

File No. 220539

Committee Item No. 1

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date Sept. 19,

Board of Supervisors Meeting

2022 Date _____

Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input type="checkbox"/>	<input type="checkbox"/>	Resolution
XX	<input type="checkbox"/>	Ordinance
X	<input type="checkbox"/>	Legislative Digest
<input type="checkbox"/>	<input type="checkbox"/>	Budget and Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Youth Commission Report
<input type="checkbox"/>	<input type="checkbox"/>	Introduction Form
XXX	<input type="checkbox"/>	Department/Agency Cover Letter and/or Report
<input type="checkbox"/>	<input type="checkbox"/>	Memorandum of Understanding (MOU)
<input type="checkbox"/>	<input type="checkbox"/>	Grant Information Form
<input type="checkbox"/>	<input type="checkbox"/>	Grant Budget
<input type="checkbox"/>	<input type="checkbox"/>	Subcontract Budget
<input type="checkbox"/>	<input type="checkbox"/>	Contract/Agreement
<input type="checkbox"/>	<input type="checkbox"/>	Form 126 - Ethics Commission
<input type="checkbox"/>	<input type="checkbox"/>	Award Letter
<input type="checkbox"/>	<input type="checkbox"/>	Application
<input type="checkbox"/>	<input type="checkbox"/>	Form 700
<input type="checkbox"/>	<input type="checkbox"/>	Information/Vacancies (Boards/Commissions)
<input type="checkbox"/>	<input type="checkbox"/>	Public Correspondence

OTHER (Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	Charter Amendment
<input type="checkbox"/>	<input type="checkbox"/>	_____
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Completed by: Victor Young

Date Sept 15,

Completed by: _____

2022 Date _____

[Campaign and Governmental Conduct Code - Behested Payments Exceptions]

Ordinance amending the Campaign and Governmental Conduct Code to modify the rules concerning behested payment solicitations, by excepting solicitations made under certain types of City programs to solicit, request, and contractually obligate charitable donations through competitively procured contracts; providing that the receipt of a non-discretionary license, permit, or other entitlement for use does not make a person an interested party; providing that attempting to influence an administrative action does not make a person an interested party; excepting solicitations made in connection with the City's acquisition of real property; and making other clarifying changes.

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. Article III, Chapter 6 of the Campaign and Governmental Conduct Code is hereby amended by revising Sections 3.610 and 3.620, to read as follows.

SEC. 3.610. 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.

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

4 “At the behest of” shall mean under the control or at the direction of, in cooperation,
5 consultation, coordination, or concert with, at the request or suggestion of, or with the
6 express, prior consent of.

7 “Behested payment” shall mean a payment that is made at the behest of an officer, or
8 an agent thereof, and that is made principally for a legislative, governmental, or charitable
9 purpose.

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

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

15 “Contact” shall be defined as set forth in Section 2.106 of this Code.

16 “Department head” shall mean any department head who is required to file a
17 Statement of Economic Interests as set forth in Section 3.1-103(b)(1) of this Code.

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

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

23 “Financial interest” shall be defined as set forth in the California Political Reform Act
24 (California Government Code Section 87100 et seq.), any subsequent amendments to these
25 Sections, and its implementing regulations.

1 “Grant” shall mean an agreement with a government agency, non-profit organization
2 or private entity to fund or provide goods or services to assist with City projects or programs,
3 under which the grantor imposes restrictions on the City’s spending of the grant ~~funds~~.

4 “Interested party” shall mean:

5 (a) any party, participant or agent of a party or participant involved in a proceeding
6 regarding administrative enforcement, a license, a permit, or other entitlement for use before
7 (1) an officer, (2) any board or commission (including the Board of Supervisors) on which the
8 officer sits, (3) the department of the officer, or (4) the department of the designated
9 employee; except for any license, permit, or other entitlement for use that is issued on a ministerial
10 basis;

11 (b) (1) any City Contractor contracting with or seeking to contract with the designated
12 employee’s or officer’s department, or any affiliate of such a City Contractor, except for any
13 person providing a grant to the City or a City department, and (2) as pertains to members of
14 the Board of Supervisors, any City Contractor, or any affiliate of such a City Contractor, if the
15 Board of Supervisors approves the City Contractor’s agreement with the City, except for any
16 person providing a grant to the City or a City department;

17 (c) any person who attempted to influence the employee or officer in any legislative
18 ~~or administrative~~ action, provided that “attempt to influence” shall be defined as set forth in
19 Section 3.216(b)(1) of this Code and the Ethics Commission’s regulations implementing
20 Section 3.216(b)(1) with respect to legislative actions, and shall not include (1) oral or written
21 public comment that becomes part of the record of a public hearing; (2) speaking at a public
22 forum or rally, ~~or~~ (3) communications made via email, petition or social media; or (4)
23 communications with a City employee or officer regarding a grant from that person to the City,
24 including any communications with respect to the City’s use of the grant for a particular purpose;
25

1 (d) any contact or expenditure lobbyist, as defined under Article II, Chapter 1 of this
2 Code, who has registered as a contact or expenditure lobbyist with the Ethics Commission, if
3 the contact lobbyist or expenditure lobbyist is registered to lobby the designated employee's
4 or officer's department; or

5 (e) any permit consultant, as defined under Article III, Chapter 4 of this Code, who
6 has registered as a permit consultant with the Ethics Commission, if the permit consultant has
7 reported any contacts with the designated employee's or officer's department to carry out
8 permit consulting services during the prior 12 months.

9 "Interested party" shall not include: (a) any nonprofit organization that Article V of the
10 Charter has authorized to support an arts and culture department; (b) any federal or State
11 government agency; (c) an individual, solely because the individual is an uncompensated
12 board member of a nonprofit organization that is an interested party; or (d) as pertains to
13 members of the Board of Supervisors, a City Contractor, or affiliate of a City Contractor, if the
14 Board of Supervisors did not approve the City Contractor's agreement with the City.

15 "License, permit, or other entitlement for use" shall mean professional, trade, or land
16 use licenses, permits, or other entitlements to use property or engage in business, issued in the
17 discretion of the administering agency, including professional license revocations, conditional use
18 permits, rezoning of property parcels, zoning variances, tentative subdivision and parcel
19 maps, cable television franchises, building and development permits, private development
20 plans, and contracts (other than labor or personal employment contracts and competitively bid
21 contracts where the City is required to select the highest or lowest qualified bidder), as set
22 forth in California Government Code Section 84308, as amended from time to time. For
23 purposes of Section 3.620, "license, permit, or other entitlement for use" shall not include licenses,
24 permits, or other entitlements for use that involve little or no discretion, merely apply a checklist or
25 objective criteria to the facts as presented, and/or are issued over-the-counter or "as-of-right".

1 “Officer” shall mean any commissioner, department head, or elected official.

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

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

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

12 “Permit consulting services” shall be defined as set forth in Article III, Chapter 4 of
13 this Code.

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

15 “Proceeding” shall be defined as set forth in 2 California Code of Regulations Section
16 18438.2, as amended from time to time, and shall not include a ministerial action such as the issuance
17 of a first-in-time/first-in-right license, permit, or other entitlement for use, as may be the case when a
18 member of the public seeks permission from a City department to use public space.

19 “Public appeal” shall mean a request for a payment when such request is made by
20 means of television, radio, billboard, a public message on an online platform, the distribution
21 of 200 or more identical pieces of printed material, the distribution of a single email to 200 or
22 more recipients, or a speech to a group of 20 or more individuals.

23 “Relative” shall mean a spouse, domestic partner, parent, grandparent, child, sibling,
24 parent-in-law, aunt, uncle, niece, nephew, and first cousin, and includes any similar step
25 relationship or relationship created by adoption.

1
2 **SEC. 3.620. PROHIBITING ELECTED OFFICIALS, DEPARTMENT HEADS,**
3 **COMMISSIONERS, AND DESIGNATED EMPLOYEES FROM SOLICITING BEHESTED**
4 **PAYMENTS FROM INTERESTED PARTIES.**

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

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

13 (A) during the proceeding; and

14 (B) for 12~~twelve~~ months following the date on which a final decision is rendered
15 in the proceeding.

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

20 (A) the termination of negotiations for the contract; or

21 (B) 12~~twelve~~ months following the end of the contract's term.

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

1 (4) **Lobbyists.** Officers ~~Elected officials, department heads, commissioners,~~ and
2 designated employees may not solicit any behested payment from a contact lobbyist or
3 expenditure lobbyist who has registered as a lobbyist with the Ethics Commission, if the
4 contact lobbyist or expenditure lobbyist is registered to lobby the designated employee's or
5 officer's department.

6 (5) **Permit consultants.** Officers ~~Elected officials, department heads, commissioners,~~
7 and designated employees may not solicit any behested payment from a permit consultant
8 who has registered with the Ethics Commission, if the permit consultant has reported any
9 contacts with the designated employee's or officer's department to carry out permit consulting
10 services during the prior 12 months.

11 (b) **INDIRECT SOLICITATION.** For the purposes of this Section 3.620, a City officer
12 or employee is indirectly soliciting a behested payment when the City officer or employee
13 directs or otherwise urges another person to solicit a behested payment from an identifiable
14 interested party or parties.

15 (c) **EXCEPTION – PUBLIC APPEALS.** This Section 3.620 shall not apply to public
16 appeals.

17 (d) **EXCEPTION – COMPETITIVELY SECURED PROGRAM SOLICITATIONS.** This
18 Section 3.620 shall not apply to solicitations made under an authorized program for charitable
19 donations of time and/or money from interested parties to nonprofit 501(c)(3) organizations or public
20 schools. For purposes of this subsection (d), an authorized program is a process for soliciting
21 donations through a competitively procured contract, which program either (i) existed on or before
22 January 23, 2022, such as the San Francisco Public Utilities Commission Social Impact Partnership
23 program, or (ii) is authorized by the Board of Supervisors by ordinance. For a contract that includes
24 an authorized program excepted under this subsection (d), all solicitations under such program related
25 to the award, approval, execution, administration, modification, or enforcement of that contract by City

1 officers or employees are likewise excepted. Any program under (i) above may proceed as it existed on
2 or before January 23, 2022 until the earlier of (A) the Board of Supervisors adopts an ordinance
3 authorizing a program involving donations through a competitively procured contract, as provided by
4 (ii) above, or (B) December 31, 2024.

5 (f) **EXCEPTION – CITY PROPERTY.** Nothing in this Section 3.620 is intended to prevent
6 any officer or designated employee from discussing, negotiating, and/or securing the provision of
7 community benefits or other consideration in connection with the City’s acquisition of real property.

8
9 Section 2. Effective Date. This ordinance shall become effective 30 days after
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
12 of Supervisors overrides the Mayor’s veto of the ordinance.

13
14 Section 3. Prerequisites for Enactment; Super-Majority Vote Requirement. In the
15 event the People approve Proposition E at the June 7, 2022 election, the enactment of this
16 ordinance will be subject to the provisions of Proposition E that authorize amendments to
17 Article III, Chapter 6 of the Campaign and Governmental Conduct Code only if they are
18 recommended by the Ethics Commission and approved by a supermajority of at least eight
19 votes at the Board of Supervisors.

20
21 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
22 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
23 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
24 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
25

1 additions, and Board amendment deletions in accordance with the “Note” that appears under
2 the official title of the ordinance.

3
4 APPROVED AS TO FORM:
5 DAVID CHIU, City Attorney

6
7 By: /s/
8 MANU PRADHAN
9 Deputy City Attorney

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REVISED LEGISLATIVE DIGEST

(Substituted, 6/14/2022)

[Campaign and Governmental Conduct Code - Behested Payments Exceptions]

Ordinance amending the Campaign and Governmental Conduct Code to modify the rules concerning behested payment solicitations, by excepting solicitations made under certain types of City programs to solicit, request, and contractually obligate charitable donations through competitively procured contracts; providing that the receipt of a non-discretionary license, permit, or other entitlement for use does not make a person an interested party; providing that attempting to influence an administrative action does not make a person an interested party; excepting solicitations made in connection with the City's acquisition of real property; and making other clarifying changes.

Existing Law

Under Campaign and Governmental Conduct Code Sections 3.600, *et seq.*, City officers and employees may not solicit behested payments from interested parties. The term "interested party" includes persons involved in proceedings for licenses, permits, or other entitlements for use; contractors and persons seeking to contract with City departments; and persons who have attempted to influence officers or employees in administrative or legislative actions. This prohibition became effective January 23, 2022.

Amendments to Current Law

This ordinance adds several exceptions to the behested payment prohibition:

- It allows officers and employees to solicit charitable donations from persons contracting or seeking to contract with their departments under authorized programs. A program is authorized if it (1) is approved by the Board of Supervisors (programs existing before the effective date of the behested payment prohibition would remain approved until December 31, 2024, but would then need to be reapproved); and (2) involves a process for the solicitation of donations through a public, competitive procurement that results in the award of a contract that includes an obligation to make donations, such as the San Francisco Public Utilities Commission Social Impact Partnership program.
- It provides that receiving a license or permit or other entitlement for use that was not discretionary (i.e., was issued on a ministerial basis) does not make the recipient an interested party.
- It provides that attempting to influence an administrative action does not make a person an interested party.

- It states that the ordinance does not prevent solicitations in connection with the City's acquisition of real property.

The ordinance also makes several clarifying changes, including that communicating with a City department regarding a grant that the person is providing to that department does not constitute an attempt to influence.

Background Information

The original version of this ordinance proposed an exception for contractually obligated solicitations made under authorized programs. The behested payment prohibition halted the San Francisco Public Utilities Commission Social Impact Partnership program and possibly other department programs. The proposed exception would allow officers and employees to proceed with administering certain types of programs as they were before the behested payment prohibition took effect, without further action by the Board.

On June 7, 2022, a substitute ordinance was introduced. The substitute ordinance further addresses the proposed exception for authorized programs for contractually obligated solicitations, and narrows the definition of who is an interested party.

On June 14, 2022, another substitute ordinance was introduced, to eliminate the prior reference to wholesale energy contracts, to provide a new exception for solicitations that occur in connection with the City's acquisition of real property, and to update the ordinance so that it incorporates language recently approved by the voters via Proposition E (2022).

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BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: John Arntz, Director, Department of Elections
LeeAnn Pelham, Executive Director, Ethics Commission

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: June 18, 2022

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation:

File No. 220539 (version 3)

Ordinance amending the Campaign and Governmental Conduct Code to modify the rules concerning behested payment solicitations, by excepting solicitations made under certain types of City programs to solicit, request, and contractually obligate charitable donations through competitively procured contracts; providing that the receipt of a non-discretionary license, permit, or other entitlement for use does not make a person an interested party; providing that attempting to influence an administrative action does not make a person an interested party; excepting solicitations made in connection with the City's acquisition of real property; and making other clarifying changes.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: victor.young@sfgov.org.

cc: Patrick Ford, Ethics Commission
Michael Canning, Ethics Commission

From: [Peskin, Aaron \(BOS\)](#)
To: [Young, Victor \(BOS\)](#)
Cc: [Yan, Calvin \(BOS\)](#); [Heckel, Hank \(MYR\)](#); [PRADHAN, MANU \(CAT\)](#); [FLORES, ANA \(CAT\)](#)
Subject: updated behested payments ordinance
Date: Friday, August 12, 2022 4:41:57 PM
Attachments: [01621634.docx](#)

Victor,

Attached is the updated behested payments ordinance, approved as to form, reflecting the edits approved today at the Ethics Commission. I hereby request that you add this to the file for this item, preferably today, so the public can see it if they so desire. I intend to hear this item at our next Rules meeting on 9/12/22 and intend to incorporate these amendments at that meeting. The City Attorney will provide an updated legislative digest next week, that I will provide to you for inclusion in the file.

Thanks and have a good weekend.

Aaron

[Campaign and Governmental Conduct Code - Behested Payments Exceptions]

Ordinance amending the Campaign and Governmental Conduct Code to modify the rules concerning behested payment solicitations, by 1) excepting solicitations made under certain types of City programs to solicit, request, and contractually obligate charitable donations through competitively procured contracts; 2) narrowing the prohibition against soliciting from persons involved in administrative enforcement, providing that the receipt of a non-discretionary licenses, permits, or other entitlements for use does not make a person an interested party; 3) narrowing the prohibition against soliciting from persons who have providing that attempted to influence an legislative or administrative actions does not make a person an interested party; 4) excepting solicitations made in connection with certain types of City contracts the City's acquisition of real property; 5) shortening the time periods for the prohibition as to solicitations from City contractors; 6) excepting payments less than \$1,000; 7) authorizing the Board of Supervisors to grant waivers by resolution; and 8) making other clarifying changes.

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*.
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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:

1 Section 1. Article III, Chapter 6 of the Campaign and Governmental Conduct Code is
2 hereby amended by revising Sections 3.610, ~~and 3.620, 3.630, and 3.640~~, to read as follows.

3 **SEC. 3.610. DEFINITIONS.**

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

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

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

10 “At the behest of” shall mean under the control or at the direction of, in cooperation,
11 consultation, coordination, or concert with, at the request or suggestion of, or with the
12 express, prior consent of.

13 “Behested payment” shall mean a payment that is made at the behest of an officer, or
14 an agent thereof, and that is made principally for a legislative, governmental, or charitable
15 purpose.

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

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

21 “Contact” shall be defined as set forth in Section 2.106 of this Code.

22 “Department head” shall mean any department head who is required to file a
23 Statement of Economic Interests as set forth in Section 3.1-103(b)(1) of this Code.
24
25

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

4 "Elected official" shall mean Assessor-Recorder, City Attorney, District Attorney,
5 Mayor, Public Defender, Sheriff, Treasurer, or member of the Board of Supervisors.

6 "Financial interest" shall be defined as set forth in the California Political Reform Act
7 (California Government Code Section 87100 et seq.), any subsequent amendments to these
8 Sections, and its implementing regulations.

9 "Grant" shall mean an agreement with a government agency, non-profit organization
10 or private entity to fund or provide goods or services to assist with City projects or programs,
11 under which the grantor imposes restrictions on the City's spending of the grant ~~funds~~.

12 "Interested party" shall mean:

13 (a) any party, participant, or agent of a party or participant involved in (1) a
14 proceeding regarding either administrative enforcement, or a license, a permit, or other
15 entitlement for use, before any officer within the department of the officer or designated
16 employee; or (2) any other governmental decision regarding either administrative
17 enforcement, or a license, permit, or other entitlement for use, in which the officer or
18 designated employee was personally and substantially involved. This subsection shall not
19 apply (1) an officer, (2) any board or commission (including the Board of Supervisors) on
20 which the officer sits, (3) the department of the officer, or (4) the department of the designated
21 employee; except for to any license, permit, or other entitlement for use that is issued on a
22 ministerial basis;

23 (b) (1) any City Contractor contracting with or seeking to contract with the designated
24 employee's or officer's department, or any affiliate of such a City Contractor, except for the
25 purposes of any person providing a grant to the City or a City department; ~~and~~ (2) as pertains

1 to members of the Board of Supervisors, any City Contractor, or any affiliate of such a City
2 Contractor, if the Board of Supervisors approves the City Contractor's agreement with the
3 City, except for the purposes of any person providing a grant to the City or a City department;
4 and (3) any person who attempted to influence the designated employee or officer regarding
5 the approval, denial, extension, or amendment of a City contract, provided that "attempt to
6 influence" shall be defined as set forth in the Ethics Commission's regulations, and shall not
7 include (A) oral or written public comment that becomes part of the record of a public hearing,
8 (B) speaking at a public forum or rally, or (C) communications made via petition or social
9 media;

10 ~~(c) any person who attempted to influence the employee or officer in any legislative~~
11 ~~or administrative action, provided that "attempt to influence" shall be defined as set forth in~~
12 ~~Section 3.216(b)(1) of this Code and the Ethics Commission's regulations implementing~~
13 ~~Section 3.216(b)(1) with respect to legislative actions, and shall not include (1) oral or written~~
14 ~~public comment that becomes part of the record of a public hearing; (2) speaking at a public~~
15 ~~forum or rally, or (3) communications made via email, petition or social media; or (4)~~
16 ~~communications with a City employee or officer regarding a grant from that person to the City,~~
17 ~~including any communications with respect to the City's use of the grant for a particular~~
18 ~~purpose;~~

19 ~~(c)(d)~~ any contact or expenditure lobbyist, as defined under Article II, Chapter 1 of
20 this Code, who has registered as a contact or expenditure lobbyist with the Ethics
21 Commission, if the contact lobbyist or expenditure lobbyist is registered to lobby the
22 designated employee's or officer's department; and any person on whose behalf a contact or
23 expenditure lobbyist has made a contact with the employee's or officer's department in the
24 last 12 months; or clients, or affiliates of clients, for whom they have contacted the department
25 for in the last 12 months; or

1 ~~(d)(e)~~ any permit consultant, as defined under Article III, Chapter 4 of this Code,
2 who has registered as a permit consultant with the Ethics Commission, if the permit consultant
3 has reported any contacts with the designated employee's or officer's department to carry out
4 permit consulting services during the prior 12 months.

5 "Interested party" shall not include: (a) any nonprofit organization that Article V of the
6 Charter has authorized to support an arts and culture department; (b) any federal or State
7 government agency; (c) an individual, solely because the individual is an uncompensated
8 board member of a nonprofit organization that is an interested party; or (d) as pertains to
9 members of the Board of Supervisors, a City Contractor, or affiliate of a City Contractor, if the
10 Board of Supervisors did not approve the City Contractor's agreement with the City.

11 "License, permit, or other entitlement for use" shall mean professional, trade, or land
12 use licenses, permits, or other entitlements to use property or engage in business, *issued in the*
13 *discretion of the administering agency*, including professional license revocations, conditional use
14 permits, rezoning of property parcels, zoning variances, tentative subdivision and parcel
15 maps, cable television franchises, building and development permits, private development
16 plans, and contracts (other than labor or personal employment contracts and competitively bid
17 contracts where the City is required to select the highest or lowest qualified bidder), as set
18 forth in California Government Code Section 84308, as amended from time to time. *For*
19 *purposes of Section 3.620, "license, permit, or other entitlement for use" shall not include licenses,*
20 *permits, or other entitlements for use that involve little or no discretion, merely apply a checklist or*
21 *objective criteria to the facts as presented, and/or* ~~are issued over the counter or "as-of-right."~~

22 "Officer" shall mean any commissioner, department head, or elected official.

23 "Participant" shall mean any person who is not a party but who actively supports or
24 opposes (by lobbying in person, testifying in person, or otherwise acting to influence) a
25 particular decision in a proceeding involving a license, permit, or other entitlement for use and

1 who has a financial interest in the decision, as set forth in California Government Code
2 Section 84308 and Title 2, Section 18438.4 of the California Code of Regulations, as
3 amended from time to time.

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

7 “Payment” shall mean a monetary payment, or the delivery of goods or services, with
8 a value of \$1,000 or more, or a series of payments within a 12-month period that in the
9 aggregate total \$1,000 or more.

10 “Permit consulting services” shall be defined as set forth in Article III, Chapter 4 of
11 this Code.

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

13 “Personally and substantially involved” shall be defined as set forth in the Ethics
14 Commission’s regulations Section 3.234-5.

15 “Proceeding” shall be defined as set forth in 2 California Code of Regulations Section
16 18438.2, as amended from time to time, and shall not include a ministerial action such as the issuance
17 of a first-in-time/first-in-right license, permit, or other entitlement for use, as may be the case when a
18 member of the public seeks permission from a City department to use public space. For purposes of
19 this Chapter 6, this definition shall also apply to proceedings regarding administrative
20 enforcement actions.

21 “Public appeal” shall mean a request for a payment when such request is made by
22 means of television, radio, billboard, a public message on an online platform, the distribution
23 of 200 or more identical pieces of printed material, the distribution of a single email to 200 or
24 more recipients, or a speech to a group of 20 or more individuals.
25

1 “Relative” shall mean a spouse, domestic partner, parent, grandparent, child, sibling,
2 parent-in-law, aunt, uncle, niece, nephew, and first cousin, and includes any similar step
3 relationship or relationship created by adoption.
4

5 **SEC. 3.620. PROHIBITING ELECTED OFFICIALS, DEPARTMENT HEADS,**
6 **COMMISSIONERS, AND DESIGNATED EMPLOYEES FROM SOLICITING BEHESTED**
7 **PAYMENTS FROM INTERESTED PARTIES.**

8 (a) **PROHIBITION.** ~~Officers~~ *Elected officials, department heads, commissioners,* and
9 designated employees shall not directly or indirectly solicit any behested payment from an
10 interested party in the following circumstances:
11

12 (1) **Administrative proceedings.** If the interested party is a party, participant, or
13 agent of a party or participant involved in (i) a proceeding before the any officer within the
14 department of the officer ~~*elected official's, department head's, commissioner's,*~~ or designated
15 employee's department regarding either regarding administrative enforcement, or regarding a
16 license, a permit, or other entitlement for use, or (ii) any other governmental decision
17 regarding either administrative enforcement, or regarding a license, permit, or other
18 entitlement for use, in which the officer or designated employee was personally and
19 substantially involved, the prohibition set forth in this subsection (a) shall apply:

20 (A) during the pendency of the proceeding or governmental decision; and

21 (B) for 12 ~~twelve~~ months following the date on which a final decision is rendered
22 in the proceeding.

23 (2) **Contracts.** If the interested party is a City Contractor, or an affiliate of a City
24 Contractor, who is a party to or is seeking a contract with the officer's ~~*elected official's,*~~
25 ~~*department head's, commissioner's,*~~ or designated employee's department or is a person who
attempted to influence the officer or designated employee regarding the approval, denial,

1 extention, or amendment of a City contract, the prohibition set forth in this subsection (a) shall
2 apply from the submission of a proposal until the later of:

3 (A) the termination of negotiations for the contract; or

4 (B) 12~~twelve~~ months following the end of the contract's term; if the interested
5 party is a City Contractor, unless five years have elapsed since the execution of the contract
6 without any amendment, extension, or renewal; or

7 (C) 12 months following the attempt to influence if the person is an interested
8 party due to an attempt to influence regarding the City contract.

9 —(3) ~~**Persons seeking to influence.**~~ If the interested party is a person who
10 attempted to influence the officer ~~*elected official, department head, commissioner, or*~~
11 designated employee in any legislative or administrative action, the prohibition set forth in this
12 subsection (a) shall apply for 12 months following the date of each attempt to influence.

13 (3)(4) **Lobbyists.** Officers ~~*Elected officials, department heads, commissioners, and*~~
14 designated employees may not solicit any behested payment from a contact lobbyist or
15 expenditure lobbyist who has registered as a lobbyist with the Ethics Commission, if the
16 contact lobbyist or expenditure lobbyist is registered to lobby the designated employee's or
17 officer's department; or from a person on whose behalf a contact or expenditure lobbyist has
18 made a contact with the employee's or officer's department in the last 12 months.

19 (4)(5) **Permit consultants.** Officers ~~*Elected officials, department heads,*~~
20 ~~*commissioners,*~~ and designated employees may not solicit any behested payment from a permit
21 consultant who has registered with the Ethics Commission, if the permit consultant has
22 reported any contacts with the designated employee's or officer's department to carry out
23 permit consulting services during the prior 12 months.

24 (b) **INDIRECT SOLICITATION.** For the purposes of this Section 3.620, a City officer
25 or employee is indirectly soliciting a behested payment when the City officer or employee

1 directs or otherwise urges another person to solicit a behested payment from an identifiable
2 interested party or parties.

3 (c) **EXCEPTION – PUBLIC APPEALS.** This Section 3.620 shall not apply to public
4 appeals.

5 (d) **EXCEPTION – COMPETITIVELY SECURED PROGRAM SOLICITATIONS.** This
6 Section 3.620 shall not apply to solicitations made under an authorized program for charitable
7 donations of time and/or money from interested parties to nonprofit 501(c)(3) organizations or public
8 schools. For purposes of this subsection (d), an authorized program is a process for soliciting
9 donations through a competitively procured contract, which program either (i) existed on or before
10 January 23, 2022, such as the San Francisco Public Utilities Commission Social Impact
11 Partnership program, or (ii) is authorized by the Board of Supervisors by ordinance. For a
12 contract that includes an authorized program excepted under this subsection (d), all
13 solicitations under such program related to the including the award, approval, execution,
14 administration, modification, or enforcement of that contract by City officers or employees, which
15 program is authorized by the are likewise excepted. Any program under (i) above may
16 proceed as it existed on or before January 23, 2022 until the earlier of (A) the Board of
17 Supervisors adopts by an ordinance authorizing a program involving donations through a
18 competitively procured contract, as provided by (ii) above, or (B) December 31, 2024. A
19 program which existed on or before January 23, 2022, such as the San Francisco Public
20 Utilities Commission Social Impact Partnership program, is considered for the purposes of this
21 subsection an authorized program under the following limitations: (i) only a department that
22 implemented such program on or before January 23, 2022 may include the authorized
23 program in its competitive solicitations; and (ii) the authorization granted under this subsection
24 shall expire on January 31, 2023 unless the Board of Supervisors adopts an ordinance
25 authorizing an extension of the program. If the authority under this subsection for a pre-

1 existing program expires, the department shall immediately stop including the program in its
2 solicitations but may continue to administer the pre-existing program for any contract where
3 proposals are received before the expiration date.

4 (fe) **EXCEPTION – CONTRACTED BENEFITS CITY PROPERTY.** Nothing in this
5 This Section 3.620 shall not apply to solicitations made in connection with the negotiation or
6 administration of a City contract if the payment solicited directly relates to the terms of, or
7 performance under, the contract. For the purposes of this subsection (e), City contracts
8 include but are not limited to development agreements, agreements for the development or
9 use of public property, agreements for the City's acquisition of real property, and contracts for
10 the acquisition of community benefits. is intended to prevent any officer or designated
11 employee from discussing, negotiating, and/or securing the provision of community benefits or
12 other consideration in connection with the City's acquisition of real property.

13 (f) **EXCEPTION – WAIVER.** Upon request by a City department, the Board of
14 Supervisors may waive the requirements of this Section 3.620 by resolution, but may not
15 wave it for itself. A proposed resolution that seeks a waiver shall summarize the purpose of
16 the solicitation(s) and shall identify the type of interested parties or the specific interested
17 parties, when the identity is known, to whom the solicitation(s) would be directed, and a
18 statement as to why the department believes the parties are interested parties. The resolution
19 must include a finding that the waiver would not create an appearance of impropriety and
20 would be in the public interest. Waivers granted under this subsection (f) shall apply
21 prospectively for six months, unless the approving resolution specifies a shorter duration, and
22 shall have no effect as to past solicitations and may not be approved retroactively after the
23 solicitations have occurred. Within 30 days of the enactment of such a resolution, the Clerk of
24 the Board shall publish information regarding the resolution to a dataset of all approved waiver
25 resolutions on DataSF.

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2
3 **SEC. 3.630. REGULATIONS.**

4 The Ethics Commission ~~may~~shall adopt rules, regulations, and guidelines for the
5 implementation of this Chapter 6. ~~The Ethics Commission shall adopt rules, regulations or~~
6 ~~guidelines, including with respect to~~ defining and illustrating “interested party” and when a
7 payment is made “at the behest of” a City officer or designated employee, on or before
8 January 1, 2023.

9
10 **SEC. 3.640. PENALTIES.**

11 Any officer or designated employee ~~party~~ who fails to comply with any provision of this
12 Chapter 6 is subject to the administrative process and penalties set forth in Section 3.242(d)
13 of this Code.

14 Section 2. Effective Date. This ordinance shall become effective 30 days after
15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
17 of Supervisors overrides the Mayor’s veto of the ordinance.

18 Section 3. Prerequisites for Enactment; Super-Majority Vote Requirement. Consistent
19 with ~~In the event the People approve Proposition E, which was approved~~ at the June 7, 2022
20 election, the enactment of this ordinance will be subject to the provisions of Proposition E that
21 authorize amendments to Article III, Chapter 6 of the Campaign and Governmental Conduct
22 Code only if they are recommended by the Ethics Commission and approved by a
23 supermajority of at least eight votes at the Board of Supervisors.
24
25

1 Section 4. 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 DAVID CHIU, City Attorney

10
11 By: /s/ _____
12 MANU PRADHAN
 Deputy City Attorney

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