DAVID E. RYU
COUNCILMEMBER, FOURTH DISTRICT

Los Angeles City Council President Herb Wesson
Chair, Rules, Elections and Intergovernmental Relations Committee
200 North Spring Street, Room 430
Los Angeles, CA 90012

Re: CF 19-0046

Dear Council President Wesson and Committee Members,

The City of Los Angeles has enacted laws to restrict contributions by lobbyists and contractors (e.g. LA City Measure H (2011)), but no such comparable regulations exist for developers seeking City approvals for potentially lucrative projects.

Previously, legal questions created some uncertainty about the viability of such a restriction. However, several Federal Court decisions over the last decade have helped forge a legal path for Los Angeles to move forward with a temporal restriction on developer contributions. The Ninth Circuit Court of Appeals cited the importance of "anticorruption and anticircumvention interests" in upholding the City of San Diego's 2004 ban on donations from special interests (*Citizens for Clean Gov't v. City of San Diego* (9th Cir. 2007)). The Second Circuit Court of Appeals noted that the "public perception of quid pro quo corruption…alone justifies limitations or an outright ban." (*Ognibene v. Parkes* (2nd Cir. 2011)), and the *Yamada* Court stated that "the appearance of corruption has always been an accepted justification…for campaign contribution limitations" (*Yamada v. Weaver* (Dist. Haw. 2012)).

Attached is an analysis conducted by the Kaufman Legal Group that further discusses the legal considerations of the proposal before you. The document was previously provided to the Los Angeles City Ethics Commission in order to help inform their discussions on this matter.

I encourage the Committee to give due consideration to the item before you and I ask that the matter be moved along to Council at your earliest opportunity. If you have any further questions please don't hesitate to reach out to my office.

Sincerely,

David E. Ryu
Councilmember, District Four

200 NORTH SPRING STREET ● LOS ANGELES, CALIFORNIA 90012
PHONE: (213) 473-7004 ● FAX: (213) 473-2311

KAUFMAN LEGAL GROUP

Stephen J. Kaufman
George M. Yin
Stacey J. Shin

777 South Figueroa Street, Suite 4050
Los Angeles, California 90017

Main: (213) 452-6565
Fax: (213) 452-6575

MEMORANDUM

to: Councilmember David Ryu

cc: Sarah Dusseault, Chief of Staff
Nicolas Greif, Director of Policy and Legislation

from: Stephen J. Kaufman
George M. Yin
Stacey J. Shin

re: Restrictions on Political Contributions to City of Los Angeles Elected Officials by Persons with Large Development Projects

file no.: RYU2719.001

date: May 24, 2018

I. Introduction

There is a widespread perception, fostered by recent media stories, that developers engage in questionable behavior with local government officials to get their projects approved. The City of Los Angeles has enacted laws to curb "pay to play" conduct by *lobbyists* and government *contractors* (e.g., LA City Measure H (2011)); however, the City has not adopted comparable regulations to combat developers who may seek to channel campaign contributions to City elected officials to obtain favorable decisions for their development projects. For this reason, Councilmember Ryu, together with Councilmembers Krekorian and Buscaino, introduced a motion in the Rules, Elections and Intergovernmental Committee to request that the Ethics Commission explore the feasibility of an ordinance prohibiting political contributions to City elected officials by persons with large development projects who have approvals pending before City decision makers.

We have prepared this memorandum to analyze various legal questions presented by such a proposed ordinance, which could be enacted either by City Council or the City's voters, and to discuss how such an ordinance may be framed. The scope of the contribution prohibition will be discussed in Section II; the operation of the ordinance will be addressed in Section III; and constitutional considerations will be addressed in Section IV. A sample ordinance is also attached to this memorandum for discussion purposes.

II. Who Would Be Subject to the Contribution Prohibition? (See Draft Ord. § 49.7.50.)

Courts have stated that "[r]epresentative government would be thwarted by depriving certain classes of voters (i.e., developers, builders, engineers and attorneys who are related in some

fashion to developers) of the constitutional right to participate in the electoral process."[1] In addition, some have pointed out that the word "developer" can mean different things to different people. Thus, rather than simply prohibiting political contributions from a class of persons referred to as "developers," any new law should specifically prevent "pay to play" conduct in the Planning process by prohibiting contributions from *persons* with large development projects (and their principals) to City elected officials (and candidates for such offices) who have discretionary approval authority over their projects. And, because persons with small development projects, such as regular homeowners and owners of smaller commercial properties, have not been identified as presenting a corruption problem, they should not be subject to the political contribution prohibition.

III. How Would a Contribution Prohibition Operate?

A. The Prohibition Should Apply to Persons Seeking Approval in the Planning Entitlement Process (Following Building & Safety Review). (See Draft Ord. §§ 49.7.51, 49.7.50.)

To focus a contribution prohibition law properly, the steps involved in the City's Planning process must be considered. Typically, when a person wants to engage in the City's Land Use Permit Process they begin by going to the Los Angeles Department of Building & Safety ("LADBS") to check land use regulations on the property, discuss the project with LADBS staff, and apply for necessary building permits. If the proposed project meets all City regulations, the applicant's plans are approved by LADBS and a building permit is issued. This process of "by right development" does not involve the possible intervention of elected officials; rather, it mainly involves a process overseen by LADBS staff. For this reason, the general LADBS process should not trigger restrictions on political contributions to any elected City official.

However, if a project does not conform to City land use regulations, or it otherwise requires approval by the Department of City Planning ("Planning"), LADBS will instruct the applicant to go to Planning to apply for the necessary land use approvals. Because most projects involved in the Planning process involve a public hearing before the Area Planning Commission, with decisions appealable to the City Planning Commission (who are appointed by the Mayor and confirmed by the City Council), or the City Council itself, the potential for quid pro quo corruption may arise, since some applicants may seek to contribute to elected officials who have the authority to change zoning rules, grant approvals, or give favorable appeals determinations. Therefore, the beginning of the planning process might be an appropriate starting point to prohibit political contributions.

However, the new law should exempt people going through the entitlement approval process but whose projects are below certain size thresholds. As mentioned above, average homeowners and owners of smaller commercial properties, have generally not been involved in reported

[1] (*Woodland Hills Residents Ass'n. v. City Council of L.A.* (1980) 26 Cal. 3d 938; 946-947.)

corruption scandals and abuses; thus, they should not be made subject to the contribution prohibitions. We therefore recommend that persons with Planning applications for residential projects below 4,000 square feet in size, and commercial projects below 15,000 square feet in size, be exempted from the contribution prohibitions.

B. Notice to Applicants and Disclosure Form to be Completed by Each Applicant. (See Draft Ord. § 49.7.50(C), (D), (E).)

A proposed ban on contributions should also include notice provisions to satisfy due process concerns. First, the proposed ordinance should require the Department of City Planning to provide notice to every person who applies for a "Planning Entitlement Process" about the campaign contribution prohibitions. It is prudent and fair to require such prior written notice to all persons that may be subject to the prohibition because violations of the proposed ordinance could result in serious consequences, such as the voiding of a person's application, as well as prohibiting a person from filing a new application for six months.

Second, the proposed ordinance should require each person submitting a Planning application to also submit a completed form to the Department of City Planning, disclosing relevant information about the applicant and the project, such as the names and titles of the principals of the applicant. Like Measure H, it is recommended that the City Ethics Commission create and issue these forms.

C. Contribution Prohibition Applicable to Principals (See Draft Ord. § 49.7.50(A)(3).)

Since "persons" with large development projects are usually firms whose actions are directed by various principals, it is reasonable for contributions from such principals to also be included in the contribution prohibition. As discussed below, similar prohibitions on principals have been upheld in in cases involving prohibitions on government contractor contributions.

D. Contribution Prohibitions Only Apply to Elected Officials Involved in Planning Approvals and Appeals. (See Draft Ord. § 49.7.50(A).)

Prohibitions on contributions should be limited to contributions made to elected officials who are involved in the Planning approval process and appeals. Specifically, contributions to the City Controller should not be subject to the prohibition.

E. Temporal Scope of Developer Contribution Prohibition (See Draft Ord. § 49.7.50(A)(2).)

Councilmember Ryu has proposed that a prohibition on contributions be kept in place from the time that the applicant submits an application in the Planning process until 12 months after a decision on the applicant's permit or entitlement is rendered (including any appeals). Courts

have generally held that temporal prohibitions on contributions are a very "marginal restriction upon the contributor's ability to engage in free communications."[2]

Indeed, a temporal ban is justifiable because it will deter applicants from engaging in corrupting behavior to influence a favorable result after submitting their applications and prevent applicants from seeking to "reward" decisionmakers for making favorable decisions for a reasonable time after a decision is made.

IV. Can Prohibitions on Political Contributions by "Developers" Be Drafted to Pass Constitutional Muster?

Any restrictions on political contributions present First Amendment constitutional issues. We discuss the applicable Constitutional standards and what must be done to satisfy them below.

A. Any Restriction on Political Contributions Must Satisfy First Amendment Constitutional Review Under the "Closely Drawn" Test.

In a long line of cases beginning with *Buckley v. Valeo*, 424 U.S. 1 (1976), the U.S. Supreme Court has distinguished between laws restricting campaign *expenditures* and campaign-related *speech* from laws restricting campaign *contributions*.[3] The Court has determined that laws limiting campaign *expenditures* and campaign-related *speech* "impose significantly more severe restrictions on protected freedoms of political expression and association than do" laws limiting campaign *contributions*.[4] Consequently, the Supreme Court has held that laws limiting *campaign expenditures* and *campaign-related speech* must pass the "strict scrutiny" standard, the Court's most stringent level of review.[5]

In contrast, laws limiting *campaign contributions*, are subject to a less stringent standard.[6] This is because *contribution* regulations are deemed to be "merely 'marginal' speech restrictions," since contributions "lie closer to the edges than to the core of political expression."[7] Thus, the Court has declared that "instead of requiring contribution regulations to be narrowly tailored to serve a compelling interest" as they would be under the strict scrutiny standard, a law restricting *contributions* "passes muster if it satisfies the lesser demand of being 'closely drawn' to match a 'sufficiently important interest.'"[8]

---

[2] (*Thalheimer v. City of San Diego*, 645 F. 3d 1109, 1122 (9th Cir. 2011) (upholding a temporal ban on contractor contributions in San Diego for 12 months preceding city primary elections); see also *Gable v. Patton*, 142 F. 3d 940, 944, 951 (upholding a prohibition on gubernatorial candidates accepting contributions during the 28 days preceding a primary or general election).)
[3] (*See Green Party of Conn. v. Garfield*, 616 F. 3d 189, 198 (2nd Cir. 2010).)
[4] (*Buckley*, 424 U.S. at 23.)
[5] (*Citizens United v. Fed. Election Comm'n*, 130 S. Ct. 876, 898 (internal quotation marks omitted).)
[6] (*See Fed. Election Comm'n v. Beaumont*, 539 U.S. 146, 161 (2003).)
[7] (*Id.*)
[8] (*Id.* at 162.)

This so-called "closely drawn" standard has been consistently applied to evaluate *First Amendment* challenges to all laws regulating campaign contributions, including those imposing restrictions on contributions.[9] The Court in *Federal Election Commission v. Beaumont*, specifically rejected the view that contribution prohibitions are subject to strict scrutiny review.[10] Thus, an ordinance prohibiting political contributions imposed on applicants with large development projects involved in the planning process need only be "closely drawn" to a sufficiently important government interest.

B. Courts Have Held that Restrictions on Contributions Must Serve an Anticorruption Interest.

In identifying what is a "sufficiently important government interest," courts have held that "preventing corruption or the appearance of corruption are the only legitimate and compelling interests thus far identified for restricting campaign finances."[11] More recently, the U.S. Supreme Court has further "narrowed the scope of the [valid] anti-corruption rationale to cover 'quid pro quo corruption only, as opposed to money spent to obtain 'influence over or access to elected officials.'" (*Thalheimer*, 645 F. 3d at 1119, quoting *Citizens United*, 130 S. Ct. at 910.)

At present, there are no reported cases addressing the constitutionality of prohibiting contributions by "developers." However, *any* contribution prohibition must be justified by an "anticorruption" interest that is aimed at "combatting both *actual* and the *appearance* of *quid pro quo corruption*."[12] To determine the parameters that such restrictions can take, it is instructive to look at recent court decisions upholding bans on political contributions by government *contractors*.[13]

C. Recent Cases Addressing Prohibitions on Political Contributions by Contractors in Connecticut and Hawaii are Instructive.

In *Green Party of Connecticut v. Garfield*, 616 F.3d 189 (2nd Cir. 2010), a Second Circuit case closely followed in the Ninth Circuit, the court reviewed Connecticut's Campaign Finance Reform Act (CFRA), which the state legislature "passed in response to several corruption

---

[9] (*See e.g., Randall v. Sorrell*, 548 U.S. 230, 253 (2006) (plurality opinion); *McConnell v. Fed. Election Comm'n*, 540 U.S. 93, 138 n.40 (2003), *overruled in part on other grounds by Citizens United*, 130 S. Ct. at 913; *Beaumont*, 539 U.S. at 161.)

[10] (*See Beaumont*, 539 U.S. at 162.)

[11] (*Thalheimer*, 645 F. 3d at 1118 quoting *FEC v. Nat'l Conservative Political Action Comm.*, 470 U.S. 480, 496-97 (1985); *see also Citizens United*, 130 S. Ct at 901-902 (2010); *Davis v. FEC*, 554 U.S. 724, 741 (2008).)

[12] (*Yamada v. Snipes*, 786 F. 3d 1182, 1205 (9th Cir. 2013) (emphasis added); *see also Green Party*, 616 F. 3d at 200.)

[13] Prior to the enactment of City of Los Angeles Measure H in 2011, which imposed restrictions on political contributions by City contractors, the City Attorney's Office prepared a report (No. R10-0358 dated October 18, 2010) entitled "Possible Ballot Measure to Prohibit Contract Bidders from Contributing and Fundraising for City Officials." The report discussed numerous cases in California and elsewhere in which campaign contribution restrictions on government contractors were upheld. That report may still be referred to, so most of those examples will not be addressed herein.

scandals in Connecticut."[14] The most widely publicized of the scandals in Connecticut involved the state's then Governor John G. Rowland, who in 2004 resigned after he was accused of improperly accepting tens of thousands of dollars in gifts and services from state contractors in exchange for the award of state contracts. In 2005, Rowland pled guilty to charges related to the scandal.[15]

The Rowland scandal was but one of many corruption scandals in Connecticut involving elected officials in state and local government, helping to earn the state the nickname of "Corrupticut."[16] The existence of these instances of "actual" quid pro quo corruption was a factor in the 2nd Circuit's "closely drawn" analysis. Ultimately, the CFRA's contractor contribution prohibition withstood First Amendment constitutional scrutiny because it was deemed to be closely drawn to combatting actual and perceived quid pro quo corruption involving government contractors and elected officials.[17]

The Green Party court initially expressed some skepticism of CFRA's ban on contributions by "principals" of contractors, defined in CFRA as members of a contractor's board of directors; persons with an ownership interest of 5% or more in the contracting business; the president, treasurer, or executive vice president of the contracting entity; and any officer or employee of either a business entity or nonprofit with managerial or discretionary responsibilities with respect to a state contract.[18] However, the court ultimately held that because "the record shows that the dangers of corruption associated with contractor contributions are so significant in Connecticut . . . [the Legislature] should be afforded leeway in its efforts to curb contractors' influence on state lawmakers."[19] Because the legislation was elicited by actual corruption scandals, the court also deferred to the Legislature on extending the contribution prohibition to contractor principals.[20]

On the other hand, the court struck down a contribution prohibition on *lobbyists* and their families because *none* of the scandals that supposedly instigated the law's passage involved *lobbyists*.[21] Consequently, the court found that an outright prohibition on lobbyist contributions was not closely drawn to achieve the state's anticorruption interest.[22]

---

[14] (*Green Party*, 616 F. 3d at 193; *see also Yamada,* 786 F. 3d at 1205-1206.)
[15] (*Green Party of Conn. v. Garfield*, 537 F. Supp. 2d 359, 361 (Dist. Conn. 2008).)
[16] (*Green Party,* 616 F.3d at 193.) "Between 1999 and 2005, a number of elected officials and their associates in Connecticut resigned and pleaded guilty to corruption charges. This includes State Treasurer Paul Silvester, who invested over $500 million in state pension funds with financial institutions that 'kicked back' money, via associates and friends, to his campaign committee; and State Senator Ernest Newton II, who received a small $5,000 bribe from a non-profit organization that sought a $100,000 state grant." (Craig Holman & Michael Lewis, *Pay-to-Play Laws in Government Contracting and the Scandals that Created Them*, Public Citizen, 8 (June 26, 2012), https://www.citizen.org/sites/default/files/wagner-case-record.pdf.)
[17] *Green Party,* 616 F.3d at 201-202.)
[18] (*Id.* at 202-203.)
[19] (*Id.* at 203.)
[20] (*Id.*)
[21] (*See id.* at 205-206.)
[22] (*Id.*)

In *Yamada v. Snipes*, 786 F. 3d 1182 (9th Cir. 2013), the Ninth Circuit addressed a government contractor prohibition enacted by the Hawaii state legislature in response to "pay-to-play" scandals involving legislators and the "widespread appearance of corruption that existed at the time of the legislature's actions."[23] As the *Yamada* court noted in a decision that followed the Second Circuit's *Green Party* decision, a "ban unequivocally addresses the perception of corruption because by totally shutting off the flow of money from contractors to state officials, it eliminates any notion that contractors can influence state officials by donating to their campaigns."[24] The *Yamada* court held that the contribution ban "is closely drawn because it targets direct contributions from contractors to officeholders and candidates, the contributions most closely linked to actual and perceived quid pro quo corruption."[25] Thus, reports of actual corruption and scandals, helped justify the contribution prohibition.

Notably, the *Yamada* court rejected an argument that the contractor contribution prohibition was unconstitutional as applied to contributions made to lawmakers and candidates who neither award nor oversee state contracts, since Hawaii's legislature as a whole considers bills concerning procurement.[26] Indeed, the *Yamada* court clarified that "[c]losely drawn scrutiny requires 'a fit that is not necessarily perfect, but reasonable,' and Hawaii's contractor contribution ban is a reasonable response to the strong appearance of corruption that existed at the time of the legislature's actions."[27]

In the current context, a ban on contributions to City elected officials involved in the Planning process, even ones that do not directly play a role in particular Planning decisions, may be defended using the aforementioned rationale. However, a factual showing of actual or perceived corruption in the planning process must be established to support that rationale.

D. Factual Findings Evidencing the Existence of Actual Corruption and Appearance of Quid Pro Quo Corruption Must be Made

Federal cases addressing contribution prohibitions, such as those cited above in Connecticut and Hawaii, highlight the importance of showing that a contribution ban will address reports of actual, rather than speculative, corruption.[28] Indeed, where contribution prohibitions were

---

[23] (*Id.* at 1206.)
[24] (*Id.* at 1205 (internal quotation marks omitted) quoting *Green Party*, 616 F. 3d at 205; *see also Ognibene v. Parkes*, 671 F. 3d 174, 185 (2d Cir. 2011) ("When the appearance of corruption is particularly strong due to recent scandals . . . a ban may be appropriate.")
[25] (*Yamada,* 786 F.3d at 1206.)
[26] (*Id.*)
[27] (*Id.*)
[28] The Ninth Circuit has stated that novel restrictions may require some form of additional showing to support the governmental interest served and to demonstrate how the restriction addresses that interest. (*See Citizens for Clean Gov't v. City of San Diego*, 474 F. 3d 647, 652-653 (9th Cir. 2007) (concerning application of San Diego contribution limits in the signature gathering phase of candidate recall petitions).) The "extent" of such a showing is unclear, although courts have stated: "[t]he quantum of empirical evidence needed to satisfy heightened judicial scrutiny . . . will vary up or down with the novelty and plausibility of the justifications raised." (*Citizens for Clean*

imposed on parties that played no reported role in the sort of corrupt behavior or scandals being targeted, such as lobbyists in the Connecticut context, those provisions were struck down as not closely drawn to address actual and apparent corruption. Thus, any proposed City ordinance should include findings that seek to show that contribution prohibitions are not merely targeting a speculative problem, but rather an actual and perceived quid pro quo corruption problem. Such findings may be supported by prosecutions or by news media reports alleging or documenting corrupt conduct.

Yet, courts have recognized that showing the existence of actual and perceived quid pro quo corruption presents challenges for regulators. Accordingly, some courts have held that "[s]ince neither candidate nor contributor is likely to announce a quid pro quo, ***the appearance of corruption has always been an accepted justification for . . . campaign contribution limitations***."[29] It therefore appears that laws enacting contribution limits may be upheld so long as they seek to address at least the "appearance of corruption." As the district court in *Yamada v. Weaver* stated,

> ***[B]ecause the scope of quid pro quo corruption can never be reliably ascertained, the legislature may regulate certain indicators of such corruption or its appearance***, such as when donors make large contributions because they have business with the City, hope to do business with the City, or are expending money on behalf of others who do business with the City. Furthermore, such donations certainly feed the public perception of quid pro quo corruption, and ***this alone justifies limitations or perhaps an outright ban.***[30]

Thus, recent court decisions have signaled a potentially less stringent approach in contribution cases, whereby contribution prohibitions will be upheld where they satisfy "closely drawn" analysis and where the "appearance" of quid pro quo corruption is shown to exist. Nevertheless, both the Hawaii and Connecticut decisions were premised on the desire to combat actual "pay-to-play" scandals. Thus, proceeding with a contribution prohibition without a showing of actual "pay-to-play" corruption, may entail some risk.

Gov't, 474 F. 3d at 652-653.) It is not known whether courts would deem the contribution prohibitions contemplated here to be "novel;" however, the prior cases involving contractor prohibitions are arguably similar. Clearly some reasonable showing must be made. It is not enough to show "hypothetical situations not derived from any recorded evidence or governmental findings" or "vague allusions to practical experience." (*Thalheimer*, 645 F. 3d 1109, 1121 quoting *Citizens for Clean Gov't*, 474 F. 3d at 653-54.) The Ninth Circuit has stated, "[d]espite the flexibility implied by its sliding scale approach, the Court has 'never accepted mere conjecture as adequate to carry a First Amendment burden.'" (*Citizens for Clean Gov't*, 474 F. 3d at 653 quoting *Nixon v. Shrink Mo. Gov't PAC*, 528 U.S. 377, 392 (2000).)

[29] (*Yamada v. Weaver*, 872 F. Supp. 2d 1023, 1057-58 (Dist. Haw. 2012) (emphasis added) quoting *Ognibene v. Parkes*, 671 F. 3d 174, 187 (2d Cir. 2011).)

[30] (*Id.* quoting *Ognibene*, 671 F. 3d at 187, citing *Citizens United*, 130 S. Ct. at 908, 910.)

E. Findings Concerning "Indicators" of Actual and Perceived Corruption Involving Large Developers Should Be Made.

At minimum, indicators of quid pro quo corruption or its appearance should be identified to justify the contribution prohibitions under consideration. Case law suggests that examples might be drawn from developer violations of campaign finance laws.[31] However, evidence of actual or perceived and quid pro quo corruption involving large developers in the City of Los Angeles will provide the best support for the proposed ban, and the best defense against possible legal challenges.[32]

If you have questions or comments regarding any of the issues discussed above, please contact us at your convenience.

---

[31] (*See generally Yamada v. Weaver*, 872 F. Supp. 2d at 1058, 1058 n. 27 (noting that Hawaii government contractor contribution prohibition arose in part because of apparent corruption involving "campaign finance scandals").

[32] For example, researchers from the USC School of Policy Planning and Development produced a report directed to the LA City Ethics Commission entitled "Pay to Play in the City of Los Angeles: An Analysis of Campaign Contributions and the Awarding of Government Contracts." (*See* http://priceschool.usc.edu/files/enews/july11/Ethics_Briefer.pdf.)

[DRAFT] ORDINANCE No. _____

An ordinance amending the City's Campaign Finance Ordinance, codified in Chapter IV, Article 9.7 of the Los Angeles Municipal Code Section 49.7.1, *et seq.*, regarding the restriction of political contributions from persons with large development projects, and related requirements.

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

Section 1. A new Section 49.7.50, 49.7.51, and 49.7.52 is added to the Los Angeles Municipal Code to read as follows:

SEC. 49.7.50. DEVELOPER CONTRIBUTION RESTRICTIONS

A. Campaign Contribution Restrictions. The following persons shall not make a campaign contribution to the Mayor, members of the City Council, the City Attorney, or any candidate for the aforementioned elected City offices; or City controlled committee that is specifically controlled by the Mayor, members of the City Council or the City Attorney or any candidate for these elected City elected offices:

1. A person who submits an application for any Planning Entitlement Process as set forth in Section 49.7.51 of this code as administered by the Department of City Planning;

2. A person who has received a decision on an application for any Planning Entitlement Process set forth in Section 49.7.51 of this code, or a decision on any appeal of a denial of an application, for 12 months after any such decision on an application or appeal was heard and issued; and

3. Principals of persons defined in paragraphs A.1 and A.2. Such principals shall include:

   (i) board chair; president; chief executive officer; chief financial officer; chief operating officer of a person; and any individual who serves in the functional equivalent of one or more of these positions;

   (ii) An individual who holds an ownership interest in the person of 20 percent or more; and

   (iii) An individual authorized to represent the person with any procedures in subsections A.1. and A.2.

B. Exceptions. This subdivision shall not apply to:

1. Contributions to the Mayor, members of the City Council, and City Attorney, or candidates or City controlled committees for these elected City offices where the

application for the Planning Entitlement Process as set forth in Section 49.7.51 of this code, is for a development project which creates or results in less than 4,000 gross square feet of residential floor area;

2. Contributions to the Mayor, members of the City Council, and City Attorney, or candidates or City controlled committees for these elected City offices where the application for a Planning Entitlement Process as set forth in Section 49.7.51 of this code is for a development project which creates or results in less than 15,000 gross square feet of commercial floor area;

C. **Disclosure Form.** Every person who submits an application for any Planning Entitlement Process set forth in Section 49.7.51 shall file a form with the Department of City Planning, at the time the application is submitted, that contains the following information and is submitted under oath:

1. A brief description of the specific Planning Entitlement Process application, including any City reference number associated with it;

2. The date the application for Planning Entitlement Process was submitted;

3. The name of the person who submits the application for Planning Entitlement Process;

4. The address of the person who submits the application for Planning Entitlement Process;

5. The phone number of the person who submits the application for Planning Entitlement Process;

6. The names and titles of the principals of the person who submits the application for Planning Entitlement Process; and

7. A certification that the person submitting the application understands, will comply with, and will notify its principals of the prohibitions and restrictions in this Section.

D. **Requirement to Amend Form.** If the information submitted pursuant to Subsection C changes after the application is submitted, the person who submits the application for Planning Entitlement Process shall amend the form and submit it to the Department of City Planning within ten (10) business days of the change.

1. The requirement to amend the form applies whenever the prohibitions and restrictions in this Section apply to the person, including after the person receives a decision on an application for any Planning Entitlement Process.

2. The Department of City Planning shall electronically submit the form to the Ethics Commission, in a Portable Document Format (PDF) or other electronic format pre-approved by the Ethics Commission, within ten (10) business days of receipt.

E. Notification by Department of City Planning. The Department of City Planning shall notify every person who submits an application for any Planning Entitlement Process set forth in Section 49.7.51 of the prohibitions set forth in Section 49.7.50(A).

Violations

F. Enforcement of violations of this section shall proceed as set forth in Section 49.7.38 of this Code.

G. In addition to any other penalties or remedies established by this Article, a person who is found to have violated or who has aided and abetted a violation of this Section shall have their application for a Planning Entitlement Process deemed void and the person may not file a new application for a period of six (6) months.

H. The Ethics Commission staff shall notify all relevant agencies, departments, board and offices of a determination of violation within ten (10) business days of the determination.

SEC. 49.7.51. PLANNING ENTITLEMENT PROCESSES THAT TRIGGER DEVELOPER POLITICAL CONTRIBUTION RESTRICTIONS.

A. Definition of "Planning Entitlement Process". For the purposes set forth in Section 49.7.50, the term "Planning Entitlement Process" shall mean utilization of any of the planning processes enumerated in Subsection (B) of this Section that are administered by the Department of City Planning and for which approvals and appeals processes are rendered by one or more of the following: a duly authorized hearing officer, area planning commission, city planning commission, the City Council, or Mayor.

B. Specific Planning Entitlement Processes.

Land Use Legislative Actions (zone changes, specific plans etc.)

Zone and height district changes - Code Section - 12.32 F

Changes to the zoning code – Code section 12.32

Establishment, change or removal of a Supplemental Use District (S, G, RPD, CA, POD, MU, CDO, FH, K and O Districts) – Code Section 12.32 S

Establishment, change or removal of a Historic Preservation Overlay Zone – Code Section 12.20.3

Establishment, change or removal of Building Line – Code Section 12.32. R

City owned Designated Building Site for Historic Structures – Code Section Ord. No 159,802

Establishment and amendment of Specific Plans – Code Section 11.5.7

General Plan (Elements and Community Plan Changes and Amendments)

Establishment or amendment of the General Plan Elements and Community Plans - Code Section 11.5.6

Community Plan Update for amendment of Community Plans - Code Section 11.5.6

Major Plan Review/Periodic Plan Review (projects with a Community Plan Amendment and Zone Change) - Code Section 11.5.8

City Planning Commission (Conditional Uses, Plan Approvals & Other Similar Quasi-Judicial Approvals)

Citywide Conditional Uses

Major development projects - Code Section 12.24 U 14

Vesting Conditional Use Permits (Applies only to CUPs listed in the Zoning Code) - Code Section 12.24 T

Airports or aircraft landing fields - Code Section 12.24 U 1

Auditoriums, stadiums, arenas and the like - Code Section 12.24 U 2

Correctional or penal institutions - Code Section 12.24 U 5

Educational institutions - Code Section 12.24 U 6

Golf courses - Code Section 12.24 U 8

Land reclamation projects - Code Section 12.24 U 13

Natural resources development - Code Section 12.24 U 17

Piers, jetties, man-made islands, floating installations - Code Section 12.24 U 20

Research and development centers - Code Section 12.24 U 23

Public schools, elementary and high (kindergarten through 12th grade); Private schools elementary and high (kindergarten through 12th grade) in the A, RE, RS, R1, RU, RZ, RMP, RW1, R2, RD, RW2, R3, C1, C1.5, or M Zones; Private schools [other than elementary or high (kindergarten through 12th grade) or nursery schools] in the A, R, CR, C1, or C1.5 Zones - Code Section 12.24 U 24

Hazardous waste treatment or storage facilities in the M2 and M3 Zones - Code Section 12.24 U 10

Hazardous waste disposal facilities in the M3 Zone - Code Section 12.24 U 11

Electric power generating plants - Code Section 12.24 U 7

Desalinization plants - Code Section 12.24 U 25

Recycling uses in various zones - Code Section 12.24 U 22

Onshore installations for oil drilling - Code Section 12.24 U 18

Wood and green waste recycling in the A1and A2 Zones - Code Section 12.24 U 9

Hospitals or sanitariums in the A, R, CR, C4, CM, or M Zones and in the C1 or C1.5 Zones when not permitted by right - Code Section 12.24 U 12

Child care facilities or nursery schools in the A, RE, RS, R1, RU, RZ, RMP, RW, R2, R3, or RD Zones, and in the CM and M Zones when providing care for children of employees - Code Section 12.24 U 4

Child care facilities for no more than 50 children in the R3 Zone - Code Section 12.24 U 3

Various uses in the OS Zone - Code Section 12.24 U 19

Various uses in the PF Zone/ Joint public/private development in PF Zone - Code Section 12.24 U 21

Motion picture and television studios and related incidental uses that are located on a motion picture or television studio site, in the A, R, or C Zones when not permitted by right - Code Section 12.24 U 15

Land Use Determinations by Commission - Code Section 12.24.1

Conditional Use Plan Approvals - Code Section 12.24 J, L, M

Specific Plans - Phasing Programs - (does not require Mayor review)

Public Benefit Permit Process (Public Benefit Uses)

Cemeteries - Code Section 14.00 A1

Libraries, museums, fire or police stations of governmental enterprises - Code Section 14.00 A3

Public utilities and public service uses in the A, R, C or MR Zones - Code Section 14.00 A6

Mobilehome parks - Code Section 14.00 A4

Recreational vehicle parks and mobilehome parks in the A, R or C Zones - Code Section 14.00 A7

Affordable housing development density increases (FAR - density bonus) - Code Section 14.00 A2

Parks, playgrounds or recreation or community centers in the A, R, or C1 Zones - Code Section 14.00 A5

Shelter for the homeless with no more than 30 beds in the R3, M1, M2 and M3 Zones - Code Section 14.00 A8

Shelter for the homeless in no more than 6 trailers by a church, religious institution, or philanthropic institution - Code Section 14.00 A9

Zoning Administrator (Conditional Uses, Plan Approvals & Other Similar Quasi-Judicial Approvals)

Local Community Conditional Uses

Miniature or pitch and putt golf courses in the A, R, or C1 Zones - Code Section 12.24 W 26

Mortuaries or funeral parlors in the C2, C4, C5, CM, or M1 Zones - Code Section 12.24 W 29

Nurseries in the R, C1 and C1.5 Zones - Code Section 12.24 W 31

Private clubs in the A, R1, RU, RZ, RMP, RW1, R2, RD, RW2, R3, or R4 Zones - Code Section 12.24 W 35

Second dwellings on large lots in the RA, RS, or R1 Zones - Code Section 12.24 W 44

Wireless telecommunication facilities in the A, R, C, or MR Zones - Code Section 12.24 W 49

Hotels and motels under various conditions in various zones - Code Section 12.24 W 24

Second dwelling unit in the A, RA, RE, RS, R1, RMP, or RW1 Zones - Code Section 12.24 W 43

Automobile service stations, tire repairing, battery servicing, or automobile lubrication in the C1.5 Zone - Code Section12.24 W 2

Sale of merchandise in the open or at an indoor swap meet under various conditions and in various zones - Code Section 12.24 W 42

Automobile service stations, tire repairing, battery servicing, and automobile lubrication in the C4 Zone - Code Section 12.24 W 3

Bovine feed or sales yards in the A1 or A2 Zones - Code Section 12.24 W 5

Rental or storage of household moving rental trucks and utility rental trailers in the C2, C5, CM and MR1 Zones - Code Section 12.24 W 39

Entertainment uses - dance halls, hostess dance halls and massage parlors in various zones - Code Section 12.24 W 18

Penny arcades in the C2, C5, CM, M1, M2, or M3 Zones - Code Section 12.24 W 34

Sale of alcoholic beverages for off-site consumption in the C and M Zones - Code Section 12.24 W 1

Alcoholic Beverage Sales in the South Central Specific Plan Area - Ord. No 171,681

Nightclubs in Westwood Village - Code Section 12.24 W 30

Automotive repair in the C2, C5, CM and M1 Zones within 300 feet of an A or R Zone - Code Section 12.24 W 4

Sale of firearms or ammunition in the C1, C1.5, C2, C4, C5, CM, M1, M2, and M3 Zones - Code Section 12.24 W 41

Churches in the A, RE, RS, R1, RU, RZ, RMP, RW1, R2, RD, RW2, R3, C1, C1.5, CM, or M Zones - Code Section 12.24 W 9

Fraternity or sorority houses in the A, R1, RU, RZ, RMP, RW1, R2, RD, RW2, or R3 Zones - Code Section 12.24 W 21

Mini-shopping centers and commercial corner developments in the C, M1, M2, or M3 Zones where use does not comply with Sec. 12.22 requirements - Code Section 12.24 W 27

Outdoor eating areas for ground floor restaurants in the CR, C1, and C1.5 Zones when not permitted by right - Code Section 12.24 W 32

Floor area ratio averaging in unified developments - Code Section 12.24 W 19

Drive-through fast food establishments in all C Zones except the CR Zone when located close to a residential zone or use - Code Section 12.24 W 17

Pawnshops in the C2, C5, CM, M1, M2, and M3 Zones - Code Section 12.24 W 33

Restaurants for the use of the general public in the MR1 and MR2 Zones - Code Section 12.24 W 40

Other ZA/Local Actions

Vesting Conditional Use Permits (Applies only to CUPs listed in the Zoning Code) - Code Section 12.24 T

Conditional Use Plan Approvals - Code Section 12.24 J, L, M

Slight Modifications - Code Section 12.28

Adjustments to Yard, Area, Height and Building Line requirements - Code Section 12.28

Plan Approvals - variances - Code Section 12.27 U

Zoning Administration Interpretations (Yards/ Hillside) - Code Section 12.21 A 2

Foster Care Homes - Code Section 12.24 X 9

Dwellings Adjacent to Equinekeeping Uses - Code Section 12.24 X 5

Fences not to exceed 8 ft. in height in the required front, side, or rear yard in the A and R Zones - Code Section 12.24 X 7

Fences not to exceed 6 ft. in height in the front yards within groups of lots - Code Section 12.24 X 8

Standards for tennis courts in the A and R Zones - Code Section 12.21 C 4

Certified farmers' markets - Code Section 12.24 X 6

To permit an automotive repair business existing prior to 12/31/98 to utilize front portion of lot for open storage - Code Section 12.24 X 4

To permit a restaurant, seating no more than 50 persons, to serve alcoholic beverages - Code Section 12.24 X 2

To permit buildings in the A1, A2, RA, RE, RS, R1, and RD Zones which are located in a Hillside Area to exceed various height, yard, area, and parking requirements - Code Section 12.24 X 11

To permit buildings on lots in the A1, A2, RA, RE, RS, R1, and RD Zones which are located on a Substandard Hillside Limited Street - Code Section 12.24 X 21

Joint living and work quarters for artists and artisans in commercial and industrial buildings in the CR, CM, MR1, M1, MR2, M2 and M3 Zones, and such quarters with reduced parking in the C1, C1.5, C2, C4, and C5 Zones - Code Section 12.24 X 13

To permit buildings on a lot in the RA, RE20, RE15, RE11, RE9, RS, R1, and R2 Zones where the lot is not located in a Hillside Area or Coastal Zone to exceed the maximum height or stories permitted, or to reduce the required side yards - Code Section 12.24 X 10

Historic buildings - Code Section 12.24 X 12

To permit Adaptive Reuse Projects in the M Zones in the Downtown Project Area pursuant to Sec. 12.22 A 28 - Code Section 12.24 X 1

Parking Requirements for Commercial or Industrial Uses with Parking Management Alternatives in C or M Zones - Code Section 12.24 X 17

To permit uses which support motion picture and television production and other entertainment industries - Code Section 12.24 X 23

Continuation of Nonconforming Buildings and Uses - Code Section 12.23 A 6

Coastal Permits - Pre-Certification - Code Section 12.20.2

Coastal Permits - Post Certification - Code Section 12.20.2.1

Supplemental Use Districts

G - Surface Mining Districts Permit for Surface Mining Operations within established districts - Code Section 13.03 D5

O - Oil Districts (methods/conditions of operation) - Code Section 13.01

Other Actions (Building and Safety Appeals)

Other ZA / Local Actions

Appeal from Building Department Orders - Code Section 12.26 K

Other Actions (Revocations & Nuisance Use Abatement)

Variances - Code Section 12.27

Area Planning Commission (Conditional Uses, Plan Approvals, Specific Plan Exceptions & Other Similar Quasi-Judicial Approvals)

Specific Plans

Exception from Geographically Specific Plan - Code Section 11.5.7 F

Local Community Conditional Uses - 6

Mixed commercial / residential development - Code Section 12.24 V2

Buildings over 6 stories in the Wilshire - Westwood Scenic Corridor - Code Section 12.24 V1

Conditional Use Plan Approvals - Code Section 12.24 J, L, M

Vesting Conditional Use Permits (Applies only to CPUs listed in the Zoning Code) - Code Section 12.24 T

Other ZA / Local Actions

Transfer of Development Rights - Central Business District Redevelopment Project Area Code Section 14.5.1 - 14.5.8

Director of Planning Approvals (Site Plan Review & Design Review)

Director's Authority

Site Plan Review - Code Section 16.05

Director's Determination on Open Space Requirements for 6 or more Residential Units - Code Section 12.21 G3

Zone Boundary Adjustments C or M and P or PB Adjustments - Code Section 12.30 H, 12.30 K

Private Streets - Code Section 18.00 - 18.12

To permit a reduction in the required parking spaces for a commercial or industrial building when located within 1,500 feet of a transit or bus station - Code Section 12.24 Y

Design Review - specific plans - Code Section 16.50 E3

Historic Preservation Zone (Certificate of Appropriateness) Director or APC/APC or CCL) - Code Section 12.20.3

Supplemental Use Districts

CA - Commercial and Artcraft Districts Alternate procedures for waiver of public hearing - Code Section 13.06 E3

POD - Pedestrian Oriented Districts For projects that cannot meet development standards - Code Section 13.07

CDO - Community Design Overlay Districts Plan Approvals - Code Section 13.08 E

Specific Plans

Specific Plan Project Permit Compliance - Code Section 11.5.7 C

Modification of Specific Plan Project Permit Compliance - Code Section 11.5.7 D

Specific Plan Project Permit Adjustment - Code Section 11.5.7 E

Director of Planning Approvals

Director's Authority

Amendments of the "T: Classification and Clarifications of "Q" Classification, or "D" Limitation - Code Section 12.32 H

Subdivision of Land (Above Threshold)

Director's Authority

Any development project (tract or parcel map) which creates or results in 50,000 or more gross square feet of nonresidential floor area (current site plan review standard), or

Any development project (tract or parcel map) which creates or results in 50 or more dwelling units or guest rooms or combination thereof (site plan review standard), or

Any application without a proposed project description having less than 65,000 square feet of lot area (mini-shopping center standard).

Advisory Agency Authority

Tract Maps - Code Section 17.01 - 17.13

Parcel Maps - Code Section 17.50 - 17.58

Condo Conversion Projects - residential & residential to commercial / industrial - Code Section 12.95.2

Condo Conversion Projects - commercial / industrial & commercial / industrial to residential - Code Section 12.95.3

Modification of Recorded Final Maps - Code Section 17.14

Vesting Tentative Maps - Code Section 17.15

Reversion to Acreage - Code Section 17.10 A

SEC. 49.7.52. CITY COUNCIL MAY ADOPT ADDITIONAL REGULATIONS AND AMEND SECTIONS 49.7.50 AND 49.7.51 AS NECESSARY

The City Council may adopt amendments to Sections 49.7.50 and 49.7.51 and such other ordinances and additional regulations that are necessary to carry out the purposes of the ordinance enacting Sections 49.7.50 and 49.7.51.