

Angela Calvillo
Clerk, San Francisco Board of Supervisors

John Arntz
Director, San Francisco Department of Elections

SAN FRANCISCO
2019 FEB 12 PM 1:44
DEPARTMENT OF ELECTIONS

To Whom It May Concern:

In accordance with Section 2.113 of the San Francisco City Charter, we, the undersigned members of the Board of Supervisors, hereby submit the attached text of the "Sunlight On Dark Money Initiative" for placement on the November 2019 ballot. The lead Proponent of this Initiative shall be Supervisor Gordon Mar.

Sincerely,

GORDON MAR

(Printed Name)

Hillary Ronen

(Printed Name)

Sandra Feuer

(Printed Name)

AARON PESKIN

(Printed Name)

MATT HANEY

(Printed Name)

Rafael Mandelman

(Printed Name)

GM

(Signature)

Hillary Ronen

(Signature)

Sandra Feuer

(Signature)

Aaron Peskin

(Signature)

Matt Haney

(Signature)

Rafael Mandelman

(Signature)

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Angela Calvillo
Clerk, San Francisco Board of Supervisors

John Arntz
Director, San Francisco Department of Elections

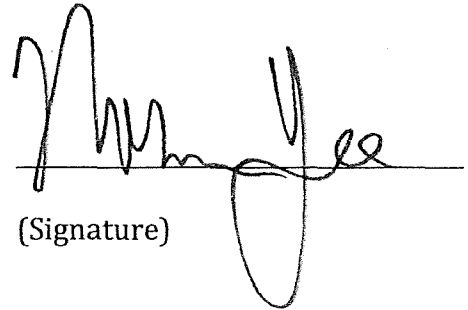
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Sincerely,

Norman Yee

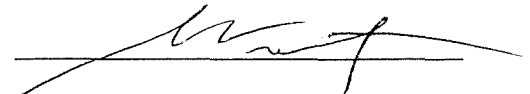
(Printed Name)



(Signature)

Shamann Walton

(Printed Name)



(Signature)

Jillie Brown

(Printed Name)



(Signature)

(Printed Name)

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(Printed Name)

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THE SUNLIGHT ON DARK MONEY INITIATIVE

NOTE: **Unchanged Code text and uncodified text** are in plain font. **Additions to Codes** are in *single-underline italics font*. **Deletions to Codes** are in *strikethrough italics 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. Title

This Initiative shall be known and may be cited as the “Sunlight On Dark Money Initiative.”

SECTION 2. Findings and Declarations

The People of the City and County of San Francisco declare their findings and purposes in enacting this Initiative to be as follows:

(a) The San Francisco Campaign Finance Reform Ordinance (“CFRO”) was enacted in order to enhance the integrity of the election process and help restore public trust in governmental and electoral institutions in the City and County of San Francisco. CFRO’s specific purposes include assisting voters in making informed electoral decisions through increased disclosure, limiting contributions to candidates and committees to eliminate or reduce the appearance or reality that campaign contributions may lead to corruption or undue influence over elected officials, and enforcement to ensure compliance with the law.

1 (b) In recent years, exacerbated by the United States Supreme Court decision in
2 *Citizens United v. FEC (2010)*, corporations, lobbyists, and other wealthy interests
3 have exploited loopholes in current law to evade the reasonable contribution limits
4 enacted by voters while hiding disclosure of their donations from voters.

5 (c) In 2015, the Board of Supervisors approved Ordinance No. 102-15 repealing
6 certain disclosure requirements for independent expenditure committees, also known
7 as “Super PACs,” which has resulted in diminished information available for San
8 Francisco voters to make informed choices.

9
10 (d) In April 2018, the Board of Supervisors by a 6-5 vote rejected a proposal to
11 limit “pay to play” corruption or the appearance of “pay to play” corruption in land use
12 decisions by prohibiting campaign contributions by persons with land use matters
13 before a decision-making body while those decisions are pending until 12 months after
14 those decisions are made or resolved.

15 (e) The corrosion of the integrity of San Francisco’s elections caused by the
16 evasion of campaign contribution limits, lack of “pay to play” safeguards, and
17 inadequate disclosure requirements is an urgent problem that requires action by the
18 people of San Francisco through the initiative process.

19
20
21 **SECTION 3.** The San Francisco Campaign and Governmental Conduct Code,
22 Article I, Chapter 1, is hereby amended by revising Section 1.114 to read as follows:

23 **SEC. 1.114. CONTRIBUTIONS – LIMITS AND PROHIBITIONS.**

24 (a) **LIMITS ON CONTRIBUTIONS TO CANDIDATES.** No person other than
25 a candidate shall make, and no campaign treasurer for a candidate committee shall

1 solicit or accept, any contribution which will cause the total amount contributed by
2 such person to such candidate committee in an election to exceed \$500.

3 (b) PROHIBITION ON CONTRIBUTIONS FROM CORPORATIONS. No
4 corporation, *limited liability corporation, or limited liability partnership* organized
5 pursuant to the laws of the State of California, the United States, or any other state,
6 territory, or foreign country, whether for profit or not, shall make a contribution to a
7 candidate committee, provided that nothing in this subsection (b) shall prohibit such a
8 corporation from establishing, administering, and soliciting contributions to a separate
9 segregated fund to be utilized for political purposes by the corporation, provided that
10 the separate segregated fund complies with the requirements of Federal law including
11 Sections 432(e) and 441b of Title 2 of the United States Code and any subsequent
12 amendments to those Sections.
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14

15 * * * *

16
17 SECTION 4. The San Francisco Campaign and Governmental Conduct
18 Code, Article I, Chapter 1, is hereby amended by adding Section 1.127 to read as
19 follows:
20

21 SEC. 1.127. CONTRIBUTION LIMITS – PERSONS WITH LAND USE
22 MATTERS BEFORE A DECISION-MAKING BODY.

23
24 (a) Definitions. For purposes of this Section 1.127, the following phrases shall

25 mean:

1 “Affiliated entities” means business entities directed and controlled by a majority
2 of the same persons, or majority-owned by the same person.

3 “Financial interest” shall mean (a) an ownership interest of at least 10% or
4 \$1,000,000 in the project or property that is the subject of the land use matter; (b)
5 holding the position of director of principal officer, including President, vice-President,
6 Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Executive
7 Director, Deputy Director, or member of the Board of Directors, in an entity with at
8 least 10% ownership interest in that project or property; or (c) being the developer of
9 that project or property.

10 “Land use matter” shall mean (a) any request to a City elective officer for a
11 Planning Code or Zoning Map amendment, or (b) any application for an entitlement
12 that requires a discretionary determination at a public hearing before a board or
13 commission under the San Francisco Building Code, the Planning Code, or the
14 California Environmental Quality Act (California Public Resources Code Section 21000
15 et seq). “Land use matter” shall not include discretionary review hearings before the
16 Planning Commission.

17 “Prohibited contribution” is a contribution to (1) a member of the Board of
18 Supervisors, (2) a candidate for member of the Board of Supervisors, (3) the Mayor, (4)
19 a candidate for Mayor, (5) the City Attorney, (6) a candidate for City Attorney, or (7) a
20 controlled committee of a member of the Board of Supervisors, the Mayor, the City
21 Attorney, or a candidate for any of these offices or (8), a committee which is primarily
22 formed to support or oppose a specific candidate or candidates for any of these offices.

1 (b) Prohibition on Pay-To-Play Contributions. No person, or the person's
2 affiliated entities, with a financial interest in a land use matter before the Board of
3 Appeals, Board of Supervisors, Building Inspection Commission, Commission on
4 Community Investment and Infrastructure, Historic Preservation Commission,
5 Planning Commission, Port Commission, or the Treasure Island Development
6 Authority Board of Directors shall make any prohibited contribution at any time from a
7 request or application regarding a land use matter until 12 months have elapsed from
8 the date that the board or commission renders a final decision or ruling or any appeals
9 from that decision or ruling have been finally resolved.

11 (c) Prohibition on Soliciting or Accepting Pay-to-Play Contributions. No member
12 of the Board of Supervisors, candidate for member of the Board of Supervisors, the
13 Mayor, candidate for Mayor, the City Attorney, candidate for City Attorney, or
14 controlled committees of such officers and candidates shall:

15 (1) accept any contribution prohibited by subsection (b); or

16 (2) solicit any contribution prohibited by subsection (b) from a person who
17 the individual knows or has reason to know has a financial interest in a land use
18 matter.

19 (d) Exception for primary residence. The prohibitions set forth in subsections (b)
20 and (c) shall not apply if the land use matter concerns only the person's primary
21 residence.

1 (e) Forfeiture of Prohibited Contributions. In addition to any other penalty, each
2 member of the Board of Supervisors, candidate for member of the Board of Supervisors,
3 the Mayor, candidate for Mayor, the City Attorney, candidate for City Attorney, or
4 controlled committees of such officers and candidates, who solicits or accepts any
5 contribution prohibited by subsection (b) shall pay promptly the amount received or
6 deposited to the City and County of San Francisco by delivering the payment to the
7 Ethics Commission for deposit in the General Fund of the City and County; provided,
8 that the Commission may provide for the waiver or reduction of the forfeiture.

10 (f) Notification of Prospective Parties to Land Use Matters. The agency
11 responsible for the initial review of any land use matter shall inform any person with a
12 financial interest in a land use matter before the Board of Appeals, Board of
13 Supervisors, Building Inspection Commission, Commission on Community Investment
14 and Infrastructure, Historic Preservation Commission, Planning Commission, Port
15 Commission, or the Treasure Island Development Authority Board of Directors, of the
16 prohibition in subsection (b).

19
20 **SECTION 5.** The San Francisco Campaign and Governmental Conduct Code,
21 Article I, Chapter 1, is hereby amended by revising Section 1.161 to read as follows:

22
23 **SEC. 1.161. CAMPAIGN ADVERTISEMENTS.**

24 (a) **DISCLAIMERS.** In addition to complying with the disclaimer requirements
25 set forth in Chapter 4 of the California Political Reform Act, California Government
section 84100 *et seq.*, and its enabling regulations, all committees making

1 expenditures which support or oppose any candidate for City elective office or any City
2 measure shall also comply with the following additional requirements:

3 (1) TOP ~~THREE~~ FIVE CONTRIBUTORS. The disclaimer requirements
4 for primarily formed independent expenditure committees and primarily formed ballot
5 measure committees set forth in the Political Reform Act with respect to a committee's
6 top ~~three~~ five major contributors shall apply to contributors of ~~\$10,000~~ \$5,000 or more.
7 Such disclaimers shall include both the name of and the dollar amount contributed by
8 each of the top five major contributors of \$5,000 or more to such committees. If any of
9 the top five major contributors is a committee, the disclaimer must also disclose both
10 the name of and the dollar amount contributed by each of the top three major
11 contributors of \$5,000 or more to that committee. The Ethics Commission may adjust
12 this monetary threshold to reflect any increases or decreases in the Consumer Price
13 Index. Such adjustments shall be rounded off to the nearest five thousand dollars.
14

15 (2) WEBSITE REFERRAL. Each disclaimer required by the Political
16 Reform Act or its enabling regulations and by this section shall be followed in the
17 same required format, size and speed by the following phrase: "Financial disclosures
18 are available at sfethics.org." A substantially similar statement that specifies the web
19 site may be used as an alternative in audio communications.
20

21 (3) MASS MAILINGS AND SMALLER WRITTEN
22 ADVERTISEMENTS. Any disclaimer required by the Political Reform Act and by this
23 section on a mass mailing, door hanger, flyer, poster, oversized campaign button or
24 bumper sticker, or print advertisement shall be printed on every page where
25

1 advertising appears on such mass mailings and written advertisements and shall be
2 printed in at least ~~12-point~~ 14 point, bold font.

3 (4) CANDIDATE ADVERTISEMENTS. Advertisements by candidate
4 committees shall include the following disclaimer statements: "Paid for by _____
5 (insert the name of the candidate committee)." and "Financial disclosures are available
6 at sfethics.org." Except as provided in subsections (a)(3) and (a)(5), the statements'
7 format, size and speed shall comply with the disclaimer requirements for independent
8 expenditures for or against a candidate set forth in the Political Reform Act and its
9 enabling regulations.

11 (5) AUDIO AND VIDEO ADVERTISEMENTS. For audio
12 advertisements, the disclaimers required by this Section 1.161 shall be spoken at the
13 *end beginning* of such advertisements. For video advertisements, the disclaimers
14 required by this Section 1.161 shall be spoken at the *end beginning* of such
15 advertisements and appear in writing during the entirety of the advertisements.

17 (b) FILING REQUIREMENTS.

18 (1) INDEPENDENT EXPENDITURES ADVERTISEMENTS.

19 Committees required by state law to file late independent expenditure reports
20 disclosing expenditures that support or oppose a candidate for City elective office shall
21 also file with the Ethics Commission on the same date a copy of the associated
22 advertisement(s), an itemized disclosure statement with the Ethics Commission for that
23 advertisement(s), and
24 advertisement(s), and
25

1 (A) if the advertisement is a telephone call, a copy of the script
2 and, if the communication is recorded, the recording shall also be provided; or

3 (B) if the advertisement is audio or video, a copy of the script and
4 an audio or video file shall be provided.

5 (C) if the advertisement is an electronic or digital advertisement, a
6 copy of the advertisement as distributed shall be provided.

7
8 (D) if the advertisement is a door hanger, flyer, pamphlet, poster,
9 or print advertisement, a copy of the advertisement as distributed shall be provided.

10 (2) INDEPENDENT EXPENDITURE MASS MAILINGS.

11 (A) Each independent expenditure committee that pays for a mass
12 mailing shall, within five working days after the date of the mailing, file a copy of the
13 mailing and an itemized disclosure statement with the Ethics Commission for that
14 mailing.

15
16 (B) Each independent expenditure committee that pays for a mass
17 mailing shall file a copy of the mailing and the itemized disclosure statement required
18 by subsection (b)(2) within 48 hours of the date of the mailing if the date of the mailing
19 occurs within the final 16 days before the election.

20
21 (2) (3) CANDIDATE MASS MAILINGS.

22 (A) Each candidate committee that pays for a mass mailing shall,
23 within five working days after the date of the mailing, file a copy of the mailing and an
24 itemized disclosure statement with the Ethics Commission for that mailing.

25 (B) Each candidate committee that pays for a mass mailing shall

1 file a copy of the mailing and the itemized disclosure statement required by subsection
2 (b)~~(2)~~(3) within 48 hours of the date of the mailing if the date of the mailing occurs
3 within the final 16 days before the election.

4 ~~(3)~~ (4) The Ethics Commission shall specify the method for filing copies
5 of advertisements and mass mailings.
6

7
8 **SECTION 6.** The San Francisco Campaign and Governmental Conduct Code,
9 Article I, Chapter 1, is hereby amended by revising Section 1.162 to read as follows:

10
11 **SEC. 1.162. ELECTIONEERING COMMUNICATIONS.**

12 (a) **DISCLAIMERS.**

13 (1) Every electioneering communication for which a statement is filed
14 pursuant to subsection (b) shall include the following disclaimer: "Paid for by
15 _____ (insert the name of the person who paid for the communication)." and
16 "Financial disclosures are available at sfethics.org."
17

18 (2) Any disclaimer required by this Section shall be included in or on an
19 electioneering communication in a size, speed or format that complies with the
20 disclaimer requirements for independent expenditures supporting or opposing
21 candidates set forth in the Political Reform Act and its enabling regulations.
22

23 (3) Notwithstanding subsection (a)(2), any disclaimer required by this
24 Section:

25 (A) to appear on a mass mailing, door hanger, flyer, poster,

1 oversized campaign button or bumper sticker, or print advertisement shall be printed
2 in at least 14-point font;

3 (B) to be included in an audio advertisement, shall be spoken at
4 the ~~end~~ beginning of such advertisements; or

5 (C) to be included in a video advertisement, shall be spoken at the
6 ~~end~~ beginning of such advertisements and appear in writing during the entirety of the
7 advertisements.
8

9 * * * *

10
11 **SECTION 7.** The San Francisco Campaign and Governmental Conduct Code,
12 Article I, Chapter 1, is hereby amended by revising Section 1.170 to read as follows:

13
14 **SEC. 1.170. PENALTIES.**

15 (a) **CRIMINAL.** Any person who knowingly or willfully violates any provision
16 of this Chapter 1 shall be guilty of a misdemeanor and upon conviction thereof shall be
17 punished by a fine of not more than \$5,000 for each violation or by imprisonment in
18 the County jail for a period of not more than six months or by both such fine and
19 imprisonment; provided, however, that any willful or knowing failure to report
20 contributions or expenditures done with intent to mislead or deceive or any willful or
21 knowing violation of the provisions of Sections 1.114, ~~or~~ 1.126, or 1.127 of this Chapter
22 shall be punishable by a fine of not less than \$5,000 for each violation or three times
23 the amount not reported or the amount received in excess of the amount allowable
24 pursuant to Sections 1.114, ~~or~~ 1.126, or 1.127 of this Chapter, or three times the
25

1 amount expended in excess of the amount allowable pursuant to Section 1.130 or
2 1.140, whichever is greater.

3 (b) CIVIL. Any person who intentionally or negligently violates any of the
4 provisions of this Chapter 1 shall be liable in a civil action brought by the City
5 Attorney for an amount up to \$5,000 for each violation or three times the amount not
6 reported or the amount received in excess of the amount allowable pursuant to
7 Sections 1.114, ~~or 1.126,~~ or 1.127 or three times the amount expended in excess of the
8 amount allowable pursuant to Section 1.130 or 1.140, whichever is greater. In
9 determining the amount of liability, the court may take into account the seriousness of
10 the violation, the degree of culpability of the defendant, and the ability of the
11 defendant to pay.
12
13

14 (c) ADMINISTRATIVE. Any person who violates any of the provisions of this
15 Chapter 1 shall be liable in an administrative proceeding before the Ethics
16 Commission held pursuant to the Charter for any penalties authorized therein.
17

18 * * * *

19
20 **SECTION 8. Conflicting Measures**

21
22 In the event that another measure or measures on the same ballot seeks to
23 affect the same subject matter as this Initiative, any provisions of the other measure
24 or measures shall be deemed to be in conflict with this Initiative. In the event that
25 this Initiative receives a greater number of affirmative votes, only this Initiative shall
take effect and the provisions of the other measure or measures shall be null and void.

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SECTION 9. Scope of Initiative

In enacting this Initiative, the people intend to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this Initiative as additions or deletions in accordance with the “NOTE” that appears above the official title of the Initiative.

SECTION 10. Severability

If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The voters hereby declare that they would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

SECTION 11. Amendment or Repeal

Only the voters may amend or repeal any of the provisions of this Initiative.

1 **SECTION 12.** **Effective Date**

2

3 In accordance with the provisions of California Elections Code section 9217, if a

4 majority of the voters vote in favor of this Initiative, the Initiative shall go into effect

5 10 days after the vote is declared by the Board of Supervisors.