



San Francisco Ethics Commission

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Date: September 1, 2023

To: Members of the Ethics Commission

From: Michael Canning, Acting Policy and Legislative Affairs Manager

Re: **AGENDA ITEM 05 – Update and discussion regarding the March 2024 Ethics Commission Ballot Measure focused on gifts, training, and other City ethics laws.**

Summary and Action Requested

This memo provides the Commission with an update on the status of the ballot measure (<https://sfethics.org/Ethics-Measure-Adopted-8-18-2023>) that the Commission approved for the March 5, 2024 ballot during its August meeting. In addition to a general status update, this memorandum provides information on next steps regarding the development and submission of ballot arguments, as well as the development of additional regulations related to the ballot measure. A brief review of the City's rules regarding political activity is also provided.

This item is agendaized for discussion as no Commission action is required at this time.

Update Since August Meeting

On August 23, Staff delivered the approved ordinance to the Department of Elections and have confirmed it was properly submitted and received for inclusion on the March 5, 2024 ballot. The regulation amendments approved by the Commission in August have also been properly filed with the Board of Supervisors. On August 23, Staff issued [a press release](#) regarding the approval of the ballot measure and the Commission's actions have since been [reported on locally](#) in the press.

Following the August meeting, Staff have also been in contact with the Mayor's Office and the Department of Public Health to inform them of the amendment that was made to remove the "financial interest" rule from Section 3.218(a)(1)(A). Notice of this amendment has also been shared by the Department of Human Resources to City bargaining units, so that they are aware the amendment was made.

Staff is in the process of developing additional materials, beyond the aforementioned press release, to provide the public with more factual information about what the measure would do if approved. For past ballot measures (in [2015](#) and [2016](#)), the Commission has published FAQ documents for providing additional information about its ballot measures for this purpose.

Approval and Submission of Ballot Arguments and Rebuttals

The official Voter Information Pamphlets produced by the Department of Elections generally contain "ballot arguments" regarding each measure on the ballot. Additionally, shorter "rebuttal arguments" can be submitted in response to the ballot arguments of another party. In the past, the Ethics

Commission has proved the proponent arguments for the ballot measures they have placed on the ballot. **Attachment 1** contains the Commission’s ballot argument and rebuttal to the opponent’s argument regarding [Proposition C from 2015](#) and the Commission’s ballot argument regarding [Proposition T from 2016](#). These arguments are provided as an illustration of the Commission’s prior submissions to the Voter Information Pamphlets.

Staff is currently in contact with both the Department of Elections and the City Attorney’s Office regarding the rules and best practices associated with the Commission submitting ballot arguments regarding its measure. Staff will be meeting with these offices soon to gain additional clarity regarding this process.

The deadline for submitting ballot arguments for the March 5, 2024 election is December 14 and the deadline for submitting a rebuttal will be December 18. Staff anticipates providing draft arguments for the Commission’s consideration at the October meeting. Given the limited amount of time (four days) between the argument deadline and the rebuttal submission deadline, the Commission will likely need to delegate the submission of the rebuttal to a single commissioner, who can work with Staff to submit any potential rebuttal on behalf of the Commission.

Similar, but separate from the ballot argument process, the City’s Ballot Simplification Committee (BSC) will also be developing a summary (or “digest”) of the Commission’s measure. Past BSC digests are also included as part of **Attachment 1**. Staff will be able to attend future BSC meetings to answer questions and contribute to the summary developed. Staff has already reached out to the BSC regarding their timeline for the March 2024 election.

Development of Additional Regulations

At the August meeting, the Commission approved draft regulations for Sections 3.205 and 3.216 of the Campaign and Governmental Conduct Code, as they would be amended if the measure were to be approved the voters. When approved, it was specified that these regulations would only become operative when, and if, the ballot measure was approved by voters and operative. Between now and the potential operative date of the ballot measure, the Commission has the ability to consider additional regulations to help clarify and implement other sections of the Code that may be impacted by the ballot measure. These additional regulations can be approved with the same timing mechanism as the regulations for Sections 3.205 and 3.216 that the Commission has already approved.

Section 3.218 of the Campaign and Governmental Conduct Code currently sets forth rules regarding departmental Statements of Incompatible Activities (SIAs). The Ethics Commission’s 2024 ballot measure would amend Section 3.218 to eliminate departmental SIAs and move the rules from those SIAs into the amended Section 3.218. An excerpt from the Commission’s ballot measure regarding Section 3.218 has been provided as **Attachment 2**.

There are existing Ethics Commission regulations for Section 3.218, many of which would no longer be applicable if the ballot measure were to be enacted by voters. Given this, and the general importance of the rules in Section 3.218, Staff has identified the development of draft regulations for Section 3.218 as the most impactful section for additional Commission regulations.

In the coming months, Staff will work to develop initial regulation amendments for Section 3.218. These regulations will be presented to the Commission for discussion and consideration at a subsequent meeting. Interested persons meetings shall also be scheduled to provide the public with additional opportunities to discuss and contribute to the draft regulation amendments. These regulations may also be subject to meet and confer with City bargaining units. While some aspects of this process are outside of the Commission's control, Staff is targeting that this process can be concluded and that the Commission would be able to vote on draft regulation amendments for Section 3.218 by January 2024.

Reminder on City Rules Regarding Political Activity

Considering it has been several years since the Commission last placed a measure on ballot, Staff wanted to publicly remind Commissioners, Staff, and the public of the rules that are in place regarding political activity by City officers and employees. Each election year, the City Attorney's Office provides a memo regarding political activity, the most recent memo from 2022 has been provided as **Attachment 3**.

As described in the memo, officers and employees of the Ethics Commission are prohibited from using City resources to advocate for or against candidates or ballot measures, including the Commission's 2024 ballot measure. However, City resources may be used to analyze and provide information to the public, regarding the proposed ballot measure, as long as the analysis is objective, avoids campaign slogans or other language typically associated with campaign literature, and does not urge a vote one way or another. Both the Ethics Commission and the department are prohibited from advocating for or endorsing ballot measures.

Additionally, the [Ethics Commission Statement of Incompatible Activities](#) has rules (in Section III.A.1.a-c) regarding political activity, which include prohibitions on officers and employees attending or participating in certain events, such as campaign events and candidate forums or debates, other than in their official capacities.

Staff and Deputy City Attorney Brad Russi will be available to answer questions about these rules during the meeting.

Recommended Next Steps

This item is provided as an informational update to the Commission and to provide a forum for any discussion or questions the Commission or the public may wish to engage in regarding the subject matter of this memo. No Commission action is needed at this time.

Attachments:

Attachment 1: Voter Information Pamphlet Excerpts of Commission Measures from 2015 and 2016

Attachment 2: Section 3.218 – Excerpt from Ethics Commission 2024 Ballot Measure

Attachment 3: City Attorney Memo on Political Activity - 2022

ATTACHMENT 1



C

Expenditure Lobbyists

Shall the City regulate expenditure lobbyists by requiring them to register with the Ethics Commission, pay a \$500 registration fee, and file monthly disclosures regarding their lobbying activities?

YES ←  
NO ←  

Digest by the Ballot Simplification Committee

The Way It Is Now: Individuals who are paid to directly contact City officers to influence their legislative or administrative actions are called lobbyists. Their activities are regulated by the City’s Lobbyist Ordinance. The Ordinance does not address indirect lobbying, also known as “expenditure lobbying,” where persons solicit or urge others to directly contact City officers.

The Proposal: Proposition C would define an expenditure lobbyist as any person or business who pays \$2,500 or more in a calendar month to solicit, request, or urge others to directly lobby City officers. The types of activities that would apply to the \$2,500 threshold include:

- public relations, media relations, and advertising,
- public outreach,
- research, investigation, reports, analyses, and studies.

The following types of payments would not count toward the \$2,500 threshold:

- payments made to a registered lobbyist who directly contacts City officers;
- payments made to an organization for membership dues;
- payments made by an organization to distribute communications to its members;
- payments made by a news media organization to develop and distribute its publications; and
- payments made by a client to a representative to appear on the client’s behalf in a legal proceeding before a City agency or department.

Proposition C would require expenditure lobbyists to register with the Ethics Commission, pay a \$500 registration fee, and file monthly disclosures regarding

their lobbying activities. Employees of nonprofit organizations would not be subject to the \$500 registration fee.

Proposition C would also allow the City to change these requirements without further voter approval if the change would further the purposes of the ordinance. The Ethics Commission would be required to approve the changes by a four-fifths vote, and the Board of Supervisors would be required to approve them by a two-thirds vote. Voters would retain the right to amend the ordinance.

A “YES” Vote Means: If you vote “yes,” you want the City to regulate expenditure lobbyists by requiring them to register with the Ethics Commission, pay a \$500 registration fee, and file monthly disclosures regarding their lobbying activities.

A “NO” Vote Means: If you vote “no,” you do not want to make these changes.

Controller’s Statement on “C”

City Controller Ben Rosenfield has issued the following statement on the fiscal impact of Proposition C:

Should the proposed ordinance be approved by the voters, in my opinion, the cost to government would increase by a moderate amount in order to administer expanded lobbyist registration and tracking requirements.

Currently San Francisco requires persons who directly contact City officials in order to influence legislative or administrative action to register as lobbyists and report on their activities. The ordinance would expand the law and define as an “expenditure lobbyist” any person who spends \$2,500 or more in a month for the purpose of influencing City legislative or administrative action. According to current Ethics Commission data, 64 registered lobbying firms and 94 lobbyists were active in 2014. The number of expenditure lobby-

This measure requires 50%+1 affirmative votes to pass.

The above statement is an impartial analysis of this measure. Arguments for and against this measure immediately follow. The full text begins on page 156. Some of the words used in the ballot digest are explained starting on page 41.

ists who would be required to register and report is difficult to estimate, but is likely to be somewhat less than the number of contact lobbyists currently registered.

The measure specifies a one-time budget amount of \$560,000 in fiscal year 2015–16 proposed by the Ethics Commission. This amount includes \$500,000 to expand, develop and maintain for 10 years the software for lobbyist tracking and reporting requirements. The remaining \$60,000 includes the cost of temporary and replacement staff for the initial startup and an estimated ongoing cost of supervision at \$15,000 annually. The ordinance specifies that following depletion of the \$560,000 appropriation, the City would budget \$15,000 annually for this program. Lobbyists subject to the ordinance are required to pay registration fees of \$500 per year which would offset a small portion of the cost of administration and enforcement of the ordinance. Note that an ordinance cannot bind future Mayors and Boards of Supervisors to provide funding for this or any other purpose and therefore future costs will ultimately depend on decisions that the Mayor and Board of Supervisors make through the budget process.

The ordinance can be amended without voter approval, subject to super-majority approval by both the Ethics Commission and the Board of Supervisors.

How “C” Got on the Ballot

On June 29, 2015, the Ethics Commission voted 5 to 0 to place Proposition C on the ballot.

This measure requires 50%+1 affirmative votes to pass.

The above statement is an impartial analysis of this measure. Arguments for and against this measure immediately follow. The full text begins on page 156. Some of the words used in the ballot digest are explained starting on page 41.



Proponent's Argument in Favor of Proposition C

The City has a long-standing, compelling interest in furthering public disclosure of the identities of lobbyists and of their efforts to influence decision-making regarding local legislative and administrative matters. This ballot measure seeks to protect public confidence in the responsiveness and representative nature of government officials and institutions.

The City currently requires lobbyists who directly contact City officials, referred to as “contact lobbyists,” to register with the Ethics Commission and disclose their lobbying activities. But individuals, businesses, non-profit organizations, labor unions, and trade associations also attempt to indirectly influence City officials by urging others to directly lobby those officials. These indirect lobbyists, referred to as “expenditure lobbyists,” make payments in an attempt to encourage others to directly lobby City officials by urging them to attend legislative hearings to speak on their behalf, by providing them with transportation to public meetings, by using advertising outlets to ask others to call or contact City officials’ offices to make their arguments, or by making donations in exchange for their direct lobbying efforts. Given these efforts, it is often difficult for City officials to know whether the individuals directly approaching them are truly voicing their own

opinions or are doing so at the behest of expenditure lobbyists.

Prior to 2009, expenditure lobbyists were required to register; this ballot measure reinstates that requirement and makes San Francisco’s reporting requirements consistent with those of Los Angeles, Sacramento, San Diego, San Jose and the State of California.

This ballot measure imposes reasonable, narrowly tailored registration and disclosure requirements on expenditure lobbyists, obligating them to reveal information about their efforts to influence decision-making. Since expenditure lobbyists and direct, contact lobbyists both attempt to influence the City’s legislative process, this ordinance imposes the same sorts of registration and disclosure requirements on both types of lobbyists.

San Francisco Ethics Commission

Rebuttal to Proponent's Argument in Favor of Proposition C

WHY SHOULD LOBBYISTS WORKING FOR NON-PROFIT ORGANIZATIONS NOT PAY LOBBYING FEES???

George Orwell (1903–1950) was born in Bengele, British India, educated at Eton, served in Burma’s Indian Imperial Police, saw the abuses of English colonialism, returned to Europe, fought with anti-Francoists in the Spanish Civil War, and became an author opposing totalitarianism with many of his novels, including *1984* and *Animal Farm*.

In *Animal Farm*, England’s Manor Farm is taken over in a barnyard revolution in the name of animal freedom and equality. Soon the pigs take power, their motto becoming: “**ALL ANIMALS ARE EQUAL BUT SOME ANIMALS ARE MORE EQUAL THAN OTHERS**”

San Francisco’s Ethics Commission, composed of a flock of appointees of City Hall officeholders, seem to have similar ideas about lobbyists.

Most local lobbyists are required to pay large registration fees, but employees of non-profit organizations unjustly ride for free.

Such abuses are to be expected when the Ethics Commission is not composed of independent citizens—like a civil or criminal grand jury.

The Ethics Commission, with a San Francisco City Charter amendment, needs to be isolated from direct City Hall control.

During a recent dispute involving the Sheriff’s Office, the Ethics Commission openly allowed itself to become a City Hall rubber stamp.

The findings of the Ethics Commission on this occasion were overturned by a vote of the San Francisco Board of Supervisors.

Vote “**NO!**” on Proposition C.

Dr. Terence Faulkner, J.D.

*Past Member of Regional Citizens Forum Board of Association of Bay Area Governments (ABAG)**

*For identification purposes only; author is signing as an individual and not on behalf of an organization.

Arguments are the opinions of the authors and have not been checked for accuracy by any official agency. Arguments are printed as submitted. Spelling and grammatical errors have not been corrected.

Opponent’s Argument Against Proposition C

THIS LOBBYIST BALLOT MEASURE NEEDS TO BE REDRAFTED. THE ETHICS COMMISSION SHOULD NOT HAVE THE POWER TO WAIVE THE LOBBYIST FEES OF EMPLOYEES OF TAX-EXEMPT ORGANIZATIONS COVERED BY 26 U.S.C. SECTION 501(c)(3) OR 501(c)(4).

The employees of tax-exempt organizations should be covered by the same general lobbying laws as other organizations, businesses, and corporations taking part in the legislative process.

The policy of granting waivers to employees of non-profit and/or tax-exempt organizations to exempt them from lobbyist registration fees needs to finally be halted in the City and County of San Francisco.

Modern business entities, corporations, and labor organizations should be governed by similar legislative lobbying rules under modern economic and social conditions.

It is time for the San Francisco to adapt its lobbying standards to those of other California cities.

Dr. Terence Faulkner, J.D.
United States President’s Federal Executive Awards
*Committeeman (1988)**

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Rebuttal to Opponent’s Argument Against Proposition C

Proposition C was placed on the ballot by a unanimous vote of the members of the San Francisco Ethics Commission. It imposes registration and reporting obligations on any individual and any organization that spends at least \$2,500 in a calendar month to solicit, request, or urge others to directly lobby City officers (i.e., elected City officials, members of City boards and commissions, and City department heads). Other jurisdictions regulate such “expenditure lobbying” and similar activities, although not always in the same manner. Those jurisdictions include Los Angeles, Sacramento, San Diego, San Jose, and the State of California.

Employees of tax-exempt non-profit organizations are not exempted from the lobbying reporting requirements, which apply to all individuals and entities, including the obligation to register and report their activities; only certain of these employees—those working for charities and social welfare organizations—will be exempted from having to pay the \$500.00 registration fee. This exemption reflects the fact that many of these employees may be paid less

than private sector employees. San Francisco law regulating direct lobbyists contains the same exemption.

San Francisco Ethics Commission

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Paid Argument IN FAVOR of Proposition C

Lobbyists are using a loophole to spend whatever they want in San Francisco without disclosure.

Make their lobbying public. CLOSE the loophole, Vote for Prop

*Don Ellison**

*Charles Marsteller**

Former Co-Coordiators

San Francisco Common Cause

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The true source(s) of funds for the printing fee of this argument: Charles Marsteller, Don Ellison.

Paid Argument IN FAVOR of Proposition C

Prop C will restore transparency to the engine behind local lobbying.-- the money spent shaping how the public views issues facing San Francisco.

As former members of San Francisco Civil Grand Juries - charged with examining city government - we have long been interested in encouraging ethics in San Francisco government, in part by making the Ethics Commission more effective. Prop C mirrors a 2014 Civil Grand Jury recommendation to restore reporting on expenditure lobbying, as was required until 2009.

Recent Supreme Court cases have significantly broadened the flow of money into campaigns which necessitates transparency into the money to inform and protect the electorate. Prop C will shine light on deep-pocketed expenditure lobbying in our City.

With public and open debate, the Ethics Commission voted unanimously to place this on the ballot. It deserves our strong support, and we urge a YES vote on Prop C.

Former Civil Grand Jury Members:

*Larry Bush, 2013/14**

*Daniel A Chesir, 2014/15**

*Allegra Fortunati, 2014/15**

*Hulga Garfolo, 2010/11**

*Joseph Kelly, Jr. 2013/14**

*John Mona, 2000/02, 2006/07**

*Maryta Piazza, 2013/14**

*Bob Planthold, 1999/2001, 2006/08**

*Phil Reed, 2014/15**

*Elena Schmid, Foreperson, 2013/14**

*Robert van Ravenswaay, 2013/14**

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The true source(s) of funds for the printing fee of this argument: Joseph Kelly, Jr., Elena Schmid, Robert van Ravenswaay.

Paid Argument IN FAVOR of Proposition C

As former Ethics Commissioners, we support the Ethics Commission's Prop C. Several years ago, a loophole opened, allowing special interests to spend money on a type of lobbying without reporting it.

Prop C requires full reporting, by those spending money to influence city decisions, of what they spend on getting the public to comment favorably or attend a meeting to support their positions on local interests.

Vote YES on C

Paul Melbostad, former Commission Chair

Bob Planthold, former Commission Chair

Bob Dockendorff, former Commissioner

Sharyn Saslafsky, former Commissioner

The true source(s) of funds for the printing fee of this argument: Paul Melbostad, Sharyn Saslafsky, Robert D. Dockendorff, Robert R. Planthold.

Paid Argument IN FAVOR of Proposition C

Vote YES on C – It's Common Sense

Government openness is a fundamental democratic principle.

Prop C provides a critical means for achieving that objective.

Requiring expenditure lobbyists to report – just as I do, as a lawfully registered lobbyist, for any activity I engage in seeking to influence legislative or administrative actions – is elementary and essential to open government.

Prop C will:

- Contribute to better understanding of the money that could influence government decision-making,
- Improve knowledge of government services and transactions and,
- Improve access to government processes and decision-makers for *all* citizens.

Vote YES ON C!

Denise LaPointe

The true source(s) of funds for the printing fee of this argument: Denise M. LaPointe.

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Paid Argument IN FAVOR of Proposition C

DEMOCRATS FOR TRUE TRANSPARENCY!

Proposition C was created by the San Francisco Ethics Commission to strengthen the existing lobbying laws to include unions, nonprofits, and other organizations that lobby elected officials at City Hall.

Vote YES to Strengthen the Lobbyist Laws!

San Francisco Democratic Party

The true source(s) of funds for the printing fee of this argument: San Francisco Democratic County Central Committee.

The three largest contributors to the true source recipient committee: 1. TMG Partners, 2. SFPOA, 3. PG&E.

Paid Argument IN FAVOR of Proposition C

Proposition C will bring into the open the hidden influences of special interests on decisions made by city officials about development, taxes, and anything else. Dark money and influence peddling need sunlight!

Yes on C!

San Francisco Tomorrow

The true source(s) of funds for the printing fee of this argument: San Francisco Tomorrow.

Paid Argument IN FAVOR of Proposition C

VOTE YES ON PROPOSITION C

A problem for San Francisco taxpayers is secret indirect lobbying at City Hall which influences City government decisions that could adversely affect taxpayers.

Various corporate and organizational executives can, and do, covertly lobby City officials and we don't know it.

The San Francisco Ethics Commission voted unanimously in June to ask voters to overturn the Board of Supervisors and close a destructive loophole in public registration requirements for corporations, organizations, and individuals who pay thousands of dollars to unidentified, unregistered lobbyists to tilt governmental decisions to benefit them. That means favors from City Hall, with our money, unbeknownst to us!

In 2010, the Board of Supervisors repealed the law requiring public disclosure of spending by lobbyists to influence City government decisions, directly or *indirectly*. Proposition C restores the requirement that **anyone** who receives money to influence City Hall

decisions must register and reveal publicly the payments from such corporation, entity or individual. Unreported lobbying can be as venal and injurious to taxpayers as is reported, direct lobbying with the Mayor, Board of Supervisors or other City officials.

That's why Sacramento, San Jose, San Diego, Los Angeles and the State of California require public disclosure of indirect lobbying.

San Francisco Taxpayers Association strongly recommends a YES vote for our Ethics Commission's Proposition C.

*San Francisco Taxpayers Association
Judge Quentin L. Kopp (Ret.), President*

The true source(s) of funds for the printing fee of this argument: San Francisco Taxpayers Association.

Paid Argument IN FAVOR of Proposition C

VOTE YES ON PROP C

As current or former elected officials, we urge you to support Proposition C. The Ethics Commission put this on the ballot to restore public disclosure of spending to influence city hall decisions. Currently some forms of lobbying can be done without telling the public. This would require all lobbying be done with public disclosure.

*Jeff Adachi, Public Defender**
*Art Agnos, Former Mayor**
*Tom Ammiano, Former Assemblymember **
*John Avalos, Supervisor**
David Campos, Supervisor
*Scott Wiener, Supervisor**

*For identification purposes only; author is signing as an individual and not on behalf of an organization.

The true source(s) of funds for the printing fee of this argument: Charles Marsteller.

End of Paid Arguments IN FAVOR of Proposition C

Paid Argument AGAINST Proposition C

In San Francisco, community and faith-based nonprofits provide significant portions of health and human services for children, youth and their families, seniors, people with disabilities, homeless families, and people with AIDS, as well as building most of the City's affordable housing. This is known throughout the world as "the San Francisco model."

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In a late night amendment, poorly drafted language was inserted into an otherwise commendable measure regulating lobbyists at City Hall. As written, Prop C fails to distinguish between corporate fronts for Airbnb and other lobbyists, and critically important faith and community-based nonprofits. This measure will require scores of City-funded nonprofits to file as “lobbyists,” placing in jeopardy their Federal non-profit status and their continued provision of services to the most vulnerable San Franciscans.

Vote No on C.

*San Francisco Human Services Network
Council of Community Housing Organizations*

The true source(s) of funds for the printing fee of this argument: San Francisco Human Services Network and Council of Community Housing Organizations.



T

Restricting Gifts and Campaign Contributions from Lobbyists

Shall the City prohibit any lobbyist from making campaign contributions to a City elected official or bundling contributions for the official, if the lobbyist was registered to lobby the official's agency; generally prohibit lobbyists from providing gifts of any value to City officials; and require lobbyists to identify the City agencies they plan to lobby?

YES ←  
NO ←  

Digest by the Ballot Simplification Committee

The Way It Is Now: The City's Lobbyist Ordinance requires local lobbyists to register with the City's Ethics Commission. When they register, the City does not require them to identify the City agencies they plan to lobby. Lobbyists must file monthly reports and disclose campaign contributions made or delivered by the lobbyists themselves, their employers or clients.

In general, a person is not allowed to make a campaign contribution of more than \$500 to a City elected official or a candidate for City elective office. Lobbyists are subject to this \$500 campaign contribution limit. The City does not restrict anyone, including lobbyists, from collecting campaign contributions from other persons—a practice known as “bundling”—and delivering those contributions to a City official or candidate for City office.

With some exceptions, lobbyists cannot provide any City official with gifts worth more than \$25. Under current law, lobbyists cannot deliver payments or gifts through third parties in order to avoid this gift limit.

The Proposal: Proposition T would prohibit a lobbyist from making campaign contributions to a City elected official or bundling contributions for the official if the lobbyist is registered to lobby the official's agency. These restrictions also apply to candidates for local offices.

Proposition T also would prohibit a lobbyist from providing gifts of any value to any City officials. Some nonprofits would have a limited exemption. The measure would also clarify that lobbyists cannot use third parties to attempt to avoid these gift limits.

Proposition T would require lobbyists to identify the City agencies they plan to lobby.

A “YES” Vote Means: If you vote “yes,” you want to:

- prohibit any lobbyist from making campaign contributions to a City elected official or bundling contributions for the official if the lobbyist is registered to lobby the official's agency;
- generally prohibit lobbyists from providing gifts of any value to City officials; and
- require lobbyists to identify the City agencies they plan to lobby.

A “NO” Vote Means: If you vote “no,” you do not want to make these changes.

Controller's Statement on “T”

City Controller Ben Rosenfield has issued the following statement on the fiscal impact of Proposition T:

Should the proposed ordinance be approved by the voters, in my opinion, the cost to government would increase by a minimal amount in order to administer expanded lobbyist tracking requirements.

Lobbyists, both contact lobbyists and expenditure lobbyists, are currently required to register with the Ethics Commission. The proposed ordinance would require lobbyists to identify the agencies they intend to influence ahead of contact and would also prohibit lobbyists from making any gifts, including gift of travel, to any City officer and their family members. Non-profits would be allowed to provide gifts of food or refreshment up to \$25 for all attendees at a public event.

Lobbyists would be prohibited from making any contribution, including bundled contributions, to a City elective officer, candidate for office, or their candidate-controlled committee if the lobbyist is registered to

This measure requires 50%+1 affirmative votes to pass.

The above statement is an impartial analysis of this measure. Arguments for and against this measure immediately follow. The full text begins on page 302. Some of the words used in the ballot digest are explained starting on page 58.

lobby the agency for which the candidate is seeking election.

The proposed ordinance specifies a one-time budget amount of \$115,000 in fiscal year 2016–17, including \$100,000 for new software requirements and \$15,000 for one-time staff costs. The ordinance specifies that following depletion of the \$115,000 budget the City would budget \$5,000 annually for this program. Note that an ordinance cannot bind future Mayors and Boards of Supervisors to provide funding for this or any other purpose and therefore future costs will ultimately depend on decisions that the Mayor and Board of Supervisors make through the budget process.

The ordinance can be amended without voter approval, subject to super-majority approval by both the Ethics Commission and the Board of Supervisors.

How “T” Got on the Ballot

On July 25, 2016, the Ethics Commission voted 4 to 0 to place Proposition T on the ballot.

This measure requires 50%+1 affirmative votes to pass.

The above statement is an impartial analysis of this measure. Arguments for and against this measure immediately follow. The full text begins on page 302. Some of the words used in the ballot digest are explained starting on page 58.



Proponent's Argument in Favor of Proposition T

Proposition T was placed on the ballot by a unanimous vote of the San Francisco Ethics Commission to eliminate any possible link between lobbyist campaign contributions and gifts and agency decisions which the lobbyist seeks to influence.

Similar to restrictions in place for the State of California and in the City of Los Angeles, Proposition T bans lobbyists from making campaign contributions to elected officials at agencies the lobbyists are registered to lobby and to candidates seeking election to those offices. Proposition T also bans lobbyists from transmitting to those officials and candidates campaign contributions collected from others, a practice commonly known as "bundling." These bans apply to campaign contributions a lobbyist makes or bundles to any local committee a City officer or candidate controls, including a controlled ballot measure committee. The measure applies to all lobbyists that must register with the Ethics Commission. In addition, lobbyists are subject to these bans for 90 days after their registration to lobby any agency ends.

Proposition T also bans lobbyists from giving City officers gifts of any value, including gifts of travel, and it prohibits lobbyists from making those payments through others. City officers will also be prohibited from soliciting and receiving prohibited lobbyist gifts. A limited exception will allow City officers to receive food and beverages worth \$25 or less at a public meeting held by a 501c3 non-profit organization that has qualified as a lobbyist when those refreshments are equally available to all attendees of the public event.

Proposition T will become operational on January 1, 2018. It provides \$115,000 for the Ethics Commission to modify its online lobbyist registration technology to accommodate the changes made by this measure.

San Francisco Ethics Commission

No Rebuttal or Opponent's Argument Against Proposition T Was Submitted

Arguments are the opinions of the authors and have not been checked for accuracy by any official agency. Arguments are printed as submitted. Spelling and grammatical errors have not been corrected.

Paid Argument IN FAVOR of Proposition T

Why Prop T?

Last year, a single lobbyist bundled over \$80,000 in contributions for just two San Francisco candidates. And lobbyists today can give major travel gifts to our elected officials.

When lobbyists mix gifts and contributions with requests for specific policy outcomes, there's a major risk of corruption.

Prop T's solution

Written by the San Francisco Ethics Commission, Proposition T will ban gifts, contributions, and bundling from lobbyists to our politicians in a reasonable and tailored manner.

The lobbyist contribution ban is already the law at the California state level, and it was upheld in federal court - but without Prop T, San Francisco lacks this protection.

Who supports Prop T?

Many organizations, elected officials, and individuals, including California Common Cause and the Coalition for San Francisco Neighborhoods, have endorsed Proposition T. View the full list of endorsements at www.YesOnPropT.org.

Vote YES on Proposition T, the lobbyist gift ban!

Ban Lobbyist Gifts to Politicians, YES on Prop T, Integrity San Francisco, Sponsored by Represent.Us

The true source(s) of funds for the printing fee of this argument: Ban Lobbyist Gifts to Politicians, YES on Prop T, Integrity San Francisco, Sponsored by Represent.Us - FPPC #1388288.

The two contributors to the true source recipient committee: Represent.Us, Louis Eisenberg.

Paid Argument IN FAVOR of Proposition T

Prop T will limit lobbyists' current methods of gaining access to San Francisco decision-makers by banning them from making contributions directly and from bundling contributions from others, along with banning their gifts to decision-makers, including gifts of travel.

As former members of San Francisco Civil Grand Juries — charged with recommending improvements to city government — we have long been interested in methods to limit undue influence on decision-makers. Los Angeles and the state restrict lobbyist contributions without problems. We believe this measure will

help to bring some sanity to methods used by lobbyists to gain undue influence and access to decision-makers.

Campaign contributions from lobbyists, whether direct or as bundled contributions from their clients, can appear to be pay-to-play maneuvers, and can lead to voters losing confidence in their government. Gifts of travel can allow lobbyists, and their clients, access to decision-makers without public accountability.

This year, after many public meetings and open debate, the SF Ethics Commission voted unanimously to place this measure on the ballot. It deserves our strong support and we urge a YES vote on Prop T

Supporters include:

Former Civil Grand Jury Members:

Larry Bush, 2013/14

Karen Cancino, 2008/09

Jay Cunningham, Foreperson 2014/15

Allegra Fortunati, 2011/12, 2014/15

Julia Hansen, 2006/07

Mazel Looney, 2013/14

Martha Mangold, Foreperson 2012/13

Maryta Piazza, 2013/14

Bob Planthold, 1999/2001, 2006/08

Barbara Cohrssen Powell, 2013/14

Robert van Ravenswaay, 2013/14

Elena Schmid, Foreperson 2013/14

The true source(s) of funds for the printing fee of this argument: Larry Bush, Karen Cancino, Jay Cunningham, Julia Hansen, Mazel Looney, Martha Mangold, Maryta Piazza, Bob Planthold, Barbara Cohrssen Powell, Elena Schmid, Robert van Ravenswaay, Allegra Fortunati.

Paid Argument IN FAVOR of Proposition T

It's just common sense. Lobbyists shouldn't be allowed to use gifts and donations to influence our politicians. Let's make sure they can't.

Vote Yes on T.

San Francisco Tomorrow

The true source(s) of funds for the printing fee of this argument: San Francisco Tomorrow.

Paid Argument IN FAVOR of Proposition T

The below organizations and individuals endorse Prop T:

San Francisco Democratic County Central Committee (SFDCCC)



*San Francisco Republican Party
San Francisco Green Party*

*Coalition of San Francisco Neighborhoods
Friends of Ethics
League of Pissed Off Voters*

*Supervisor Eric Mar
Supervisor Norman Yee
Supervisor Scott Wiener
Supervisor John Avalos*

*Assemblymember Phil Ting
Art Agnos, Former Mayor
Tom Ammiano, Former Assemblyman and Supervisor
Ban Lobbyist Gifts to Politicians, Yes on Prop T,
Integrity San Francisco, sponsored by Represent.Us*

The true source(s) of funds for the printing fee of this argument: Ban Lobbyist Gifts to Politicians, Yes on Prop T, Integrity San Francisco, Sponsored by Represent.Us.

The two contributors to the true source recipient committee: Represent.Us, Louis Eisenberg.

Paid Argument IN FAVOR of Proposition T

We former Ethics commissioners urge Yes on T!

T aligns SF with its state counterpart.

T makes it easier for lobbyists to understand, report and comply in much the same way as they do at the state level.

*Paul Melbostad
Bob Dockendorff
Bob Planthold
Sharyn Saslafsky*

The true source(s) of funds for the printing fee of this argument: Ban Lobbyist Gifts to Politicians, Yes on Prop T, Integrity San Francisco, Sponsored by Represent.Us.

The two contributors to the true source recipient committee: Represent.Us, Louis Eisenberg.

End of Paid Arguments IN FAVOR of Proposition T

No Paid Arguments AGAINST Proposition T Were Submitted

Arguments are the opinions of the authors and have not been checked for accuracy by any official agency. Arguments are printed as submitted. Spelling and grammatical errors have not been corrected.

ATTACHMENT 2

1 Excerpt from 2024 Ethics Commission Ballot Measure
2 (Full Measure Available Here: <https://sfethics.org/Ethics-Measure-Adopted-8-18-2023>)
3

4 **SEC. 3.218. INCOMPATIBLE ACTIVITIES.**

5 ~~(a) **Prohibition.** No officer or employee of the City and County may engage in any~~
6 ~~employment, activity, or enterprise that the department, board, commission, or agency of which~~
7 ~~he or she is a member or employee has identified as incompatible in a statement of incompatible~~
8 ~~activities adopted under this Section. No officer or employee may be subject to discipline or~~
9 ~~penalties under this Section unless he or she has been provided an opportunity to demonstrate~~
10 ~~that his or her activity is not in fact inconsistent, incompatible or in conflict with the duties of the~~
11 ~~officer or employee.~~

12 ~~(b) **Statement of Incompatible Activities.** Every department, board, commission, and~~
13 ~~agency of the City and County shall, by August 1 of the year after which this Section becomes~~
14 ~~effective, submit to the Ethics Commission a statement of incompatible activities. No statement~~
15 ~~of incompatible activities shall become effective until approved by the Ethics Commission after a~~
16 ~~finding that the activities are incompatible under the criteria set forth in Subsection (c). After~~
17 ~~initial approval by the Ethics Commission, a department, board, commission or agency of the~~
18 ~~City and County may, subject to the approval of the Ethics Commission, amend its statement of~~
19 ~~incompatible activities. The Ethics Commission may, at any time, amend the statement of~~
20 ~~incompatible activities of any department, board, commission or agency of the City and County.~~

21 ~~(c) **Required Language.** Each statement of incompatible activities shall list those~~
22 ~~outside activities that are inconsistent, incompatible, or in conflict with the duties of the officers~~
23 ~~and employees of the department, board, commission, or agency of the City and County. This~~
24 ~~list shall include, but need not be limited to, activities that involve: (1) the use of the time,~~
25 ~~facilities, equipment and supplies of the City and County; or the badge, uniform, prestige, or~~
26 ~~influence of the City and County officer or employee's position for private gain or advantage; (2)~~
27 ~~the receipt or acceptance by an officer or employee of the City and County of any money or other~~

1 *thing of value from anyone other than the City and County for the performance of an act that the*
2 *officer or employee would be required or expected to render in the regular course of his or her*
3 *service or employment with the City and County; (3) the performance of an act in a capacity*
4 *other than as an officer or employee of the City and County that may later be subject directly or*
5 *indirectly to the control, inspection, review, audit or enforcement of the City and County officer*
6 *or employee's department, board, commission or agency; and (4) time demands that would*
7 *render performance of the City and County officer or employee's duties less efficient. The Ethics*
8 *Commission may permit City boards and commissions to exclude any required language from*
9 *their statement of incompatible activities if their members, by law, must be appointed in whole or*
10 *in part to represent any profession, trade, business, union or association.*

11 *~~(d) Meet and Confer. No statement of incompatible activities or any amendment thereto~~*
12 *~~shall become operative until the City and County has satisfied the meet and confer requirements~~*
13 *~~of State law.~~*

14 *~~(e) Notice. Every department, board, commission and agency of the City and County~~*
15 *~~shall annually provide to its officers and employees a copy of its statement of incompatible~~*
16 *~~activities.~~*

17 *~~(f) Existing Civil Service Rules. Rules and Regulations relating to outside activities~~*
18 *~~previously adopted or approved by the Civil Service Commission shall remain in effect until~~*
19 *~~statements of incompatible activities are adopted pursuant to this Section.~~*

20 *(a) Prohibitions. City officers and employees shall not engage in the following*
21 *activities:*

22 *(1) Activities Subject to the Department's Jurisdiction. City officers and*
23 *employees shall not engage in activities that are subject to the control, inspection, review, audit,*
24 *permitting, enforcement, contracting, or are otherwise within the responsibility of the officer or*
25 *employee's department. But City officers and employees may engage in certain activities*
26 *including, but not limited to, the following: being a party to a matter before or otherwise*
27 *appearing before one's own department or commission on behalf of oneself or one's immediate*

1 family, filing or otherwise pursuing claims against the City on one's own behalf, making a public
2 records disclosure request or other request for information as permitted by law, attending and
3 participating in a meeting of a board, commission, or other policy body under the Brown Act or
4 Sunshine Ordinance, and engaging in non-compensated, volunteer activity for a nonprofit
5 organization with tax exempt status under 26 United States Code Section 501(c)(3) or 501(c)(5).
6 Incompatible activities prohibited by this subsection (a)(1) shall include, but are not limited, to
7 the following:

8 (A) contracting with one's own department or serving on the board of
9 directors for an entity that contracts with one's own department (but this prohibition shall not
10 extend to any entity solely because an officer or employee's spouse or registered domestic
11 partner serves as a member of its board of directors);

12 (B) acquiring an ownership interest in real property, if the officer or
13 employee had participated personally and substantially in the permitting or inspection of that
14 property within the 12 months prior to the acquisition; and

15 (C) having or acquiring a financial interest in any financial products
16 issued or regulated by the officer or employee's department.

17 (2) **Selective Assistance.** City officers and employees shall not provide
18 assistance or advice that is not generally available to all persons, in a manner that confers an
19 advantage on any person who is doing business or seeking to do business with the City. This
20 subsection (a)(2) shall not prohibit an officer or employee from communicating with individual
21 applicants regarding the individual's application, bid, or proposal, provided that such assistance
22 is provided on an impartial basis to all applicants who request it and is part of the officer or
23 employee's City duties.

24 (3) **Use of City Resources.** City officers and employees shall not engage in the
25 use, other than minimal or incidental use, of the time, facilities, equipment, or supplies of the
26 City for private gain or advantage. Nothing in this subsection (a)(3) shall be interpreted or
27 applied to interfere with, restrict, or supersede any rights or entitlements of employees,

1 recognized employee organizations, or their members under state law or regulation or pursuant
2 to provisions of a collective bargaining agreement to use City facilities, equipment, or resources.

3 (4) Use of Prestige of Office. City officers and employees shall not engage in the
4 use of any marker (including without limitation a badge, uniform, or business card), prestige, or
5 influence of the City officer or employee's position for private gain or advantage.

6 (5) Use of City Work Product. City officers and employees shall not sell,
7 publish, or otherwise use, in exchange for anything of value and without appropriate
8 authorization, any non-public materials that were prepared on City time or while using City
9 facilities, property (including without limitation, intellectual property), equipment, or other
10 materials. Nothing in this subsection (a)(5) shall be interpreted or applied to interfere with,
11 restrict, or supersede any rights or entitlements of employees, recognized employee
12 organizations, or their members under state law or regulation or pursuant to provisions of a
13 collective bargaining agreement to use public materials for collective bargaining agreement
14 negotiations.

15 (6) Acting as an Unauthorized City Representative. City officers and employees
16 shall not hold themselves out as a representative of their departments, or as an agent acting on
17 behalf of their departments, unless authorized to do so, including the use of City letterhead, title,
18 e-mail, business card, or any other resource for any communication that may lead the recipient
19 of the communication to think that the officer or employee is acting in an official capacity when
20 the officer or employee is not.

21 (7) Compensation for City Duties or Advice. City officers and employees shall
22 not receive or accept a payment from anyone other than the City for the performance of a
23 specific service or act the officer or employee would be expected to render or perform in the
24 regular course of their City duties or for advice about the processes of the City directly related
25 to the officer or employee's duties and responsibilities or the processes of the officer or
26 employee's department.

1 (8) **Lobbying Activity.** City officers and employees shall not receive or accept a
2 payment from anyone other than the City in exchange for communicating with any other City
3 officer or employee within their own department with the intent to influence an administrative or
4 legislative action.

5 (b) **Excessive Time Demands or Regular Disqualifications.** No City appointed
6 department head or employee may engage in any activity that either imposes excessive time
7 demands such that it materially impairs the appointed department head's or employee's
8 performance of their City duties or that disqualifies the appointed department head or employee
9 from their City assignments or responsibilities on a regular basis.

10 (1) **Advance Written Determination.** An appointed department head or
11 employee may seek an advance written determination from the decision-maker specified in
12 subsection (b)(2) below as to whether a proposed outside activity would impose excessive time
13 demands or require regular disqualifications and would therefore be prohibited under this
14 subsection (b).

15 (2) **Decision-Maker.**

16 (A) For a request by an employee, the department head of the employee's
17 department or the department head's designee shall be the decision-maker on a request for an
18 advance written determination. If the department head delegates the decision-making to a
19 designee and if the designee determines that the proposed activity imposes excessive time
20 demands or results in regular disqualifications, the employee may appeal that determination to
21 the department head.

22 (B) For a request by an appointed department head, the department
23 head's appointing authority shall be the decision-maker on a request for an advance written
24 determination.

25 (C) The decision-maker shall respond to the request by providing a
26 written determination to the requestor by mail, email, personal delivery, or other reliable means.
27 For a request by an employee, the decision-maker shall provide the determination within a

1 reasonable period of time depending on the circumstances and the complexity of the request, but
2 not later than 20 working days from the date of the request. If the decision-maker does not
3 provide a written determination to the employee within 20 working days from the date of the
4 employee's request, the proposed activity will be determined not to violate this Subsection
5 3.218(b).

6 (3) **Effect.** An advance written determination approved by the appropriate
7 decision-maker that an activity does not impose excessive time demands or require regular
8 disqualifications provides the officer or employee immunity from any subsequent enforcement
9 action for a violation of subsection (b) if the material facts are as presented in the appointed
10 department head or employee's request for an advance written determination. An advance
11 written determination cannot exempt the requestor from any other applicable laws.

12 (4) **Public Records.** Requests for advance written determinations and advance
13 written determinations, including approvals and denials, are public records.

14 (c) **Statements of Incompatible Activities.** Statements of Incompatible Activities adopted
15 and approved prior to March 5, 2024 are hereby repealed and shall no longer have any legal
16 effect. Any administrative or disciplinary proceedings initiated prior to the repeal of a Statement
17 of Incompatible Activities alleging violations of the Statement of Incompatible Activities may
18 continue.

19

ATTACHMENT 3



DAVID CHIU
City Attorney

MEMORANDUM

TO: ALL ELECTED CITY OFFICIALS
ALL CITY BOARD AND COMMISSION MEMBERS
ALL CITY DEPARTMENT HEADS

FROM: DAVID CHIU, City Attorney

DATE: September 6, 2022

RE: Political Activity by City Officers and Employees

As we typically do every election year, the City Attorney's Office is providing this memorandum to remind you of and outline the basic legal rules restricting political activities by City commissions, departments, officers, and employees. This memorandum updates and replaces previous memoranda that we have issued on this topic. A further overview of political activity restrictions and other laws governing the conduct of City officers and employees is available in the Good Government Guide posted on the Good Government section of our [website](#).

This memorandum is a general guide to the rules regarding political activity and is not a substitute for legal advice. Please contact the City Attorney's Office in advance with any questions related to participation in political activities.

As discussed further below, the penalties for violating these rules can be significant. Notably, on August 20, 2020, the California Fair Political Practices Commission entered a \$1.35 million settlement with Los Angeles County for violating political activity rules. Los Angeles County violated some of the rules described below by hiring a campaign consultant and distributing political advertisements to support a pending tax measure. This recent example demonstrates the importance of ensuring that neither you nor your staff are violating state or local political activity rules.

SUMMARY

In this memorandum we address the most common legal issues that usually arise before elections. We answer frequently asked questions in seven areas:

1. Use of City Resources: No one—including City officers and employees and City volunteers and contractors—may use City resources to advocate for or against candidates or ballot measures. City resources include, without limitation, City employees' work time, City computers, City e-mail systems and City-owned or controlled property. Also, City commissions, departments, and advisory committees may not advocate for or endorse measures or candidates. But they may use City resources to analyze and provide information about the effects of proposed ballot measures on City operations, as long as the analysis is objective and avoids campaign slogans and other language typically associated with campaign literature.

2. Off-Duty Political Activity: As a general rule, City officers and employees may support or oppose candidates and ballot measures in their personal capacities, while off duty and outside of City-owned or controlled property. City officers and employees may reference their

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City titles in campaign communications supporting their own candidacies. City officers and employees may also refer to their City titles in campaign materials (printed or electronic) endorsing other local candidates and ballot measures. In such instances, the City Attorney's Office recommends that a City officer or employee include an explicit notation stating that the reference to their City title is "for identification purposes only." But City officers and employees may not solicit political contributions from other City officers and employees, even while off duty.

3. Mass Mailings Using City Funds: With limited exceptions, the City may not prepare or send more than 200 pieces of similar mail featuring the name or image of a City elected official.

4. Campaign Contributions To Elected Officials From City Contractors: A City elected official may not solicit or accept campaign contributions from any person or entity seeking to enter a contract or grant worth \$100,000 or more with the City, if the contract or grant is subject to the elected official's approval or the approval of one of their appointees to the board of certain state agencies. This restriction applies from the submission of a contract proposal until either the negotiations are terminated (and no contract is awarded or no grant is approved), or 12 months have elapsed since the contract or grant approval. The restriction also extends to contributions from the party seeking the contract or grant and that party's directors, executives and owners, as well as any subcontractors listed in the contract or bid.

5. Campaign Contributions To Certain Elected Officials From Persons With Financial Interests In Pending Land Use Matters: The Mayor, the City Attorney, and members of the Board of Supervisors may not solicit or accept campaign contributions from any person with a financial interest in a land use matter pending before the Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure (also known as the Successor Agency Commission), Historic Preservation Commission, Planning Commission, Port Commission, or Treasure Island Development Authority Board of Directors. This prohibition applies from the commencement of a land use matter until 12 months after the City has made a final decision.

6. Campaign Contributions Solicited Or Accepted By Appointed Officials: Appointed City officials, including department heads and members of boards and commissions, may not solicit political contributions over \$250 from anyone appearing before them in pending proceedings. Such matters include proceedings regarding conditional use permits, rezoning of property parcels, zoning variances, tentative subdivision and parcel maps, building and development permits, and some contract approvals. Also, appointed officials who are running for office may not participate in proceedings where the parties or participants have directly contributed over \$250 to the officials within the 12 months before the proceeding.

7. Political Activity Restrictions on City Elected Officials and Commissioners: City elected officials and commissioners cannot ask their subordinate employees to volunteer on any candidate or ballot measure campaigns. Elected officials and commissioners may not give, offer, or promise to give or withhold their vote, influence or official action with respect to any pending matter in exchange for a campaign contribution. Commissioners may not fundraise for their appointing authority, their appointing authority's controlled campaign committees, or any candidates seeking the office held by their appointing authority.

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RE: Political Activity by City Officers and Employees

DISCUSSION**I. Misuse of City Resources**

State law prohibits City officers, employees and anyone else from using City resources to support or oppose a ballot measure or the election or defeat of a candidate at the federal, state, or local level. Local law also prohibits City officers and employees from engaging in political activity during work time, while in uniform, or on City-owned or City-controlled premises.

- **What is a misuse of City resources?**

Any use of City resources or City personnel for political activity is prohibited. This ban prohibits any use of City resource, including without limitation e-mail, telephones, cell phones, copiers, printers, computers, office supplies, vehicles or any other City resources for political purposes. City personnel's time and attention may not be diverted from their City duties for political purposes. Activities that fall within the scope of this ban include, without limitation: addressing envelopes for campaign mailers; circulating ballot petitions; making campaign telephone calls; attending campaign events; or engaging in similar types of campaign activity on City time or on City-owned or City-controlled property that the City does not make available to the general public to use for political purposes (such as a public plaza or sidewalk).

Example: On his lunch hour, a City employee uses his City computer to send invitations to a fundraiser for a candidate. The employee has misused City resources by using his City computer for political activity. The fact that he was on his lunch hour or used his personal e-mail account does not excuse this improper use of City resources.

Example: A City employee wishes to volunteer with a political campaign on a full-time basis in the weeks leading up to the general election. The employee may use any accrued vacation time, or other approved time-off, while the employee is volunteering for the campaign because an employee's vacation is not "City time" that must be devoted to the employee's official duties.

The prohibition on using City resources for political activity also means members of City boards, commissions, and advisory committees may not use their meetings to influence elections. As a result, appointed boards, commissions, and advisory committees may not vote to endorse a measure or a candidate. The courts have allowed an exception to this rule for legislative bodies like the Board of Supervisors (the "Board"). The Board, acting as a body, may take a position on behalf of the City on a ballot measure, and the Mayor may take a public position on a measure. But no City officials, including the Mayor and members of the Board, may distribute campaign literature at City events or include campaign literature in official communications to City employees or members of the public.

Example: Members of a City commission feel strongly about the merits of a measure appearing on the ballot that relates to matters within their jurisdiction. The commission may not vote on a resolution to support or oppose the ballot measure. The

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RE: Political Activity by City Officers and Employees

commission may ask staff for information about the impact of the ballot measure on the City, and individual commissioners may support or oppose the measure on their own time using their own resources.

Example: Members of a City commission wish to support a bill pending in the state legislature that would further one of the commission's policies. The commission may urge the Board of Supervisors or the City's State Legislation Committee to adopt an official position on the pending legislation. Because the legislation is not before the voters, political activity rules do not prohibit the City from supporting it.

- **May City officers and employees analyze a ballot measure's effects?**

City officers and employees may lawfully use City resources (where budgeted for such a purpose and otherwise authorized) to investigate and evaluate objectively the potential impact of a ballot measure on City operations. The analysis must be available to the public.

Example: A City department wants to inform its commission about the potential impacts on the department if a ballot measure passes. If the department has money budgeted for the purpose, the department may research the potential impact of the measure and present objective information to the commission. The analysis must also be available to the public.

Example: As required by the City's Municipal Elections Code, the Department of Elections asks a City department to analyze a measure for the City's Ballot Simplification Committee (the "Committee"), the body responsible for preparing the digests that appear in each election's Voter Information Pamphlet. The department's written analysis must present objective information and must be available to the public. Employees of the department may also appear at the Committee's meetings to explain the effect of the measure or to answer the Committee's questions, but their presentation must remain objective and impartial.

- **May City officers and employees respond to inquiries about a measure?**

City officers and employees may respond to public requests for information, including requests to participate in public discussions about ballot measures, if an officer's or employee's statements are limited to an *objective and impartial* presentation of relevant facts to aid the voters in reaching an informed judgment about a measure's potential effects on the City. All statements must be accurate and fair. But City officers and employees should not participate in any campaign event on City time, even to provide an impartial informational presentation, if the purpose of the event is to support or oppose ballot measures or candidates.

Example: A community organization asks a department head to attend the organization's meeting to provide information about a pending ballot measure. As long as the department head provides

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impartial and objective information, she can attend the meeting on City time. But if a candidate asks the department head to provide the same information at a campaign fundraiser, the department head cannot attend on City time. If the community organization wishes to have the “Yes” and “No” sides of the pending ballot measure to be presented at a meeting, the department head can inform the organization who it may contact to present those respective positions.

Example: A department directly impacted by a pending ballot measure may post a Frequently Asked Questions page on its website about the measure, so long as the information is impartial and objective. The department may post this information if it expects to receive many inquiries about the measure, and the webpage would provide the public with uniform responses to those questions.

- **May a City department publicize its analysis of a ballot measure?**

If a City department prepares an objective and impartial analysis of a ballot measure, the department should make its analysis public and distribute or publicize it consistent with the department’s regular practice. But the department should not use special methods—such as methods associated with political campaigns—to distribute its analysis.

City officers and employees who wish to provide the public with an informational presentation regarding a ballot measure should consult in advance with the City Attorney’s Office.

Example: If a City department regularly issues a newsletter to interested City residents, it may include an objective and impartial analysis of a pending ballot measure, but the department should not create a special, one-time-only newsletter to distribute its analysis. Similarly, City departments should not increase the frequency of distributing such newsletters as an election approaches.

- **What is an objective and impartial presentation?**

Courts evaluate materials prepared or distributed by a public entity in terms of whether they make a balanced presentation of facts designed to enhance the ability of the voters to exercise intelligently their right to vote, or whether the communications resemble campaign materials for or against a ballot measure. In its analysis of the effect of a proposed measure, a City department should present factual information, avoid one-sided rhetoric or campaign slogans, and not urge a vote in one way or another.

Example: A City department wants to prepare a PowerPoint presentation about a ballot measure explaining the department’s view that the measure could have a significant negative impact on

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the department's operations. Any such presentation must be limited to an accurate, fair, and objective presentation of the relevant facts. It should not urge a Yes or No vote, and it should not use campaign slogans or rhetoric.

- **When do these rules apply?**

City measures may be placed on the ballot in three different ways: (1) by the Board acting as a body through majority vote of all of its members at a public meeting; (2) by the Mayor or four or more individual Board members submitting the measure directly; or (3) by the voters submitting an initiative petition with the sufficient number of valid signatures.

- When the Board, acting as a body, considers placing a measure on the ballot, City officers and employees may use City resources to influence the Board's decision on whether to place the measure before the voters, but not to urge voters to vote for or against the measure. After the Board has taken its final vote to place the measure on the ballot, no additional City resources may be used to advocate for or against the measure.
- When the Mayor or four or more individual members of the Board have submitted a measure, the Charter requires the Board to hold a public hearing on the measure. City officers and employees may use City resources at this hearing to explain the effects, advantages or disadvantages of the measure, and to urge the Mayor or individual Board members to withdraw the measure from the ballot, but not to urge voters to vote for or against the measure. In addition to this hearing, City resources may be used to convince Board members or the Mayor to withdraw their support for these measures, until the deadline for such withdrawal has passed. After this deadline, no City resources may be used to advocate for or against the measure.
- A voter may begin circulating a proposed ballot measure for signatures after receipt of a title and summary from the Department of Elections and City Attorney's Office. While the request for a title and summary is pending, City officers and employees may not use City resources to urge voters to support or oppose the potential measure. And once the initiative petition is circulating for signatures, no City resources may be used to advocate for or against it.

II. Off-Duty Political Activities By City Officers and Employees

City officers and employees have a First Amendment right to engage in political activities while off duty and outside of City-owned or City-controlled property. As a general rule, City officers and employees may take public positions, as private citizens, on candidates or ballot measures. Federal law also restricts the political activities of local employees whose principal employment involves a federally-funded activity, although the federal restrictions

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largely mirror state and local political activity rules. The City also restricts the off-duty political activities of certain officers and employees, including the Ethics Commission and Election Commission and their employees, and the City Attorney. Finally, local law imposes some off-duty restrictions on all City officers and employees.

- **May City officers and employees use their official titles in campaign communications?**

As long as they are not otherwise using City resources to do so, City officers and employees may use their official title in campaign communications in support of their own election or re-election. But if they use their titles in endorsing other local candidates or ballot measures, it must be clear that the City officers or employees are making the communications in their personal capacity and are using their titles for identification purposes only. For example, the City Attorney's Office recommends that City officers and employees include in electronic and printed campaign materials an explicit notation stating that any reference to their City titles are "for identification purposes only."

- **May City officers and employees solicit campaign contributions from other City officers and employees?**

No. City officers and employees may not directly or indirectly solicit campaign contributions from other City officers or employees or from persons on City employment lists. A City officer or employee can request campaign contributions from other City officers or employees only if the request is part of a solicitation made to a significant segment of the public that may include officers or employees of the City. If the City officer or employee is aware that a distribution list includes other City officers or employees, the officer or employee should make reasonable efforts to remove those individuals from that distribution list, even if they are being contacted through a non-City, personal e-mail address. In no event can the requestor use City resources in making any solicitation.

Example: After work, a City employee sends an e-mail to her coworkers—from her personal e-mail account to the coworkers' personal e-mail accounts—soliciting contributions to a candidate for local office. Even though the employee used no City resources, the solicitation is not lawful because she solicited political contributions from other City employees.

Example: The same City employee sends an invitation to a fundraiser to a list of all graduates from the local college she attended. A number of City employees, who also happened to attend that college, receive invitations. Although the officer sent the solicitation to some City employees, the solicitation is lawful because it was made to a significant segment of the public that included some City employees. But this City employee should make reasonable efforts to delete or remove those other City employees from the distribution list.

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- **May City officers and employees engage in political activities on City premises?**

City officers and employees may not participate in political activities of any kind while on City-owned or City-controlled property, other than property that the City makes available to the general public to use for political purposes (such as a public plaza or sidewalk), whether or not they are off-duty at the time.

Example: A City employee seeks endorsements for the employee's candidacy for a political party's central committee in the hallway of her City department's office. This activity violates the ban on political activity on City premises because it is being done inside City property that is not available to the general public for political purposes.

- **May City officers and employees engage in political activities while in uniform?**

No. City officers and employees may not participate in political activities of any kind while in uniform. City officers or employees are in uniform any time they are wearing all or any part of a uniform that they are required or authorized to wear when engaged in official duties.

III. Mass Mailings at Public Expense

In addition to the general prohibition against using City resources or personnel to engage in political activity, a City official or employee cannot use City funds to print or send non-political newsletters or mass mailings that feature or make reference to an elected official. A non-political newsletter or mass mailing is prohibited if all of the following four requirements are met:

- **Sent or delivered.** The item is sent or delivered by any means to the recipient at a residence, place of employment or business, or post office box.
- **Features an elected official.** The item either features a City elected official, or includes the name, office, photograph, or other reference to a City elected official.
- **Paid for with City funds.** Any City funds are used to pay for distribution, or more than \$50 of such funds are used to pay for design, production and printing.
- **More than 200 items in a single month.** More than 200 substantially similar items are sent in a single calendar month.

Certain types of mailings are exempt from the mass mailing prohibition. For example, the prohibition does not apply to e-mails, text messages, or postings on websites. Because some of the exceptions are complicated and strict, officials should check with the City Attorney's Office in advance with any questions about the mass mailing rule, especially if the mailings would be sent within 60 days of an election in which the officials will appear on the ballot.

IV. Campaign Contributions to Elected Officials from City Contractors

Local law prohibits City elected officials from soliciting or accepting contributions from any person or entity seeking to enter into a contract or grant worth \$100,000 or more with the City, if the contract or grant requires their approval or the approval of their appointees to the board of a state agency. This restriction applies to the party seeking the contract or grant, the

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party's board of directors, chairperson, chief executive officer, chief financial officer, chief operating officer, any person with an ownership interest greater than ten percent, and any political committees controlled or sponsored by the party, as well as any subcontractors listed in the contract or bid. The law both prohibits the donor from giving contributions *and* prohibits the elected official from soliciting or accepting them.

City departments and City elected officials are subject to certain reporting requirements arising from this prohibition. Please contact the Ethics Commission, or visit its [website](#) for more information about these requirements.

- **May a City contractor make a campaign contribution to a City elected official who approves the contract?**

A person or entity that contracts with the City may not make a campaign contribution to an elected official if the contract would require approval by that official, a board on which the official serves, or a board of a state agency on which an appointee of the official sits. The people and entities listed in the preceding paragraph may not make a campaign contribution to the elected official at any time from the submission of a proposal for a contract until either: (1) negotiations are terminated and no contract is awarded or no grant is approved; or (2) twelve months have elapsed since the award of the contract or approval of the grant.

- **May a City elected official solicit or accept a campaign contribution from a City contractor?**

A City elected official may not solicit or accept a campaign contribution from an individual, business or entity seeking a contract with the City, including all of the associated people and entities listed above in the first paragraph of this Section IV, if that elected official, a board on which the official serves, or a board of a state agency on which an appointee of the official sits must approve the contract. This prohibition applies to the official at any time from the submission of a proposal for a contract to that official until either: (1) negotiations are terminated and no contract is awarded; or (2) twelve months have elapsed since the award of the contract.

V. Campaign Contributions to Elected Officials from Persons with Financial Interests in Pending Land Use Matters

Local law prohibits the Mayor, the City Attorney, and Board members from soliciting or accepting contributions from any person with a financial interest in certain pending land use matters.

- **What is a “land use matter” under this restriction?**

A “land use matter” refers to:

- any request to a City elected official for a Planning Code or Zoning Map amendment, or
- any application for an entitlement that requires a board or commission to make a discretionary decision at a public hearing, such as a conditional use permit or Large Project Authorization.

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“Land use matters” do not include Discretionary Review hearings by the Planning Commission.

A land use matter triggers this restriction if it is pending before the Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission, Port Commission, or Treasure Island Development Authority Board of Directors. The restriction applies even if the Mayor, the City Attorney, and the Board will not consider or approve the land use matter.

- **What constitutes a “financial interest” for this restriction?**

A person has a “financial interest” in a land use matter if the person:

- has an ownership interest of \$5 million or more in the project or property that is the subject of the land use matter;
- holds the position of director or principal officer, including but not limited to President, Vice-President, Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Executive Director, Deputy Director, or member of the Board of Directors, in an entity with an ownership interest of \$5 million or more in the project or property that is the subject of the land use matter; or
- is the developer of a project with an estimated construction cost of \$5 million or more that is the subject of the land use matter.

- **Who is subject to this restriction and how long does it apply?**

This restriction applies to the person with a financial interest in the pending land use matter, and any business entity controlled, directed or majority-owned by that same person. Those persons cannot make campaign contributions to the Mayor, the City Attorney, Board members, and candidates for those offices. The restriction also prohibits these elected officials and other candidates for those offices from soliciting or accepting such campaign contributions.

The campaign contribution restriction applies from the commencement of a land use matter until 12 months after the City has made its final decision.

VI. Campaign Contributions Solicited or Accepted By Appointed Officials

Section 84308 of the California Government Code prohibits appointed officials from soliciting contributions of more than \$250—for any candidate or campaign—from any party or participant in a proceeding pending before the appointed official or from anyone with a pending contract subject to the appointed official's approval. It also disqualifies appointed officials from participating in decisions that involve persons who have contributed \$250 or more directly to them within the past 12 months.

- **May appointed officials solicit contributions from persons in a proceeding pending before them?**

Appointed officials may not solicit, accept or direct campaign contributions of more than \$250 from any party to or participant in certain proceedings pending before the official. This prohibition applies during the proceeding and for three months after the final decision is rendered in the proceeding.

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This rule applies whether the contributions are sought for the official or for someone else, and whether the contributions come directly from the party or participant, or are made by an agent acting on behalf of the party or participant. The prohibition applies to contributions for candidates or ballot measures in federal, state, or local elections.

An official does not violate this rule if the official makes a request for contributions in a mass mailing sent to members of the public, to a public gathering, in a newspaper, on radio or television, or in any other mass medium, provided the solicitation is not targeted to persons who appear before the board or commission. An official does not engage in a solicitation solely because the official's name is printed with other names on stationery or letterhead used to ask for contributions.

- **Who is an “appointed official” prohibited from soliciting or accepting contributions?**

An appointed official is an appointed member of board or commission, or an appointed department head. Although the Board is an elected body, the prohibitions of Section 84308 apply to members of the Board when they sit as members of an appointed body.

- **What proceedings are covered by this prohibition?**

Section 84308 applies to “use entitlement proceedings,” which are actions to grant, deny, revoke, restrict or modify certain contracts or business, professional, trade or land use licenses, permits, or other entitlements to use property or engage in business. Examples of the types of decisions covered by the law include decisions on professional license revocations, conditional use permits, rezoning of property parcels, zoning variances, tentative subdivision and parcel maps, cable television franchises, building and development permits and private development plans. It also includes all contracts other than labor or personal employment contracts and competitively bid contracts where the City is required to select the highest or lowest qualified bidder.

The law does not cover proceedings where general policy decisions or rules are made or where the interests affected are many and diverse, such as general building or development standards and other rules of general application.

- **Who is a “party,” “participant,” or “agent”?**

A “party” is a person, including a business entity, who files an application for, or is the subject of a use entitlement proceeding. A “participant” is any person who is not a party to a proceeding but who: (1) actively supports or opposes a particular decision (*e.g.*, lobbies the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence the decision of the officers of the agency); and (2) has a financial interest in the decision. An “agent” is an individual or entity that represents a party or participant in a proceeding.

- **When is an appointed official disqualified from proceedings involving a contributor?**

An appointed official may not participate in any use entitlement proceeding involving a party or participant (or the party's or participant's agent) from whom the official received contributions totaling more than \$250 in the 12 months before the proceeding. Disqualification

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is required only if the official received a contribution to the official's own campaign. Soliciting contributions before a proceeding begins does not, by itself, require disqualification, if the official has not directly received contributions as a result of the solicitation.

An appointed official may avoid disqualification if the official returns the contribution (or the portion exceeding \$250) within 30 days of learning of the contribution and the proceeding involving the contributor.

Whether the appointed official is disqualified as a result of the contribution, the official always must disclose on the record all campaign contributions totaling more than \$250 received in the preceding 12 months from parties to or participants in the proceeding.

VII. Political Activity Restrictions on City Elected Officials and Commissioners

- **May City elected officials and commissioners ask their subordinate employees to volunteer on campaigns?**

No. City elected officials and commissioners cannot ask their subordinate employees to volunteer on any candidate or ballot measure campaigns. A "subordinate employee" means any employee for whom you have the responsibility of directing or evaluating the employee's performance or any of that employee's supervisors. For a commissioner that oversees a department head, a "subordinate employee" would be any employee of the department that the commissioner oversees.

- **May commissioners fundraise for their appointing authorities?**

No. Commissioners cannot fundraise for their appointing authority, their appointing authority's controlled committees, or any candidates seeking the office held by their appointing authority. This prohibition applies to a commissioner's fundraising from others, but commissioners can continue to make their own contributions to their appointing authorities.

For the purpose of this rule, a commissioner's "appointing authority" is the person currently holding the office in question. For example, if a commissioner was appointed by Mayor Lee, this rule would now prohibit any fundraising to benefit Mayor Breed, Mayor Breed's controlled campaign committees, or any other candidate running for the office of Mayor.

- **May City elected officials and commissioners exchange official actions for campaign contributions?**

No. Local law prohibits elected officials and commissioners from, directly or indirectly, giving, offering, promising to give, withholding, or offering or promising to withhold their vote or influence, or promising to take or refrain from taking official action with respect to any proposed or pending matter in exchange for any other person making or refraining from making a campaign contribution.

VIII. Penalties

State and local enforcement agencies and the courts may impose considerable penalties for violating the laws discussed in this memorandum. Individuals who violate these rules could face criminal fines or imprisonment, orders to repay the City for the misused funds, or civil and administrative penalties of up to \$5,000 per violation. Misappropriation of City funds for political activities also may be official misconduct under the City's Charter that justifies

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removing a public officer (other than the Mayor) and restricting that person's ability to hold public office in the future, and it may also be cause to discipline or fire a public employee.

The conduct of City officers and employees also could result in fines or liability for the City. For example, the California Fair Political Practices Commission has fined local government agencies – such as Los Angeles County – for using public funds to prepare and distribute campaign materials.

ADDITIONAL INFORMATION

Again, for more information about these rules, see the City Attorney's Good Government Guide, which you may find on the Good Government section of the City Attorney's [website](#). If you have any questions, please contact the City Attorney's Office.