



Los Angeles City Ethics Commission

August 16, 2013

The Honorable City Council
c/o Holly Wolcott, Interim City Clerk
200 North Spring Street
City Hall – 3rd Floor
Los Angeles, CA 90012

Re: Governmental Ethics Ordinance

FOR COUNCIL CONSIDERATION

Dear Councilmembers:

The Ethics Commission has unanimously approved ordinance language to improve the City's Governmental Ethics Ordinance (GEO). The recommended changes are briefly summarized in the table in Attachment A, and the Ethics Commission urges you to approve the updated GEO language provided in Attachment B.

BACKGROUND

The GEO is designed to, among other things, “assure that individuals and interest groups in our society have a fair and equal opportunity to participate in the governmental process” and “that the governmental process itself promotes fairness and equity for all residents.” Los Angeles Municipal Code (LAMC) §§ 49.5.1(C)(1)–(2).

Impartiality is critical to good government, and helping to “restore public trust in governmental and electoral institutions” is one of the GEO's primary purposes. LAMC § 49.5.1(C)(7). Government decisions should be made in the best interests of the public—not based on bias for or against a particular citizen or based on a public servant's own, personal interests. The state also acknowledges this by declaring in the Political Reform Act (the PRA) that “government should serve the needs and respond to the wishes of all citizens equally ...” and that “[p]ublic officials, whether elected or appointed, should perform their duties in an impartial manner ...” Cal. Gov't Code §§ 81001(a)–(b).

With these important goals in mind, the Ethics Commission recommends a number of improvements to the GEO. The recommendations are the culmination of nearly 18 months of work by the Commission and its staff. At a series of public meetings, data and staff analyses were discussed, public comment was solicited and received, and recommendations were approved. The Commission recommends improving the City's regulations regarding financial disclosure, gifts, ex parte communications, misuse of City positions, outside employment, and

revolving-door restrictions. The attached language also includes technical recommendations for clarifying, reorganizing, and streamlining the laws.

TABLE OF RECOMMENDATIONS

	<i>Page</i>
A. <u>Disclosure</u>	
1. Semi-Annual SEIs.....	3
2. Forms 10 & 11	4
3. Pre-confirmation SEI Process	4
4. Consultant Disclosure	6
5. Semi-Annual Contractor List.....	6
6. Definition of “City Official”	6
7. Statements of City-related Business	7
B. <u>Gifts</u>	
1. Definition of “Gift”	7
2. Restricted Sources.....	8
a. Definition of “Restricted Source”	8
b. Restricted Source Gift Limit.....	8
c. Exceptions to Restricted Source Gift Limit.....	9
d. Soliciting Gifts	9
C. <u>Misuse of City Position</u>	
1. Definition of “Confidential Information”	10
2. Prohibited Activities	10
3. Prohibited Political Activity	10
D. <u>Outside Employment</u>	
1. Part-time Employees.....	11
2. Approval Process	11
3. Outside Employment	11
E. <u>Revolving Door</u>	
1. Permanent Ban	12
2. Time-based Ban	12
a. Definition of “High-level Official”	12
b. Scope of Application.....	13
c. Council Staff.....	13
3. Future Employment	13
F. <u>Ex Parte Communications</u>	
1. Background	14
2. Adjudicative Matters.....	14

3.	Legislative Matters.....	15
4.	Exemptions	15
G.	<u>Enforcement</u>	
1.	Administrative Penalties	16
2.	Late Filing Penalties	16
3.	Notice Requirements.....	17
a.	Employee Violations.....	17
b.	Money Laundering Violations	17
4.	Recordkeeping Requirements	17
H.	<u>Miscellaneous</u>	
1.	Retaliation	18
2.	IE Disclosure.....	18
3.	Conflicts of Interests	19

RECOMMENDATIONS

A. Disclosure

1. Semi-annual SEIs

The PRA requires public officials to file annual statements of economic interests (SEIs) by April 1 of each year, to disclose certain financial interests held during the previous calendar year. 2 Cal. Code Regs. §§ 18730(b)(5)(C), 18730(b)(6)(C). These interests are reported on the state Form 700, which was developed by the state's Fair Political Practices Commission and, for City officials, is filed with the Ethics Commission. *See* Los Angeles City Charter (Charter) § 702(c).

In addition, the GEO currently requires elected officials, commissioners, and department heads to file a semi-annual update to their SEIs by October 1 of each year. LAMC § 49.5.6(B). The semi-annual update is required even when a filer's financial interests during the six-month disclosure period are no different from what was previously reported through the annual SEI.

The semi-annual filing was intended to provide the public with additional information regarding potential conflicts of interests, but the overwhelming majority of semi-annual filers report no changes to their SEIs in October. Despite a paucity of new information, significant resources are needed to administer the semi-annual filings—approximately two months of GEO program staff time each year, as well as the time required of filers and departmental ethics liaisons. The Ethics Commission believes that the state's filing requirements (annual, assuming office, leaving office, and candidate statements) and the City's pre-confirmation filing requirement provide sufficient financial disclosure and recommends eliminating the City's extra semi-annual filing. *See* proposed LAMC § 49.5.10(A).

2. Forms 10 & 11

In addition to the annual Form 700 filings, approximately 350 elected officials, commissioners, and department heads are currently required to file supplemental disclosure statements each year. Elected officials, members of the Ethics Commission, and the executive director of the Ethics Commission are required to file CEC Form 10, while other commissioners and department heads are required to file CEC Form 11. LAMC § 49.5.6(C).

The intent behind both forms is to give the public more specific information about the financial ties that high-level City officials may have with people who do business with the City and to alert those officials to potential conflicts of interests. While both goals have value, the current forms yield very little data. Nearly all Form 10 and 11 filings provide exactly the same information that is disclosed through the Form 700. In addition, the current forms are complex and can be confusing for filers.

However, because the GEO has provisions that differ from state law, there is value to City-specific reporting. To provide more meaningful disclosure, the Ethics Commission recommends consolidating Forms 10 and 11 into a single disclosure statement that is focused on financial ties to restricted sources. *See* proposed LAMC § 49.5.10(B). A restricted source is a City concept that refers to certain persons who have or seek a contract with the City, lobby the City, attempt to influence City decisions that would directly and financially affect them, or are parties to proceedings involving licenses, permits, or other entitlements for use. LAMC § 49.5.2.

Tying disclosure to restricted sources will better meet the goal of providing more relevant and specific information about the financial ties that high-level City officials have with persons who are actively engaged in business with the City. The revised disclosure statement is also designed to reduce confusion for filers.

3. Pre-confirmation SEI Process

On January 13, 2012, the Ethics Commission transmitted to the City Council recommendations for improving the pre-confirmation process for appointed City officials. *See* Council File #11-0495. After further consideration, the Ethics Commission has modified its original proposal, and the recommendations below supersede the previous transmittal.

a. *Current Law*

The GEO requires each person who is nominated to a position that must be confirmed by the City Council to file a financial disclosure statement with the Ethics Commission. LAMC § 49.5.7. The statement must be filed within 21 days of the date the nomination is transmitted to the City Council. LAMC § 49.5.7(A). The Ethics Commission is required to review the statement and report to the City Council regarding any investments, real property interests, or sources of income that an appointee holds that we determine would constitute a potential conflict

of interests. LAMC § 49.5.7(B). This report must take place before the Council acts on any appointment. *Id.*

In addition, the Mayor is required to submit nominations to City boards and commissions within 45 days of a vacancy. Charter § 502(a). The City Council has 45 days within which to consider an appointee. If the City Council does not disapprove a nomination within that period of time, the appointment is deemed approved. Charter §§ 502(a)–(c).

b. Recommendations

The Ethics Commission recommends removing references to a Commission “review” and “report” from this section of the GEO. *See* proposed LAMC § 49.5.11. By characterizing the Commission’s role in the pre-confirmation process as a “review,” the GEO implies that the Commission conducts a sort of ethical vetting of each appointee. Not only is such a vetting not conducted, doing so would be impossible.

Financial interests that are held by board and commission members can create conflicts that require recusal in order to ensure that City decisions are made in the public’s best interests. However, a conflict only exists if a matter that affects a board or commission member’s financial interests is presented to the member for action. Therefore, the only way to determine whether an appointee will have conflicts is to know all of the items that will appear on every agenda during that appointee’s tenure.

In addition, non-financial interests can also create conflicts that require recusal, such as those identified by the City Attorney’s office under Charter § 222. Therefore, the financial interests reported in a pre-confirmation SEI are not the entire universe of possible reasons an appointee might have a conflict.

The Ethics Commission recommends that the GEO be clarified to eliminate confusion regarding its role in the pre-confirmation process and to require the Commission to provide the City Council with a copy of each pre-confirmation SEI. *See* proposed LAMC § 49.5.11(B). It is important for the City Council to know what financial interests an appointee holds, so that financial conflicts can be avoided to the extent possible. However, for the reasons noted above, the current report can only restate the information contained in the pre-confirmation SEI. Providing a copy of the actual pre-confirmation SEI will help to inform decision makers while reducing the consumption of resources and the potential for confusion.

Finally, the Ethics Commission recommends that the GEO be updated to reflect the fact that not all appointments are made by the Mayor. *See* proposed LAMC § 49.5.11.

4. Consultant Disclosure

The GEO currently requires the Ethics Commission to adopt a definition of “consultant” and states that any person so defined must file an SEI with the Ethics Commission and attend mandatory ethics training. LAMC § 49.5.6(G).

This provision of the GEO is redundant. State law already defines “consultant” and requires them to file SEIs each year. Cal. Gov’t Code §§ 82048, 82019, 87302; 2 Cal. Code Reds. § 18701. In addition, consultants are required to attend ethics training by other provisions of the GEO. LAMC §§ 49.5.2, 49.5.18. Therefore, the Ethics Commission recommends removing this provision from the GEO.

5. Semi-annual Contract List

Since its adoption in 1991, the GEO has required the Ethics Commission to publish, twice yearly, a list of all bidders on and awardees of City contracts. LAMC § 49.5.6(H). The goals of this regulation are to assist City officials in knowing who their restricted sources are and to provide the public with information about how City money is spent, who is benefitting from City contracts, and who is limited in making campaign contributions to and engaging in fundraising for City candidates and officeholders.

While the goals are good, this mandate has never been met because the City’s contracting practice is vast in terms of its scope and decentralized in terms of its awarding and tracking processes. City law does not require departments to create lists of their bidders and contractors, and compiling this information without such a requirement has never been feasible for the Ethics Commission. The Commission has, for many years, urged the City to create and maintain a centralized, Citywide contract database, but such a database has not been implemented.

Because bidder and contractor information remains an important tool for informing the public and helping City officials comply with the GEO, the Commission recommends amending the GEO to require all City departments (including proprietary departments) to provide the Ethics Commission with lists of their bidders and contractors on a semi-annual basis. *See* proposed LAMC § 49.5.12(B).

The recommendation would only require departments to provide information that is not publicly accessible through existing City contract databases. The Ethics Commission would then be responsible for posting online both the lists it receives and the links to other City websites through which the public can access City contract databases.

6. Definition of “City Official”

The GEO defines a City official as an elected official, a board or commission member, an employee, or a consultant who is required to file an SEI pursuant to a conflict of interests (COI) code adopted for a City agency. LAMC § 49.5.2. City officials must file annual SEIs during

their service to the City and are subject to post-employment restrictions upon leaving City service. LAMC § 49.5.6, 49.5.11.

The Commission recommends updating the definition to clarify that an individual is a City official if he or she is required to file an SEI but is not currently covered by an agency's COI code. *See* proposed LAMC § 49.5.2(C). This can happen when a City official is in a newly created position or the agency, itself, is newly created. This change will reflect the PRA, which requires public officials in newly-created positions to file interim SEIs until they can be included in a COI code. 2 Cal. Code Regs. § 18734(a).

7. Statements of City-related Business

The GEO requires City officials and candidates for elected City office to file statements of City-related business when they, their spouses, or their business interests are financially affected by a City decision. LAMC § 49.5.6(I). The Commission does not recommend any substantive changes to this requirement. However, because the Commission's recommendations would renumber this provision of the GEO, the Commission recommends updating Election Code § 304, so that it continues to accurately refer to the requirement's section number.

B. Gifts

1. Definition of "Gift"

Gifts to public officials are a private benefit that can influence or appear to influence government decisions. To mitigate this, the state has adopted a complex set of regulations to govern gifts to public officials, including an annual limit of \$440 per source and annual disclosure of gifts valued at \$50 per source. 2 Cal. Gov't Code §§ 87000–87500.

The GEO also regulates gifts to City officials, and both City and state law define the term "gift." While the two definitions and their statutory exceptions are similar, they are not identical. When the GEO was adopted in 1991, state law did not address gifts as comprehensively as City law did. However, state law has been amended several times in the intervening years, and the state has created an extensive regulatory framework regarding gifts.

Applying two differing sets of restrictions creates confusion and makes it difficult to determine how to comply with applicable law in specific factual scenarios. To alleviate these difficulties, the Ethics Commission recommends that the GEO defer to the state's gift definition and exceptions. *See* proposed LAMC § 49.5.8. Adopting state law will reduce confusion, promote compliance, and ensure that the City's gift restrictions change and adapt along with changes to state law. To further reduce confusion, the proposed language makes it clear that the state's gift laws apply to City officials. *See* proposed LAMC § 49.5.8(B).

2. Gifts from Restricted Sources

In addition to the state's gift limits, City law further limits the solicitation and acceptance of gifts from "restricted" sources. The GEO currently prohibits City officials from knowingly soliciting a gift of any value from a restricted source and from accepting gifts cumulatively valued at more than \$100 per year from a restricted source. LAMC §§ 49.5.10(A)(2)-(3). City officials are also prohibited from accepting gifts of any value from lobbyists and lobbying firms. LAMC § 49.5.10(A)(4).

a. *Definition of "Restricted Source"*

The GEO currently defines a restricted source as a person who is actively engaged in specific types of business with the City or a particular City agency. LAMC § 49.5.2. Generally, a restricted source is any of the following:

- A lobbyist, lobbying firm, or lobbyist employer;
- A person who has or seeks a City contract;
- A person who knowingly attempts to influence a City official on a matter that has a direct financial effect on that person; or
- A person who is a party to certain proceedings pending before a City official who is a member of a body voting on that decision.

The scope of a person's status as a restricted source varies depending on the type of City official. For high level officials, the definition applies when the source is actively engaged with any City agency. *Id.* For other City officials, the definition applies when the source is actively engaged with the official's agency. *Id.*

The Commission recommends changing the restricted source definition so that for all City officials, other than those who hold elected City office, a restricted source would be limited to a person who is actively engaged in business with the official's own agency. For the Mayor, City Attorney, Controller, and members of the City Council, a restricted source would be a person who is actively engaged in business with any City agency. *See* proposed LAMC § 49.5.2(M).

b. *Restricted Source Gift Limit*

The Ethics Commission also recommends treating gifts from all restricted sources the same by prohibiting gifts from all restricted sources, not just those from lobbyists and lobbying firms. *See* proposed LAMC §§ 49.5.8(C)(1)-(2). Impartiality is critical to good government, and one of the GEO's primary purposes is the help "restore public trust in governmental and electoral institutions." LAMC § 49.5.1(C)(7). However, when a City official receives a gift from a person who has active business with the City, it can create the perception that a City decision was biased, even if it was made solely on the merits.

The Commission's recommendation is designed to address that concern and help foster public confidence in City processes. The recommendation is also designed to simplify the gift laws for City officials. By creating a uniform gift limit for all restricted sources, City officials will need to be aware of only two limits, instead of the current three (the state limit, the lobbyist and lobbying firm limit, and the limit for other restricted sources).

c. Exceptions to Restricted Source Gift Limit

To acknowledge the practicalities of a prohibition on gifts from restricted sources, the Commission also recommends certain exceptions to the prohibition. First, the Commission recommends maintaining the exceptions that currently exist in the GEO. This includes exceptions for items received from City unions or from organizations to which the City or the City official belongs in an official City capacity. *See* proposed LAMC §§ 49.5.8(C)(4)(a)–(c). Absent the exceptions for unions, some represented City employees could be prohibited from fully participating in union activities. And without the exception for professional organizations, City officials could have difficulty participating in work-related events sponsored by organizations such as the League of California Cities.

The Commission also recommends a new exception for nominal and routine office courtesies, such as parking validation or bottled water, when the courtesies are provided in a restricted source's place of business and are available to anyone who visits that business. *See* proposed LAMC § 49.5.8(C)(4)(d). And the Commission also recommends exempting payments for certain travel expenses paid for by government entities and 501(c)(3) organizations when the travel is related to a legislative or government purpose. *See* proposed LAMC § 49.5.8(C)(4)(e). State law exempts these payments from the gift limit but still defines them as gifts. Cal. Gov't Code § 89506(a). Therefore, a true exemption for restricted sources requires explicit language in the GEO.

The recommended exceptions would apply only to the City's prohibition on gifts from restricted sources. The excepted items would continue to be subject to the state's overall gift limit of \$440 per source per calendar year. In addition, the state reporting requirements would continue to apply to any gifts cumulatively valued at \$50 per source per calendar year.

d. Soliciting Gifts

City officials may not use their positions "in any manner intended to induce or coerce any person to provide, directly or indirectly, anything of value (to the official)." LAMC § 49.5.5(A). In addition, City officials are prohibited from soliciting or accepting gifts with the intent that they will be influenced in the performance of their duties. LAMC § 49.5.19(A)(1). Finally, City officials are prohibited from soliciting gifts from lobbyists and lobbying firms.

The Commission recommends that City officials be prohibited from soliciting gifts from a restricted source. *See* proposed LAMC § 49.5.8(C)(1). This modification would apply the prohibition on lobbyists and lobbying firms equitably to all restricted sources.

C. Misuse of City Position

1. Definition of “Confidential Information.”

All current and former City employees are prohibited from using or disclosing confidential information for the private benefit of the employee or the employee’s immediate family. LAMC § 49.5.3. “Confidential information” is currently defined narrowly as information that is not subject to disclosure under the California Public Records Act and could reasonably have a material financial effect on an investment or interest in real property owned by the employee. LAMC § 49.5.2.

The Public Records Act applies to public documents regardless of whether they can provide the employee with a financial benefit. Similarly, the disclosure of confidential information could harm the City or provide a private benefit regardless of the financial impact on the employee. Therefore, the Ethics Commission recommends modifying the definition to eliminate the financial effect element and apply simply to all information not subject to disclosure under the California Public Records Act. *See* proposed LAMC § 49.5.2.

2. Prohibited Activities

City officials, employees, and appointees are prohibited from using their City positions or City resources “in any manner intended to induce or coerce any person to provide, directly, or indirectly, anything of value which shall accrue to the private advantage, benefit, or economic gain” of any person. LAMC § 49.5.5(A). The Ethics Commission makes three recommendations to improve on this prohibition.

First, the Commission recommends applying the prohibition to an individual who personally misuses a City position or resources, without requiring a third party to be involved. Second, recognizing that a City position can be misused to cause a private harm, the Commission recommends prohibiting actions aimed at either a private advantage or a private disadvantage. Finally, the Commission recommends that the provision be clarified to reflect that attempts to engage in any of these activities are also prohibited. *See* proposed LAMC § 49.5.5(A).

3. Prohibited Political Activity

The GEO currently prohibits City officials and employees from engaging in campaign activities in certain circumstances, such as on City time or using City resources. LAMC § 49.5.5(B). While this is a critical component of the GEO, the current law is vague in some respects, such as what constitutes City facilities or resources and what kinds of activities are prohibited.

To address this concern, the Commission recommends clarifying which political activities are prohibited. *See* proposed LAMC §§ 49.5.5(B)–(E). The recommendations codify long-standing interpretations of prohibited activities, incorporate references to modern

technology, and mirror the prohibitions that apply to Federal employees under the Hatch Act. *See* 5 U.S.C. §§ 7321–7326.

D. Outside Employment

1. Part-time Employees

To prevent conflicts between two sources of income and to promote the effective operation of the City, full-time appointed City officials must obtain written approval from their general managers prior to receiving honoraria or outside earned income. LAMC § 49.5.9(B)(1). In addition, if the outside income would be from a restricted source, the Ethics Commission must determine in writing whether receiving the income would be “inconsistent, incompatible, in conflict with, or inimical to the City official’s duties....” LAMC § 49.5.9(B)(2).

The Ethics Commission recommends that this requirement apply to part-time, as well as full-time, employees. *See* proposed LAMC § 49.5.7(A). However, the recommended requirement would not apply to part-time members of City boards or commissions.

2. Approval Process

The Ethics Commission also recommends clarifying the process by which City employees obtain approval to receive outside income. Specifically, the proposed language states that the official seeking to receive honoraria or outside income must first obtain approval from the official’s general manager or appointing authority. If that approval is granted, the official must determine whether the source is a restricted source and then seek approval from the Ethics Commission. *See* proposed LAMC §§ 49.5.7(C).

3. Outside Employment

Finally, the Ethics Commission recommends that the approval requirement apply to outside employment, as well as outside earned income. *See* proposed LAMC § 49.5.7. The Political Reform Act excludes a government salary from the definition of “earned income.” Cal. Gov’t Code § 82030(b)(2). As a result, approval is not technically required at this time for outside employment by another government entity.

However, outside income from a government entity can create a conflict. For example, a City official who is responsible for preparing City bids for Federal grants could be engaging in incompatible activity by receiving income from a different government entity to prepare bids for the same Federal grants. To protect the public interest in eliminating conflicts in City decisions, the Commission recommends that even other government jobs be evaluated when approval for outside employment is sought. *See* proposed LAMC § 49.5.7.

E. Revolving Door

1. Permanent Ban

The GEO prohibits all former City officials and employees from attempting to influence, for compensation, City matters in which they personally and substantially participated during their City service. LAMC § 49.5.14(B)(3). The ban applies as long as the matter is still pending or a City agency is a party to or has a substantial interest in the matter. *Id.*

The Ethics Commission recommends improving this provision in two ways. First, the provision should clarify that a person personally participates in a matter if the person acts in a non-ministerial capacity. *See* proposed LAMC § 49.5.11. Second, the Commission recommends modifying the duration of the ban so that it applies only as long as the original matter is pending with the City or the City is a party to the matter. *See* proposed LAMC § 49.5.14(B)(2).

The current prohibition can remain in effect long after a City decision has been made and no further discretion can be imposed. For example, the City has a substantial interest in its leases, and their terms may span decades. A City official who participated in the original crafting of such a lease should not be prohibited from negotiating an amendment to the lease many years after the official participated in creating the original lease. Therefore, the Commission recommends eliminating reference to a substantial interest in the matter.

2. Time-based Ban

The GEO also imposes a time-based restriction on former City officials who attempt to influence City decisions for compensation. The scope and duration of this ban depend on the official's former City position.

The ban lasts for two years for former elected officials, and one year for other high-level officials. LAMC § 49.5.11(D). For all other City officials, there is a one-year ban on attempts to influence City decisions made by any agency in which the official served during the 12 months prior to leaving City service. LAMC § 49.5.11(E). The Ethics Commission recommends improving this provision as follows.

a. *Definition of "High-level Official"*

Currently, the GEO designates high-level officials by title. Many of these titles are outdated or refer to City departments that no longer exist. LAMC § 49.5.2. The Ethics Commission recommends avoiding an ongoing struggle with obsolescence by designating high-level officials by position or job description, rather than by title. *See* proposed LAMC § 49.5.2.

The Ethics Commission also recommends changing the scope of persons who are designated as high-level officials. Currently, only some of the City's general managers and commissioners are considered high-level officials. The Ethics Commission recommends that all

City general managers and all full-time members of City boards and commissions be included in the definition. *See* proposed LAMC §§ 49.5.2(H), 49.5.14(C)(2).

Finally, the Commission recommends that the law more precisely specify which staff members in elected offices qualify as high-level officials. Currently, the designation applies to those who have substantial decision-making authority and are designated by their elected officials. LAMC § 49.5.2. The Ethics Commission recommends modifying this portion of the definition to require that elected City officials designate the two members of their staffs with the most decision-making authority, as well as all other staff members with decision-making authority similar to either of the two who must be designated. *See* proposed LAMC §§ 49.5.2(H), 49.5.14(E).

b. Scope of Application

The time-based ban prohibits attempts to influence “any agency in which [the City official] served during the twelve month period preceding his or her departure from City service.” LAMC § 49.5.11(E). To prevent confusion regarding which agencies are covered by this provision, the Commission recommends specifying that the prohibition also applies to any agency to which the official was loaned or assigned in the 12 months prior to leaving City service. *See* proposed LAMC § 49.5.14(C)(3).

The Commission also recommends that the time-based ban apply to anyone who qualifies as a high-level official at any time during the 12 months prior to leaving City service. This will eliminate confusion regarding when high-level status applies for persons who temporarily serve in a high-level position. *See* proposed LAMC § 49.5.14(C)(2).

c. Council Staff

For purposes of the time-based ban, a City Council staff member’s agency is the specific council member and the specific council office for which the individual worked. LAMC § 49.5.11(E). However, elsewhere in the GEO, a City Council staff member’s agency includes all City Council members and City Council offices. LAMC § 49.5.2. The Ethics Commission recommends making the agency for City Council staff uniform throughout the GEO to protect the spirit of the revolving door restrictions and to ensure internal consistency. *See* proposed LAMC § 49.5.2(B).

3. Future Employment

The GEO also restricts a current City official’s ability to negotiate future employment. LAMC §§ 49.5.12. The Ethics Commission recommends applying this limitation to future business opportunities, as well as future employment. *See* proposed LAMC § 49.5.15. This change will capture situations where a City official is negotiating a future partnership interest that would not necessarily translate into employment but would benefit the official financially in the same way as an agreement for future employment.

The Ethics Commission also recommends that elected City officials, general managers, and chief administrative officers be prohibited from negotiating future employment or business opportunities with anyone who has a matter pending before that City official's agency. *See* proposed LAMC § 49.5.15(A)(1). Currently, this restriction applies only to matters pending directly before the City official. However, the head of an agency is responsible for all of the agency's dealings and should not be able to negotiate a future financial benefit with anyone who has a matter pending before that agency.

Finally, the Ethics Commission recommends clarifying that a person has a matter pending with an agency or a City official when that person is a party to or is compensated to represent a party to the matter. *See* proposed LAMC § 49.5.15(C). This will clarify that a City official may not negotiate future employment with a paid agent, such as an attorney, when negotiating with the principle is prohibited. A paid representative has a financial stake in the matter, just as the actual party does, and that interest should also be protected from improper influence.

F. Ex Parte Communications

1. Background

The Ethics Commission also recommends expanding the GEO to regulate ex parte communications, which were also the subject of a City Council motion. *See* Council File No. 11-0187-S1. Ex parte communications are, essentially, off-the-record interactions with decision makers that occur without the knowledge or consent of all involved parties. An ex parte communication leads to an information imbalance; opposing parties and other decision makers may not be privy to the data or perspectives obtained through the communication and may not be aware that the communication occurred.

When ex parte communications occur, the public's confidence in the equity of City decisions can be threatened. Communications that occur outside a formal, public process can lead to the perception that City decisions are biased because of a particular person's special access or influence, rather than objectively based on facts, law, and good public policy.

Currently, City law does not regulate ex parte communications. However, to foster the GEO's important equity goals and to promote transparency about City processes, the Ethics Commission recommends that ex parte communications be regulated as follows.

2. Adjudicative Matters

The Commission recommends prohibiting ex parte communications in any adjudicative matter. *See* proposed LAMC § 49.5.9(A)(1). Adjudicative matters are those in which decision makers are required to conduct a hearing and make a decision based on the law and the facts in a particular case. There are parties to adjudicative matters, who have a personal stake in the decision that is made. Ex parte communications jeopardize due process in adjudicative matters,

because they do not provide notice and an opportunity for all parties to participate. As a result, minimum standards of due process apply to ensure that the parties receive fair hearings. *See, e.g.,* U. S. Const. amend. V; Cal. Const. art. I, §§ 1, 7(a). Courts have said that receiving and considering evidence outside of the hearing process denies the parties a fair hearing. *See* Attachment C, CA Report No. R07-0457 (CA Report), p. 2, citing *Mathew Zaheri Corp. v. New Motor Vehicle Bd.* (1997) 55 Cal.App.4th 1305, 1319.

To protect these due process rights, the Commission recommends prohibiting ex parte communications from the time a decision maker is made aware of the matter, such as through an agenda or an application, until the decision maker or the body of which the decision maker is a member makes a final decision regarding that matter. *See* proposed LAMC § 49.5.9(A)(1)(a).

Despite the ban, adjudicative ex parte communications are likely to occur. Some will occur in violation of the ban, but others may be permissible (such as those that occur before a decision maker becomes aware that an adjudicative matter is on an agenda). To remedy the information imbalance that results from ex parte communications, the Ethics Commission recommends that a decision maker be required to disclose adjudicative ex parte communications that occur either during the ban or in the six months prior to the ban. *See* proposed LAMC § 49.5.9(A)(2). In addition, the Ethics Commission recommends specifying the method of disclosure and the process for notifying the affected parties. *See* proposed LAMC §§ 49.5.9(A)(2)(a)–(d).

3. Legislative Matters

In contrast to adjudicative matters, in which specific parties have specific interests at stake and decisions based on specific facts must be made, legislative matters apply broadly to all similarly situated persons. Prohibiting ex parte communications for legislative matters is not necessary for due process reasons, but the GEO does create a legal mandate to ensure fair and equitable government processes. LAMC §§ 49.5.1(C)(1)–(2). To guard against the perception of biased governmental processes, the Ethics Commission recommends that members of City boards and commissions disclose legislative ex parte communications. *See* LAMC § 49.5.9(B)(1).

The Commission recommends that this disclosure be made on the record at each City board or commission meeting. Board members would be permitted to disclose either verbally or in writing, and they would only be required to disclose the legislative ex parte communications that occurred since the last meeting they attended. *See* proposed LAMC §§ 49.5.9(B)(3)–(5).

4. Exemptions

The Ethics Commission also recommends certain exemptions from the prohibition and disclosure requirements described above where constitutionally necessary, to recognize existing legal privileges, or for the effective operation of City government. For example,

communications regarding ministerial issues in an adjudicative matter would not trigger a ban. Certain conversations between the decision-maker and other agency staff would also be exempt. Also, communications with family members would not trigger disclosure. *See* proposed LAMC §§ 49.5.9(A)(1)(b)(i), (iii); 49.5.9(B)(2)(a), (c), (d). In addition, the draft ordinance exempts ex parte communications that are confidential under City law or protected by the attorney-client privilege. *See* proposed LAMC §§ 49.5.9(A)(1)(b)(ii), 49.5.9(B)(2)(b).

After consulting with the City Attorney's office, the Ethics Commission also recommends that elected City officials be exempt from the ex parte communications provisions. *See* proposed LAMC § 49.5.9(A)(1). The City Attorney noted that, in addition to the constitutional right of due process, citizens also have the constitutional right to petition their elected officials. *See* CA Report, pp. 4-5; *see also* U. S. Const. amend. I; Cal. Const. art. I, § 3(a). In balancing these competing and equally compelling interests, the Ethics Commission determined that it is appropriate to exclude elected City officials from the ban.

G. Enforcement

1. Administrative Penalties

The Ethics Commission is required to “conduct investigations of alleged violations of state law, the Charter[,] and City ordinances relating to campaign finance, lobbying and conflicts of interest and governmental ethics.” Charter § 706. Both the Charter and the GEO identify ways in which the Ethics Commission may enforce against violations of these provisions, including criminal enforcement, civil court action, and injunctive relief. Charter § 706(c)(3); LAMC §§ 49.5.9, 49.5.20. However, the GEO does not currently mention the Ethics Commission's Charter-based authority to levy administrative penalties.

The Ethics Commission recommends adding a provision to the GEO to clarify that persons found to be in violation of any of its provisions may be subject to administrative penalties. *See* proposed LAMC § 49.5.17(D). This mirrors existing provisions in the Campaign Finance Ordinance and the Municipal Lobbying Ordinance. It also provides the public with improved notice regarding the remedy most widely used by the Ethics Commission to enforce against violations.

2. Late Filing Penalties

The GEO imposes penalties of \$25 per day for the late filing of any report or statement required by the ordinance. LAMC § 49.5.20. The penalty accrues without limit until the report is filed. *Id.* The penalty may be waived up to 30 days after the filing deadline if the late filing was not willful and enforcing the penalty would not further the purposes of the GEO. *Id.*

The Ethics Commission recommends that the 30-day limit on waivers be changed to mirror state law. *See* proposed LAMC § 49.5.18. The state also has a 30-day waiver limit, but it does not begin to run until the filing officer sends written notice of the filing requirement. Cal.

Gov't Code § 91013(a). Changing the waiver limit to 30 days after notice of delinquency is a more equitable approach that does not impose a greater penalty for late filings that may be officially addressed more than 30 days after the filing deadline.

Second, the Ethics Commission recommends aligning the GEO with both the Campaign Finance Ordinance and the Municipal Lobbying Ordinance by clarifying that the Ethics Commission's executive director determines whether a late filing penalty may be waived. *See* proposed LAMC § 49.5.18.

Finally, the Ethics Commission recommends capping the late-filing penalty at \$500. *See* Attachment D, proposed LAMC § 49.5.18. The California Constitution prohibits state and local governments from imposing excessive fines. Cal. Const. Art. I, § 15. While there is no bright line to determine when a fine becomes excessive, the California Supreme Court has cautioned that unlimited per-day fines can result in excessive fines that violate the state constitution. *Hale v. Morgan*, 22. Cal.3rd 388, 404 (1978). Both the Municipal Lobbying Ordinance (MLO) and Campaign Finance Ordinance (CFO) avoid excessive fines with a \$500 cap on late-filing penalties.

3. Notice Requirements

a. Employee Violations

The GEO specifies that, in addition to any penalties imposed by the Ethics Commission, City officials and employees who violate its provisions are subject to administrative discipline by their appointing authorities. LAMC §§ 49.5.19(F), (G)(3). To help the appointing authorities comply with their disciplinary responsibilities, the Ethics Commission recommends that Ethics Commission staff be required to notify an agency when one of its employees or officials is found to be in violation of the GEO. *See* proposed LAMC § 49.5.19(E).

b. Money Laundering Violations

When a person is found by the Ethics Commission to have laundered City campaign funds in violation of Charter § 470(k), the GEO limits that person's ability to contract with the City. LAMC §§ 49.5.21(A)–(C). When the Ethics Commission reaches an enforcement decision regarding money laundering, the GEO requires Commission staff to provide a copy of the decision to all department general managers, except those for certain proprietary departments. LAMC §§ 49.5.21(A)(2), (E)(1). The Ethics Commission recommends that it be required to provide notice of money laundering violations to all City general managers, including those of proprietary City departments. *See* proposed LAMC § 49.5.13(D)(1).

4. Recordkeeping Requirements

The GEO imposes various reporting and filing requirements. LAMC §§ 49.5 *et seq.* The Ethics Commission has the authority and the mandate to investigate and enforce violations of

those and other GEO provisions. Charter § 706; LAMC §§ 49.5.9, 49.5.20. City law imposes a four-year statute of limitations on enforcing against violations of these laws. LAMC § 49.5.19(E); Los Angeles Administrative Code § 24.21(d)(10).

The Ethics Commission recommends that persons subject to the GEO be required to maintain records that demonstrate compliance for four years. *See* proposed LAMC § 49.5.20. This will assist the Ethics Commission in its investigations and mirrors an existing requirement in the Campaign Finance Ordinance. *See* LAMC § 49.7.37.

H. Miscellaneous

1. Retaliation

The GEO currently prohibits City officials and employees from using their City authority to obstruct or prevent someone from reporting possible violations of City law. LAMC § 49.5.4(A). This provision applies to “any law or regulation” but also lists specific areas of law, which could create the perception that anti-retaliation protection only applies to certain provisions of City law. To eliminate confusion, the Ethics Commission recommends eliminating the list of specific topics and extending protection to the reporting of violations of any law. *See* proposed LAMC § 49.5.4(A). City employees should not be able to use their City positions or resources to obstruct whistleblowers, regardless of the underlying law.

In addition, the Commission recommends protecting any person who reports a violation of law. *See* proposed LAMC § 49.5.4(B). Currently, the GEO protects only City employees from retaliation. LAMC § 49.5.4(B). However, City officials should not be permitted to use their positions or City resources to retaliate against anyone who reports violations of law.

Finally, the Ethics Commission recommends specifying that it may refer retaliation complaints to appropriate agencies for disciplinary purposes. *See* proposed LAMC § 49.5.4(D). Currently, the GEO requires a referral to the Personnel Department but only when there is a conflict for the Ethics Commission. It may be appropriate, however, to refer retaliation complaints for disciplinary purposes when there is no conflict. It may also be appropriate to refer to an employee’s own agency, in addition to the Personnel Department.

2. IE Disclosure

The GEO currently requires disclosure from a person who made an independent expenditure to support a City candidate if the candidate is elected to that office and, within the following 12 months, the person who made the IE is involved in a matter pending before that elected official. LAMC §§ 49.5.13(B)-(D).

The Ethics Commission recommends that this reporting requirement be removed from the GEO because it is largely redundant. Information that would be provided by these filings is

already publicly available because of disclosure and disclaimer requirements imposed by the CFO. *See, e.g.,* LAMC §§ 49.7.32, 49.7.33.

3. Conflicts of Interests

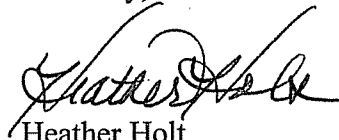
State law prohibits City officials from making or participating in the making of a City decision when they have a financial conflict of interests. Cal. Gov't Code § 87100. The Charter authorizes and requires the Ethics Commission to enforce against conflicts of interests. Charter § 706. The Ethics Commission recommends updating the GEO to reflect the Commission's Charter mandate to enforce when these violations occur. *See* proposed LAMC § 49.5.6(A).

CONCLUSION

The Ethics Commission has extensively reviewed and analyzed the GEO and believes that the changes recommended above will strengthen City law, bolster public confidence in City processes, eliminate unnecessary filings, and facilitate both compliance and administration. Therefore, the Ethics Commission urges you to adopt the ordinance language in Attachment A.

We would be happy to discuss these recommendations with you at any time. If you have questions, please do not hesitate to contact me or Director of Policy Mike Altschule.

Sincerely,



Heather Holt
Executive Director

Attachments:

- A Table Summarizing Ethics Commission Recommendations.*
- B Recommended GEO language (clean).*
- C Recommended GEO language (redlined).*
- D City Attorney Report No. R07-0457.*

Los Angeles City Ethics Commission
Quick Guide to Key GEO Recommendations
August 16, 2013

FINANCIAL DISCLOSURE				
Topic	Current Law	Current Section	Proposed Law	Proposed Section
Consultants	Consultants defined and required to take ethics training and file statement of economic interests.	LAMC § 49.5.6(G)	Consultant provision is eliminated (requirements exist in state law).	NA
Contractors	Ethics Commission is required to semi-annually publish a list of all City contractors and bidders.	LAMC § 49.5.6(H)	City departments are required to semi-annually provide lists of their contractors and bidders to Ethics Commission, which must post the lists online.	LAMC § 49.5.12(B)
City Official Defined	A City official is a person who is required to file a statement of economic interests under a City agency's conflict of interests code.	LAMC § 49.5.2	A City official is a person who is required to file a statement of economic interests under state law, regardless of whether they are in a City conflict of interests code.	LAMC § 49.5.2(C)
Filing Frequency	A semi-annual update to the annual statement of economic interests is required for certain high-level filers.	LAMC § 49.5.6(B)	The semi-annual update is eliminated. Disclosable interests continue to be reported on the annual statement.	NA
Filing Forms	Two different and additional City forms, which largely repeat information on the state form, are required for certain high-level filers.	LAMC § 49.5.6(C)	The two forms are replaced by one form that focuses on City-specific information regarding restricted sources.	LAMC § 49.5.10(B)
Pre-Confirmation Filings	Ethics Commission is required to report to the City Council regarding an appointee's pre-confirmation statement of economic interests.	LAMC § 49.5.7	Ethics Commission is required to provide a copy of an appointee's pre-confirmation statement of economic interests to the City Council.	LAMC § 49.5.11(B)

GIFTS AND RESTRICTED SOURCES				
Topic	Current Law	Current Section	Proposed Law	Proposed Section
Gift Definition	In addition to the state definition for most sources, a City definition applies to restricted sources.	LAMC § 49.5.2	The City definition is eliminated so that the state definition applies to all sources.	LAMC § 49.5.8(B)
Restricted Source Definition	For high-level City officials, a restricted source is a person actively engaged in business with any City agency. For all other City officials, a restricted source is a person actively engaged in business with the official's agency.	LAMC § 49.5.2	For elected City officials, a restricted source is a person actively engaged in business with any City agency. For all other City officials, a restricted source is a person actively engaged in business with the official's agency.	LAMC § 49.5.2(M)
Restricted Source Gift Limit	Gifts from lobbyists and lobbying firms are prohibited. A \$100 annual limit applies per source to gifts from all other restricted sources.	LAMC § 49.5.10(A)(3)	Gifts from all restricted sources are prohibited, with exceptions for routine office courtesies, certain items received from City unions and professional organizations, and travel paid by governments and 501(c)(3) organizations.	LAMC § 49.5.8(C)

MISUSE OF CITY POSITION

Topic	Current Law	Current Section	Proposed Law	Proposed Section
Confidential Information	Confidential information is information of a financial nature that is not subject to disclosure under the California Public Records Act.	LAMC § 49.5.2	Confidential information is any information that is not subject to disclosure under the California Public Records Act.	LAMC § 49.5.2(D)
Ex Parte Communications	No regulations are specified.	NA	Prohibitions and disclosure requirements apply to non-elected decision makers in adjudicative matters. Disclosure requirements apply in other matters.	LAMC § 49.5.9
Misuse of City Position	City officials and employees may not use their positions to induce another person to create a private benefit for someone.	LAMC § 49.5.5(A)	City officials and employees may not misuse their positions to directly create a private advantage or disadvantage for someone.	LAMC § 49.5.5(A)
Political Activity	City officials and employees may not engage in campaign-related activities during hours for which they are paid to conduct City business or using City resources.	LAMC § 49.5.5(B)	The same prohibition applies but is clarified. Prohibited political activity mirrors Federal law.	LAMC § 49.5.5(B)
Retaliation	City officials and employees may not interfere with another person's attempt to report possible violations of specific City laws and may not retaliate against another City official or employee who makes such a report. In certain cases, the Ethics Commission may refer retaliation complaints to the Personnel Department.	LAMC § 49.5.4	City officials and employees may not interfere with another person's attempt to report possible violations of any law and may not retaliate against any person who makes such a report. The Ethics Commission may refer retaliation complaints to any appropriate agency for disciplinary purposes.	LAMC § 49.5.4

OUTSIDE EMPLOYMENT

Topic	Current Law	Current Section	Proposed Law	Proposed Section
Approval Requirement	Full-time City employees required to obtain prior approval.	LAMC § 49.5.9(B)(1)	All City employees, except part-time members of City boards and commissions, required to obtain prior approval.	LAMC § 49.5.7(A)
Approval Process	Approval required from general manager and, if general manager determines source of income is a restricted source, also from Ethics Commission.	LAMC § 49.5.9(B)	Approval required from general manager and, if employee determines source of income is a restricted source, also from Ethics Commission. Approval from general manager required first.	LAMC § 49.5.7(C)
Outside Employment	Approval must be obtained for outside earned income, which excludes government sources.	LAMC § 49.5.9(B)	Approval must be obtained for outside earned income and outside employment, including employment with government sources.	LAMC § 49.5.7

REVOLVING DOOR				
<i>Topic</i>	<i>Current Law</i>	<i>Current Section</i>	<i>Proposed Law</i>	<i>Proposed Section</i>
Agency Defined for Council Staff	For post-employment purposes, "agency" means only the Council District that employed the official. For all other purposes, it means the entire City Council.	LAMC § 49.5.11(E)	For all purposes, "agency" means the entire City Council.	LAMC § 49.5.2(B)
Future Employment	City officials may not negotiate future employment with a person who has a matter pending before the City official.	LAMC § 49.5.12	City officials may not negotiate future employment or business opportunities with a person who has a matter pending or is representing a person who has a matter before the City official. For certain high-level officials, also applies to a person who has a matter pending before the City official's agency.	LAMC § 49.5.15
High-Level Official Defined	High level officials are identified by title or as designated by elected City officials. Includes only some general managers and members of only some City boards and commissions.	LAMC § 49.5.2	High level officials are identified by scope of authority. Elected City officials are required to annually designate at least two high-level officials on their staffs. Includes all general managers and full-time members of City boards and commissions.	LAMC §§ 49.5.2(H), 49.5.14(E)
Permanent Lobbying Ban	City employees may not receive compensation to attempt to influence City decisions in matters in which they were personally and substantially involved during their City service. Ban applies as long as the matter is pending or the City is a party to or has a substantial interest in it.	LAMC § 49.5.11(A)	City employees may not receive compensation to attempt to influence City decisions in matters in which they were personally involved in a non-ministerial capacity during their City service. Ban applies only as long as the matter is pending or the City is a party to it.	LAMC § 49.5.14(B)
Time-based Lobbying Ban	For specified periods of time, City officials may not receive compensation to attempt to influence any matter in the City agency that employed the official at the time the official left City service.	LAMC § 49.5.11(E)	For specified periods of time, City officials may not receive compensation to attempt to influence any matter in any City agency in which the official was employed, including agencies to which the official was assigned or on loan, during the official's last 12 months of City service.	LAMC § 49.5.14(C)(3)

ENFORCEMENT				
<i>Topic</i>	<i>Current Law</i>	<i>Current Section</i>	<i>Proposed Law</i>	<i>Proposed Section</i>
Administrative Penalties	Charter authorizes Ethics Commission to impose administrative penalties for violations of governmental ethics and conflict of interests laws.	Charter § 706	Charter authority reflected in the GEO.	LAMC § 49.5.17(D)
Conflicts of Interests	Charter requires Ethics Commission to investigate and enforce against conflicts of interests.	Charter § 706	State prohibition against conflicts of interests and Charter authority to enforce reflected in the GEO.	LAMC § 49.5.6(A)

ENFORCEMENT (cont'd)

Topic	Current Law	Current Section	Proposed Law	Proposed Section
Disciplinary Action	City officials and employees are subject to discipline by their appointing authorities for violating the GEO.	LAMC §§ 49.5.19(F), (G)(3)	City officials and employees are subject to discipline by their appointing authorities for violating the GEO. Ethics Commission required to notify departments of violations.	LAMC § 49.5.17(E)
Late Filing Penalties	Penalties of \$25 per day accrue for late filings. Waiver of penalties must be requested within 30 days of filing deadline.	LAMC § 49.5.20	Penalties of \$25 per day, up to \$500, accrue for late filings. Waiver of penalties must be requested within 30 days of receiving notice from Ethics Commission. Executive director determines whether penalty may be waived.	LAMC § 49.5.18
Notice of Money Laundering Violations	Bidders who have violated the City money-laundering laws are deemed not responsive on contracts in non-proprietary departments for four years. Ethics Commission is required to notify all non-proprietary departments of violators.	LAMC §§ 49.5.21(A)(2), (E)(1)	Bidders who have violated the City money-laundering laws are deemed not responsive on contracts in non-proprietary departments for four years. Ethics Commission is required to notify all departments of violators.	LAMC § 49.5.13(D)(1)
Recordkeeping	No recordkeeping requirements are specified.	NA	Persons subject to the GEO are required to keep records to demonstrate their compliance for four years.	LAMC § 49.5.20

GOVERNMENTAL ETHICS ORDINANCE

*Approved and Recommended
by the Ethics Commission*

SEC. 49.5.1

Title, Findings and Purpose

- A. **Title.** This Article shall be known as the City of Los Angeles Governmental Ethics Ordinance.
- B. **Findings.** The following findings are adopted in conjunction with the enactment of this Article:
1. As one of the great international cities of the world, Los Angeles will continue to confront great and complex opportunities and problems of both local and global significance.
 2. One of the best ways to attract talented people to public service is to assure that the government is respected for its honesty and integrity; that its decisions are made on the merits, untainted by any consideration of private gain; and that the rules governing their conduct during and after leaving government service are as clear and complete as possible.
 3. A governmental ethics ordinance that is as clear, tough, fair, comprehensive and effective as any in the nation is therefore needed.
- C. **Purposes.** This Article is adopted to accomplish the following purposes.
1. To assure that individuals and interest groups in our society have a fair and equal opportunity to participate in the governmental process.
 2. To assure that the governmental process itself promotes fairness and equity for all residents of the City regardless of race, color, creed, religion, national origin, age, sex, marital status, sexual orientation or disability.
 3. To require elected City officers and key City officials to disclose investments, interests in real property and income in order to prevent conflicts of interests.
 4. To prevent elected City officers and key City officials from receiving outside earned income that creates a potential conflict of interests.
 5. To prevent City officials from lobbying the City for certain periods of time after they leave City service.
 6. To increase understanding of the City Charter and ordinances, the roles of elected City officers and other public officials, the roles of City agencies, and the City election process.
 7. To help restore public trust in governmental and electoral institutions.
 8. To assure that this Article is vigorously enforced.

SEC. 49.5.2

Definitions

The following terms have the meanings identified below. Other terms used in this Article have the meanings identified in the Political Reform Act.

- A. **“Adjudicative matter”** means a matter in which a decision maker is required to conduct a hearing and make a decision based on the law and the facts in a particular case.
- B. **“Agency”** means the City of Los Angeles or any department, bureau, office, board, commission, or government entity required to adopt a conflict of interests code subject to City Council approval. With respect to employees of a City Council member's staff and employees of the Chief Legislative Analyst's office, "agency" means the City Council.
- C. **“City official”** means an elected City officer or an agency board member, officer, employee, commissioner, or consultant who, because of the individual's service to an agency, is required to file statements of economic interests pursuant to the Political Reform Act.
- D. **“Confidential information”** means information that, if it were contained in a document, would not be subject to disclosure under the state's Public Records Act.
- E. **“Contract”** means an agreement, lease, right of entry, franchise, or concession, including but not limited to an agreement for the performance of work, the rendition of service, or the provision of materials, equipment, or supplies to the City or the public, which is let, awarded, or entered into with or on behalf of an agency.
- F. **“Elected City officer”** means a person who is a City Council member, City Attorney, Controller, or Mayor, whether appointed or elected.
- G. **“Ex parte communication”** means a communication between a decision maker and any person regarding a matter within the decision maker's jurisdiction, which occurs by any means outside of a public meeting or hearing and which may be initiated by either the decision maker or another person. The term does not include a communication between a decision maker and an individual in the City Attorney's office who is providing legal advice to the decision maker regarding permissible or appropriate courses of action.
- H. **“High-level official”** means an elected City officer, a full-time member of a City board or commission, a general manager, or a chief administrative officer. The term also means the two members of an elected City officer's staff who hold the most significant decision-making responsibilities, as well as every other staff member who has decision-making responsibilities on par with one or both of the two who must be designated.
- I. **“Matter pending”** means a matter in which a non-ministerial action is required to proceed with or resolve the matter but has not yet been taken.
- J. **“Lobbying entity”** means a lobbyist, lobbying firm, or lobbyist employer, as those terms are defined in Section 48.02.

- K. **“Political activity”** means activity directed at the success or failure of any ballot measure or candidate for elective office in a future election and includes but is not limited to endorsing a candidate; engaging in fundraising; developing, displaying, distributing, or wearing campaign materials; conducting research; and posting comments on social media or other Internet sites. Political activity does not include displaying campaign materials on a personal vehicle unless it is being used for City business.
- L. **“Political Reform Act”** means the California Political Reform Act of 1974 (California Government Code Sections 81000 *et seq.*) and the related regulations of the California Fair Political Practices Commission.
- M. **“Restricted source”** means the following:
1. For elected City officers, a restricted source is the following:
 - a. A person who files as a lobbying entity, is required to file as a lobbying entity, or is a client as defined in Section 48.02.
 - b. A person who has entered into, performs under, or seeks a contract with the City. This does not include the following:
 - i. An individual who has entered into or performs under an agreement with the City regarding employment; or
 - ii. A person who receives or pays for services normally rendered by the City to residents and businesses, such as sewer service, water and power service, or street maintenance.
 - c. A person who, during the prior 12 months, attempted to influence the elected City officer in any City action that would have a material financial effect on the person. This does not include an individual who attempted to influence action regarding that individual’s own City compensation, benefits, or retirement.
 - d. A person who is or in the prior 12 months was a party to a proceeding involving a license, permit, or other entitlement for use that was pending before the elected City officer, the City Council, or a board, commission, committee, or other similar body of which the elected City officer is a voting member.
 2. For all other City officials, a restricted source is the following:
 - a. A person who seeks to influence decisions of the City official’s agency and files as a lobbying entity, is required to file as a lobbying entity, or is a client as defined in Section 48.02;
 - b. A person who has entered into, performs under, or seeks a contract with the City official’s agency. This does not include the following:
 - i. An individual who has entered into or performs under an agreement with the City official’s agency regarding employment; or

- ii. A person who receives or pays for services normally rendered by the City to residents and businesses, such as sewer service, water and power service, or street maintenance.
- c. A person who, during the prior 12 months, attempted to influence the official in any City action that would have a material financial effect on the person. This does not include an individual who attempted to influence action regarding that individual's own City compensation, benefits, or retirement.
- d. A person who is or in the prior 12 months was a party to a proceeding involving a license, permit, or other entitlement for use that was pending before the official or before a board, commission, committee, or other similar body of which the official is a voting member.

SEC. 49.5.3

Confidential Information

A current or former City official or agency employee shall not misuse or disclose confidential information acquired as a result of City service.

SEC. 49.5.4

Protection Against Retaliation

- A. City officials and agency employees shall not use or threaten to use any official authority or influence to discourage, restrain, or interfere with another person's attempt to report possible violations of law to the Ethics Commission or another government agency.
- B. City officials and agency employees shall not use or threaten to use any official authority or influence to effect any action as a reprisal against another person who reports a possible violation of law to the Ethics Commission or another government agency.
- C. A person who believes that he or she has been subjected to an action prohibited by this section may file a confidential complaint with the Ethics Commission.
- D. The Ethics Commission may refer retaliation complaints to appropriate agencies for disciplinary purposes.

SEC. 49.5.5

Misuse of City Position or Resources

- A. City officials, agency employees, appointees awaiting confirmation by the City Council, and candidates for elected City office shall not misuse or attempt to misuse their positions or prospective positions to create or attempt to create a private advantage or disadvantage, financial or otherwise, for any person.
- B. City officials and agency employees shall not engage in political activity in the following scenarios.
 - 1. While on duty for the City.

2. In any manner that implies the City official or agency employee is speaking on behalf of the City or communicating a City position. This includes but is not limited to engaging in political activity in the following scenarios:
 - a. While wearing a uniform or official City insignia; or
 - b. Using a City title or position.
- C. A person shall not engage in political activity in the following scenarios.
1. In a room or building that is owned by the City, primarily paid for or used by the City, or occupied by a City official or agency employee in the discharge of City duties. This does not include a City room or building that is routinely rented to the public and has been rented to the person under an agreement that specifies that political activity may occur in the rented space.
 2. Using City equipment, vehicle, supplies, or resources, including but not limited to mailing and distribution lists, electronic mail, and electronic data.
- D. A person shall not induce or coerce or attempt to induce or coerce another person to engage in activity prohibited by Subsections A or B.
- E. This section does not prohibit the use of City resources to provide information to the public about the possible effects of a bond issue or ballot measure relating to City activities, operations, or policies if both of the following apply:
1. The use of public resources is otherwise legally authorized; and
 2. The information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

SEC. 49.5.6
Conflicts of Interests

- A. City officials shall not make, participate in making, or attempt to use their official positions to influence City decisions in which they know or have reason to know they have a financial interest.
- B. In the first 12 months of City service, a City official or agency employee shall not knowingly make, participate in making, or attempt to use his or her official position to influence a City decision directly relating to a contract when the a party to the contract is a person by whom the individual was employed in the 12 months immediately prior to entering City service.
- C. Statements of City-related Business.
 1. An elected City officer, a candidate for elected City office, a member of a City board or commission, a general manager or chief administrative officer of an agency, and an individual holding an appointive office named in the Charter shall file a statement of City-related business with the Ethics Commission within ten calendar days after

a City action, other than a ministerial action, affects the individual's personal financial interests.

2. For purposes of the statement, a City action affects an individual's personal financial interests if it involves one or more of the following held by, required of, or sought by the individual, the individual's spouse or registered domestic partner, or a business entity in which either the individual or the individual's spouse or registered domestic partner holds an ownership interest of five percent or more:
 - a. The sale of real or personal property; or
 - b. The performance of services pursuant to a contract; or
 - c. A grant, loan, or forgiveness or payment of indebtedness; or
 - d. An application for a license, certificate, permit, franchise, change of zone, variance, credential, or other benefit or relief.
3. The statement shall be in sufficient detail as to dates, amounts, identifying numbers or symbols, locations, and subject matter to make the action identifiable by reference to City records.
4. The statement shall be filed under penalty of perjury in a format prescribed by the Ethics Commission.
5. The statement shall satisfy the requirements of Section 304 of the City Election Code.

D. Recusal Notification.

1. A member of a City board or commission who is required to file statements of economic interests pursuant to the Political Reform Act shall file a recusal notification form each time the member recuses himself or herself in relation to an actual or apparent conflict of interests.
 - a. The member shall file a copy of the completed form with the executive secretary for the commission or board (or the person acting in that capacity) as soon as possible after the posting of the agenda containing the item involving the member's conflict of interests.
 - b. The member shall file the original form, along with a copy of the meeting agenda containing the item involving the conflict of interests, with the Ethics Commission within 15 calendar days after the date of the meeting at which the recusal occurred.
 - c. The member shall file the form even if the member is not present at the meeting.
2. The form shall be filed in a format prescribed by the Ethics Commission and shall include, at a minimum, the following:

- a. The member's name;
 - b. The name of the member's board or commission;
 - c. The date of the meeting at which the recusal occurred or would have occurred;
 - d. The agenda item number, a brief description of the matter, and a statement of whether the matter concerns the making of a contract; and
 - e. The specific interest causing the recusal and a statement of whether the interest is financial.
- E. Every agency shall make every effort to avoid hiring or appointing City officials who hold and are unwilling or unable to sell assets that would present significant and continuing conflicts of interests.

SEC. 49.5.7

Honoraria and Outside Employment

- A. City officials and agency employees shall not engage in outside employment during any hours they are paid to engage in City business. A person shall not induce or coerce or attempt to induce or coerce a City official or agency employee to engage in such outside employment.
- B. Elected City officers shall not receive any payment, including honoraria, for their services other than that provided for by City Charter Section 218. However, they may receive compensation for serving on governmental entities where payment is authorized for other governmental officers or employees serving in such capacity.
- C. City officials, other than elected City officers and part-time board and commission members, shall not accept a payment for honoraria or other outside earned income or employment without prior written approval.
 - 1. Prior written approval must first be obtained from the general manager or chief administrative officer of the City official's department.
 - a. General managers, chief administrative officers, and members of the Board of Public Works must obtain prior written approval from their appointing authorities.
 - b. City Council staff members must obtain prior written approval from their City Council members.
 - c. A City official who does not have an appointing authority must obtain prior written approval from the Ethics Commission.
 - 2. If the general manager, chief administrative officer, or appointing authority approves the payment, the City official must determine whether the source is a restricted source for the City official. If the source is a restricted source, the City official shall

not accept the payment without also obtaining prior written approval from the Ethics Commission.

3. The approval required by Subdivisions 1 and 2 shall be denied if the general manager, chief administrative officer, appointing authority, or Ethics Commission determines that receipt of the payment would be inconsistent, incompatible, in conflict with, or inimical to the City official's official duties, functions, or responsibilities. Such a determination must be made if one or more of the following factors applies:
 - a. The payment or the services for which the payment would be received would involve any of the following:
 - i. The actual use of or the appearance of the use of public office, employment, time, facilities, equipment, or supplies for private gain;
 - ii. The City official's performance of an act that could later be subject to the control, inspection, review, audit, or enforcement of the City official's agency; or
 - iii. Such time demands that the City official's performance of official City duties would be rendered less efficient.
 - b. The City official would be accepting payment from a person other than the City official's agency for performing an act that the City official would be required or expected to render in the regular course of performing City duties.
 - c. The City official is in a position to make, participate in making, or influence a City decision that could foreseeably have a material financial effect on the source of the payment.
4. A request for approval from the Ethics Commission shall be treated as a request for written advice under Charter Section 705(b).

SEC. 49.5.8

Gifts

- A. A person shall not offer or make and a City official shall not solicit or accept a gift when it is reasonably foreseeable that the City official could be influenced by the gift in the performance of an official act.
- B. City officials shall comply with the gift requirements and restrictions in the Political Reform Act. When the Political Reform Act's gift provisions refer to a lobbying entity, the reference includes a City lobbying entity.
- C. Restricted Sources.
 1. A City official shall not solicit or accept a gift from a restricted source.

2. A person shall not offer or make a gift to a City official for whom the person is a restricted source.
3. A restricted source shall not act as an agent or intermediary in or arrange for the making of a gift by another person to a City official.
4. This subsection does not apply to the following:
 - a. Items received by a City official from a union representing that City official.
 - b. Food and beverages received by a City official from a union representing a bargaining unit of City officials.
 - c. Items received by a City official from an organization of which the City, the City official, or the City official's agency is a member acting in an official City capacity.
 - d. Nominal and routine office courtesies received by a City official in a restricted source's place of business, as long as the courtesies are available to any person who visits that place of business.
 - e. Payments for travel and meals that are made by an organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code or by a governmental entity and are exempt from the gift limits in the Political Reform Act.

SEC 49.5.9

Ex Parte Communications

A. Adjudicative Matters.

1. A City official, other than an elected City officer, who serves as a decision maker in an adjudicative matter may not engage in an ex parte communication regarding that matter while the matter is pending before the decision maker or the body of which the decision maker is a member.
 - a. This prohibition applies from the time the decision maker is made aware of the adjudicative matter, such as through an agenda or an application, until the decision maker or the body of which the decision maker is a member makes a final decision regarding and no longer has jurisdiction over that matter.
 - b. This prohibition does not apply to the following:
 - i. A communication regarding ministerial issues, such as scheduling.
 - ii. A communication that is confidential under City law or protected by the attorney-client privilege.

- iii. A communication between a decision maker and a City official, employee, or consultant in the decision maker's agency who is not involved as an applicant, complainant, respondent, appellant, advocate, investigator, party, or interested person in the adjudicative matter and is not relaying a prohibited communication on behalf of another person.
- 2. If an ex parte communication regarding an adjudicative matter occurs during or in the six months prior to the beginning of the prohibition period specified in paragraph 1, the decision maker involved in the communication must disclose the communication.
 - a. The disclosure must be made in writing and provided to the City Attorney and to the board secretary, executive assistant, or similar person for the decision maker or the body of which the decision maker is a member.
 - i. The board secretary or executive assistant must provide copies of the disclosure within two business days to applicants, complainants, respondents, appellants, advocates, decision makers, and other persons who have requested notice in the matter.
 - ii. The decision maker must verbally note the disclosure at the beginning of the hearing on the adjudicative matter, and the disclosure must be made part of the record of the proceeding.
 - b. The disclosure must identify the following:
 - i. The date the ex parte communication occurred;
 - ii. The persons involved in the ex parte communication;
 - iii. The adjudicative matter at issue; and
 - iv. The substance of the information that was exchanged.
 - c. The disclosure must be made by the earlier of the following dates:
 - i. The date of the hearing on the adjudicative matter;
 - ii. Two business days after the communication occurred; or
 - iii. Two business days after the decision maker receives notice of the adjudicative matter.
 - d. A person may request up to five business days to respond to an ex parte communication that is disclosed.
 - i. The request must be made by the earlier of two business days after receiving the disclosure or at the hearing on the adjudicative matter.
 - ii. The request must justify the need for additional time to respond to the ex parte communication.

- iii. The individual or body charged with making the final decision in the adjudicative matter will decide whether to grant or deny the request and how much additional time to grant the requestor. If the circumstances warrant, more than five business days may be granted.
- iv. An extension of time may not be granted if it would cause a state or City deadline to be missed, unless otherwise authorized by law.
- e. If a matter is both adjudicative and legislative, the requirements in this subsection regarding adjudicative matters apply.

B. Other Matters.

- 1. A member of a City board or commission, other than an elected City officer, must disclose an ex parte communication that occurs regarding an item that appears on an agenda for that member's board or commission when the ex parte communication involves a person who attempts to influence the member to take a particular course of action regarding that item.
- 2. Disclosure is not required for the following:
 - a. A communication regarding ministerial issues, such as scheduling.
 - b. A communication that is confidential under City law or protected by the attorney-client privilege.
 - c. A communication with a family member, as that term is defined for gift purposes by the Political Reform Act, or the member's partner in a bona fide dating relationship.
 - d. A communication between the member and a City official, employee, or consultant.
- 3. Disclosure is required at the board or commission meeting at which the item appears on the agenda. If an item appears on more than one agenda, disclosure is required for any ex parte communications that occurred since the last meeting for which the item was on the agenda and the member was present. Disclosure is not required for meetings that a member does not attend.
- 4. The disclosure of ex parte communications must be an item on each board or commission meeting agenda, and members must disclose any ex parte communications on the record, either verbally or in writing.
- 5. The disclosure must identify the following:
 - a. The date of the ex parte communication;
 - b. The persons who attempted to influence the member; and
 - c. The agenda item at issue.

SEC. 49.5.10

Disclosure of Economic Interests

- A. A City official shall file a statement of economic interests pursuant to the Political Reform Act and this section.
- B. Whenever an elected City officer, a member of a City board or commission, or a general manager or chief administrative officer of an agency is required by the Political Reform Act to file a statement of economic interests, the individual shall also disclose financial interests associated with restricted sources.
 - 1. The following financial interests shall be disclosed:
 - a. Interests in real property that were leased from or to, co-owned by, purchased from, or sold to a restricted source by the City official or the City official's spouse, registered domestic partner, or dependent child.
 - b. Investments that were co-owned by, purchased from, or sold to a restricted source by the City official or the City official's spouse, registered domestic partner, or dependent child.
 - c. Income other than gifts that was valued at \$500 or more and was received from a restricted source by the City official or the City official's spouse, registered domestic partner, or dependent child.
 - d. Positions held on the board of a restricted source by the City official or the City official's spouse, registered domestic partner, or dependent child.
 - 2. The disclosure shall be verified under penalty of perjury.
 - 3. The disclosure shall be made in a format prescribed by the Ethics Commission and may include additional information the Ethics Commission deems necessary.
 - 4. The disclosure shall be filed on the same schedule and for the same reporting period as the statement required by the Political Reform Act.5. A City official is not required to disclose the name of a person who paid fees or made payments to the City official or to a business entity in which the City official or the City official's spouse or registered domestic partner holds an interest if the executive director determines that disclosing the person's name would violate a legally recognized privilege.
- C. The Ethics Commission may, by regulation, require the disclosure of specific types of financial interests, in addition to those interests required to be disclosed pursuant to this section, if it is reasonably foreseeable that the interest could be materially affected by the City official's exercise of official City duties.

SEC. 49.5.11

Disclosure By Nominees

- A. Each person nominated to a position in an agency subject to a conflict of interests code, where appointment is subject to confirmation by the City Council, shall file a financial disclosure statement with the Ethics Commission in the format required by Section 49.5.6. The financial disclosure statement shall be filed within 21 days of the appointing authority's transmission of the nominee's appointment to the City Council.
- B. Within five business days of receiving a complete financial disclosure statement from the appointee, the Ethics Commission staff shall forward a copy of the financial disclosure statement to the appointing authority and the City Council or its committee confirming the appointment.

SEC. 49.5.12

Contracts Generally

- A. Except at a public meeting, a member of a City board or commission shall not participate in the development, review, evaluation, or negotiation of or the recommendation process for bids, proposals, or any other requests for the award or termination of a contract, amendment, or change order involving that board, commission, or agency. This does not preclude individual members from reviewing documents and other information provided by agency staff when preparing for a public meeting at which the matter will be considered.
- B. Each agency shall submit to the Ethics Commission lists identifying every person who was a party to an agency contract, was a bidder on an agency contract, or responded to a request for proposals for an agency contract.
 - 1. Lists must be submitted in a format prescribed by the Ethics Commission twice a year: once by January 31, covering the immediately preceding July 1 through December 31; and once by July 31, covering the immediately preceding January 1 through June 30.
 - 2. A contract that is publicly accessible through a City contract database need not be included in a list.
 - 3. On its Web site, the Ethics Commission shall make publicly available the lists and the City contract databases that are accessible by the public.

SEC. 49.5.13

Contracts and Money Laundering Violations

A. Competitively Bid Contracts.

- 1. An awarding authority shall not award a contract to a bidder if it finds the following:
 - a. The Ethics Commission has found that the bidder violated City Charter Section 470(k) in the previous four years; and

- b. The bidder lacks integrity such that it is unfit to perform the work specified in the contract. The awarding authority shall make that finding unless there are specific facts brought to its attention in writing that indicate otherwise.
- 2. If the findings in paragraph 1 are made, the awarding authority shall deem the bidder to be not responsible.
- 3. Prior to making a finding that a bidder is not responsible, the awarding authority shall do the following:
 - a. Notify the bidder of its intention to consider making the finding.
 - b. Offer the bidder an opportunity to present evidence and argue that, despite the violation, the awarding authority should not have reason to question the bidder's integrity and fitness to perform the contract.
 - c. Hold an informal hearing at which the bidder and other interested parties may make presentations.
 - d. Consider the presentations of the bidder and other interested parties and be satisfied that the finding is merited.

B. Contracts Awarded on a Basis Other Than Competitive Bidding. The awarding authority shall not approve a contract with a party who has been found by the Ethics Commission to have violated City Charter Section 470(k) within the previous four years.

C. Fee Waivers. A discretionary fee waiver of more than \$1,000 shall not be granted for a person who has been found by the Ethics Commission to have violated City Charter Section 470(k) within the previous four years.

D. Notice of Violations.

- 1. The Ethics Commission shall provide a copy of every Commission enforcement decision relating to a violation of City Charter Section 470(k) to the general manager or other head of each agency.
- 2. A person who submits a bid or proposal to or requests a fee waiver shall include with the submission or request a copy of the Ethics Commission's decision of violation.
- 3. A report that contains sufficient information to allow a decision-making body to comply with this section shall be submitted to the decision-making body by the following:
 - a. By the City Clerk, when the City Council is the decision-making body.
 - b. By agency staff when a City board or commission is the decision-making body.

- E. **Reduction of Time Period.** The Ethics Commission may reduce the time during which this section applies to not less than one year if it finds that the contracting party has done either of the following:
1. Accepted responsibility for the violation by entering into a stipulation with the Ethics Commission in which the party admits the violation or otherwise exhibits evidence of having accepted responsibility; or
 2. Mitigated the wrongdoing by taking prompt remedial or corrective action.
- F. **Waiver of Provisions.** The City Council may waive any or all of the requirements in this section if it finds that an overriding public policy consideration justifies doing so.
1. The finding must be approved in writing by a two-thirds vote of the City Council's entire membership.
 2. The finding must identify the nature of the overriding public policy consideration and the reason why that consideration justifies the waiver. A waiver is justified if it would result in a significant community or financial benefit to the City or if it is necessary to preserve the health, safety, or welfare of the public.
- G. **Exception.** This section, excluding subsection D(1), does not apply to the following proprietary City departments: Airports, City Employees Retirement System, Harbor, Library, Pensions, Recreation and Parks, and Water and Power.

SEC. 49.5.14

Lobbying Activities of Current and Former City Officials

- A. A member of a City board or commission who is required to file statements of economic interests pursuant to the Political Reform Act shall not receive compensation to communicate, either personally or through an agent, with a City official for the purpose of attempting to influence action on a City matter on behalf of a person other than an agency.
- B. A former City official or agency employee who personally participated in a specific matter during City service shall not receive compensation to attempt to influence City action on that matter, either personally or through an agent, on behalf of a person other than an agency.
1. A former City official or agency employee shall not receive compensation to counsel or assist a person other than an agency regarding activity that is prohibited for the former City official or agency employee pursuant to this subsection.
 2. This prohibition applies as long as the matter is still pending before an agency or an agency is a party to the matter.
 3. This prohibition does not apply when the former City official or agency employee participated in the matter in solely a ministerial capacity.
- C. The following time-based restrictions on lobbying activities apply to former City officials.

1. For two years after leaving City service, a former elected City officer shall not receive compensation to attempt to influence, either personally or through an agent, City action on any matter pending before any agency on behalf of a person other than an agency.
 2. For one year after leaving City service, a former City official who was a high-level official at any time during the 12 months prior to leaving City service shall not receive compensation to attempt to influence, either personally or through an agent, City action on any matter pending before any agency on behalf of a person other than an agency.
 3. For one year after leaving City service, a former City official shall not receive compensation to attempt to influence, either personally or through an agent, City action on any matter pending before an agency in which the City official served during the 12 months preceding the official's departure from City service on behalf of a person other than an agency. Serving an agency means being directly employed by or being assigned or on loan to that agency.
- D. This section does not apply to the following:
1. Attempts to influence solely ministerial action on City matters.
 2. Attempts to influence made by former City officials who are officers or employees of a governmental entity and are solely representing that entity in an official capacity.
- E. By July 31 of every year, each elected City officer shall designate in writing to the Ethics Commission the members of the elected City officer's staff who are high-level officials.
- F. Upon the petition of an interested party, a court or presiding officer in a judicial, quasi-judicial, or other proceeding may exclude a person found to be in violation of this section from further participating in or assisting another participant in a proceeding pending before that court or presiding officer. Notice and an opportunity to be heard must be provided.

SEC. 49.5.15

Future Employment

- A. The following limits on future employment apply to City officials.
1. The Mayor, the City Attorney, the City Controller, a general manager, and a chief administrative officer shall not directly or indirectly, knowingly or willfully negotiate the possibility of future employment or business opportunities with a person other than a government agency if the person has a matter that is currently pending before that City official or the City official's agency.
 2. A member of the City Council, a City board or commission, or another voting body of an agency who is required to file statements of economic interests pursuant to the Political Reform Act shall not directly or indirectly, knowingly or willfully negotiate the possibility of future employment or business opportunities with a person other than a government agency if the person has a matter that is currently

pending before that City official or a body of which the City official is a voting member.

3. A City official other than one identified in Subsection A or B shall not directly or indirectly, knowingly or willfully negotiate the possibility of future employment or business opportunities with a person other than a government agency if the person has a matter that is currently pending before that City official.
 4. City officials shall not make, participate in making, or use their official City positions to influence a decision involving the interests of a person with whom they have an agreement concerning future employment or business opportunities.
- B. A person who has a matter pending before a City official or a body of which the City official is a voting member shall not directly or indirectly, knowingly or willfully negotiate the possibility of future employment of or business opportunities for that City official.
- C. A person has a matter pending if the person is a party to or is compensated to represent a party to the matter.

SEC. 49.5.16

Ethics and Fraud Awareness Training

- A. **Ethics Training.** All City officials are required to complete ethics training at the time of entering City service and once every two years thereafter. The training shall be developed by the Ethics Commission, in partnership with the Office of the City Attorney, and shall be structured to ensure that participants have knowledge to comply with all of the relevant ethics laws governing their service to the City.
- B. **Fraud Awareness Training.** All full-time City employees are required to complete on-line training for fraud awareness at the time of entering City service and once every two years thereafter. The training shall be developed by the City Controller's Fraud, Waste and Abuse Unit and provided by the Personnel Department as described in the Los Angeles Administrative Code.

SEC. 49.5.17

Enforcement

- A. **Criminal Enforcement.**
1. A person who does any of the following is guilty of a misdemeanor:
 - a. Knowingly or willfully violates a provision of this Article;
 - b. Knowingly or willfully causes another person to violate a provision of this Article; or
 - c. Aids and abets another person in violating a provision of this Article.
 2. Prosecution shall be commenced within four years after the date of the violation.

3. A person convicted of a misdemeanor under this Article shall not act as a City lobbyist or contractor for four years following the date of the conviction, unless the court at the time of sentencing specifically determines that this provision shall not be applied.
4. For the purposes of this section, a plea of nolo contendere shall be deemed a conviction.

B. Civil Actions.

1. A person who intentionally or negligently violates a provision of this Article shall be liable in a civil action brought by the City Attorney, the Ethics Commission, or a person residing within the City for an amount not more than the greater of \$5,000 per violation or three times the amount the person failed to report, properly or unlawfully contributed, expended, gave, or received.
2. If two or more persons are responsible for any violation, they shall be jointly and severally liable.
3. A person other than the City Attorney, before filing a civil action pursuant to this subsection, shall first file with the Ethics Commission a written request for the Ethics Commission to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. The Ethics Commission shall respond within 40 days after receipt of the request, indicating whether it intends to file a civil action. If the Ethics Commission indicates in the affirmative and files an action within 40 days thereafter, no other action may be brought unless the action brought by the Ethics Commission is dismissed without prejudice.
4. In determining the amount of liability, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action, a private plaintiff shall receive 50 percent of the amount recovered. The remaining 50 percent shall be deposited into the City's General Fund. In an action brought by the City Attorney or the Ethics Commission, the entire amount shall be paid to the General Fund.
5. An action alleging a violation of this article may not be filed more than four years after the date the violation occurred.
6. The court may award to a party other than an agency who prevails in a civil action that party's costs of litigation, including reasonable attorney fees. If the costs are awarded against the City, the payment of the award is the responsibility of the City, subject to City Council approval.

C. Injunctive Relief. A person residing within the City, including the City Attorney, may sue for injunctive relief to enjoin violations of or to compel compliance with this Article.

D. Administrative Penalties. The Commission may impose penalties and issue orders for violations of this Article pursuant to its authority under Charter Section 706(c).

- E. **Discipline.** An appointed City official or agency employee who violates a provision of this Article shall be subject to administrative discipline by his or her appointing authority. Such discipline shall be administered in accordance with procedures prescribed by law or established by City policy. The Commission shall notify an agency when one of its City officials or employees is found to be in violation of this Article.
- F. **Housing Authority.** If the Housing Authority of the City of Los Angeles adopts governmental ethics regulations governing the conduct of their current or former officers or employees, violations of those regulations are subject to civil and administrative enforcement and discipline under Subsections B through E.

SEC. 49.5.18 **Late Filing Penalties**

In addition to any other penalties, a person who files an original statement or report after a deadline imposed by this Article is liable to the Ethics Commission in the amount of \$25 per day after the deadline until the statement or report is filed, up to a maximum of \$500. Liability need not be enforced by the Ethics Commission if its executive officer determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the Article. Liability may not be waived if a statement or report is not filed within 30 days after receiving notice from the Ethics Commission staff that the statement or report is past due.

SEC. 49.5.19 **Authority to Enact**

This article is enacted pursuant to and under the authority of the City Charter, California Government Code Sections 1125 *et seq.*, California Government Code Section 81013, and California Constitution, Article XI, Section 5.

SEC. 49.5.20 **Recordkeeping**

Persons subject to this Article shall keep records that demonstrate compliance with this Article and the related provisions of the Political Reform Act and the City Charter for four years.

SEC. 49.5.21 **Severability**

The provisions of this Article are severable. If any provision of this Article or its application to any person or circumstances is held invalid by a court, the remainder of this Article and the application of the provision to other persons or circumstances is not affected by that determination, to the extent that the provision or its application can be given effect.

GOVERNMENTAL ETHICS ORDINANCE

*Approved and Recommended
by the Ethics Commission*

SEC. 49.5.1

Title, Findings and Purpose

- A. **Title.** This Article shall be known as the City of Los Angeles Governmental Ethics Ordinance.
- B. **Findings.** The following findings are adopted in conjunction with the enactment of this Article:
1. As one of the great international cities of the world, Los Angeles will continue to confront great and complex opportunities and problems of both local and global significance.
 2. One of the best ways to attract talented people to public service is to assure that the government is respected for its honesty and integrity; that its decisions are made on the merits, untainted by any consideration of private gain; and that the rules governing their conduct during and after leaving government service are as clear and complete as possible.
 3. A governmental ethics ordinance that is as clear, tough, fair, comprehensive and effective as any in the nation is therefore needed.
- C. **Purposes.** This Article is adopted to accomplish the following purposes.
1. To assure that individuals and interest groups in our society have a fair and equal opportunity to participate in the governmental process.
 2. To assure that the governmental process itself promotes fairness and equity for all residents of the City regardless of race, color, creed, religion, national origin, age, sex, marital status, sexual orientation or disability.
 3. To require elected City officers and key City officials to disclose all investments, interests in real property and income in order to prevent conflicts of interests.
 4. To prevent elected City officers and key City officials from receiving outside earned income that creates a potential conflict of interests.
 5. To prevent ~~certain~~ City officials from lobbying the City for ~~at least one year~~ certain periods of time after they leave City service.
 6. To increase understanding of the City Charter, and ordinances ~~and~~, the roles of elected City officers and other public officials, the roles of City agencies, and the City election process.
 7. To help restore public trust in governmental and electoral institutions.
 8. To assure that this Article is vigorously enforced.

SEC. 49.5.2 Definitions

The following terms used in this article shall have the meanings set forth identified below. Except as otherwise provided herein, the Other terms and provisions of used in this Article shall have the meanings and shall be interpreted in accordance with the applicable definitions and provisions of the identified in the Political Reform Act of 1974, as amended (Government Code Section 81000, *et seq.*) and the regulations of the California Fair Political Practices Commission, as amended.

"Administrative action" means the proposal, drafting, development, consideration, amendment, enactment or defeat by any City agency of any matter, including any rule, regulation or other action in any regulatory proceeding or any proceeding involving a contract, license, permit, franchise, or entitlement for use, whether quasi-legislative or quasi-judicial. Administrative action does not include any action which is solely ministerial.

A. "Adjudicative matter" means a matter in which a decision maker is required to conduct a hearing and make a decision based on the law and the facts in a particular case.

B. "Agency" means the City of Los Angeles or any department, bureau, office, board, commission, other agency of the City, or any other government agency, entity required to adopt a conflict of interests code subject to City Council approval. With respect to employees of a City Council member's staff and employees of the Chief Legislative Analyst's office, "agency" means the City Council.

"Attempting to influence" means promoting, supporting, opposing or seeking to modify or delay any action on municipal legislation (as defined in Section 48.02 of this Code) by any means, including but not limited to providing or using persuasion, information, statistics, analyses or studies.

C. "City Official" means any elective City officer, or an agency board member, officer, employee, commissioner, or consultant of any agency required to adopt a conflict of interest code subject to City Council approval, and who, because of the individual's service to an agency, is required to file statements of economic interests pursuant to the conflict of interest code of his or her agency Political Reform Act.

"Compensation" means the receipt of any monetary or non-monetary payment and includes, but is not limited to, salary, wages, fees, partnership or other similar financial interest, or any other payment or reimbursement for the services or time of the person.

D. "Confidential information" means information that, if it were contained in a document, would not be subject to disclosure under the state's Public Records Act. e which all of the following apply:

(1) — At the time of the use or disclosure of the information, the information is not a public record subject to disclosure under the California Public Records Act.

(2) — At the time of the use or disclosure of the information, the disclosure is prohibited by

(i) — a statute, regulation, or rule which applies to the agency in which the officer or employee serves; or

(ii) ~~any limitation placed on outside employment pursuant to Section 49.5.11 of this Code.~~

(3) ~~The use or disclosure of the information will have, or could reasonably be expected to have, a material financial effect on any investment or interest in real property which the officer or employee, or any person who provides pecuniary gain to the officer or employee in return for the information, has at the time of the use or disclosure of the information or acquires within 90 days following the use or disclosure of the information.~~

E. "Contract" means without limitation any agreement, lease, right of entry, franchise, or concession, including but not limited to an agreements for the performance of any work or, the rendition of any service, or the provisions of any materials, equipment, or supplies to the City of Los Angeles or to the public, which is let, awarded, or entered into with, or on behalf of, the City of Los Angeles by the City Council, any board or commission, office or department and shall include departments which have control of their own funds an agency.

"Co-owner" means a person who resides in, does business in, plans to do business in or owns an interest in real property located within the City of Los Angeles, and either

(1) ~~possesses a 10 percent or greater ownership, security, or leasehold interest in real property in which a filer also possesses an interest, or~~

(2) ~~possesses a 10 percent or greater investment in a business entity in which a filer also owns an investment.~~

~~A "co-owner" does not include~~

(1) ~~any member of the official's immediate family or~~

(2) ~~any commercial lending institution which made a loan in the lender's regular course of business on terms available to members of the public without regard to official status.~~

"Dependent child" means a child who is either

(1) ~~unmarried, under the age of 21 and living in the same household as the filer or~~

(2) ~~otherwise listed as a dependent of the filer for federal income tax purposes.~~

"Direct Communication" means appearing as a witness before, talking to (either by telephone or in person), corresponding with (including sending electronic mail to), or answering questions or inquiries from, any City official or employee, either personally or through an agent.

"Disclosable" means an investment, interest in real property, source of income, gift, loan, honorarium or travel expenses, or business position, which the filer is required to disclose pursuant to Article 2 of Chapter 7 of the Political Reform Act of 1974, as amended, or pursuant to the conflict of interest code of the filer's agency.

"Doing Business with the City" means entering into or performing pursuant to a contract with the City of Los Angeles, an agency of the City or another local government agency required to adopt a conflict of interest code subject to City Council approval. Doing business with the City includes entering into or performing contracts for goods, equipment, services or financial assistance but does not include the receipt of or payment for services

normally rendered by the City to residents and businesses such as sewer service, water and power, street maintenance and the like.

F. "Elected City officer" means any person who is a City Council Member, City Attorney, Controller, or Mayor, whether appointed or elected.

G. "Ex parte communication" means a communication between a decision maker and any person regarding a matter within the decision maker's jurisdiction, which occurs by any means outside of a public meeting or hearing and which may be initiated by either the decision maker or another person. The term does not include a communication between a decision maker and an individual in the City Attorney's office who is providing legal advice to the decision maker regarding permissible or appropriate courses of action.

"Foreign gift" means a gift from an individual domiciled in a foreign country, a foreign government, or a business entity or other entity having its principal place of business located in a foreign country, which gift is accepted by a City official either while that official is traveling abroad or from the donor while that donor is visiting the United States. A foreign gift includes

- (1) an otherwise qualifying gift of food, beverages or customary business entertainment cumulatively valued at no more than \$250 during any calendar year accepted by an official during the course and scope of official business and
- (2) an otherwise qualifying gift which is accepted by the official on behalf of the City of Los Angeles and which gift is transmitted to and becomes the property of the City. A foreign gift does not include a gift from any
—— corporation organized under the laws of the United States, or under the laws of any state or territory of the United States.

"Gift" means, except as otherwise provided in this definition, any payment to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value. The term **"gift"** does not include:

- (1) Informational material such as books, reports, pamphlets, calendars, periodicals, seminars, or informational conferences, exclusively for official or office use and valued at less than \$250 (except that such dollar limit does not apply to informational material received from a government agency). No payment for travel or reimbursement of any expenses shall be deemed **"informational material."**
- (2) Gifts which are not used and which, within 30 days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes.
- (3) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, partner in a bona fide dating relationship, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person; provided that a gift from any such person shall be considered a gift if the

donor is acting as an agent or intermediary for any person not covered by this paragraph.

- (4) ~~Campaign contributions required to be reported under Chapter 4 of the Political Reform Act of 1974, as amended.~~
- (5) ~~Any devise or inheritance.~~
- (6) ~~Personalized plaques and trophies with an individual value of less than two hundred fifty dollars (\$250).~~
- (7) ~~Gifts of food, beverages or occasional lodging provided in an individual's home.~~
- (8) ~~Gifts valued at no more than \$100 from an individual to a City official or to a member of the official's immediate family in connection with a non-recurring ceremonial occasion.~~

"High Level Filer" means the Mayor, City Attorney, Controller, member of the City Council, member of the City Ethics Commission and Executive Officer of the City Ethics Commission.

H. "High Level Official" means the Mayor, the City Attorney, the Controller, the members of the City Council, the Chief of Staff to the Mayor, the Assistant Chief of Staff to the Mayor, each Deputy Mayor, the Special Assistant to the Mayor for Legal Affairs, the Executive Assistant City Attorney, each Chief Assistant City Attorney, each Senior Counsel, the Chief Deputy Controller, the Administrative Coordinator to the Controller, an elected City officer, a full-time member of a City board or commission, a general manager, or a chief administrative officer. The term also means the two members of the an elected City officer's staff of each City Council Office possessing who hold the most significant decision-making responsibilities relative to governmental policy as designated by each member of the Council, the members of the City Ethics Commission, the Executive Officer of the City Ethics Commission, the members of the City Planning Commission, the Director of Planning, the members of the Board of Public Works, the Director of the Office of Administrative and Research Services, each Assistant Director of the Office of Administrative and Research Services, the Chief Legislative Analyst, each Assistant Chief Legislative Analyst, the Treasurer, and the City Clerk. In addition, "high level official" means any other member of the staff of an elected City officer possessing significant decision-making responsibilities relative to governmental policy as may be designated in writing to the City Ethics Commission by the elected City officer, as well as every other staff member who has decision-making responsibilities on par with one or both of the two who must be designated.

I. "Matter pending" means a matter in which a non-ministerial action is required to proceed with or resolve the matter but has not yet been taken.

"Honorarium" means a payment for speaking at any event, participating in a panel or seminar or engaging in any similar activity. An "honorarium" does not include free admission, food, beverages and similar nominal benefits provided to an officer or employee of the City at an event at which he or she speaks, participates in a panel or seminar or performed a similar service, nor does it include reimbursement or advances for actual intrastate travel or for necessary accommodations provided directly in connection with the event.

"Legislative action" means the drafting, introduction, consideration, modification, enactment, or defeat of any ordinance, charter amendment, resolution, amendment, report, nomination or other matter by the City Council or by any committee, subcommittee thereof, or by a member or employee of the City Council acting in his or her official capacity. **"Legislative action"** also means the action of the Mayor in approving or vetoing any ordinance or resolution. **"License, permit or other entitlement for use"** means any business, professional, trade or land use license or permit, any other entitlement for use, (including all entitlement for land use), any contract (other than labor, personal employment, or competitively bid contracts), and any franchise.

J. "Lobbying Firm/entity" means any business entity, including an individual contract lobbyist, which meets either of the following criteria: lobbyist, lobbying firm, or lobbyist employer, as those terms are defined in Section 48.02.

- (a) — the business entity received or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action on behalf of any other person; and any partner, owner, officer, or employee of the business entity is a lobbyist; or
- (b) — the business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, to communicate directly with any elective city officer, agency official, or legislative official for the purpose of influencing legislative or administrative action on behalf of any other person.

"Lobbyist" means any individual who is required to register as a lobbyist or municipal legislative advocate pursuant to any City ordinance requiring such registration.

"Lobbyist Employer" means any person, other than a lobbying firm, who:

- (a) — Employs one or more lobbyists for economic consideration, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action, or
- (b) — Contracts for the services of a lobbying firm for economic consideration, other than reimbursement for reasonable travel expense, for the purpose of influencing legislative or administrative action.

"Participant" means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7 of the Political Reform Act of 1974, as amended. A person actively supports or opposes a particular decision in a proceeding if he or she lobbies in person the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence officers of the agency.

"Party" means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.

"Pecuniary Gain" means any monetary benefit to a person or to a member of the person's immediate family.

"Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, or any other organization or group of persons acting in concert.

K. "Political activity" means activity directed at the success or failure of any ballot measure or candidate for elective office in a future election and includes but is not limited to endorsing a candidate; engaging in fundraising; developing, displaying, distributing, or wearing campaign materials; conducting research; and posting comments on social media or other Internet sites. Political activity does not include displaying campaign materials on a personal vehicle unless it is being used for City business.

L. "Political Reform Act" means the California Political Reform Act of 1974 (California Government Code Sections 81000 *et seq.*) and the related regulations of the California Fair Political Practices Commission.

"Proceeding involving a license, permit or other entitlement for use" includes any proceeding to grant, deny, revoke, restrict, or modify a license, permit or other entitlement for use.

M. "Restricted source" means the following with regard to each of the following classes of City officials:

(1). With regard to "high level filers" and "high level officials," "For elected City officers, a restricted source" means is the following:

(a). a lobbyist, lobbying firm, or lobbyist employer; A person who files as a lobbying entity, is required to file as a lobbying entity, or is a client as defined in Section 48.02.

(b). aA person doing or seeking to do business who has entered into, performs under, or seeks a contract with the City;. This does not include the following:

i. An individual who has entered into or performs under an agreement with the City regarding employment; or

ii. A person who receives or pays for services normally rendered by the City to residents and businesses, such as sewer service, water and power service, or street maintenance.

(c). aA person who, during the reporting period prior 12 months, knowingly attempted to influence the official elected City officer in any legislative or administrative City action which that would have a direct material financial effect on such the person; or. This does not include an individual who attempted to influence action regarding that individual's own City compensation, benefits, or retirement.

(d). aA person who is or in the prior 12 months was a party to a proceeding involving a license, permit, or other entitlement for use while a proceeding involving such matter is, or within the prior nine months was, that was pending before the official elected City officer, or before the City Council, or a board, commission, committee, or other similar body of which the official

~~elected City officer is a voting member, and for nine months following the date a final decision is rendered in the proceeding.~~

(2). ~~With regard to filers other than "high level filers" and with regard to officials other than "high level officials," "For all other City officials, a restricted source" means is the following:~~

(a). ~~a lobbyist, lobbying firm, or lobbyist employer, seeking~~ A person who seeks to influence decisions of the filer's City official's agency and files as a lobbying entity, is required to file as a lobbying entity, or is a client as defined in Section 48.02;

(b). ~~a~~ A person doing or seeking to do business who has entered into, performs under, or seeks a contract with the filer's City official's agency;. This does not include the following:

i. An individual who has entered into or performs under an agreement with the City official's agency regarding employment; or

ii. A person who receives or pays for services normally rendered by the City to residents and businesses, such as sewer service, water and power service, or street maintenance.

(c). ~~a~~ A person who, during the reporting period prior 12 months, knowingly attempted to influence the official in any legislative or administrative City action which that would have a direct material financial effect on such the person;. This does not include an individual who attempted to influence action regarding that individual's own City compensation, benefits, or retirement.

(d). ~~or a~~ A person who is or in the prior 12 months was a party to a proceeding involving a license, permit, or other entitlement for use while a proceeding involving such matter is, or within the prior nine months was, that was pending before the official or before a board, commission, committee, or other similar body of which the official is a voting member, and for nine months following the date a final decision is rendered in the proceeding.

(3) ~~With regard to all filers and all City officials, a "restricted source" does not include an individual (other than a lobbyist) merely by virtue of being employed by a restricted source, provided that the gift or income is neither paid for by the employer nor provided at the direction of the restricted source employer.~~

SEC. 49.5.3

Confidential Information

~~No~~ A current or former officer or City official or agency employee of the City shall not misuse or disclose to any other person for pecuniary gain or personal advantage or privilege, confidential information acquired by him or her in the course as a result of his or her official duties City service.

SEC. 49.5.4

Protection of Employees Against Retaliation for Reporting Fraud, Waste or Misuse of Office

- A. ~~No officer or employee of the City officials and agency employees shall not use or threaten to use any official authority or influence to discourage, restrain, or interfere with any other person's for the purpose of preventing such person from acting in good faith attempt to report or otherwise bring to the attention possible violations of law to the City Ethics Commission or another appropriate government agency, office or department any information which, if true, would constitute a work-related violation by a City officer or employee of any law or regulation, gross waste of City funds, gross abuse of authority, a specified and substantial danger to public health or safety due to an act or omission of a City official or employee, use of a City office or position or of City resources for personal gain, or a conflict of interest of a City officer or employee.~~
- B. ~~No officer or employee of the City officials and agency employees shall not use or threaten to use any official authority or influence to effect any action as a reprisal against a City officer or employee another person who reports or otherwise brings to the attention a possible violation of law to the Ethics Commission or another appropriate government agency, office or department any information regarding the subjects described in Subsection A.~~
- C. ~~Any person who believes that he or she has been subjected to any action prohibited by this section may file a confidential complaint with the City Ethics Commission. The City Ethics Commission shall thereupon investigate the complaint. Upon the conclusion of its investigation, the Commission shall take appropriate action as otherwise provided by law.~~
- D. ~~In the event the Executive Officer of the City Ethics Commission determines the Commission has a conflict of interest in an investigation of a retaliation complaint, City Ethics Commission staff shall may refer the investigation of the retaliation complaints to the Equal Employment Opportunities Section of the Human Resources and Benefits Division of the City Personnel Department. That agency shall report its findings to the City Attorney who shall take appropriate action as otherwise provided by law appropriate agencies for disciplinary purposes.~~

SEC. 49.5.5

Misuse of City Position or Resources

- A. ~~No City officials, agency employee of any agencies, appointees awaiting confirmation by the City Council, or and candidates for elected City office shall not misuse his or her or attempt to misuse their positions or prospective positions, or the power or authority of his or her office or position, in any manner intended to induce or coerce any person to provide, directly or indirectly, anything of value which shall accrue to the to create or attempt to create a private advantage, benefit, or economic gain, of the City official or employee, or of any other person or disadvantage, financial or otherwise, for any person. As used in this section, the term "private advantage, benefit, or economic gain" means any advantage, benefit or economic gain, distinct from that enjoyed by members of the public without regard to official status or not resulting naturally from lawful and proper performance of duties. A City official or employee engages in a prohibited use of his or her official position or prospective position when he or she engages in activities other than in the lawful and proper performance of the person's City duties.~~

B. ~~No City official or agency employee of an agency shall not engage in campaign-related activities, such as fundraising, the development of electronic or written materials, or research, for a campaign for any elective office or ballot measure:~~political activity in the following scenarios.

1. ~~during the hours for which he or she is receiving pay to engage in City business;~~
~~or~~While on duty for the City.
2. ~~using City facilities, equipment, supplies or other City resources. In any manner that implies the City official or agency employee is speaking on behalf of the City or communicating a City position. This includes but is not limited to engaging in political activity in the following scenarios:~~
 - a. While wearing a uniform or official City insignia; or
 - b. Using a City title or position.

C. A person shall not engage in political activity in the following scenarios.

1. In a room or building that is owned by the City, primarily paid for or used by the City, or occupied by a City official or agency employee in the discharge of City duties. This does not include a City room or building that is routinely rented to the public and has been rented to the person under an agreement that specifies that political activity may occur in the rented space.
2. Using City equipment, vehicle, supplies, or resources, including but not limited to mailing and distribution lists, electronic mail, and electronic data.

C. ~~No City official or employee of an agency shall engage in outside employment during any hours he or she is receiving pay to engage in City business.~~

D. ~~No~~A person shall not induce or coerce, or attempt to induce or coerce any other person to engage in ~~any~~ activity prohibited by Subsections A or B ~~or C~~.

E. ~~Nothing in this section shall~~does not prohibit the use of City resources to provide information to the public about the possible effects of any bond issue or ~~other~~ ballot measure relating to City activities, operations, or policies, ~~provided that (i) if both of the following apply:~~

1. ~~The use of public resources is otherwise legally authorized;~~i and (ii)
2. ~~The information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.~~

SEC. 49.5.136

Participation of Elective City Officers and Employees in Governmental DecisionsConflicts of Interests

- A. City officials shall not make, participate in making, or attempt to use their official positions to influence City decisions in which they know or have reason to know they have a financial interests.
- B. In addition to the requirements of Government Code Sections 87100, et seq., no officer or employee of the In the first 12 months of City service, a City official or agency employee shall not knowingly make, participate in making, or attempt to use his or her official position to influence any governmental City decision directly relating to any contract where the City official knows or has reason to know that any party to the contract is a person by whom the City official individual was employed in the 12 months immediately prior to entering government City service within 12 months prior to the time the official acts on the matter.
- ~~B. — Any person that meets either of the criteria set forth in Subdivisions 1 and 2 below and that makes one or more payments in the aggregate amounts set forth in Subsection C for independent expenditures or non-behested member communications to support the candidacy of an individual who is thereafter elected or reelected to an elective City office shall file a report with the City Ethics Commission, disclosing the information set forth after each of the criteria:~~
- ~~1. — The person is directly involved in a decision before an elected City officer, and within 12 months prior to the decision, the person made one or more independent expenditures or one or more payments for member communications in support of that officer at the time the officer was campaigning for election or reelection to any office.~~
- ~~(a) — The person shall disclose the filer's name, address and telephone number; the elected City official in support of whom the payment was made; the date(s) and amount(s) of the payment(s); the identity of the matter on which the decision is made; and the date on which the person became directly involved in the decision.~~
- ~~(b) — The provisions of 2 Cal. Code Regs. § 18704.1 (a)(1) and (2) shall govern when a person is "directly involved" in a decision before an elected City official within the meaning of this section.~~
- ~~(c) — Disclosure shall be made within 48 hours after the person making the expenditure (i) becomes directly involved in a decision that will or may come before the elected City officer in whose support the payment was made and (ii) makes the expenditure.~~
- ~~2. — The person, or any other person acting on behalf of the person, attempts to influence an elected City officer with respect to any matter of municipal legislation as defined by Section 48.02 of this Code, and within 12 months prior to the decision, the person made one or more independent expenditures or one or more payments for member communications in support of that officer at the time the officer was campaigning for election or reelection to any office.~~
- ~~(a) — The person shall disclose the filer's name, address and telephone number; the elected City official in support of whom the payment(s) was (were) made; the date(s) and amount(s) of the payment(s); the identity of the municipal legislation; whether the person attempted to influence the officer directly or through another person, and, if the latter, the name and address of the other person; and the date(s) of the attempt(s) to influence.~~

~~(b) Disclosure shall be made within 48 hours after each attempt to influence.~~

C. ~~The following are the aggregate amounts triggering the disclosure required by Subsection B:~~Statements of City-related Business.

1. ~~\$100,000 or more in the case of a Mayoral candidate in a primary or general election; An elected City officer, a candidate for elected City office, a member of a City board or commission, a general manager or chief administrative officer of an agency, and an individual holding an appointive office named in the Charter shall~~file a statement of City-related business with the Ethics Commission within ten calendar days after a City action, other than a ministerial action, affects the individual's personal financial interests.
2. ~~\$50,000 or more in the case of a City Attorney or Controller candidate in a primary or general election; and For purposes of the statement, a City action affects an individual's personal financial interests if it involves one or more of the following held by, required of, or sought by the individual, the individual's spouse or registered domestic partner, or a business entity in which either the individual or the individual's spouse or registered domestic partner holds an ownership interest of five percent or more:~~
 - a. The sale of real or personal property; or
 - b. The performance of services pursuant to a contract; or
 - c. A grant, loan, or forgiveness or payment of indebtedness; or
 - d. An application for a license, certificate, permit, franchise, change of zone, variance, credential, or other benefit or relief.
3. ~~\$25,000 or more in the case of a City Council candidate in a primary or general election~~The statement shall be in sufficient detail as to dates, amounts, identifying numbers or symbols, locations, and subject matter to make the action identifiable by reference to City records.
4. The statement shall be filed under penalty of perjury in a format prescribed by the Ethics Commission.
5. The statement shall satisfy the requirements of Section 304 of the City Election Code.

D. ~~For purposes of this section, a payment is deemed to be made for an expenditure supporting an elected City officer if the person making the payment is required to disclose that fact pursuant to Section 49.7.31 of this Code.~~Recusal Notification.

1. A member of a City board or commission who is required to file statements of economic interests pursuant to the Political Reform Act shall file a recusal notification form each time the member recuses himself or herself in relation to an actual or apparent conflict of interests.

- a. The member shall file a copy of the completed form with the executive secretary for the commission or board (or the person acting in that capacity) as soon as possible after the posting of the agenda containing the item involving the member's conflict of interests.
- b. The member shall file the original form, along with a copy of the meeting agenda containing the item involving the conflict of interests, with the Ethics Commission within 15 calendar days after the date of the meeting at which the recusal occurred.
- c. The member shall file the form even if the member is not present at the meeting.
- 2. The form shall be filed in a format prescribed by the Ethics Commission and shall include, at a minimum, the following:
 - a. The member's name;
 - b. The name of the member's board or commission;
 - c. The date of the meeting at which the recusal occurred or would have occurred;
 - d. The agenda item number, a brief description of the matter, and a statement of whether the matter concerns the making of a contract; and
 - e. The specific interest causing the recusal and a statement of whether the interest is financial.
- E. The disclosures required by this section shall be made on a form provided by the Commission, shall be verified under penalty of perjury and shall be filed by fax, certified mail, or hand delivery to the Commission. Every agency shall make every effort to avoid hiring or appointing City officials who hold and are unwilling or unable to sell assets that would present significant and continuing conflicts of interests.

SEC. 49.5.97

Restrictions on Honoraria and Outside Earned Income Employment

- A. City officials and agency employees shall not engage in outside employment during any hours they are paid to engage in City business. A person shall not induce or coerce or attempt to induce or coerce a City official or agency employee to engage in such outside employment.
- B. **Prohibition of Outside Earned Income — Elected City Officers.** Pursuant to City Charter Section 218, the Mayor, City Attorney, Controller, and members of the City Council Elected City officers shall not receive any compensation payment, including honoraria, for their services other than that provided for by City Charter Section 218, except that which, However, they may be provided receive compensation for their serving on governmental

entities where payment is authorized for other governmental officers or employees serving in such capacity.

BC. ~~Restrictions on Honoraria and Other Outside Earned Income — Other Full-Time City Officials and Employees.~~

~~1. Except as provided in Subsection A of this section, no full-time City officials, other than elected City officers and part-time board and commission members, shall not accept any payment for honoraria or other outside earned income or earned income employment without the prior written approval of the general manager or other chief administrative officer of his or her department, and, in the case of a source of income which the general manager or other chief administrative officer determines is a restricted source for that official, without the prior written approval of the City Ethics Commission.~~

1. Prior written approval must first be obtained from the general manager or chief administrative officer of the City official's department.

a. General managers, chief administrative officers, and members of the Board of Public Works must obtain prior written approval from their appointing authorities.

b. City Council staff members must obtain prior written approval from their City Council members.

c. A City official who does not have an appointing authority must obtain prior written approval from the Ethics Commission.

2. If the general manager, chief administrative officer, or appointing authority approves the payment, the City official must determine whether the source is a restricted source for the City official. If the source is a restricted source, the City official shall not accept the payment without also obtaining prior written approval from the Ethics Commission.

23. The approval required by Subdivisions 1 of this subsection and 2 shall be denied if the general manager, other, Chief administrative officer, appointing authority, or City Ethics Commission determines that the receipt of the income payment would be inconsistent, incompatible, in conflict with, or inimical to the City official's official duties, functions, or responsibilities. In so determining, the general manager, other Chief administrative officer and City Ethics Commission shall consider whether Such a determination must be made if one or more of the following factors is applicableapplies:

(a). ~~Whether the payment or the services for which the payment would be received creates the appearance of or would involve~~ any of the following:

i. The actual use of or the appearance of the use of public office or, employment or the, time, facilities, equipment, or supplies of the official's agency, for private gain;

ii. The City official's performance of an act that could later be subject to the control, inspection, review, audit, or enforcement of the City official's agency; or

iii. Such time demands that the City official's performance of official City duties would be rendered less efficient.

(b). Whether the payment or services for which the payment would be received involves the acceptance by tThe City official of any money or other consideration would be accepting payment from anyone a person other than his or her the City official's agency for the performance of performing an act which that the City official, if not performing such act for the outside source of income, would be required or expected to render in the regular course of hours of his or her duties as a performing City official; duties.

(c). Whether tThe City official is in a position to make, to participate in making, or to influence a potential governmental City decision that could foreseeably have a material financial effect on the source of income; the payment.

(d) Whether the payment or services for which the payment would be received involves the performance of any act in other than an official capacity which may later be subject, directly or indirectly, to the control, inspection, review, audit or enforcement of any other official of his or her agency;

(e) Whether the services involve such time demands that would render the official's performance of his or her official duties less efficient.

34. A request to the City Ethics Commission for approval pursuant to this subsection from the Ethics Commission shall be treated as a request for written advice under Charter Section 705(b).

4. In the case of a request for approval by a member of the Board of Public Works or by any general manager or other chief administrative officer of any agency, the request shall be made to his or her appointing authority and, if required by Subdivision 1, to the City Ethics Commission. In the case of a request for approval by an employee of the office of a member of the City Council, the request shall be made to that member of the City Council and, if required by Subdivision 1, to the City Ethics Commission.

SEC. 49.5.108

Restrictions on Gifts and Travel Expenses

A. Restrictions on Gifts.

1. No A person shall not offer or make, and no a City official shall not solicit or accept, any gift with the intent when it is reasonably foreseeable that the City official will could be influenced thereby the gift in the performance of any official act.

B. City officials shall comply with the gift requirements and restrictions in the Political Reform Act. When the Political Reform Act's gift provisions refer to a lobbying entity, the reference includes a City lobbying entity.

C. Restricted Sources.

21. No ~~A~~ City official shall knowingly ~~not~~ solicit or accept any gift from a restricted source.

32. ~~Except in the case of a lobbyist or lobbying firm, no person who is a restricted source~~ A person shall not offer or make, and no City official shall accept, any gift from a restricted source which would cause the cumulative amount of gifts from such source to the a City official to exceed \$100 during any calendar year for whom the person is a restricted source.

3. A restricted source shall not act as an agent or intermediary in or arrange for the making of a gift by another person to a City official.

4. This subsection does not apply to the following:

a. Items received by a City official from a union representing that City official.

b. Food and beverages received by a City official from a union representing a bargaining unit of City officials.

c. Items received by a City official from an organization of which the City, the City official, or the City official's agency is a member acting in an official City capacity.

d. Nominal and routine office courtesies received by a City official in a restricted source's place of business, as long as the courtesies are available to any person who visits that place of business.

e. Payments for travel and meals that are made by an organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code or by a governmental entity and are exempt from the gift limits in the Political Reform Act.

4. ~~No lobbyist or lobbying firm shall make, and no City official shall accept, any gift from a lobbyist or lobbying firm which is a restricted source as to that official.~~

5. ~~No lobbyist or lobbying firm shall act as an agent or intermediary in the making of any gifts or arrange for the making of any gift by another person to any City official.~~

6. ~~The provisions of Subdivision 3 of this subsection do not apply to foreign gifts made to an officer or employee of the City when representing the Department of Airports or the Harbor Department, which gift is disclosed by that official to the City Ethics Commission within 30 days after receipt on a form prescribed by the Commission.~~

7. ~~For the purpose of this subsection, the term "gift" does not include:~~

- ~~— (a) Items received by a City official which are not kept but which are turned over to the City within 30 days after their receipt.~~
- ~~— (b) Meals provided to a City official at an event at which the official speaks, participates in a seminar or similar activity or provides a similar service.~~
- ~~— (c) Travel expenses and meals paid for by a local, state, federal or foreign government agency.~~
- ~~— (d) Items received by a bargaining unit member from a union representing that City official.~~
- ~~— (e) Food and beverages received from any union by a City official who is a member of a union representing a bargaining unit of City officials.~~
- ~~— (f) Payment for travel expenses from a campaign committee; a nonprofit organization of which the City official is a member; or an organization of which the City, an agency, or the official is a member acting in an official City capacity.~~
- ~~— (g) Gifts to non-elected City official for legal expenses related to an enforcement action brought under City or state ethics laws.~~

~~8. A City official may request the City Ethics Commission to provide that official with written advice concerning the legality of accepting any specific gift. Such request shall contain sufficient information to allow the Commission or its staff to properly consider the matter. The Commission or its staff shall provide written advice in response to such a request within 10 working days after the Commission's receipt of the request.~~

~~B. Restrictions on Travel Advances and Reimbursements.~~

- ~~1. No person shall offer or make, and no City official shall solicit or accept, any advance or reimbursement for travel expenses (including related lodging and reasonable subsistence expenses) with the intent that the City official will be influenced thereby in the performance of any official act.~~
- ~~2. No person who is a restricted source shall offer or make, and no City official shall accept from a restricted source as to that official, any advance or reimbursement for travel expenses (including related lodging and reasonable subsistence expenses).~~
- ~~3. No lobbyist or lobbying firm shall act as an agent or intermediary in the making of, or arrange for the making of, any advance or reimbursement for travel expenses (including related lodging and reasonable subsistence expenses) by another person, to any City official.~~

4. ~~The payment for travel expenses of a City official traveling on government business shall not be prohibited by this section in any case where the payment is a gift or other payment to the City of Los Angeles or to any government agency for which the City Council is the code reviewing body with respect to that agency's conflict of interest code, rather than a gift or income to the official, within the meaning of the Political Reform Act of 1974, as amended, and the regulations of the Fair Political Practices Commission.~~
5. ~~Travel expenses subject to the prohibitions of this subsection include expenses for intrastate travel and lodging related to a City official's speaking at an event, participating in a seminar or providing similar services, notwithstanding the provisions of Title 2, California Code of Regulations, Section 18728, or any successor section.~~
6. ~~Travel expenses subject to the prohibitions of this subsection do not include any payment for travel expenses from a campaign committee; a nonprofit organization of which the City official is a member; or an organization of which the City, an agency, or the official is a member acting in an official City capacity.~~
7. ~~This subsection does not limit travel expenses and meals paid for by a local, state, federal or foreign government agency.~~

SEC 49.5.9

Ex Parte Communications

A. Adjudicative Matters.

1. A City official, other than an elected City officer, who serves as a decision maker in an adjudicative matter may not engage in an ex parte communication regarding that matter while the matter is pending before the decision maker or the body of which the decision maker is a member.
 - a. This prohibition applies from the time the decision maker is made aware of the adjudicative matter, such as through an agenda or an application, until the decision maker or the body of which the decision maker is a member makes a final decision regarding and no longer has jurisdiction over that matter.
 - b. This prohibition does not apply to the following:
 - i. A communication regarding ministerial issues, such as scheduling.
 - ii. A communication that is confidential under City law or protected by the attorney-client privilege.
 - iii. A communication between a decision maker and a City official, employee, or consultant in the decision maker's agency who is not involved as an applicant, complainant, respondent, appellant, advocate, investigator, party, or interested person in the adjudicative matter and is not relaying a prohibited communication on behalf of another person.

2. If an ex parte communication regarding an adjudicative matter occurs during or in the six months prior to the beginning of the prohibition period specified in paragraph 1, the decision maker involved in the communication must disclose the communication.

a. The disclosure must be made in writing and provided to the City Attorney and to the board secretary, executive assistant, or similar person for the decision maker or the body of which the decision maker is a member.

i. The board secretary or executive assistant must provide copies of the disclosure within two business days to applicants, complainants, respondents, appellants, advocates, decision makers, and other persons who have requested notice in the matter.

ii. The decision maker must verbally note the disclosure at the beginning of the hearing on the adjudicative matter, and the disclosure must be made part of the record of the proceeding.

b. The disclosure must identify the following:

i. The date the ex parte communication occurred;

ii. The persons involved in the ex parte communication;

iii. The adjudicative matter at issue; and

iv. The substance of the information that was exchanged.

c. The disclosure must be made by the earlier of the following dates:

i. The date of the hearing on the adjudicative matter;

ii. Two business days after the communication occurred; or

iii. Two business days after the decision maker receives notice of the adjudicative matter.

d. A person may request up to five business days to respond to an ex parte communication that is disclosed.

i. The request must be made by the earlier of two business days after receiving the disclosure or at the hearing on the adjudicative matter.

ii. The request must justify the need for additional time to respond to the ex parte communication.

iii. The individual or body charged with making the final decision in the adjudicative matter will decide whether to grant or deny the request and how much additional time to grant the requestor. If the circumstances warrant, more than five business days may be granted.

iv. An extension of time may not be granted if it would cause a state or City deadline to be missed, unless otherwise authorized by law.

e. If a matter is both adjudicative and legislative, the requirements in this subsection regarding adjudicative matters apply.

B. Other Matters.

1. A member of a City board or commission, other than an elected City officer, must disclose an ex parte communication that occurs regarding an item that appears on an agenda for that member's board or commission when the ex parte communication involves a person who attempts to influence the member to take a particular course of action regarding that item.

2. Disclosure is not required for the following:

a. A communication regarding ministerial issues, such as scheduling.

b. A communication that is confidential under City law or protected by the attorney-client privilege.

c. A communication with a family member, as that term is defined for gift purposes by the Political Reform Act, or the member's partner in a bona fide dating relationship.

d. A communication between the member and a City official, employee, or consultant.

3. Disclosure is required at the board or commission meeting at which the item appears on the agenda. If an item appears on more than one agenda, disclosure is required for any ex parte communications that occurred since the last meeting for which the item was on the agenda and the member was present. Disclosure is not required for meetings that a member does not attend.

4. The disclosure of ex parte communications must be an item on each board or commission meeting agenda, and members must disclose any ex parte communications on the record, either verbally or in writing.

5. The disclosure must identify the following:

a. The date of the ex parte communication;

b. The persons who attempted to influence the member; and

c. The agenda item at issue.

SEC. 49.5.610

Disclosure Regarding of Economic Interests

- A. ~~**Persons Required to File.** The Mayor, City Attorney, Controller, members of the City Council, each chief administrative officer of a City department or office, and each member of a board or commission who is a designated employee pursuant to the conflict of interest Code of his or her agency~~ A City official shall file a statement of economic interests pursuant to the Political Reform Act of 1974, as amended, and shall additionally file a financial disclosure statement pursuant to the provisions of this section. There shall be two classes of filers,
- (1) ~~"high-level filers"~~ and
- (2) ~~"other filers," who shall include all filers other than "high-level filers."~~
- B. ~~**Disclosure Periods and Filing Deadlines.** On or before April 1 of each calendar year, all filers referred to in Subsection A shall file a statement of economic interests and a financial disclosure statement pursuant to this section, covering a disclosure period of January 1 through December 31 of the previous calendar year. On or before October 1 of each calendar year, all filers referred to in Subsection A shall either certify that there have been no changes in their reportable financial interests during the period of January 1 through June 30 or shall file a semi-annual financial disclosure statement disclosing any changes in their reportable financial interests which occurred during that period.~~
- C. ~~**Disclosure Requirements for High-Level Filers.** Whenever an elected City officer, a member of a City board or commission, or a general manager or chief administrative officer of an agency is required by the Political Reform Act to file a statement of economic interests, the individual shall also disclose financial interests associated with restricted sources.~~
1. ~~In addition to statements of economic interests filed pursuant to the Political Reform Act of 1974, as amended, high-level filers shall file financial disclosure statements disclosing t~~ The following financial interests shall be disclosed:
- (a)₂ ~~Any investment, regardless of whether the business entity is located in; owns an interest in real property within; or does, within the prior two years did, or plans to do business in the City of Los Angeles, and the name and address of any co-owner of the business entity~~ Interests in real property that were leased from or to, co-owned by, purchased from, or sold to a restricted source by the City official or the City official's spouse, registered domestic partner, or dependent child.
- (b)₂ ~~Any interest in real property (other than a personal residence), regardless of whether the real property is located within the jurisdiction, and the name and address of any co-owner of such real property~~ Investments that were co-owned by, purchased from, or sold to a restricted source by the City official or the City official's spouse, registered domestic partner, or dependent child.

- (c). ~~Any income (including loans, honoraria, travel expenses, other than gifts, and the filer's community property interest in income of a spouse) regardless of whether the source of income resides in; owns an interest in real property located within; or does, within the prior two years did, or plans to do business in the City of Los Angeles that was valued at \$500 or more and was received from a restricted source by the City official or the City official's spouse, registered domestic partner, or dependent child.~~
- (d). ~~Separate property income (including loans, honoraria, travel expenses and gifts) of a filer's spouse from a restricted source and income of a dependent child from a restricted source. Positions held on the board of a restricted source by the City official or the City official's spouse, registered domestic partner, or dependent child.~~
- (e) ~~The name and address of each general partner of a partnership in which the filer has an investment valued at \$2,000 or more, together with the name of the partnership.~~
- (f) ~~For any investment required to be disclosed by this subsection or any interest in real property (including both an interest required to be disclosed by this subsection and the filer's personal residence) that was purchased during the reporting period:
 - (i) ~~the name of the business entity, or the location of the real property by street address, city and state, provided, however, that the address of the filer's personal residence need not be disclosed;~~
 - (ii) ~~the purchase price of the investment or interest in real property (rounded to the nearest \$1,000);~~
 - (iii) ~~the name and address of the seller.~~~~

~~The filer's initial financial disclosure statement shall disclose any such transaction which occurred within one year prior to the filing of such statement.~~

~~This Paragraph (f) shall not require any disclosure relating to a transaction which occurred on a regulated trading market or stock exchange in connection with which the identities of the purchaser and seller are unknown to one another.~~

- (g) ~~For any investment required to be disclosed by this section or any interest in real property (including both an interest required to be disclosed by this subsection and the filer's personal residence) that was sold during the reporting period:
 - (i) ~~the name and address of the business entity, or the location of the real property by street address, city and state, provided, however, that the address of the filer's personal residence need not be disclosed;~~
 - (ii) ~~the selling price of the investment or interest in real property (rounded to the nearest \$1,000);~~~~

(iii) ~~the name and address of the purchaser.~~

~~This Paragraph (g) shall not require any disclosure relating to a transaction which occurred on a regulated trading market or stock exchange in connection with which the identities of the purchaser and seller are unknown to one another.~~

2. ~~Except as otherwise provided in this subsection, the information required to be disclosed with respect to each financial interest, and the manner of disclosing that information, shall be the same as required by Article 2 of Chapter 7 of the Political Reform Act of 1974, as amended, or by the conflict of interest code of the filer's agency. The disclosure shall be verified under penalty of perjury.~~
3. ~~The value of investments, interests in real property and income (including loans, honoraria, travel expenses, spousal income and income of a dependent child) shall be disclosed in the following amounts: The disclosure shall be made in a format prescribed by the Ethics Commission and may include additional information the Ethics Commission deems necessary.~~
 - (a) ~~Investment and interests in real property:~~
 - (i) ~~between \$2,000 and \$9,999, the value rounded to the nearest thousand;~~
 - (ii) ~~Between \$10,000 and \$99,999, the value rounded to the nearest \$10,000;~~
 - (iv) ~~Between \$100,00 and \$250,000, the value rounded to the nearest \$25,000; and~~
 - (v) ~~Over \$250,000, the value rounded to the nearest \$50,000.~~
 - (b) ~~Income (including loans, honoraria, travel expenses, spousal income and income of a dependent child):~~
 - (i) ~~between \$500 and \$1,000;~~
 - (ii) ~~Between \$1,001 and \$99,999, the value rounded to the nearest \$1,000;~~
 - (iii) ~~At and above \$100,000, the value rounded to the nearest \$10,000.~~
4. ~~The value of real property shall be disclosed pursuant to Subdivision 3 based on the County Assessor's assessed valuation of the property. The disclosure shall be filed on the same schedule and for the same reporting period as the statement required by the Political Reform Act.~~

5. ~~If an investment is listed on a securities exchange within the United States, the filer may, instead of disclosing the dollar value, disclose the largest number of shares of stock owned, or the highest par value of bonds or debentures owned, during the reporting period. A City official is not required to disclose the name of a person who paid fees or made payments to the City official or to a business entity in which the City official or the City official's spouse or registered domestic partner holds an interest if the executive director determines that disclosing the person's name would violate a legally recognized privilege.~~
6. ~~If the actual value of an asset is not known by the filer, a good faith estimate based on a reasonable inquiry shall satisfy the requirement of this subsection. In no event shall a filer be required to retain the services of an appraiser in order to comply with this subsection.~~

~~D. Disclosure Requirements For Other Filers.~~

1. ~~In addition to statements of economic interests filed pursuant to the Political Reform Act of 1974, as amended, other filers shall file financial disclosure statements disclosing the following financial interests:~~
 - (a) ~~Any disclosable investment.~~
 - (b) ~~Any other investment, whether or not located within or doing business in the City of Los Angeles, and whether or not owning an interest in real property located within the jurisdiction, if any co-owner of the business entity engages in any activity within the City of Los Angeles described in or covered by the filer's disclosure category of his or her agency's conflict of interest code. The name and address of any disclosable co-owner of any such business entity shall also be disclosed.~~
 - (c) ~~Any disclosable interest in real property.~~
 - (d) ~~Any other interest in real property, not located within the jurisdiction, if any co-owner of the real property engages in any activity within the City of Los Angeles described in or covered by the filer's disclosure category of his or her agency's conflict of interest code. The name and address of any disclosable co-owner of any such real property shall also be disclosed.~~
 - (e) ~~Any disclosable income (including loans, honoraria, travel expenses, gifts and the filer's community property interest in income to a spouse).~~
 - (f) ~~Separate property income (including loans, honoraria, travel expenses, and gifts) of the filer's spouse from a restricted source and income of a dependent child from a restricted source, if the source of income would be a disclosable source if received directly by the filer. Income to a spouse or dependent child does not include travel or reasonable subsistence expenses, paid by a spouse's or dependent child's employer for employment-related travel.~~

- (g) ~~The name and address of each general partner of a partnership in which the filer has an investment (required to be disclosed by this subsection) valued at \$2,000 or more, together with the name of the partnership. The identity of a partner is required to be disclosed by this subsection only if the partner engages in any activity within the City of Los Angeles described in or covered by the filer's disclosure category of his or her agency's conflict of interest code.~~
- (h) ~~For any investment required to be disclosed by this subsection or any interest in real property (including both an interest required to be disclosed by this subsection and the filer's personal residence) that was purchased during the reporting period from a person engaged in the City of Los Angeles in an activity described in or covered by the disclosure category of the filer's conflict of interest code:~~
- ~~(i) the name of the business entity, or the location of the real property by street address, city and state, provided, however, that the address of the filer's personal residence need not be disclosed;~~
 - ~~(ii) the purchase price of the investment or interest in real property (rounded to the nearest \$1,000);~~
 - ~~(iii) the name and address of the seller.~~

~~The filer's initial financial disclosure statement shall disclose any such transaction which occurred within one year prior to the filing of such statement.~~

~~This paragraph (h) shall not require any disclosure relating to a transaction which occurred on a regulated trading market or stock exchange in connection with which the identities of the purchaser and seller are unknown to one another.~~

- (i) ~~For any investment required to be disclosed by this subsection or any interest in real property (including both an interest required to be disclosed by this subsection and the filer's personal residence) that was sold during the reporting period to a person engaged in the City of Los Angeles in an activity described in or covered by the disclosure category of the filer's conflict of interest code:~~
- ~~(i) the name of the business entity, or the location of the real property by street address, city and state, provided, however, that the address of the filer's personal residence need not be disclosed;~~
 - ~~(ii) the selling price of the investment or interest in real property (rounded to the nearest \$1,000);~~
 - ~~(iii) the name and address of the purchaser.~~

This Paragraph (i) shall not require any disclosure relating to a transaction which occurred on a regulated trading market or stock exchange in connection with which the identities of the purchaser and seller are unknown to one another.

2. Except as otherwise provided in this subsection, the information and amounts required to be disclosed with respect to each financial interest, and the manner of disclosing that information, shall be the same as required by Article 2 of Chapter 7 of the Political Reform Act of 1974, as amended, or by the conflict of interest code of the filer's agency.
3. The value of real property shall be disclosed pursuant to Subdivision 3 based on the County Assessor's assessed valuation of the property.
4. If an investment is listed on a securities exchange within the United States, the filer may, instead of disclosing the value, disclose the largest number of shares of stock owned, or the highest par value of bonds or debentures owned, during the reporting period.
5. If the actual value of an asset is not known by the filer, a good faith estimate based on a reasonable inquiry, shall satisfy the requirement of this subsection. In no event shall a filer be required to retain the services of an appraiser in order to comply with this subsection.

EC. **Additional Disclosure Requirement Pursuant To Regulations of the City Ethics Commission.** The City Ethics Commission may, by regulation, require the disclosure by filers of specific types of financial interests, in addition to those interests required to be disclosed pursuant to Subsection D of this section, if it is reasonably foreseeable that the interest could with reasonable foreseeability be materially affected materially by the filer's City official's exercise of his or her official City duties.

F. **Exception If Disclosure Would Violate Legally Recognized Privilege.** A filer need not disclose the name of a person who paid fees or made payments to the filer or to a business entity in which the filer or the filer's spouse owns an investment if disclosure of the person's name would violate a legally recognized privilege under California law, such as but not limited to the attorney-client and the physician-patient privileges. Such person's name may be withheld in accordance with the rules relating to privilege applicable to disclosure under the California Political Reform Act of 1974, as amended, and pursuant to the procedure established by 2 California Code of Regulations Section 18740, as amended, or by a successor regulation.

G. **Disclosure by Consultants.**

1. The City Ethics Commission shall adopt by regulation a definition of "**consultants**" who are required to file statements of economic interests. In addition to the disclosure requirements of the Political Reform Act, such consultants shall identify their other clients who paid them more than \$10,000 during the previous year and shall disclose such other information that the Commission determines, by regulation, is necessary to identify potential conflicts of interest.

2. ~~Each consultant who is required to file a statement of economic interest shall be required to attend a training program conducted or sponsored by the Commission.~~

H. ~~**Semi-annual City Contract List.** On a semi-annual basis, the City Ethics Commission shall publish a list identifying for each agency any person who, during the prior six months, was a party to a contract with the City, was a bidder on any City contract, or responded to a request for proposals for a contract with the City immediately preceding immediately preceding~~

I. ~~Statements of City Related Business.~~

1. ~~Each person holding an elective City office, each general manager of a department of City government, each member of a board of commissioners or any other board of City government, whether created by ordinance or by Charter, and each appointive officer named in the Charter, shall file Statements of City Related Business with the City Ethics Commission in accordance with the provisions of this subsection. Such person shall file a Statement of City Related Business within ten (10) calendar days after each occurrence of one or more of the transactions or proceedings described in this subsection.~~

2. ~~For the purposes of this subsection a Statement of City Related Business shall disclose a transaction, or a proceeding, whether or not specifically provided for by law, wherein action was required or requested to be taken or withheld by the City or any of its officers or employees in their official capacity, if:~~

(a) ~~It took place during the tenure of office of the person required to file the statement; and~~

(b) ~~It was participated in by that person, the spouse of that person, or a business entity in which either that person, or a business entity in which either that person or that person's spouse or both in any manner held a five percent (5%) or more ownership interest; and~~

(c) ~~It involved:~~

(i) ~~the sale of real or personal property by or to the City, or~~

(ii) ~~the performance of services to the City pursuant to any contract, or~~

(iii) ~~a grant, loan, or forgiveness or payment of indebtedness by or to the City, or~~

(iv) ~~an application made to, or a grant made by, the City of any license, certificate, permit, franchise, change of zone, variance, credential, or any other form of benefit or relief.~~

3. ~~A Statement of City Related Business need not to include a listing of any application where applicable law requires the granting of the application without the exercise of judgment or discretion by an official or employee of the City.~~

4. ~~The Statement of City-Related Business shall be in sufficient detail as to dates, amounts, identifying numbers or symbols, if any, locations, and subject matter to make the transactions or proceedings listed identifiable by reference to records of the City. It shall be filed on a form provided by the City Ethics Commission.~~
5. ~~Each Statement shall be supported by a written certification or declaration signed under penalty of perjury by the person required to file, and shall become a public record when filed.~~
6. ~~Nothing in this subsection shall be construed to require a member of the Board of Education to file Statements of City-Related Business.~~
7. ~~A Statement of City-Related Business filed pursuant to this subsection shall satisfy the requirements of Section 323.1 of the City Election Code.~~

J. ~~Recusal Notification~~

1. ~~Each member of a City board or commission required to file statements of economic interests pursuant to the Political Reform Act of 1974, as amended, shall complete a "Recusal Notification Form" each time the member recuses himself or herself in relation to an actual conflict of interests or the appearance of a conflict of interests under any applicable law.~~
 - (a) ~~The commission or board member shall submit a copy of the completed Recusal Notification Form to the Executive Secretary for the commission or board (or the person acting in that capacity) as soon as possible after the posting of the agenda containing the item, including continued items, involving the member's conflict of interests.~~
 - (b) ~~In addition, the commission or board member shall submit the original, completed Recusal Notification Form, along with a copy of the meeting agenda containing the item involving the commission or board member's conflict of interests to the Ethics Commission no later than 15 calendar days after the date of the meeting at which the commission or board member recused himself or herself.~~
 - (c) ~~The commission or board member shall also submit the Recusal Notification Form as described in (a) and (b) above to the Executive Secretary and the Ethics Commission even if the commission or board member will not be or was not present at the meeting, but would have been required to recuse himself or herself on a matter appearing on the commission or board agenda if the member had been present.~~~~2. The Recusal Notification Form shall be prescribed by the City Ethics Commission, but shall include at a minimum the following:~~
 - (a) ~~Name of the commission/board member recusing himself or herself;~~
 - (b) ~~Name of the board or commission of which he or she is a member;~~
 - (c) ~~The date of the meeting at which the recusal occurred or would have occurred;~~

- (d) ~~—The agenda item number and brief description of the matter;~~
- (e) ~~—The specific economic or other outside interest causing recusal (for example, personal residence, client of firm, source of income, board member of organization); and~~
- (f) ~~—Whether the matter concerns the making of a contract.~~

SEC. 49.5.711

Disclosure By Nominees

- A. Each person nominated to a position in any government agency subject to a conflict of interests code, where appointment is subject to confirmation by the City Council, shall file a financial disclosure statement with the City Ethics Commission in the format required by Section 49.5.6. The financial disclosure statement shall be filed within 21 days of the Mayor's appointing authority's transmission of the nominee's appointment to the City Council.
- B. ~~Prior to consideration of the confirmation of the nominee by the Council~~Within five business days of receiving a complete financial disclosure statement from the appointee, the Ethics Commission shall review the statements filed pursuant to this section and staff shall report to the forward a copy of the financial disclosure statement to the appointing authority and the City Council, or to its committee confirming the appointment, these investments, interests in real property or sources of income which the Commission determines would constitute a potential conflict of interest.

SEC. 49.5.8

Divestiture of Assets

~~Every City agency shall make every effort to avoid hiring or appointing City officials who hold, and are unwilling or unable to sell, assets that would present significant and continuing conflicts of interest.~~

SEC. 49.5.172

Commissioner Participation in Contracting Process Generally

- A. ~~Except as provided below at a public meeting, no~~Except as provided below at a public meeting, no member of a City board or Commission shall not participate in or otherwise be involved in the development, review, evaluation, or negotiation of and or the recommendation process of for bids, proposals, or any other submittals or requests for the award or termination of a contract, contract amendment, or change order involving that Board, Commission, Office or Department agency. This does not preclude individual members from reviewing documents and other information provided by agency staff when preparing for a public meeting at which the matter will be considered.

B. ~~This Section does not preclude a Board or Commission, acting as a body, from reviewing staff recommendations when considering award of a contract, contract amendment or change order; providing direction to the general manager on contract requirements and negotiations; or considering proposals or other requests submitted for the award of a contract, contract amendment or change order. Nor does this Section preclude the efforts of individual members in reviewing documents and other information provided by or available from staff when preparing for the meetings of the full Board or Commission or committee at which the matter will be considered.~~ **Semi-annual City Contract List.** On a semi-annual basis, Each agency shall submit to the Ethics Commission lists identifying every person who was a party to an agency contract, was a bidder on an agency contract, or responded to a request for proposals for an agency contract.

1. Lists must be submitted in a format prescribed by the Ethics Commission twice a year: once by January 31, covering the immediately preceding July 1 through December 31; and once by July 31, covering the immediately preceding January 1 through June 30.
2. A contract that is publicly accessible through a City contract database need not be included in a list.
3. On its Web site, the Ethics Commission shall make publicly available the lists and the City contract databases that are accessible by the public.

~~Additionally, if the Board or Commission so approves, a committee of at least two members of the body may participate in the review of staff recommendations regarding the award of a contract, contract amendment, or change order; consider proposals or other requests submitted for the award of a contract, contract amendment or change order; and/or conduct subsequent negotiations on terms or conditions of a contract within the criteria established by that Commission or Board. All participation by committees shall take place only in publicly-noticed meetings pursuant to the Ralph M. Brown Act.~~

SEC. 49.5.213

Effect of Campaign Contracts and Money Laundering Violation on Contracts and Fee Waivers

A. Applicability.

- ~~1. This section is applicable if the City Ethics Commission makes a finding that a person has laundered campaign funds in violation of City Charter Section 470(k), and that finding is made after an administrative enforcement hearing pursuant to Charter Section 706 or as a result of a stipulation between the person committing the violation and the City Ethics Commission.~~
- ~~2. This section is applicable to the following contracts awarded or fees waived by the City Council or by any City agency, excluding the following proprietary City departments: Airports, City Employees Retirement System, Harbor, Library, Pensions, Recreation and Parks, and Water and Power:~~
 - ~~(a) all contracts for personal services, and to all other contracts involving a contract price in an amount of \$1,000 or more;~~

~~(b) all discretionary fee waivers of \$1,000 or more.~~

~~3. This section is applicable only to violations committed after the effective date of the ordinance adding this section.~~

BA. Competitively Bid Contracts.

~~1. Prior to awarding any contract which is required to be awarded to the lowest responsible bidder, the City Council or other City board, commission or officer charged with the duty to award the contract (the awarding authority) shall determine whether the lowest monetary bidder has been found to have committed the violation as specified in Subsection A 1 above within the previous four years.~~

~~2. The An awarding authority shall not award the a contract to the lowest monetary a bidder; if, following a hearing as described in Subdivision 3 below, it finds the following:~~

~~a. The Ethics Commission has found that the bidder violated City Charter Section 470(k) in the previous four years; and~~

~~b. that, as a result of the violation, the awarding authority believes that tThe bidder lacks integrity such that it is unfit to perform the work specified in the contract. The awarding authority shall make that finding unless there are specific facts brought to its attention; in writing, which that indicate otherwise.~~

~~2. On that basisIf the findings in paragraph 1 are made, the awarding authority shall deem the bidder to be not responsible.~~

~~3. Prior to making a finding that a bidder is not responsible as set forth in Subdivision 2, the awarding authority shall do the following:~~

~~a. nNotify the bidder of its intention to consider making such athe finding.~~

~~b. The awarding authority shall eOffer the bidder an opportunity to present evidence and argument argue that, despite the bidder having been found to have violated the City law prohibiting the laundering of campaign fundsviolation, the awarding authority should not have reason to question the bidder's integrity and fitness to perform the contract.~~

~~c. If the bidder desires to present such evidence and/or argument to the awarding authority, the awarding authority shall hHold an informal hearing. A at that hearingwhich the bidder shall be allowed toand other interested parties may make a presentations.~~

~~d. After having eConsidered the bidders presentation, and the presentations of the bidder and any other interested parties, the awarding authority may make the finding set forth in Subdivision 2 if it is and be satisfied that such the finding is merited.~~

CB. Contracts Awarded on a Basis Other Than Competitive Bidding. The City Council or other City board, commission or officer charged with the duty to award a contracting authority shall not approve any contract on behalf of the City, other than a contract required to be awarded to the lowest responsible bidder, with any party, if the party who has been found by the Ethics Commission to have committed the violation as specified in Subsection A.1 above violated City Charter Section 470(k) within the previous four years.

DC. Fee Waivers. The City Council or other City board, commission or officer shall not grant any A discretionary fee waiver of more than \$1,000 of any City fee shall not be granted for any person if the person who has been found by the Ethics Commission to have committed the violation, as specified in Subsection A.1 above violated City Charter Section 470(k) within the previous four years.

ED. Notice of Violations.

1. The City Ethics Commission shall provide a copy of every Commission enforcement decision relating to a violation as specified in Subsection A.1, together with a copy of any stipulation filed in the case, of City Charter Section 470(k) to the general manager or other head of each City agency to which this section applies.
2. A person who submits a bid or proposal to in connection with any contract or a requests for a fee waiver with a City agency to which this section applies shall include with the bid, contract proposal or fee waiver documents submission or request a copy of the Ethics Commission's decision of violation as specified in Subsection A.1 made within the previous four years, together with a copy of any stipulation filed in connection therewith.
3. With respect to a decision on a contract or fee waiver considered by the City Council, the City Clerk shall submit a A report which that contains sufficient information to allow the a decision-making body to comply with the requirements of these provisions, this section shall be submitted to the decision-making body by the following:
 - a. By the City Clerk, when the City Council is the decision-making body.
 - b. By agency staff when a City board or commission is the decision-making body.
4. With respect to a decision on a contract or fee waiver considered by a City board or commission, the agency staff shall submit a report which contains sufficient information to allow the body to comply with the requirements of these provisions.

FE. Reduction of Time Period of Prohibitions and Notification. If tThe City Ethics Commission may reduce the time during which this section applies to not less than one year if it makes a findings that the contracting party has done either of the following:

- (1). aAccepted responsibility for the violation in the form of having by entered into a stipulation with the City Ethics Commission in which the party admits the violation, or otherwise exhibits evidence of having accepted responsibility; i or

- (2). ~~m~~Mitigated the wrongdoing by taking prompt remedial or corrective action, then the City Ethics Commission may reduce the time period during which the above prohibitions and notification requirements would apply to a period of not less than one year.

GF. Waiver of Provisions. The City Council by a two-thirds vote of its entire membership may waive any or all of the prohibitions contained requirements in this section if the Council ~~it~~ makes a written finding finds that an overriding public policy consideration justifies entering into the contract or waiving the fee despite the prohibition contained in this section doing so.

1. The finding must be approved in writing by a two-thirds vote of the City Council's entire membership.

2. The finding shall set forth ~~must identify~~ the nature of the overriding public policy consideration and the reason why that consideration justifies the waiver of the prohibition. A waiver is ~~and shall be made only when the waiver is justified by if it would result in~~ a significant community or financial benefit to the City or if it is necessary to preserve the health, safety, or welfare of the public.

G. Exception. This section, excluding subsection D(1), does not apply to the following proprietary City departments: Airports, City Employees Retirement System, Harbor, Library, Pensions, Recreation and Parks, and Water and Power.

SEC. 49.5.114

Lobbying Activities of Current and Former City Officials

A. A member of a City board or commission who is required to file statements of economic interests pursuant to the Political Reform Act shall not receive compensation to communicate, either personally or through an agent, with a City official for the purpose of attempting to influence action on a City matter on behalf of a person other than an agency.

B. No ~~A~~ former City official or agency employee of any agency (as defined in Section 49.5.2) who personally and substantially participated in a decision, proceeding, claim, contract, legislation or other specific matter during his or her City service, shall, ~~for not receive~~ compensation, to attempt to influence any City action on that specific matter, either personally or through an agent, on behalf of any person other than an agency. This prohibition applies only if the specific matter is still pending before an agency or if an agency is a party to or has a direct or substantial interest in the specific matter. For purposes of this provision, "personal and substantial" participation includes, but is not limited to, making or voting on a decision or making a recommendation, rendering advice, investigation or conducting research.

B1. No ~~A~~ former City official or agency employee shall, ~~for not receive~~ compensation, knowingly to counsel, or assist any other person other than an agency (as defined in Section 49.5.2) in connection with an appearance or communication in which regarding activity that is prohibited for the former City official or agency employee is prohibited from engaging pursuant to Subsection A this subsection.

2. This prohibition applies as long as the matter is still pending before an agency or an agency is a party to the matter.

~~C3.~~ Theis prohibitions contained in Subsections A and B shall does not apply; when the former City official or agency employee participated in the matter in solely a ministerial capacity.

1. ~~To prevent a former City official or agency employee from making or providing a statement, based on the former official's or employee's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received other than that regularly provided for by law or regulation for witnesses.~~

2. ~~To communications made solely for the purpose of furnishing information by a former City official or agency employee if the court or agency to which the communication is directed makes written findings that:~~

(a) ~~The former official or employee has outstanding and otherwise unavailable qualifications;~~

(b) ~~The former official or employee is acting with respect to a particular matter which requires such qualifications; and~~

(c) ~~The public interest would be served by the participation of the former official or employee.~~

3. ~~With respect to appearances or communications in a proceeding in which a court or agency has issued a final order, decree, decision or judgment but has retained jurisdiction, if the agency of former employment gives its consent by determining that:~~

(a) ~~At least five years has elapsed since the termination of the former official's or employee's employment or term of office; and~~

(b) ~~the public interest would not be harmed.~~

DC. The following time-based restrictions on lobbying activities apply to former City officials.

1. For two years after leaving City service, noa former elected City officer who left City service on or after January 1, 2007 shall, for not receive compensation, engage in direct communication with any agency for the purpose of to attempting to influence, either personally or through an agent, any City action or decision on any matter pending before any agency on behalf of any person other than an agency.

2. For one year after leaving City service, no other a former elected City officer, member of the City Ethics Commission or other former high-level City official who was a high-level official at any time during the 12 months prior to leaving City service shall, for not receive compensation, engage in direct communication with any agency for the purpose of to attempting to influence, either personally or through an agent, any City action or decision on any matter pending before any agency on behalf of any person other than an agency.

- ~~E3.~~ For one year after leaving City service, ~~no a~~ former City official shall ~~for a not~~ receive compensation, ~~engage in direct communication with any agency in which he or she served during the twelve month period preceding his or her departure from City service, for the purpose of to attempting to influence, either personally or through an agent, any City action or decision on any matter pending before that an agency in which the City official served during the 12 months preceding the official's departure from City service on behalf of any person other than an agency.~~ For purposes of this subsection, the agency of a City Council office employee means his or her former Council office and the Councilmember of that district. Serving an agency means being directly employed by or being assigned or on loan to that agency.
- ~~FD.~~ For purposes of this section, ~~a decision does not include any ministerial action. A ministerial action is one that does not require a City official or employee to exercise discretion concerning any outcome or course of action.~~ This section does not apply to the following:
- ~~1.~~ Attempts to influence solely ministerial action on City matters.
 - ~~2.~~ Attempts to influence made by former City officials who are officers or employees of a governmental entity and are solely representing that entity in an official capacity.
- ~~E.~~ By July 31 of every year, each elected City officer shall designate in writing to the Ethics Commission the members of the elected City officer's staff who are high-level officials.
- ~~GF.~~ Upon the petition of any interested person or party, a court or the presiding or other officer, including but not limited to any hearing officer, in any judicial, quasi-judicial, or other proceeding, may, after notice and an opportunity for a hearing, exclude any person found to be in violation of this section from further participation, participating in or from assisting or counseling any other participant, in the a proceeding then pending before such that court or presiding or other officer. Notice and an opportunity to be heard must be provided.
- ~~H.~~ No provision contained in this section shall prevent any former City official from representing himself or herself, or any member of his or her immediate family, in their individual capacities, in connection with any matter pending before an agency.
- ~~I.~~ This section shall not apply to the activities of any former City official or employee who is an elected or appointed officer or employee of any city, county, district, multi-jurisdictional, state or federal government agency, when that former City official or employee is solely representing that agency in his or her official capacity as an officer or employee of the agency.
- ~~J.~~ No member of a board or commission of the City shall, for compensation, communicate directly, either personally or through his or her agent(s) at the member's behest, with any City official for the purpose of attempting to influence action on municipal legislation on behalf of any other person. For the purposes of the subsection, "municipal legislation" shall have the meaning set forth in Section 48.02 of this Code. This subsection is applicable only to members of those boards and commission[s] of the City who are required to file statements of economic interests pursuant to the Political Reform Act of 1974, as amended. Nothing in this subsection shall prohibit a member of a City board or commission from appearing before any City agency in the same manner as any other

member of the general public solely to represent himself or herself on a matter related to his or her personal interests.

SEC. 49.5.125

Future Employment of City Officials

A. The following limits on future employment apply to City officials.

1. The Mayor, the City Attorney, the City Controller, a general manager, and a chief administrative officer shall not directly or indirectly, knowingly or willfully negotiate the possibility of future employment or business opportunities with a person other than a government agency if the person has a matter that is currently pending before that City official or the City official's agency.

2. No A member of the City Council or member of, any City board, or commission, committee or another such voting body of any agency who is required to file statements of economic interests pursuant to the California Political Reform Act, shall not directly or indirectly, knowingly or willfully negotiate the possibility of future employment or business opportunities with any person (other than a government agency) who if the person has a matter within the regulatory, proprietary, or contractual jurisdiction of his or her agency that is currently pending before that officer or employee City official or before any body of which he or she the City official is a voting member.

B. 3. No other A City official other than one identified in Subsection A or B shall, not directly or indirectly, knowingly or willfully negotiate the possibility of future employment or business opportunities with any person (other than a government agency) who if the person has a matter within the regulatory, proprietary, or contractual jurisdiction of his or her agency that is currently pending before that officer or employee City official.

4. City officials shall not make, participate in making, or use their official City positions to influence a decision involving the interests of a person with whom they have an agreement concerning future employment or business opportunities.

CB. No A person who has a matter pending before a City official, or before any body of which the City official is a voting member shall, not directly or indirectly, knowingly or willfully negotiate the possibility of future employment of or business opportunities for that City official.

DC. No City official shall make, participate in making or use his or her official position to influence a decision involving the interests of a person with whom he or she has an agreement concerning future employment A person has a matter pending if the person is a party to or is compensated to represent a party to the matter.

SEC. 49.5.14

Application of Requirements

The requirements imposed by this Article on officers and employees shall not apply to any officer or employee who terminated his or her City service prior to the effective date of this Article; provided, however, that a person who returns to City service on or after the effective date of this article shall be subject to the requirements of this Article.

SEC. 49.5.186

Ethics and Fraud Awareness Training

- A. Ethics Training.** All City officials are required to complete ethics training at the time of entering City service and no less than once every two years thereafter. The training shall be developed ~~conducted~~ by the City Ethics Commission, in partnership with the Office of the City Attorney. ~~These training sessions, and~~ shall be structured to assure ~~asensure~~ that each participant has have knowledge to comply fully with all of the relevant ethics laws governing their service to the City of Los Angeles.
- B. Fraud Awareness Training.** All full-time City employees are required to complete on-line training for fraud awareness at the time of entering City service and once every two years thereafter. The training shall be developed by the City Controller's Fraud, Waste and Abuse Unit and provided by the Personnel Department as described in the Los Angeles Administrative Code.

SEC. 49.5.197

Enforcement

A. Criminal Enforcement.

1. Any person who knowingly or willfully violates any provision of this article does any of the following is guilty of a misdemeanor. ~~Any person who:~~
 - a. Knowingly or willfully violates a provision of this Article;
 - b. Knowingly or willfully causes any other person to violate any provision of this aArticle; or
 - c. who aAids and abets any other person in the violatieng of any provision of this aArticle, shall be liable under the provisions of this section.
2. ~~Prosecution of violation of any provision of the article shall be commenced within four years after the date of the violation.~~
3. ~~No~~A person convicted of a misdemeanor under this aArticle shall not act as a City lobbyist or as a City contractor for a period of four years following the date of the conviction, unless the court at the time of sentencing specifically determines that this provision shall not be applicable~~applied~~.

4. For the purposes of this section, a plea of nolo contendere shall be deemed a conviction.

B. Civil Actions.

1. Any person who intentionally or negligently violates any provision of this ~~a~~Article shall be liable in a civil action brought by the City Attorney, the City Ethics Commission, or by any person residing within the City for an amount not more than the greater of \$5,000 per violation, or for more than three times the amount the person failed to report, properly or unlawfully contributed, expended, gave, or received, whichever is greater.
2. If two or more persons are responsible for any violation, they shall be jointly and severally liable.
3. Any person, other than the City Attorney, before filing a civil action pursuant to this subsection, shall first file with the City Ethics Commission a written request for the Ethics Commission to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. The Ethics Commission shall respond within 40 days after receipt of the request, indicating whether it intends to file a civil action. If the Ethics Commission indicates in the affirmative and files an action within ~~forty~~ 40 days thereafter, no other action may be brought unless the action brought by the Ethics Commission is dismissed without prejudice.
4. In determining the amount of liability, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action, a private plaintiff shall receive ~~fifty~~ 50 percent (50%) of the amount recovered. The remaining ~~fifty~~ 50 percent shall be deposited into the City's General Fund. In an action brought by the City Attorney or the Ethics Commission, the entire amount shall be paid to the General Fund.
5. ~~No~~ An action alleging a violation of this article may not be filed more than four years after the date the violation occurred.
6. The court may award to a party other than an agency who prevails in a civil action that party's costs of litigation, including reasonable attorney fees. If the costs are awarded against the City, the payment of the award is the responsibility of the City, subject to City Council approval.

- C. **Injunctive Relief.** Any person residing within the City of Los Angeles, including the City Attorney, may sue for injunctive relief to enjoin violations of or to compel compliance with ~~the provisions of this a~~Article.

- D. **Costs of Litigation**~~**Administrative Penalties.**~~ The court may award to a party, other than an agency, who prevails in any civil action authorized by this article, his or her costs of litigation, including reasonable attorneys' fees. ~~If the costs or fees are awarded against the City, the payment of such award shall be the responsibility of the City.~~ The Commission may impose penalties and issue orders for violations of this Article pursuant to its authority under Charter Section 706(c).

~~E. **Limitation of Actions.** No civil action alleging a violation of this article shall be filed more than four years after the date of the violation.~~

~~FE. **Discipline.** Any appointed officer-City official or agency employee who violates any provision of this aArticle shall be subject to administrative discipline by his or her appointing authority. Such discipline shall be administered in accordance with procedures, prescribed by law or established by City policy, applicable to the officer or employee. The Commission shall notify an agency when one of its City officials or employees is found to be in violation of this Article.~~

~~GF. **Enforcement of Community Redevelopment Agency and Housing Authority Ethics Regulations.**~~

~~1. In the event that the Community Redevelopment Agency of the City of Los Angeles and/or the Housing Authority of the City of Los Angeles adopts governmental ethics regulations governing the conduct of their officers and employees and current or former officers or employees, violations of those regulations are subject to the civil and administrative enforcement proceedings set forth in and discipline under Subsections B through E of this section and to the administrative enforcement provisions of Charter Section 706.~~

~~2. The City Ethics Commission is authorized to conduct administrative enforcement investigations and proceedings and to impose administrative penalties and orders for violations of governmental ethics regulations adopted by the Community Redevelopment Agency of the City of Los Angeles and/or the Housing Authority of the City of Los Angeles. Those proceedings shall be governed by the City Ethics Commission's enforcement regulations contained in Section 24.21 of the Los Angeles Administrative Code, as amended.~~

~~3. Any officer or employee of the Community Redevelopment Agency or the Housing Authority who violates any provision of the governmental ethics regulations adopted by those agencies shall be subject to administrative discipline by his or her appointing authority. That discipline shall be administered in accordance with procedures, prescribed by law or established by agency policy, applicable to the officers or employees.~~

SEC. 49.5.2018 **Late Filing Penalties**

If anyIn addition to any other penalties, a person who files an original statement or report after any deadline imposed by this aArticle, he or she shall, in addition to any other penalties or remedies established by the article, be is liable to the City Ethics Commission in the amount of twenty-five dollars (\$25) per day after the deadline until the statement or report is filed, up to a maximum of \$500. Liability need not be enforced by the City Ethics Commission if the Commission on an impartial basis its executive officer determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the aArticle, except that no-1. Liability shall may not be waived if a statement or report is not filed within 30 days after receiving notice from the Ethics Commission staff that the statement or report is past due.

SEC. 49.5.2219
Authority of to Enact

This article is enacted pursuant to and under the authority of the City Charter of this City, California Government Code Sections 1125, *et seq.*, California Government Code Section 81013, and California Constitution, Article XI, Section 5.

SEC. 49.5.230
Applicability of Other Laws Recordkeeping

~~Nothing in this article shall exempt any person from complying with applicable provisions of any other laws.~~ Persons subject to this Article shall keep records that demonstrate compliance with this Article and the related provisions of the Political Reform Act and the City Charter for four years.

SEC. 49.5.241
Severability

The provisions of this Article are severable. If any provision of this aArticle, or its application to any person or circumstances, is held invalid by any court, the remainder of this aArticle or and the application of such the provision to other persons or circumstances other than those as to which it is held invalid, shall is not be affected thereby by that determination, to the extent such that the provision or its application can be given effect, and to this extent the provisions of this article are declared to be severable.



OFFICE OF THE CITY ATTORNEY
ROCKARD J. DELGADILLO
CITY ATTORNEY

REPORT NO. R 0 7 - 0 4 5 7

DEC 1 9 2007

REPORT RE:

PROPOSED CITY *EX PARTE* POLICY

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 07-3294

Honorable Members:

This report is in response to a City Council motion by Councilmembers Greuel and Garcetti. That motion requests recommendations from the City Attorney and City Ethics Commission regarding the potential regulation of *ex parte* communications by City Commissioners. We have been informed that the City Ethics Commission will consider this subject at its December meeting and will report under separate cover.

I. **Background**

Ex parte contacts are communications occurring between governmental decision-makers and third parties, outside of the official proceedings and off the record. In other words, *ex parte* communications occur outside the presence of all other interested parties. *Ex parte* communications arise in three distinct contexts: 1) adjudicative or quasi judicial actions; 2) legislative and policy matters; and 3) contracting processes. Different legal issues arise depending upon the context in which an *ex parte* communication occurs. For the reasons described in detail below, we recommend that the City adopt a policy reflecting the distinct nature of the three settings in which *ex parte* communications arise and addressing them accordingly.



II. Discussion

A. The City Should Adopt a Policy Prohibiting *Ex Parte* Communications on Quasi-Judicial and Quasi-Adjudicative Matters.

The United States and California Constitutions guarantee that participants in judicial proceedings have the right to "due process" of law. U.S. Const. Amend. 5 and 14; Cal. Const. Art. I, § 7. California statutory law extends the constitutional guarantee of due process to quasi-adjudicative proceedings, thereby ensuring that the parties receive a fair "trial" even in these non-courtroom proceedings. Code of Civil Procedure (CCP) § 1094.5(b). Quasi-judicial or quasi-adjudicative generally refers to a matter in which the decision-maker is required to hold a hearing and to make a decision by applying the law to particular facts presented at the hearing on the matter. The decision in each case must be based only on the evidence, the law and arguments presented at the hearing or otherwise made part of the record. Examples of City proceedings considered to be "quasi-judicial" or "quasi-adjudicatory" include permit appeals, license revocations, certain land use matters and enforcement matters.

The requirement for a fair hearing "requires that the party be apprised of the evidence against him so that he may have an opportunity to refute, test, and explain it . . ." *English v. City of Long Beach* (1950) 35 Cal.2d 155, 159. The courts have said that the receipt and consideration of evidence outside of the hearing process, *i.e.*, *ex parte*, denies the parties a fair hearing. *Mathew Zaheri Corp. v. New Motor Vehicle Bd.* (1997) 55 Cal.App.4th 1305, 1319. The failure to accord any of the parties a fair trial is a basis for a court to overturn the decision. CCP § 1094.5(b).

By its very nature, an *ex parte* communication occurs outside of the official proceedings and of the record, *i.e.*, outside the presence of all parties. In *Portland Audubon Society v. Endangered Species Commission* (9th Cir. 1993) 984 F.2d 1534, 1543, the court concluded that "ex parte communications are antithetical to the very concept of an administrative court reaching impartial decisions."

Other public agencies in California have enacted regulations applicable to *ex parte* communications in the context of quasi-judicial matters. Some policies prohibit *ex parte* contacts while other policies require public disclosure of *ex parte* contacts. For instance, the California Administrative Procedures Act (CAPA) prohibits the presiding officer, head of an agency and other persons or bodies with power to hear or make decisions in an adjudicatory proceeding from having *ex parte* communications with an employee of an agency where the agency is a party or with any interested party outside the agency. Cal. Gov't Code §§ 11430.10(a), 11430.70(a). The CAPA also provides for the disqualification of the official involved in the *ex parte* communication or requires the *ex parte* communication to be made part of the record, with notice to all parties. Similar rules apply at the federal level. 5 U.S.C. § 557(d)(1).

The City of San Diego is currently considering the adoption of an *ex parte* policy. The proposal, which was forwarded to the San Diego city council from the San Diego Ethics Commission, deals exclusively with quasi-judicial matters. The central issue raised by the San Diego Ethics Commission is whether to ban *ex parte* communications or, instead, to require that *ex parte* communications be disclosed. If the San Diego City Council opts to require disclosure, the San Diego Ethics Commission also raised the question of whether the disclosure should be in writing.

Mindful of the Constitutional, statutory and judicial concerns pertinent to *ex parte* communications, this office consistently has advised board and commission members to avoid *ex parte* contacts on quasi-judicial matters. *Ex parte* communications may give rise to an appearance of impropriety because excluded parties do not have the opportunity to know precisely what transpired during the private meeting and to address those points.

On at least three occasions, this office has issued formal opinions under former Charter Section 28.1 (now Charter Section 222) in which we held that it would not be in the public interest for a commissioner to act on a matter where the commissioner met privately with a party to the proceeding. See City Attorney Opinion Nos. 78-29 (April 24, 1978); 81-41 (January 27, 1982); and 85:27 (April 18, 1986). Each opinion noted that the disqualification of the commissioner who participated in an *ex parte* communication "is not only to avoid evil, but to avoid the appearance of evil, thereby giving the public a greater confidence in the acts of its public officials." 76 Ops. City Atty. 204, 211 (1967). Each opinion further noted that whether an *ex parte* communication should result in the disqualification of a commissioner or board member was a fact-specific determination that required a case-by-case analysis. Opinion No. 85:27 at p. 6.

This office continues to believe that preserving the validity and integrity of the City's administrative decisions is best served by a policy proscribing non-elected quasi-judicial decision-makers¹ from engaging in *ex parte* communications in quasi-judicial and quasi-adjudicative matters, as follows:

Non-elected decision-makers who preside over quasi-judicial or quasi-adjudicative matters should not engage in *ex parte* communications with any person on that matter except as provided below, including but not limited to the following: (i) parties to the matter and their representatives; (ii) staff of any City agency (as defined in LAMC Section 49.5.2) or official involved in the proceeding where the agency or official is an applicant, complainant, appellant, advocate or one who makes a recommendation for action (e.g., enforcement staff of the Ethics Commission, zoning administrators

¹ Non-elected decision-makers include all members of any board or commission even if elected by a membership such as the pension, retirement, and deferred compensation boards.

in an appeal of a nuisance abatement proceeding, and Internal Affairs Division in matters involving the Los Angeles Police Department); (iii) members of the public; and (iv) staff of any agency conveying information from any of the persons identified in (i)-(iii).

However, a decision-maker may engage in *ex parte* communications, where circumstances require, for scheduling, administrative purposes, or emergencies that do not deal with substantive matters, provided: (i) the decision-maker reasonably believes that no party will gain a procedural or tactical advantage as a result of the *ex parte* communication; and (ii) the decision-maker promptly notifies all other parties of the substance of the *ex parte* communication.

Notwithstanding the policy against *ex parte* communications, if an *ex parte* communication described in the paragraph above inadvertently occurs, the board member or commissioner receiving the communication must disclose the fact of the communication and the substance of the communication on the record. Disclosure shall be made by placing a document in the record setting forth the particulars of the communication, including the date, initiating party, all recipients and a summary of the substance. Copies shall be given to each decision-maker and each party, and the parties will be given an opportunity to comment on the disclosure.

In addition, communications from complainants to quasi-judicial decision-makers in enforcement matters should be referred to the appropriate enforcement staff and the decision-maker should not have any extended discussion with the complainant about that matter. The details of these communications need not be disclosed.

This office does not recommend that the above-recited policy against *ex parte* communications for non-elected decision-makers be extended to elected officials, due to the Constitutional considerations applicable to interactions between constituents and their elected representatives. The First and Fifth Amendment to the U.S. Constitution and Article I, Sections 1, 3 and 7 of the California Constitution provide each citizen with the right to petition his or her elected officials and also to receive a due process fair hearing for those with property rights at stake. These two constitutional principles create a tension that can best be resolved by the following, narrowly tailored policy for elected officials:

With respect to matters that will potentially come before Elected Officials for a quasi-judicial decision, they should, to the extent feasible, avoid *ex parte* contacts. If these contacts do occur, Elected Officials should consider disclosing the communication on the record and giving the parties an opportunity to comment on the

disclosure. Neither the occurrence of an *ex parte* communication nor the failure to provide disclosure of the communication shall provide a basis for the invalidation of any City action or decision.

We recommend that *ex parte* policies be instituted via motion or resolution, rather than by codification in the Municipal or Administrative Codes.

If the City Council decides to institute an *ex parte* policy, it may wish to consider the format for adoption. A policy can be adopted by way of a resolution or an ordinance (uncodified or codified in one of the City's Codes). Codification could penalize unintentional conduct or potentially void City decisions, which we believe to be more likely if the policy is codified (but the risk is not entirely eliminated if the policy is not codified). A resolution, an uncodified ordinance or an ordinance amending the Los Angeles Administrative Code would not necessarily provide a specific penalty for violation. However, if the policy is adopted by ordinance codified in the Los Angeles Municipal Code, a criminal sanction may be available for violation.

B. The City Should Not Adopt A Ban On *Ex Parte* Communications On Policy or Legislative Matters.

Under existing law, there is no legal requirement that decision-makers avoid *ex parte* contacts on policy matters. Competing expectations bear on the issue of whether *ex parte* communications should be avoided in connection with legislative and policy matters. On one hand, when input is provided to elected officials or commission or board members via an *ex parte* communication, the substance of the communication and the impact of the communication on the decision-makers' deliberations is not open to public scrutiny. On the other hand, the public has Constitutional rights to access their elected officials. The public also has an expectation that they should be able to provide input into policy decisions at the commission or board level.

Most public agencies that have adopted *ex parte* policies have applied them only to quasi-judicial matters, not to legislative matters. However, at least two City Commissions have adopted some form of *ex parte* policy on legislative or policy matters. The Board of Harbor Commissioners is prohibited from engaging in *ex parte* contacts on legislative or policy matters after a meeting agenda has been posted. Rather than prohibiting *ex parte* communications, the members of Board of Information Technology Commission (BITC) are required to report *ex parte* contacts at the first public meeting occurring after the communication. The first item on each agenda requests disclosure of *ex parte* communications.

On balance, we believe that the public's Constitutional rights and expectation of access to government officials argues against a Citywide ban on *ex parte* communications with regard to legislative or policy matters. The Council may wish to consider whether disclosure of *ex parte* communications is appropriate.

C. City Law Already Prohibits City Board and Commission Members from Engaging in *Ex Parte* Contacts during the Contracting Process.

The City's Governmental Ethics Ordinance already prohibits members of City boards and commissions from engaging in *ex parte* communications in matters involving contracts or potential contracts. Los Angeles Administrative Code § 49.5.17. Section 49.5.17 prohibits members from participating in contracting decisions except during an official meeting in public session or to request information from staff in preparation for a public meeting. The ban on *ex parte* communications ensures integrity in the City contracting process. Therefore, we do not believe any additional Council action is necessary to address *ex parte* communications to protect the contracting process.

III. Conclusion

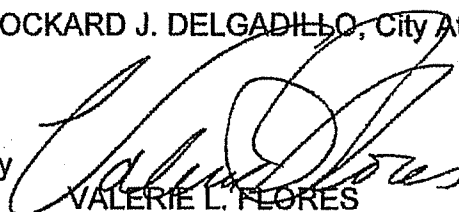
The best approach is to have a consistent Citywide *ex parte* policy and the City Council is the appropriate authority to adopt this policy. In the absence of a Citywide policy, each commission or other body can adopt a policy it deems appropriate. If the Council adopts a Citywide policy without codifying it, each commission or body could adopt a stricter policy.

If you have any questions about this matter, please contact Claudia Culling at (213) 978-7182, or me at (213) 978-2038.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By



VALERIE L. FLORES
Assistant City Attorney

VLF:lee

cc: Gerry Miller, Chief Legislative Analyst
LeeAnn Pelham, Executive Director, City Ethics Commission