mr. Wong works to implement is the Potrero HOPE SF Project, which is a development agreement between the City, the Housing Authority of San Francisco, and BRIDGE Housing, which was approved by the Board of Supervisors in 2017 ([File # 161161](#)). Mr. Wong’s current duties include coordinating numerous aspects of the project’s implementation with various stakeholders, including multiple City departments, other government agencies, and the developer, BRIDGE Housing. Wong’s work also involves coordinating legislative actions and building permit reviews.

Should the Ethics Commission grant Mr. Wong a waiver, he intends to begin employment with BRIDGE Housing as the director of Potrero HOPE SF. In this new role with BRIDGE Housing, Wong’s “primary task would be to implement the project’s major approvals, for example, coordinating with the City and various partners on the design review and permitting processes, budget approvals process, and construction start and completion actions.” This role would involve regularly communicating with Wong’s former department and representing BRIDGE Housing before different government agencies regarding the implementation of the Potrero Hope SF project, which is the same matter he has regularly worked on as a City official.

Analysis

The Need for a Waiver to Perform the Duties of Mr. Wong’s Desired Position

Based on the facts presented in Mr. Wong’s waiver request, Staff agrees that a waiver for both the permanent restriction on representation rule and the one-year post-employment communication ban would need to be acquired in order for Mr. Wong to carry out the described duties of his desired position with BRIDGE Housing.

Based on Ethics Commission [Regulation 3.234-1](#), the permanent restriction on representation rule would apply to Mr. Wong's new duties at BRIDGE Housing, since:

1. Mr. Wong would be a former City employee,
2. He would be representing his new employer, BRIDGE Housing,
3. Before various government agencies and employees thereof,
4. With an intent to influence,
5. A particular matter (the implementation of Potrero HOPE SF) in which the City has a direct and substantial interest, in which Mr. Wong was personally and substantially involved in as a City employee, and which involved specific parties, and
6. The exception for witness testimony does not apply.

Based on the guidance from Ethics Commission [Regulation 3.234-2](#), the one-year post-employment communication ban would apply to Mr. Wong's new duties at BRIDGE Housing, since:

1. Mr. Wong would be a former City employee,
2. With less than one year elapsed since terminating his employment with the City and OEWD,
3. Who would be representing his new employer, BRIDGE Housing, and
4. Be communicating with the intent to influence his former Department, OEWD.

Should Mr. Wong leave City employment and pursue this role with BRIDGE Housing, he would need a waiver from the Ethics Commission to engage in the activities described in his waiver request, to avoid violating both the permanent restriction on representation rule and the one-year post-employment communication ban.

Considering if Granting a Post-Employment Waiver to Mr. Wong Would Create the Potential for Undue Influence or Unfair Advantage

As the Commission considers if granting a waiver to Mr. Wong would create the potential for undue influence or unfair advantage, [Regulation 3.234-4](#) identifies several factors the Commission consider. These factors include: the nature and scope of the communications the individual will have, the subject matter of such communications, the former position held by the officer or employee, the type of inside knowledge that the individual may possess, any other factors the Commission deems relevant. These factors are discussed below.

Similarities in the nature, scope, and subject matter of the communications and duties of the two positions.

The nature, scope, and subject matter of the communications are described by Wong as being similar to the communications he makes in his current role with the City. It appears that a central aspect of his role with BRIDGE Housing would be to represent his employer before different government agencies, including his former department, with the intent to influence those agencies, in the matter of the Potrero Hope SF project. These communications would likely continue to involve coordinating

permit applications and approvals, as well as pushing for legislative changes to benefit the Potrero HOPE SF project.

In addition to the type of communications being similar, the position Mr. Wong would like to take with BRIDGE Housing appears to be very similar to position he currently holds with the City. As Mr. Wong states in his waiver request: “In my current role, I represent the City on the implementation of Potrero HOPE SF. In my new role, I would represent BRIDGE Housing on the implementation of Potrero HOPE SF...”

Public officials who leave a governmental role to assume employment with a non-governmental entity that is doing business with their former agency, and whose new role involves the ability to influence the actions and decisions of their former agency, is the exact type of revolving door activity that the City’s post-employment restrictions are intended to address.

Mr. Wong currently works on the Potrero HOPE SF project as a City official and his communications carry the weight and impact of a City official. If Mr. Wong leaves the City for employment with BRIDGE Housing to work on that same project as he has proposed, he would soon be communicating to the same recipients on the same issues but doing so on behalf of his non-governmental employer.

Although Mr. Wong’s request details the important and worthy shared purpose that the City’s partnership with BRIDGE Housing is created to serve, that arrangement does not alter the underlying nature of his changed employment status. Nor does it alter the important need to ensure all government decisions and actions uphold, and are trusted to uphold, the highest standards of integrity. Revolving door laws designed to address that goal and are built on the recognition that as with any new employment, the actions and allegiances of a former public official become newly and distinctly linked to serving the interests of their new employer.

When officials switch roles immediately following their public service to assume work on the same project or matter but for a non-governmental employer, that switching of roles can lead to confusion about the interests being represented by the former official. This can create the potential for undue influence over former colleagues and reduce confidence in the integrity of those interactions with others given the official’s prior relationships and access. When these factors are present, an unfair advantage can accrue to the new employer whose actions are benefitted by leveraging the unique knowledge, relationships, and insights of their new employee.

Mr. Wong’s waiver request also notes that his communications in both his current role and new role would be subject to public information and disclosure rules. While such transparency enables some visibility into decision making processes, it does not directly address the potential for undue influence or unfair advantage, which is what the Commission is asked to consider.

Inside knowledge Mr. Wong may possess.

Mr. Wong has stated in his waiver request that “given the transparency of Potrero HOPE SF to involved stakeholders, I do not possess any material inside knowledge about Potrero HOPE SF that is not already available to other Potrero HOPE SF stakeholders, including those currently involved at BRIDGE Housing.” As discussed above, even if Mr. Wong does not have proprietary information, his firsthand experience and years of service navigating City processes and professional relationships are examples of the kinds of knowledge that can be used to the unfair advantage of a non-governmental employer. Additionally, Mr. Wong’s statement speaks only to information shared by Potrero HOPE SF’s current stakeholders but does not consider other entities. For example, BRIDGE Housing presumably is one among a number of non-profit housing entities that may wish to enter into development agreements with the City. Such entities, however, would not have similar access to the benefits that Mr. Wong would be providing to BRIDGE Housing.

Other factors that may be relevant.

The partnership between the City and BRIDGE Housing on the Potrero HOPE SF project does not negate the fact that these are two distinct entities, with their own interests and objectives, and Mr. Wong is seeking to transition from representing the City in this partnership to representing BRIDGE Housing. Should the City’s interests and those of BRIDGE Housing diverge, Mr. Wong’s direct governmental experience and established relationships with City officials have the potential to, even though unintended, provide BRIDGE Housing with actual or perceived undue influence and an unfair advantage over the City.

The Commission may also wish to consider the interests of other parties potentially impacted by granting Mr. Wong’s desired waiver. As mentioned earlier, having Mr. Wong in their immediate employ for this project could provide BRIDGE Housing with unique leverage as a developer. As one unintended consequence, that practice could result in positioning BRIDGE with an advantage over other organizations that may hope to secure future development agreements of their own if BRIDGE Housing is an alternative. Additionally, granting a waiver to enable a former official to work immediately following the conclusion of their public service on the same project they worked on while in City service could disadvantage other qualified, would-be applicants for this position with BRIDGE Housing, who may never be considered if Mr. Wong assumes the position.

Recommendation

The activity Mr. Wong would like to engage in through his requested waiver is the type of behavior the City’s post-employment rules are intended to prevent. In his new position with BRIDGE Housing, Mr. Wong would be switching sides on a matter he has worked on closely, potentially giving BRIDGE Housing undue influence and an unfair advantage over the City as the Potrero HOPE SF project continues to be implemented. Additionally, Mr. Wong would need to be regularly communicating with his former City colleagues in this new position, which would create the potential for Mr. Wong to leverage his knowledge of City operations and established relationships with OEWD officials to

provide BRIDGE Housing with undue influence and an unfair advantage. On the whole, the need for a waiver does not outweigh the danger of creating this potential for undue influence and unfair advantage. Staff recommends the Commission not approve Mr. Wong's waiver request.

Staff would like to thank Mr. Wong for his detailed waiver request, thoughtful communications throughout this process, and service to the City.

Attachments:

Attachment 1: Waiver Request from Phillip Wong Dated November 24, 2022

Attachment 2: Informal Advice Provided to Phillip Wong on October 31, 2022

Attachment 1

November 24, 2022

LeeAnn Pelham
Executive Director
San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102-6053
c/o Michael Canning, Senior Policy Analyst

Re: Request for Waivers of Sections 3.234(a)(1) and (a)(2) of the Campaign and Governmental Conduct Code

Dear Director Pelham:

My name is Phillip Christopher Wong, and I am a Project Manager with the City and County of San Francisco's Office of Economic and Workforce Development ("OEWD"). In this formal waiver request, I would like to please request your consideration and review of my request to waive certain post-employment restrictions under the Campaign and Governmental Conduct Code ("C&GCC"). An approved waiver would allow me to assume a director role at BRIDGE Housing, a non-profit affordable housing organization. This director role will allow me to contribute to one of the City's highest-priority public housing revitalization projects, Potrero HOPE SF.

I am seeking two waivers under sections 3.234(a)(1) and (a)(2) of the C&GCC. First, section 3.234(a)(1) (Permanent Restriction on Representation In Particular Matters) bars former City employees from representing a non-City party before a court or administrative agency on a particular matter in which the employee represented the City. Second, section 3.234(a)(2) (One-Year Restriction on Communicating with Former Department) bars former employees from communicating with their former City departments with the intent to influence a governmental decision, for a period of one year from the employee's separation from City employment. This request will explain that the requirements for these waivers provided under section 3.234-4(a)(1) of Ethics Commission Regulations (Requests for waivers from permanent and one-year bans) are satisfied, including that such waivers would not create the potential for undue influence or unfair advantage. Such waivers, if granted, would allow a dedicated public servant with deep connections to San Francisco to move into a leadership role with a non-profit City partner to continue working towards the long overdue and critical goals of the City's highest-priority HOPE SF initiative.

In considering this opportunity, I requested informal advice from Michael Canning, Senior Policy Analyst with the Ethics Commission. Mr. Canning advised me on the post-employment restrictions waiver process, outlined in an addendum to this letter. The first step in this process is this written request. Additionally, other parties will submit written and

public testimony on my behalf to demonstrate support from a broad range of stakeholders who believe I can carry out this role's required duties with integrity and without the potential for undue influence or unfair advantage. I hope this written request, along with input from other parties, will support a positive Commission staff recommendation to the members of the Ethics Commission at the December 9, 2022 hearing. OEWD Director Kate Sofis, who is responsible for the day-to-day management of OEWD, will receive a copy of this written request.

Prior and Current Employment

Prior Employment

I have worked in different capacities for OEWD since 2012. I started as an intern with OEWD on July 9, 2012, which continued until April 2013. During my internship, I worked on a variety of projects, notably a capital improvement project to address and improve the blighted conditions at the intersection of 32nd Avenue and Taraval Street. While my primary task was to learn the minutiae of City processes and the interplay among myriad internal and external stakeholders, I felt it was also my responsibility to understand the importance and joy of public service. As a first-generation Chinese American and San Francisco native, the opportunity to work for my City was, and continues to be, immensely humbling and satisfying. In April 2013, I was hired as a Project Assistant with OEWD's Joint Development team to provide administrative and project support.

Current Employment

In August 2016, I was promoted to a Project Manager position as part of a new OEWD team tasked with implementing the City's approved Development Agreement projects. This team is now called the OEWD Housing Delivery Team and is led by Judson True, Director of Housing Delivery for the Office of the Mayor. Our team's work centers on Development Agreement projects, which result from discretionary approvals (collectively referred to as major approvals) from the Planning Commission, the Board of Supervisors, and the Mayor establishing and legislatively enacting the terms and obligations of public-private partnerships to develop large sites largely described within Development Agreements. These projects typically yield substantial community benefits, such as greater impact fees, new open spaces, and frequently more affordable housing, that would otherwise be unattainable through the standard project approval process. Development Agreement projects are also subject to substantial community engagement requirements and an annual review process. These projects have long contract terms ranging from 10 to 25 years. The long-term nature of these projects is part of the reason they experience several staffing changes, as would be true for any long-term initiative.

My assigned projects have included the 5M Project (Board of Supervisors File No. 150788), the 1629 Market Street Project (Board of Supervisors File No. 180891), Hunters View HOPE SF (no Development Agreement, Board of Supervisors File No. 080692), Sunnydale HOPE

SF (Board of Supervisors File No. 161164), and Potrero HOPE SF (Board of Supervisors File No. 161161).

I am not involved in negotiating major approvals, Development Agreements, or contracts. The Joint Development team at OEWD manages the negotiation phase and public approvals phase of these projects. I implement major approvals through coordination with City agency staff, for-profit and nonprofit developers, and other stakeholders.¹

Current Work on HOPE SF Initiative

Potrero HOPE SF is one of the four public housing communities that make up the City's HOPE SF public housing revitalization initiative that started under then Mayor Gavin Newsom in 2006. The three other HOPE SF sites are Sunnydale HOPE SF, Hunters View HOPE SF, and Alice Griffith HOPE SF. All four HOPE SF sites represent the largest and most distressed public housing communities in San Francisco. Potrero HOPE SF received major approvals in early 2017, and no new or additional contracts or agreements have been made in the past 12 months.

HOPE SF is a multi-decade City commitment and deeply invested partnership among the Mayor's Office of Housing and Community Development, the San Francisco Housing Authority, several City agencies, affordable housing development and services partners, and the HOPE SF communities. HOPE SF addresses a critical need for the City's most disenfranchised communities by positively transforming the housing, community, and economic opportunities that have long been denied to them. It is not a secret that the construction of replacement, high-quality public, and affordable housing is an increasing challenge with astronomic construction costs, competitive public financing, and complex bureaucratic processes. The City and its partners, however, are diligently and conscientiously working with these vulnerable yet resilient communities to rectify the highly distressed conditions of existing public housing and the malignancies of persistent poverty and redlined opportunities. Then Mayor Newsom, other leaders, and their successors saw the great opportunity to take an affirmative stance on changing these conditions through this critical City-led partnership, which has only increased in importance as the projects become more difficult to complete.

My specific tasks on the Potrero HOPE SF project include:

1. Coordinate with City agencies to address project implementation issues that arise, as outlined/prescribed by the Potrero HOPE SF major approvals;
 - a. Mayor's Office of Housing and Community Development ("MOHCD") is the lead project agency for the HOPE SF projects. I primarily assist with issues related to public infrastructure design and construction and, to a lesser extent, coordinate issues that arise during building permitting.

¹ The development partners that I have worked with on my assigned projects are Brookfield Properties, Strada Investment Group, the John Stewart Company, Mercy Housing, Related California, and BRIDGE Housing.

2. Coordinate phase-specific public improvement/infrastructure plan review with the Public Works Infrastructure Task Force, the non-profit development partner (i.e., BRIDGE Housing), and other City departments via bi-weekly and as-needed meetings;
 - a. Public Works is the permit issuer, regulatory authority, and lead infrastructure agency facilitating technical discussions and permit approvals.
 - b. Proceeding with infrastructure design review and permitting first requires phase approval from the Planning Department, which I do not participate in.
3. Assist with coordination of subdivision mapping reviews conducted by the Public Works Infrastructure Task Force, the Public Works Bureau of Street Use and Mapping, the Office of the City Attorney, the non-profit development partner (i.e., BRIDGE Housing), and other relevant City departments;
 - a. E.g., tentative subdivision maps, final maps, and plat and legal description review for property right documents such as quitclaims, grant deeds, and easements.
 - b. Proceeding with subdivision mapping first requires phase approval from the Planning Department, which I do not participate in.
4. Coordinate legislative actions (e.g., street vacation ordinances, major encroachment permit resolutions/ordinances, infrastructure acceptance ordinances, and subdivision mapping motions) consistent with Potrero HOPE SF major approvals and Planning Department phase approvals;
 - a. I typically coordinate with the Public Works Infrastructure Task Force, City Attorney, the non-profit development partner (i.e., BRIDGE Housing), and other City departments to ensure Board of Supervisor filings are complete. MOHCD, HOPE SF, and Public Works typically give presentations at public hearings.
5. Coordinate with MOHCD on building permit review by the Department of Building Inspection (“DBI”), the San Francisco Fire Department, and other departments;
 - a. I do not review permit applications. I typically request that plan reviewers initiate review based on construction start and financing deadlines for priority City projects through an established DBI point-of-contact for priority housing projects.
6. Facilitate executing work order agreements between MOHCD and the performing City departments for cost recovery for time and materials spent working on Potrero HOPE SF projects consistent with Section 6.10 of its Development Agreement;
 - a. I assist MOHCD in reviewing these quarterly reimbursement requests from City departments for accuracy and consistency with work performed.
7. Assist with the annual reporting process; and
 - a. Each Development Agreement project is required by State and City Law to complete an annual public report detailing the project work that occurred during that calendar year if active construction occurred. The Planning Department leads this process, and I am one of many City reviewers who assists with this reporting process. ([example reports hyperlinked here](#))
8. Present project implementation milestones in monthly interdepartmental priority project update meetings via various reporting mechanisms.

Here is a list of duties I do not currently perform related to the Potrero HOPE SF project:

1. Negotiate Potrero HOPE SF major approvals or contracts;
2. Review or approve permit or development phase applications;
3. Assist project loan evaluations and financing;
4. Assist with coordinating tenant relocations or other SF Housing Authority processes;
5. Facilitate community meetings;
6. Assist with the disposition of market-rate parcels as described in the major approvals; MOHCD, SF Housing Authority, and OEWD's Joint Development team lead this work; or
7. Assist with amendments to the major approvals.

Notably, my current work is publicly accessible and transparent. It is subject to public information and disclosure laws and regulations and consists of implementing (not negotiating) City-led projects. This level of transparency would continue in my work at BRIDGE Housing under the legal checks and balances provided by the HOPE SF partnership and as governed by the Potrero HOPE SF major approvals, Federal, State and City Laws, and community/stakeholder accountability.

Potential Employment at BRIDGE Housing

Pending a ruling by the Ethics Commission on my waiver requests at the next hearing on December 9, 2022, I would begin employment with BRIDGE Housing as their Director of Potrero HOPE SF. In this role, I would be a leadership partner with the City and Potrero HOPE SF stakeholders. My primary task would be to implement the project's major approvals, for example, coordinating with the City and various partners on the design review and permitting processes, budget approvals process, and construction start and completion actions. This work would be conducted in full partnership and transparency with the City and the larger BRIDGE Housing team, which includes a team of project managers, community development specialists, and design, engineering, and construction firms.

While this is a different role than the one, I currently play, working on the Potrero HOPE SF project at BRIDGE Housing would allow me to advance the same fundamental mission that I am advancing in my current role – the implementation of major approvals for the development and construction of high-quality public and affordable housing, creating connectivity with the City's infrastructure, and supporting the creation of community-based and economic opportunities associated with this enormous endeavor. While BRIDGE Housing remains obligated to deliver the Potrero HOPE SF project in partnership with the City and HOPE SF stakeholders, with or without me in the role of director, my public service focus and expertise in implementing multi-phase development projects will add assurance that the City and its partners will keep their promises to this highest-priority community.

Application of Sections 3.234(a)(1) and (a)(2) and Regulation Section 3.234-4(a)(1)

As explained below, waivers for sections 3.234(a)(1) and (a)(2) would be appropriate and meet the requirements provided under the regulations section 3.234-4(a)(1), including that such waivers would not create the potential for undue influence or unfair advantage.

Regulation Section 3.234-4(a)(1) – No Undue Influence or Unfair Advantage

Regulation section 3.234-4(a)(1) provides requirements for a waiver, including that the waiver would not create the potential for undue influence or unfair advantage. Regulation Section 3.234-4(a)(4) provides the Commission with guidance to determine whether there would be undue influence or unfair advantage. Specifically, the Commission may consider: the nature and scope of the communications the individual will have with his or her former department; the subject matter of such communications; the former position held by the employee; the type of inside knowledge that the individual may possess; and any other factors the Commission deems relevant.

(i) Nature and Scope of Communications

The nature and scope of my communications with my former department, OEWD, would be similar to those conducted in my day-to-day work, including bi-weekly and as-needed meetings, that typically have written notes and follow-ups, and email communications which are subject to public information and disclosure laws.

(ii) Subject Matter of Communications

The subject matter of my communications would relate to the implementation of the project, including the design and permitting of infrastructure and buildings and the associated legislative actions necessary for the financing, construction, and acceptance of public facilities and buildings when applicable. Moreover, as explained above, the subject matter of my communications would relate to the implementation of Potrero HOPE SF with no involvement in negotiation or making of a new contract in relation to Potrero HOPE SF. The subject matter of my communications is also subject to public information and disclosure laws.

(iii) Inside Knowledge

Given the transparency of Potrero HOPE SF to involved stakeholders, I do not possess any material inside knowledge about Potrero HOPE SF that is not already available to other Potrero HOPE SF stakeholders, including those currently involved at BRIDGE Housing.

Section 3.234(a)(1) – Permanent Restriction on Representation In Particular Matters

Section 3.234(a)(1) bars former City employees from representing a non-City party before a court or administrative agency on a particular matter in which the employee represented the City.

In my current role, I represent the City on the implementation of Potrero HOPE SF. In my new role, I would represent BRIDGE Housing on the implementation of Potrero HOPE SF, which would constitute the same particular matter. However, section 3.234(a)(1) should be waived because my representation of BRIDGE Housing in a director role would not create undue influence or unfair advantage.

A waiver of section 3.234(a)(1) would allow me to work at BRIDGE Housing on implementing and fulfilling the obligations outlined in the Potrero HOPE SF major approvals as I have done in my current role. I do not possess privileged or confidential information related to the approval or implementation of the Potrero HOPE SF project, nor would my work at BRIDGE Housing be confidential and without oversight by the Mayor’s Office of Housing and Community Development or other stakeholders. There is general parity of information among all HOPE SF partners leading the project, whether it is the City or BRIDGE Housing. An example of specific contractual protections to avoid undue influence or unfair advantage can be found within the Potrero HOPE SF Development Agreement Section 7.8, which provides for a meet and confer process if the City disagrees or disapproves with the way that “implementing approvals” (i.e., the way that contractual obligations are achieved/satisfied) are processed by legal parties, including BRIDGE Housing. Another example is the various community meeting requirements to ensure adequate engagement and transparency with all stakeholders (e.g., monthly and annual meetings and community meetings before the start of major development phases).

As an employee of a non-profit affordable housing organization, my role would be to further the important mission of Potrero HOPE SF, as I have done in my current role. The City, contractually and in practice, refers to BRIDGE Housing and the other HOPE SF affordable housing organizations as the City’s partners in the HOPE SF initiative. A waiver would be consistent with the City’s messaging to, and contractual relationship with, its non-profit development partners to maintain a City-centered and public-service-centered focus in this work, which is buttressed by the contractual and legal requirements set forth in the Potrero HOPE SF major approvals and the authority of the City to enforce those requirements.

Section 3.234(a)(2) – One-Year Restriction on Communicating with Former Department

Section 3.234(a)(2) bars former employees from communicating with their former City departments with the intent to influence a governmental decision, for a period of one year from the employee’s separation from City employment.

While section 3.234(a)(2) may be an appropriate restriction in other situations, its application is not directly relevant here because Potrero HOPE SF already received major approvals, and implementation already receives the highest-priority treatment from City agencies. For example, Executive Directives 13-01 and 17-02 direct City departments to give the highest priority treatment to development projects such as Potrero HOPE SF. Communicating with my former department would be an appropriate and not an unfair advantage as Potrero HOPE SF already receives the highest-priority treatment both as a matter of official City policy and in practice through the City's various processes. Accordingly, a waiver to section 3.234(a)(2) does not create a potential for undue influence or unfair advantage.

A waiver of section 3.234(a)(2) would allow me to continue collaborating with City colleagues who have the same information that I possess in my current role and is also possessed by BRIDGE Housing. This transparency is a central tenet of this HOPE SF partnership, which requires maintaining highly visible actions and collaboration for work on the HOPE SF initiative. My current role has ensured that the project moves forward quickly and effectively and is conducted with integrity via open and transparent communications and actions, which would be a requirement for the role at BRIDGE Housing. A waiver would ensure that the City partnership and nature, scope, and subject matter of communications remain open, transparent, and seamless to maintain the momentum to complete and, ideally, accelerate this critical public housing revitalization project.

Closing Notes

My work for the City, especially on the HOPE SF initiative, prompted me to seek ways to articulate and put into practice the normative reasons and mission-driven motivations for public service that I feel intuitively. I found some answers during my studies at San Francisco State University's Master of Public Administration Program. I started in August 2019 and graduated as a distinguished and merit-based scholar in December 2021 while working full-time at OEWD and being the primary caregiver to my 90-year-old maternal grandmother, Pura Ye. As a graduate of this professional program, I explicitly understand and accept that I must adhere to a professional code of ethics, such as those set forth by the American Society for Public Administration: *to Advance the public interest, Uphold the Constitution and the law, Promote democratic participation, Strengthen social equity, Fully inform, and advise, Demonstrate personal integrity, Promote ethical organizations, and Advance professional excellence.* With the great privilege of working for the City and the HOPE SF initiative, regardless of the stakeholders and the interactions, my goal is to achieve the central tenets of this code of ethics and to live my life and conduct my work with integrity, compassion, and empathy. I hope that my desire to proceed through the comprehensive, transparent, and public Ethics Commission waiver process to continue advancing a public housing revitalization project, which is the City's highest priority, at a non-profit affordable housing organization is demonstrable proof that I hold myself and my prospective employer to high ethical standards and strongly believe these waiver requests are appropriate and will not result in undue influence or unfair advantage.

In closing, I offer gratitude for the work of the staff of the Ethics Commission and its Commissioners and advising City Attorneys. I extend this gratitude to the many individuals who have advised me that this waiver request is worth pursuing. I reserve my deepest gratitude for the many individuals who will continue advancing this important work with or without me and to the communities that continue to patiently wait. It is an enormously difficult responsibility to normalize people's intentions with what maximizes public benefit and minimizes or eliminates real or suspected corruption. I have deep respect for this process in the same way that I have deep respect for the communities I serve. There is not a single individual that will guarantee that Potrero HOPE SF will be successful in its lofty goals. Still, I firmly believe that if given the chance, I can meaningfully contribute to the incredibly dedicated team that will keep the promises that for too long have been unfulfilled.

With gratitude,

Phillip Christopher Wong

Phillip Christopher Wong

CC: Kate Sofis, Director, Office of Economic and Workforce Development
Anne Taupier, Director of Development, Office of Economic and Workforce Development
Judson True, Director of Housing Delivery, Office of the Mayor
Eric Shaw, Director, Mayor's Office of Housing and Community Development
Lydia Ely, Director, Mayor's Office of Housing and Community Development

Addendum

The general outline of the Ethics Commission's waiver process provided by email from Michael Canning, Senior Policy Analyst - Ethics Commission, on October 31, 2022:

1. Commission Staff receives waiver request.
2. Staff drafts memo recommending approval or denial of waiver.
3. Item agendaized for next regular meeting (if received at least two calendar weeks prior).
EC Reg. 3.234-4(a)(3).
4. Regular Commission meeting
 - a. Commission calls waiver agenda item in open session.
 - b. Staff will summarize the law and their recommendation.
 - c. Requestor will make their presentation.
 - i. Requestor will be given time (usually 3-5min. The Commission may grant further time at its discretion) to present the request.
 - ii. Requestor should lay out the reasons showing that *a waiver would not create the potential for undue influence or unfair advantage* using the factors laid out in Ethics Commission regulation 3.234-4(a)(4).
 - d. A designated representative of the public agency may make a presentation to the Commission supporting or opposing the waiver request. *EC Reg. 3.234-4(a)(3).*
 - e. Commission will seek clarifications from requestor and ask them to address or otherwise acknowledge factors laid out in the regulations to specify approval or denial of the request.
 - f. Commission discussion of waiver request.
 - g. Commission motion on how to resolve waiver request.
 - h. Public comment on Commission motion.
 - i. Requestor may ask that supporters make presentations during this time.
 - i. Commission vote to approve or deny waiver.
5. Commission Staff will draft and submit to Requestor an approval or denial of the waiver based on the Commission's motion.

Attachment 2

From: Canning, Michael (ETH)
Sent: Monday, October 31, 2022 10:47 AM
To: Wong, Phillip (ECN) <phillip.c.wong@sfgov.org>
Subject: RE: Help Request re: Post-employment Restrictions

Hello Phillip,

Thank you for your questions. We appreciate you reaching out to the Ethics Commission for guidance and are happy to clarify the rules around post-employment restrictions.

Background

You have stated that since August 2016 you have served as a project manager with the Office of Economic and Workforce Development (OEWD). You work on the implementation of mixed-use housing projects that received Board of Supervisors and Mayoral discretionary approvals via ordinances to enact development agreements between the City and private/non-profit developers. One of the development agreement projects you work on is the Potrero HOPE SF project ([BOS File No. 161161](#)), which is being developed by [Bridge Housing](#) in partnership with the City and the SF Housing Authority. You have stated that there is a potential opportunity for you to fill the now vacant Director of Potrero HOPE SF position at Bridge Housing, which you are exploring.

Summary of Applicable Laws

The City has rules for all officers and employees post-employment, these rules include: 1) a permanent restriction on representing any other person (except the City) before any court or government agency in connection with particular matters in which you were personally and substantially involved, 2) a one-year restriction on communicating with your former department with the intent to influence a government decision, and 3) a prohibition on employment with parties that contract with the City. Waivers for these first two rules may be issued by the Ethics Commission if the Commission determines that granting a waiver would not create the potential for undue influence or unfair advantage. Waivers for the third rule may only be issued if the Commission determines that imposing the restriction would cause extreme hardship for the City officer or employee.

The City's rules regarding behested payments can be found in [Section 3.234](#) of the Campaign and Governmental Conduct Code and in Ethics Commission Regulations 3.234-1 through 3.234-5.

Application of Relevant Laws

The following applies the three relevant laws to your situation and examines if a waiver would potentially be necessary for you to accept and perform in the Director position with Potrero HOPE SF.

Permanent Restriction on Representation In Particular Matters.

You have communicated that as Bridge Housing's Director of Potrero HOPE SF you would, from time to time, represent Bridge Housing on the Potrero HOPE SF project before courts and government agencies, specifically the San Francisco Housing Authority and various City agencies, including the Planning Commission and the Board of Supervisors. You have stated that Potrero HOPE SF is a City-funded project and City Policy Initiative (HOPE SF), the City is a legal party in the project's approvals (which occurred in March 2017), and that the City would continue to have a direct and substantial interest in the successful completion of the project.

In your current role with the City, you work to enact and implement the development agreement for the Potrero HOPE SF project. This work involves coordinating with City Departments to work on the design and permitting of required public improvements that includes Board of Supervisor's legislation to accept these public improvements (e.g., new streets, sidewalks, streetlights, water/sewer utilities, storm water systems) for City ownership, liability, and maintenance.

You have been personally and substantially involved in work on the implementation of the Potrero HOPE SF project and the Potrero HOPE SF project is a particular matter for the purposes of SEC. 3.234(a)(1). Given this, SEC. 3.234(a)(1) would prohibit you from representing Bridge Housing (or any other person, except the City) before any courts or government agencies, with the intent to influence, regarding the Potrero HOPE SF project. In order to represent Bridge Housing in the matter of the Potrero HOPE SF project, a waiver would need to be approved by the Ethics Commission, following the Commission finding that granting such a waiver would not create the potential for undue influence or unfair advantage.

One-Year Restriction on Communicating with Former Department.

You have stated that you do not anticipate needing to communicate with your former department (the Office of Economic and Workforce Development) in this position with Bridge Housing. If this is correct and remains true for the twelve months following the termination of your employment with the City, this rule should not be an issue for your potential employment with Bridge Housing.

Employment With Parties That Contract With The City.

You have stated that Bridge Housing has not entered into any contracts with the City during the last twelve months (Bridge Housing does have [a contract](#) with the City, but it was entered into in 2017). As long as Bridge Housing has not entered into a contract with the City during the twelve months prior to your accepting this position, this rule will not be an issue for your potential employment with Bridge Housing.

Waiver Process

Given the above, only the permanent restriction on representation in particular matters ([SEC. 3.234\(a\)\(1\)](#)) is likely to be an issue should you wish to pursue the position as Bridge Housing's Director of Potrero HOPE SF. Under Code section [3.234\(c\)](#), the Commission may waive the restrictions in section 3.234(a)(1) if the Commission makes a finding that granting a waiver would not create the potential for undue influence or unfair advantage. A request for a waiver must be in writing and must also certify that you have provided a copy of the waiver request to the City officer or employee responsible for the day-to-day management of your department, board, commission, office, or unit of government ([Ethics Commission Regulations. 3.234-4\(a\)\(1\)](#)).

The waiver request must include all the following:

1. Information describing the former position held by the employee,
2. the particular matter for which the waiver is sought,
3. the individual's prior involvement in the matter, if any, and
4. reasons why granting a waiver would not create the potential for undue influence or unfair advantage. *EC Reg. 3.234-4(a)(1)*.

In making its determination whether or not to grant a waiver, the Commission may consider:

1. The nature and scope of the representation,
2. the subject matter of such representation,
3. the former position held by the employee,
4. the type of inside knowledge that the individual may possess, and
5. any other factors the Commission deems relevant.

The general outline of the Commission's waiver process is as follows:

1. Commission Staff receives waiver request.
2. Staff drafts memo recommending approval or denial of waiver.
3. Item agendaized for next regular meeting (if received at least two calendar weeks prior). *EC Reg. 3.234-4(a)(3)*.
4. Regular Commission meeting
 - a. Commission calls waiver agenda item in open session.
 - b. Staff will summarize the law and their recommendation.
 - c. Requestor will make their presentation.
 - i. Requestor will be given time (usually 3-5min. The Commission may grant further time at its discretion) to present the request.
 - ii. Requestor should lay out the reasons showing that *a waiver would not create the potential for undue influence or unfair advantage* using the factors laid out in Ethics Commission regulation 3.234-4(a)(4).
 - d. A designated representative of the public agency may make a presentation to the Commission supporting or opposing the waiver request. *EC Reg. 3.234-4(a)(3)*.
 - e. Commission will seek clarifications from requestor and ask them to address or otherwise acknowledge factors laid out in the regulations to specify approval or denial of the request.
 - f. Commission discussion of waiver request.
 - g. Commission motion on how to resolve waiver request.
 - h. Public comment on Commission motion.
 - i. Requestor may ask that supporters make presentations during this time.
 - i. Commission vote to approve or deny waiver.
5. Commission Staff will draft and submit to Requestor an approval or denial of the waiver based on the Commission's motion.

Please let me know if you have any questions or would like to submit a waiver request.

Best,
Michael

Michael Canning | Acting Senior Policy Analyst
pronouns: he/him
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