

LEGISLATIVE DIGEST

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

Ordinance amending the Campaign and Governmental Conduct Code to modify the rules concerning behested payment solicitations, by 1) exempting payments less than \$1,000; 2) providing that a person does not become an interested party due to the City issuing them a license, permit, or other entitlement for use, if the issuance was ministerial and in certain other situations; 3) providing that a person does not become an interested party by attempting to influence a legislative or administrative action; 4) authorizing the solicitation of payments directly to City departments, and from nonprofits with agreements approved by the City Attorney and Controller; 5) authorizing departments to solicit payments pursuant to their approved Racial Equity Action Plans; 6) establishing that certain solicitations from tenants, contractors, and parties to development agreements are not prohibited; and 7) making other clarifying changes.

Existing Law

Under the City's behested payments ordinance, City officers and employees may not solicit payments from persons who qualify as interested parties. The term "interested party" includes persons involved in proceedings before a City department for licenses, permits, or other entitlements for use; contractors and persons seeking to contract with a City department; and persons who have attempted to influence City officers or employees in administrative or legislative actions. If a person is an interested party for a City officer or employee, the officer or employee may not solicit payments from that person. The only exception is for solicitations via public appeals, such as mass-mailings or speeches.

Amendments to Current Law

The proposed initiative ordinance would modify the behested payment rules, as follows:

- A person would not become an interested party merely by receiving a license, permit, or other entitlement for use (hereafter, a "permit"), if the permit was 1) routine or ministerial, as opposed to one that the City chose to issue as a matter of discretion; or 2) issued to an individual or a nonprofit for recreational, cultural, or educational activities. If someone qualified as an interested party due to their receipt of a permit, the prohibition against soliciting payments from them would apply only to the officers and employees involved in the permit proceeding, rather than to all officers and employees in the entire City department.
- Attempting to influence a legislative or administrative action would no longer trigger interested party status.

- The public appeal exception would include related communications following the public appeal, such as responding to persons who have answered the public appeal and providing information.
- Payments under \$1,000 would be exempted.
- Payments directly to the City would be exempted.
- Payments from a nonprofit would be exempted, if the nonprofit had entered into an agreement that included recordkeeping, audit, and disclosure requirements approved by the City Attorney and Controller.
- City departments could implement their approved Racial Equity Action Plans; negotiate for community benefits and other consideration in connection with contracts and agreements for the development or use of public property; seek assistance from their tenants on public outreach efforts; and negotiate concessions and discounts from contractors in the course of managing or administering existing contracts.

The ordinance also makes various non-substantive changes and clarifications.

Background Information

Under Proposition E (2022), the ordinance requires approval by the Ethics Commission and a supermajority of eight votes at the Board of Supervisors.

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