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REPORT NO. R 1 3 - 0 3 4 2
DEC 0 3 2013

REPORT RE:

**DRAFT ORDINANCE TO AMEND THE CITY'S GOVERNMENTAL ETHICS
ORDINANCE IN THE MUNICIPAL CODE**

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

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration, approved as to form and legality, a draft Ordinance amending the City's Governmental Ethics Ordinance. This draft Ordinance was transmitted pursuant to Council Rule 38 to the City Ethics Commission.

Summary of Ordinance

The Ordinance makes several substantive and technical revisions to the City's Governmental Ethics Ordinance and, accordingly, this draft Ordinance would replace the entirety of the existing Governmental Ethics Ordinance. The draft Ordinance incorporates changes proposed by the Ethics Commission as outlined in its August 16, 2013, communication to the City Council, and as modified by the City Council at its meeting on October 22, 2013, and other legal and technical changes as discussed below.

The changes to the current Governmental Ethics Ordinance include replacing the City definition of "gift" with the state definition. The City's gift definition has become outdated and the disparity between the state and City definition leads to confusion.

Some of the City's restricted source gift limits will change. Under the Ordinance, a donor who is a restricted source of gifts or outside income is defined as meeting any of the following four prongs: 1) a lobbyist or lobbying firm; 2) a person who has a contract, performs under a contract or seeks a contract; 3) a person seeking to influence the City official; or 4) a person who has or had a license, permit, or entitlement for use (which includes non-low bid contracts) pending before the City official.

The City's current gift limit for restricted sources is \$100. The Ordinance would tie the City gift limit to a percentage of the state gift limit (approximately thirty-three percent). Currently, thirty-three percent of the State gift limit would be \$160. Because the state gift limit is revised every two years, the City's limit will change periodically. Note that the current gift limit for lobbyists and lobbying firms is \$0 and that gift limit would not change. Lobbyists and lobbying firms are identified in an existing Ethics Commission database.

In order to assist in determining the second prong of the restricted source definition, the Ordinance calls for creation of a City-wide database for all City contracts, bids and proposals, to be maintained by the Ethics Commission. City officials will be able to utilize the database to assist in determining whether a donor of gifts or outside income is a restricted source to the official and, therefore, whether the gift or outside income may be accepted. Under the terms of the Ordinance, all City departments and offices will be required to provide a list of city contractors and bidders to the Ethics Commission on a quarterly basis. If an office or department does not send the quarterly report on time, the head of the department or office will be subject to late filing penalties. Until the database is certified by the Ethics Commission and the City Council, gifts received from contractors and proposers that do not qualify as a restricted source under one of the other three prongs will not be subject to the new City gift limit.

The Ordinance specifies the duties of City officials regarding donors and provides a presumption that a donor is not a restricted source to a City official if the City official: 1) checks the relevant Ethics Commission databases; 2) makes a reasonable inquiry including asking the donor about his or her status; 3) asks the relevant department about the status of the donor; and 4) reviews the City Clerk's Council File Management System database.

The Ordinance also revises the City's post-City employment provisions. The current two year "cooling off" period applicable to elected officials has been revised to a one year period, consistent with the "cooling off" period for all other City officials. The Ordinance expands the list of City officials subject to the broad prohibition against attempting to influence any City official during the revolving door period. The list will include all general managers and additional staff in the elected offices.

The political activities restrictions proposed by the Ethics Commission have been modified in the draft Ordinance to take into account the wide variety of types and functions of City owned property and buildings and to comply with First Amendment constraints. As drafted, city employees and officials will be prohibited from engaging in

political activity during working hours, with use of City resources, or in City rooms or buildings where City business is conducted unless the room is available to the public to use for organized campaign activities. The City's existing Campaign Finance Ordinance prohibits any person from delivery or solicitation of campaign contributions in City Hall or City office building.

Other significant changes are included in the Ordinance including requiring elected officials, commissioners, general managers and chief administrative officers to file a "restricted source form" annually, instead of the current semi-annual filing requirement. The Ordinance also expands the prohibition on retaliation by City officials and employees. The Ordinance will make unlawful the retaliation against persons reporting possible violations of *any* law. The Ordinance also adds a violation for a conflict of interest within the Commission's administrative enforcement authority. Also updated is the definition of "confidential information" that cannot be disclosed by current or former City officials and employees.

As requested by City Council, the draft Ordinance does not include the Ethics Commission's proposals regarding ex parte communications. However, as a matter of existing law, City decision makers on quasi-judicial matters must comply with constitutional due process principles. This Office will continue to advise that ex parte communications should generally not occur in quasi-judicial matters.

If you have any questions regarding this matter, please contact Deputy City Attorney Renee Stadel at (213) 978-7100. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By



DAVID MICHAELSON
Chief Assistant City Attorney

DM:RS:ac
Transmittal

cc: City of Los Angeles Ethics Commission
Chief Legislative Analyst, City of Los Angeles

ORDINANCE NO. _____

An ordinance amending Article 9.5 of the Los Angeles Municipal Code to make various changes to the City's ethics laws.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Article 9.5 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

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 state's Political Reform Act.

A. "Agency" means the City of Los Angeles or any City department, bureau, office, board, commission, or 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. The term does not include a governmental entity that is not within the City's control, even if the entity is required to adopt a conflict of interests code subject to City Council approval, unless the entity elects to be subject to this Article.

B. "Bidder" means a person who bids on or submits a proposal or other response to a City contract solicitation including a request for proposals, request for bids, request for qualifications, or any other request for purposes of entering into a contract.

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 a statement 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. “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.

H. “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, or distributing campaign materials; conducting research; or posting comments on social media or other Internet sites.

I. “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 as amended from time to time.

J. “Restricted source” means the following:

1. For elected City officers, a restricted source is the following:

a. A person who files as a lobbying firm or lobbyist or is required to file as a lobbying firm or lobbyist, 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 firm or lobbyist, or is required to file as a lobbying firm or lobbyist 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 governmental entity.

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 governmental entity.

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 may include 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.

3. In a room or building that is owned by the City or primarily paid for or used by the City and 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 available to the public for organized campaign activities as long as the City official or agency employee does not use the room or building during the official's or employee's City working hours and does not use other City resources for the activity.

4. Using City equipment, vehicle, supplies, or resources, including but not limited to mailing and distribution lists, electronic mail, and electronic data.

C. 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.

D. 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 when the use of public resources is otherwise legally authorized.

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 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 method 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 a statement 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 under penalty of perjury in a method 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 and California Constitution. When the Political Reform Act's gift provisions, other than gift limits, refer to a lobbying entity, the reference shall include a City lobbying firm and lobbyist.

C. In addition to the state requirements and restrictions identified in Subsection B, City officials shall also comply with the following gift restrictions for restricted sources.

1. A City official shall not solicit a gift from a restricted source. A City official shall not accept a gift that exceeds the applicable gift limit from a restricted source.

2. A person who is a restricted source to a City official shall not offer or make a gift that exceeds the applicable gift limit to that City official.

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 that exceeds the applicable gift limit.

4. The applicable gift limits are as follows:

a. For restricted sources identified in Section 49.5.2(J)(1)(a) or Section 49.5.2(J)(2)(a), the applicable gift limit is zero.

b. For all other restricted sources, the applicable gift limit is 33 percent of the current gift limit under the Political Reform Act, rounded to the nearest ten dollars (\$10), per calendar year. The Ethics Commission shall publish this gift limit.

5. The applicable gift limits for restricted sources do 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 acting in an official City capacity from an organization to which the City, the City official, or the City official's agency belongs as a member.

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, a bona fide educational institution as defined by Section 203 of the California Revenue and Taxation Code, or a governmental entity and where the payments are exempt from the gift limits in the Political Reform Act.

6. A City official has the duty to determine whether a person is a restricted source to him or her. A person offering or making a gift to a City official has the duty to determine whether he or she is a restricted source to that City official.

a. For restricted sources identified in Sections 49.5.2(J)(1)(a) and 49.5.2(J)(2)(a), the following apply:

i. A City official may presume that a person is not a restricted source to him or her if the person is not identified in the electronic filing system for lobbying entities under Section 48.06(B) on the date the gift is offered or made, the City official has conducted a reasonable inquiry into whether the person is a restricted source between database updates, and the City official

does not have personal knowledge that the person qualifies as a restricted source.

ii. The electronic filing system for lobbying entities is a reference for compliance and enforcement purposes for gifts offered or made as of the date the database was last updated.

b. For restricted sources identified in Sections 49.5.2(J)(1)(b) and 49.5.2(J)(2)(b), the following apply:

i. A City official may presume that a person is not a restricted source to him or her if the person is not identified in the database in Section 49.5.11(B) on the date the gift is offered or made, the City official has conducted a reasonable inquiry into whether the person is a restricted source between database updates, and the City official does not have personal knowledge that the person qualifies as a restricted source.

ii. The restricted source gift limit does not apply to sources that are only identified in Section 49.5.2(J)(1)(b) or Section 49.5.2(J)(2)(b) until the Ethics Commission and the City Council initially certify that the database in Section 49.5.11(B) provides enough information for a City official to determine whether a person is a restricted source to him or her under Section 49.5.2(J)(1)(b) or 49.5.2(J)(2)(b).

iii. The database is a reference for compliance and enforcement purposes for gifts offered or made from the date the database is certified through the date the database was last updated.

c. For restricted sources identified in Sections 49.5.2(J)(1)(c), 49.5.2(J)(1)(d), 49.5.2(J)(2)(c), and 49.5.2(J)(2)(d), the following apply:

i. A City official may presume that a person is not a restricted source to him or her if the City official has conducted a reasonable inquiry into whether the person is a restricted source and does not have personal knowledge that the person qualifies as a restricted source.

ii. The Ethics Commission will not maintain a database.

d. A reasonable inquiry includes asking the source, asking a responsible employee in the relevant agency, and reviewing the City Clerk's council file management system.

SEC. 49.5.9. 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 also shall 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. Gifts cumulatively valued at \$50 or more and that were received from a restricted source by the City official or the City official's spouse, registered domestic partner, or dependent child.

e. 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 method 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. 49.5.10. 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 method prescribed by the Ethics Commission. 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. 49.5.11. 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. The Ethics Commission shall provide an official, electronic City database for restricted sources that are identified in Sections 49.5.2(J)(1)(b) and 49.5.2(J)(2)(b).

1. Each agency shall submit to the Ethics Commission information regarding every person who, during the relevant time period, 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. Submitting the information to the City Clerk or to another City database shall not be deemed compliance with this Section.

2. Agency information must include the name of the person, the date the bid or response was submitted, the date the contract was entered into, any contract or proposal number, a brief description of the contract, and any other information deemed necessary by the Ethics Commission.

3. Agency information must be submitted in a method prescribed by the Ethics Commission by the following dates:

a. Every January 31, covering the immediately preceding October 1 through December 31;

b. Every April 30, covering the immediately preceding January 1 through March 31;

c. Every July 31, covering the immediately preceding April 1 through June 30; and

d. Every October 31, covering the immediately preceding July 1 through September 30.

4. For each agency, the Ethics Commission shall update the database within 45 days after a quarterly filing deadline that is specified in paragraph 3 or the date the agency submits complete quarterly information, whichever is later. The database shall include a disclaimer noting the date of the last update for each agency.

5. If an agency fails to submit complete quarterly information within five business days after a quarterly filing deadline specified in paragraph 3, the Ethics Commission staff shall notify every elected City officer and the agency's general manager or chief administrative officer of the delinquency. Failure to comply within 10 business days of the date of the notice will subject the agency's general manager, chief administrative officer, or responsible elected City officer to liability under Section 49.5.17.

6. For purposes of this Subsection, a City Council district is a distinct agency.

7. The City shall provide the Ethics Commission with adequate staffing and funding to create, maintain, and update the database.

SEC. 49.5.12. 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 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. 49.5.13. 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. This Subsection does not prohibit a member of a City board or

commission from appearing before an agency in the same manner as any other member of the general public solely to represent himself or herself in a matter related to his or her personal interests.

B. A former City official or agency employee who personally and substantially 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. Personal and substantial participation includes but is not limited to making or voting on a decision or making a recommendation, rendering advice, and conducting research or an investigation.

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 one year after leaving City service, a City official 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 if, during the 24 months preceding the official's departure from City service, the official held any of the following positions: elected City officer; Board of Public Works Commissioner; General Manager; Chief Administrative Officer; Mayor's Chief of Staff; Deputy Mayor; Mayoral Aide VII; Mayoral Aide VIII; Executive Assistant City Attorney; Chief Assistant City Attorney; Senior Assistant City Attorney; City Attorney Exempt Employee; Chief Deputy Controller; Administrative Deputy Controller; Principal Deputy Controller; Council Aide VI; or Council Aide VII.

2. For one year after leaving City service, all other former City officials 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 24 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, the City Controller shall submit to the Ethics Commission the names of each individual who held a position identified in Subsection (C)(1) during the preceding 24 months. By July 31 of every year, the City Clerk shall submit to the Ethics Commission the names of each individual who held a City Attorney Exempt position as provided in City Charter Section 1050(d) during the preceding 24 months.

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. 49.5.14. 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 governmental entity 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 governmental entity 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 1 or 2 above shall not directly or indirectly, knowingly or willfully negotiate the possibility of future employment or business opportunities with a person other than a governmental entity 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. 49.5.15. 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. 49.5.16. 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. Other Governmental Entities. If a governmental entity that is required to adopt a conflict of interests code subject to City Council approval but is not otherwise within the City's control adopts governmental ethics regulations governing the conduct of its 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. 49.5.17. 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. 49.5.18. 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. 49.5.19. 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. 49.5.20. 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.

Sec. 2. Subsection 49.5.13(C) shall apply to City officials leaving City service on or after the effective date of this ordinance. The Subsection also applies to City officials that left City service prior to the effective date of this ordinance by providing those City officials the benefit of any more permissive conduct allowed in the Subsection if the conduct occurred after the effective date of this ordinance.

Sec. 3. It is the intent of the City that the amendment of Article 9.5 shall not prevent the administration and enforcement of prior provisions of the law relating to those activities occurring when those provisions were in effect.

Sec. 4. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

HOLLY L. WOLCOTT, Interim City Clerk


By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
RENEE A. STADEL
Deputy City Attorney

Date 12/3/13

File No. 13-1082