

[Campaign and Governmental Conduct Code - Behested Payments]

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**Ordinance amending the Campaign and Governmental Conduct Code to expand the definition of interested party, to include City contractors and persons seeking to influence City officers and employees, and to prohibit appointed department heads, commissioners, and designated employees from soliciting behested payments from interested parties.**

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

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

Section 1. The Campaign and Governmental Conduct Code is hereby amended by revising Sections 3.600, 3.610, 3.620, 3.630, and 3.640, and adding Section 3.605, to read as follows:

**SEC. 3.600. DEFINITIONS.**

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

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

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

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

4           \* \* \* \*

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

7           “Commissioner” shall mean any member of a City board or commission, excluding the Board  
8 of Supervisors, who is required to file a Statement of Economic Interests as set forth in Section 3.1-  
9 103(a)(1) of this Code.

10          \* \* \* \*

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

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

15          \* \* \* \*

16          “Interested party” shall mean:

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

22                 (b) any City Contractor contracting with or seeking to contract with the designated  
23 employee’s or officer’s department, or any affiliate of such a City Contractor; or

24                 (c) any person who attempted to influence the employee or officer in any legislative or  
25 administrative action.

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

9           “Officer” shall mean any commissioner, appointed department head, or elected official. ~~the~~  
10 ~~Mayor, City Attorney, District Attorney, Treasurer, Sheriff, Assessor-Recorder, Public Defender, a~~  
11 ~~Member of the Board of Supervisors, or any member of a board or commission who is required to file a~~  
12 ~~Statement of Economic Interests, including all persons holding positions listed in Section 3.1-103(a)(1)~~  
13 ~~of this Code.~~

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

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

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

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

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

25           \* \* \* \*

1           **SEC. 3.605. PROHIBITING APPOINTED DEPARTMENT HEADS, COMMISSIONERS,**  
2 **AND DESIGNATED EMPLOYEES FROM SOLICITING BEHESTED PAYMENTS FROM**  
3 **INTERESTED PARTIES.**

4           (a) **PROHIBITION.** *Appointed department heads, commissioners, and designated employees*  
5 *shall not directly or indirectly solicit any behested payment from any interested party in the following*  
6 *circumstances:*

7           (1) **Administrative proceedings.** *If the interested party is a party, participant, or agent*  
8 *of a party or participant in a proceeding before the appointed department head's, commissioner's, or*  
9 *designated employee's department regarding administrative enforcement, a license, a permit, or other*  
10 *entitlement for use, the prohibition set forth in this subsection (a) shall apply:*

11                           (A) *during the proceeding; and*

12                           (B) *for six months following the date on which a final decision is rendered in the*  
13 *proceeding.*

14           (2) **Contracts.** *If the interested party is a City Contractor, or an affiliate of a City*  
15 *Contractor, who is a party to or is seeking a contract with the appointed department head's,*  
16 *commissioner's, or designated employee's department, the prohibition set forth in this subsection (a)*  
17 *shall apply from the submission of a proposal until the later of:*

18                           (A) *the termination of negotiations for the contract; or*

19                           (B) *the end of the contract's term.*

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

24           (b) **EXCEPTIONS.**

1                    (1) Elected department heads. This Section 3.605 shall not apply to elected department  
2 heads.

3                    (2) Public appeals. This Section 3.605 shall not apply to public appeals.

4                    **SEC. 3.610. ~~REQUIRED~~ FILING OF BEHESTED PAYMENT REPORTS BY**  
5 **ELECTED OFFICIALS.**

6                    (a) **FILING REQUIREMENT.**

7                    (1) Administrative proceedings. If an ~~officer~~ elected official directly or indirectly  
8 requests or solicits any behested payment(s) from an interested party that is a party,  
9 participant, or agent of a party or participant involved in a proceeding before the elected official's  
10 department regarding administrative enforcement, a license, a permit, or other entitlement for use, the  
11 ~~officer~~ elected official shall file ~~the a~~ behested payment report ~~described in subsection (b) with the~~  
12 ~~Ethics Commission~~ in the following circumstances:

13                    ~~(1) (A) if the interested party makes any behested payment(s) totaling~~  
14 ~~\$1,000 or more during the pendency of the matter involving the interested party proceeding, or~~  
15 ~~during the six months following the date on which a final decision is rendered, the officer shall file a~~  
16 ~~behested payment report within 30 days of the date on which the behested payment was made, or if~~  
17 ~~there has been a series of behested payments, within 30 days of the date on which the behested~~  
18 ~~payment(s) total \$1,000 or more; or~~

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

24                    ~~(3) (B) if the interested party made any behested payment(s) totaling~~  
25 ~~\$1,000 or more in the 12 months prior to the commencement of a matter involving the interested~~

1 ~~party~~ proceeding, in which case the ~~officer~~ elected official shall file a behested payment report  
2 within 30 days of the date the ~~officer~~ elected official knew or should have known that the source  
3 of the behested payment(s) became an interested party.

4 (2) Contracts. If an elected official directly or indirectly requests or solicits any  
5 behested payment(s) from any City Contractor contracting with or seeking to contract with the elected  
6 official's department, or any affiliate of such City Contractor, the elected official shall file a behested  
7 payment report in the following circumstances:

8 (A) the interested party makes any behested payment(s) totaling \$1,000 or more  
9 after the submission of a proposal and before either the termination of negotiations for the contract or  
10 the end of the contract's term;

11 (B) the interested party makes any behested payment(s) totaling \$1,000 or more  
12 during the six months after either the termination of negotiations for the contract, or the end of the  
13 contract's term; or

14 (C) the interested party made any behested payment(s) totaling \$1,000 or more  
15 in the 12 months prior to the submission of a proposal, in which case the elected official shall file a  
16 behested payment report within 30 days of the date the elected official knew or should have known that  
17 the source of the behested payment(s) became an interested party.

18 (3) Persons seeking to influence. If an elected official directly or indirectly requests or  
19 solicits any behested payment(s) from any interested party who attempted to influence the elected  
20 official in any legislative or administrative action, the elected official shall file a behested payment  
21 report if, within the 12 months following the date of any attempt by the interested party to influence the  
22 elected official, the interested party made any behested payment(s) totaling \$1,000 or more.

23 (b) **BEHESTED PAYMENT REPORT.** The behested payment report shall include the  
24 following:

25 (1) name of payor;

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

22 **(c) DEADLINE FOR FILING A BEHESTED PAYMENT REPORT.** *Unless otherwise*

23 *provided under this Section 3.610, when an elected official is required to file a behested payment*

24 *report, the elected official shall file the behested payment report described in subsection (b) with the*

25 *Ethics Commission within 30 days of the date on which the behested payment was made, or if there has*

1 been a series of behested payments, within 30 days of the date on which the behested payments total  
2 \$1,000 or more.

3 ~~(e)~~ (d) **AMENDMENTS.** If any of the information previously disclosed on a behested  
4 payment report changes during the pendency of the matter involving the interested party, or  
5 within six months of the final decision in such matter, the ~~officer~~ elected official shall file an  
6 amended behested payment report.

7 ~~(d)~~ (e) **PUBLIC APPEALS.** Notwithstanding subsections (a) and (d), no ~~officer~~ elected  
8 official shall be required to report any behested payment that is made solely in response to a  
9 public appeal.

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

15 ~~(f)~~ (g) **WEBSITE POSTING.** The Ethics Commission shall ~~make available through its~~  
16 ~~website~~ post on its website all behested payment reports it receives from ~~officers~~ elected officials.

### 17 **SEC. 3.620. FILING BY DONORS.**

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

21 (1) Administrative proceedings. If the interested party is a party, participant, or agent  
22 of a party or participant involved in a proceeding regarding administrative enforcement, a license, a  
23 permit, or other entitlement for use:



1                   (A) the proceeding(s) the interested party is or was involved in with the  
2 board, commission or department of the elected official who requested or solicited the behested  
3 payment(s);

4                   (2) (B) the outcome(s) the interested party is or was seeking in such  
5 proceedings before or decisions by the board, commission, or department of the elected official who  
6 requested or solicited the behested payment(s); and

7                   (3) (C) any contact(s) the interested party made in relation to such  
8 proceedings before or decisions by the board, commission, or department of the elected official who  
9 requested or solicited the behested payment(s).

10                   (2) **Contracts.** If the interested party is a City Contractor, or an affiliate of a City  
11 Contractor:

12                   (A) the total value(s), description(s), and date(s) of the contract(s) with or  
13 proposal(s) submitted to the board, commission, or department of the elected official who requested or  
14 solicited the behested payment(s);

15                   (B) the name(s) of the City Contractor(s) or affiliate(s), and the contracting City  
16 department(s); and

17                   (C) any contact(s) the interested party made in relation to the contract(s) with  
18 or proposal(s) submitted to the board, commission, or department of the elected official who requested  
19 or solicited the behested payment(s).

20                   (3) **Persons seeking to influence.** If the interested party attempted to influence the  
21 elected official in any legislative or administrative action:

22                   (A) the legislative or administrative action(s) in which the interested party  
23 attempted to influence the elected official;

24                   (B) the outcome(s) the interested party is or was seeking in such legislative or  
25 administrative action(s); and

1 (C) the dates of any contact(s) the interested party made with the elected official  
2 in relation to such legislative or administrative action(s).

3 (b) **NOTICE.** Any person who makes a behested payment must notify the recipient  
4 that the payment is a behested payment, at the time the payment is made.

5 (c) PUBLIC APPEALS. An interested party has no obligation to disclose a behested payment  
6 made in response to an elected official's public appeal.

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

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

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

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

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

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

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

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

25

1                                    ~~(C)~~ (iii) the outcome(s) the person is or was seeking in such  
2 proceedings or decisions; and

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

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

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

13           (d) **PUBLIC APPEALS.** A recipient of behested payments has no obligation to disclose  
14 payments received due to an elected official's public appeal.

15           **SEC. 3.640. REGULATIONS.**

16           (a) The Ethics Commission may adopt rules, regulations, and guidelines for the  
17 implementation of this Chapter 6. The Ethics Commission shall adopt rules, regulations or  
18 guidelines defining and illustrating "interested party" and when a payment is made "at the behest of"  
19 a City officer or designated employee.

20           (b) The Ethics Commission may, by regulation, require persons to electronically submit  
21 information required to fulfill their obligations under this Chapter 6.

22           Section 2. Effective Date. This ordinance shall become effective 30 days after  
23 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
24 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
25 of Supervisors overrides the Mayor's veto of the ordinance.

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

7

8 APPROVED AS TO FORM:  
9 DENNIS J. HERRERA, City Attorney

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10 By:     /s/ Andrew Shen      
11       ANDREW SHEN  
       Deputy City Attorney

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