

February 27, 2019

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

**Re: Campaign Contributions and Behested Payments**  
Council File Nos. 17-0042 and 19-0046

*FOR COUNCIL CONSIDERATION*

Dear Councilmembers:

On February 19, 2019, the Ethics Commission unanimously approved a set of recommendations to amend the City’s campaign finance laws, including a ban on campaign contributions from and fundraising by non-individuals and developers. The Ethics Commission also unanimously approved enhanced disclosure of behested payments and a ban on soliciting behested payments from restricted sources.

The Ethics Commission urges you to adopt the approved amendments, which are summarized in the following tables and discussed in more detail below. Language to implement the recommendations regarding contributions and fundraising is provided in Attachment A, and language to implement the recommendations regarding behested payments is provided in Attachment B.

Key Campaign Contribution Recommendations		
Recommendation	Page	Language
Define developers as applicants for discretionary land use entitlements and their principals.	9	LAMC §§ 49.7.38(C)(2),(5) <i>Attachment A, p. 6</i>
Ban the making and receiving of contributions from non-individuals and developers.	8	LAMC §§ 49.7.37(A),(B) <i>Attachment A, pp. 4-5</i>
Ban fundraising and bundling by non-individuals and individuals who are developers, lobbyists, bidders, and contractors.	8	LAMC §§ 49.7.37(A),(B) <i>Attachment A, pp. 4-5</i>

Key Campaign Contribution Recommendations <i>cont'd</i>		
Recommendation	Page	Language
Apply the ban on contributions, fundraising, and bundling by developers from the date a land use entitlement application is filed until 12 months after the later of the date a letter of determination is issued or a certificate of occupancy is issued.	9	LAMC § 49.7.37(B)(1)(c)(i) <i>Attachment A, p. 5</i>
Apply the bans on contributions, fundraising, and bundling to any committee controlled by an elected City official or a candidate for elected City office.	8	LAMC §§ 49.7.37(A), (B) <i>Attachment A, pp. 4-5</i>
Require disclosure about developers through a funded online filing system created by the Ethics Commission.	9	LAMC § 49.7.38(A) <i>Attachment A, pp. 5-6</i>
Prohibit developers who violate the ban on contributions, fundraising, and bundling from being an applicant or principal on a new land use application for 12 months.	9-10	LAMC § 49.7.37(C) <i>Attachment A, p. 5</i>
Add non-individuals and developers to the contributor certification.	8	LAMC § 49.7.16(B)(3) <i>Attachment A, p. 2</i>

Key Behested Payment Recommendations		
Recommendation	Page	Language
Ban elected officials from soliciting behested payments from restricted sources.	12	LAMC § 49.5.5(C) <i>Attachment B, p. 1</i>
Establish exceptions to the ban on soliciting behested payments.	12-13	LAMC § 49.5.5(C)(1) <i>Attachment B, pp. 1-2</i>
Lower the disclosure threshold for behested payments to \$1,000 per payor per year.	13	LAMC § 49.5.5(C)(2) <i>Attachment B, p. 2</i>
Require the disclosure of behested payments to identify whether the payor is a lobbying entity, a bidder or contractor, or a developer.	13	LACM § 49.5.5(C)(3) <i>Attachment B, p. 2</i>

## A. Contributions and Fundraising

### 1. Background

To reduce the actual or perceived influence of well-funded special interests, City law limits the amount of money that a person may give to a candidate in a City election. Los Angeles City Charter (Charter) §§ 470(c)(3)–(4). The current per-person contribution limits are \$800 per election for City Council candidates and \$1,500 per election for Citywide candidates.

In addition, to reduce actual or perceived corruption or pay-to-play politics, several types of contributions are currently prohibited. One ban applies to any contribution made under an assumed name (a name other than the true source of the contribution). Charter § 470(k). This is generally referred to as political money laundering. Another ban exists in federal law and applies to contributions from foreign nationals and foreign entities. 52 USC § 30121; 11 CFR § 110.20.

The City also bans contributions based on two types of activity: lobbying and contracting. Lobbyists and lobbying firms are prohibited from making contributions to a candidate who holds or seeks a City office that the lobbyist or lobbying firm is (or is required to be) registered to lobby. Charter § 470(c)(11). Similarly, candidates are prohibited from accepting a contribution from a lobbyist or lobbying firm that is (or is required to be) registered to lobby a City office that the candidate holds or seeks. *Id.* The ban does not extend to committees that City officeholders or candidates control in other jurisdictions.

Finally, bidders and contractors are prohibited from making contributions to and engaging in prohibited fundraising (fundraising from among their employees, officers, and principals) for a candidate who holds or seeks an office that must approve the contract, if the contract is valued at \$100,000 or more. Charter § 470(c)(12); LAMC §§ 49.7.35–36. This ban extends to the bidder or contractor’s principals, subcontractors of \$100,000 or more, and the principals of those subcontractors. *Id.* However, like the ban on contributions from lobbying entities, this ban does not extend to committees that City officeholders or candidates control in other jurisdictions.

Councilmember Ryu has introduced two motions that would add contributions from developers to the list of banned contributions. Initially, in January 2017, he asked the Ethics Commission to prepare an ordinance that would prohibit contributions from developers on discretionary development projects and their principals. He recommended defining “developer” broadly, possibly including contractors and subcontractors. *See* Council File No. 17-0042. In January 2019, while the Ethics Commission continued to assess the complexities of the issue, he asked the City Attorney to prepare an ordinance to prohibit contributions from “restricted developers” (property owners and their principals) on projects that require approval by an elected official or a candidate for elected office and involve more than 4,000 square feet of residential space or 15,000 square feet of commercial space. *See* Council File No. 19-0046.

For both motions, Councilmember Ryu submitted an ordinance, which proposes regulating development projects that are governed by the Planning Department, based on the square footage of the project and the specific type of use. For a variety of reasons that are discussed below, the Ethics Commission recommends against adopting that particular ordinance.

## 2. Considerations

The Ethics Commission has been analyzing the legal and logistical considerations associated with a developer ban for the past ten months. The goal of the analysis has been to ensure that any ban would reflect a full understanding of how the planning process works and would reduce the likelihood of loopholes. In addition, given the limited amount that a single person may contribute to a City officeholder or candidate, the Ethics Commission felt it was

important to consider issues not included in the motions, such as fundraising and bundling by developers, as well as the receipt of contributions by committees controlled by City officials and candidates in both the City and other jurisdictions.

**a. Developers**

Concern that developers exert undue influence undoubtedly exists, as evidenced in recent media reports focused on City Hall and the nearly 700 written public comments received by the Ethics Commission, all of which supported the approved recommendations. There is no question that the widespread perception is that there is a pay-to-play culture at Los Angeles City Hall, in which developers give money to elected officials and their favorite organizations in an attempt to influence decisions about development projects and public policy. *See, e.g.*, “L.A. City Hall’s real rat problem: Corruption”, 2/9/2019, [latimes.com/local/california/la-me-lopez-cityhall-corruption-20190209-story.html](http://latimes.com/local/california/la-me-lopez-cityhall-corruption-20190209-story.html); “Downtown L.A. developer donated \$50,000 before pivotal vote involving high-rise project, records show”, 2/7/2019, [latimes.com/local/lanow/la-me-developer-donations-onni-20190207-story.html](http://latimes.com/local/lanow/la-me-developer-donations-onni-20190207-story.html); “FBI probe of Jose Huizar looking closely at Downtown development”, 1/14/2019, [la.curbed.com/2019/1/14/18182352/jose-huizar-fbi-investigation-development](http://la.curbed.com/2019/1/14/18182352/jose-huizar-fbi-investigation-development); “L.A. developer is charged with making illegal campaign donations”, 2/23/2018, [latimes.com/local/lanow/la-me-ln-sea-breeze-developer-20180223-story.html](http://latimes.com/local/lanow/la-me-ln-sea-breeze-developer-20180223-story.html); “A \$72-million apartment project. Top politicians. Unlikely donors”, 10/30/2016, [latimes.com/projects/la-me-seabreeze/](http://latimes.com/projects/la-me-seabreeze/). These media reports and the allegations they contain, whatever the ultimate result, significantly erode public confidence in City government.

Actual corruption and widespread ethics violations are also associated with developers. Over the past decade, 33 Ethics Commission enforcement orders have involved developers or development projects and resulted in more than \$1 million in administrative penalties. These numbers represent approximately one-third of all respondents and just over half of all penalties during that time period. In addition, the Los Angeles County District Attorney has charged two developers with felony counts of campaign money laundering and bribery. *See* [da.lacounty.gov/media/news/pair-charged-campaign-money-laundering-offering-bribes-la-elected-officials](http://da.lacounty.gov/media/news/pair-charged-campaign-money-laundering-offering-bribes-la-elected-officials), 2/23/2018.

Prohibiting contributions from persons seeking a particular result in a City decision supports the vitally important government interests in reducing both actual and perceived corruption and in restoring public trust in government institutions. However, it is also important to understand how such a ban actually could and would work within the City framework. The Ethics Commission alerted the Planning Department to Councilmember Ryu’s motions, and members of the subcommittee and the staff met with individuals from the Planning Department and its City Attorney to discuss a ban on developer contributions and the language proposed by Councilmember Ryu. A number of issues were raised during those discussions.

The land use entitlement process is “the process an individual goes through when they plan to develop or use their property.” *See* “Land Use Permit Process” at [planning.lacity.org](http://planning.lacity.org). A person who wants to develop a property must first go to the Department of Building and Safety (DBS), which will determine whether the project conforms with all zoning regulations. If it does conform, DBS issues a building permit and no public hearing or further discretionary approvals are required. This is referred to as “by right development”. *Id.*

If the project does not conform to all zoning regulations or otherwise requires approval by the Planning Department, the person must file an application for a land use entitlement with the Planning Department. Most land use entitlements require a public hearing and a discretionary decision. *Id.* A sample application for an entitlement that requires a discretionary decision is provided in Attachment C.

Rather than focusing on the size of a development project or including a lengthy list of property uses that are subject to change (and, in fact, are currently undergoing comprehensive changes), a ban on contributions from developers should focus on the land use entitlements that require a discretionary decision. This would tailor the ban to City decisions that are not “by right” and are, therefore, susceptible to influence. Planning Department staff explained that there are four main types of discretionary decisions for land use entitlements: director decisions; quasi-judicial decisions (made by zoning administrators); advisory agency decisions (made by the director); and decisions by the City Planning Commission and the seven area planning commissions that may proceed to the City Council and Mayor (including legislative decisions). In 2018, approximately 7,030 applications were filed with the Planning Department (an average of 586 per month). Of those, 4,075 (58 percent) required discretionary decisions and 2,955 (42 percent) were purely administrative.

Planning Department staff noted that there is no standardization regarding who applies for a land use entitlement. An applicant may be the developer, but it may also be the property owner, a law firm, a lobbying firm, an architect, an engineering firm, an attorney, or another member of the project team. As a result, a ban on contributions only from a person who has filed an application would be too narrow. In other words, it could result in a scenario in which the ban does not apply to a person whose financial interests are fundamentally affected by a planning decision.

Property ownership can also be complex. The developer may or may not be the property owner. Developers can, for example, secure from the property owner an option to pursue an entitlement to develop the property. Furthermore, approved entitlements run with the land—not with the owner or applicant. Entitled property can be transferred to new ownership after an entitlement decision has been made, and the Planning Department is not notified when that occurs. As a result, banning contributions only from property owners would also be too narrow to appropriately prevent actual or perceived corruption.

There are caveats related to banning contributions from developers. One is that, while a ban that begins with the submission of an application for a land use entitlement clearly delineates a point of entry into the planning process, it could also create public perception issues. For example, it is possible for a very large development project to receive a “by right” building permit from DBS. In that case, the developer would not be banned from making contributions, because the project did not require a discretionary City decision. However, the public would be aware of the project, simply from observing construction activity at the project site or reading about it in the news. That awareness could lead the public to believe that the developer should not be making contributions when, in fact, contributions would be legally permitted.

Timing is also an issue. It can take multiple years for a land use entitlement to go from application to decision. For projects that require an environmental impact report (1,828

environmental applications were filed in 2018), the California Environmental Quality Act process, alone, typically takes at least one year. In addition, an approved development project may take years to complete and require discretionary approvals along the way. Therefore, a ban that extends beyond the project's completion date more fully addresses the time period during which influence can be exerted.

**b. Non-individuals**

A number of local jurisdictions have approached the corruption issue by banning contributions from non-individuals, meaning businesses and other entities. This is sometimes referred to as a “people only” or “humans only” model. For example, San Diego prohibits contributions from all non-individuals except political parties. *See* San Diego Municipal Code § 27.2950. San Francisco prohibits contributions from corporations (as do approximately 20 states, according to the National Conference of State Legislators). *See* San Francisco Campaign and Governmental Conduct Code § 1.114(b); “State Limits on Contributions to Candidates, 2017-2018 Election Cycle”, 6/27/2017, ncsf.org. New York City also bans contributions from corporations and other business entities. *See* New York City Campaign Finance Board Rule 1-04(e), Campaign Finance Act § 3-703(l).

San Diego's non-individual ban was upheld by the 9th Circuit Court of Appeals in *Thalheimer v. City of San Diego*, 645 F.3d 1109 (9th Cir. 2011). The court found that a ban on contributions from non-individuals is constitutional if it is closely drawn to match a sufficiently important government interest. Preventing corruption, the appearance of corruption, or circumvention of the law are valid government interests that justify campaign finance restrictions. *Thalheimer*, 645 F.3d at 1118. The 9th Circuit held that San Diego's ban constitutionally supports the prevention of corruption but did carve out an exception for contributions from political parties, finding that a ban on such contributions threatens the First Amendment right to associate in a political party. *Thalheimer*, 645 F.3d at 1128.

A non-individual ban provides more clarity about who may contribute and who may not. It eliminates the need to aggregate (combine) the contributions of multiple persons and treat them as if they were made by a single person. This is currently required by law when one person exerts a certain level of control over another's contribution activity. *See* Los Angeles Municipal Code (LAMC) § 49.7.4. For example, a contribution from an LLC and a contribution from an individual who owns more than 50 percent of the LLC must be aggregated to protect and prevent the circumvention of the per-person contribution limits. When aggregation is no longer an issue, it is much easier for candidates and their committees to comply with the contribution limits during a campaign, and the audits that follow an election are much more straightforward. It is also easier for contributors to comply with the law, because it eliminates potential confusion about whose contributions must be aggregated with theirs.

In addition to simplifying the fundraising and audit processes, a non-individual ban significantly enhances transparency about who is funding City campaigns. When all contributions must be attributed to an individual, it eliminates the murkiness that occurs when a business or a trust, for example, makes a contribution and there is no public information about the individuals who control it.

City law currently permits non-individuals to make contributions, but the cumulative value of their contributions is capped. The Charter states that candidates may not “accept more than” certain total dollar amounts from non-individuals. The maximums vary depending on the seat the candidate seeks, apply per election, and are adjusted annually to reflect changes in the Consumer Price Index (CPI). Charter § 470(c)(7); LAMC § 49.7.3(B)(2)(c). The current maximums are \$226,500 for City Council candidates, \$603,800 for City Attorney and Controller candidates, and \$1,358,700 for Mayoral candidates. However, this limit does not address the potential for corruption that exists when businesses and other entities make political contributions that must be aggregated with contributions made by individuals who control those businesses and entities.

In all of the audits conducted for City elections from 2011 through 2015, there were a total of 515 audit findings. Excess contributions accounted for 81 percent of those findings, and 213 of the excess contributions involved non-individuals. If non-individuals had been prohibited from contributing during that time period, audit findings would have been reduced by approximately 42 percent overall, and findings related to excess contributions would have been reduced by over 51 percent.

Also of note is the fact that the percentage of contributions from non-individuals has decreased in City elections since 2011. This may be the result of the matching funds program, which only recognizes contributions from individuals. As shown in the table below, contributions from non-individuals represent 20 percent or less of all contributions to City candidates in the past three elections, including the highly competitive 2013 elections. Therefore, most contributions that are currently collected would still be permitted, even with a ban on non-individual contributions. In addition, it would provide greater transparency for the public about who is behind approximately one-fifth of typical contributions.

<b>INDIVIDUAL v. NON-INDIVIDUAL CONTRIBUTIONS</b>				
<b>City Election</b>	<b>INDIVIDUAL</b>		<b>NON-INDIVIDUAL</b>	
	<b>Total Amount</b>	<b>Percent of Total Contributions</b>	<b>Total Amount</b>	<b>Percent of Total Contributions</b>
2011	\$2,872,485	71%	\$1,150,707	29%
2013	\$25,780,389	81%	\$6,179,072	19%
2015	\$4,442,492	81%	\$1,011,714	19%
2017	\$8,696,301	80%	\$2,186,504	20%

*Reflects itemized contributions as reported. Numbers are rounded.*

### 3. Approved Bans on Non-individuals and Developers

In light of the data and to prevent actual and apparent corruption and the circumvention of the contribution limits, the Ethics Commission believes it is important to amend City law to prohibit contributions from both non-individuals and developers. The Ethics Commission also believes it is critical to restrict fundraising and bundling, which can result in far more money for candidates and officeholders than a single contribution of \$800 or \$1,500.

Language to implement the recommended bans is provided in Attachment A. Key provisions that apply to both bans include the following.

- (1) The recommended bans apply to **both the making and the receiving** of a contribution. The Ethics Commission believes this is an essential component of an equitable and effective anti-corruption law. *See* approved LAMC §§ 49.7.37(A), (B); Attachment A, pp. 4-7. This mirrors the existing ban on lobbying contributions but was not addressed in Councilmember Ryu's motions.
- (2) Similar to the existing ban on fundraising by bidders, contractors, subcontractors, and their principals, the recommended bans extend to **fundraising and bundling**, as well as to personal contributions. The Ethics Commission believes this is also a critical component of an anti-corruption law, in that it would eliminate a significant loophole by prohibiting a banned person from collecting large amounts of other people's money (far more than the \$800 or \$1,500 limit on contributions) and delivering that money to an elected official or candidate in an attempt to influence the official or candidate. This is acknowledged in the ban on prohibited fundraising that currently exists for bidders, contractors, subcontractors, and their principals in Charter § 470(c)(12) and LAMC §§ 49.7.35, 49.7.36. A person subject to the ban would continue to be able to engage in the vast majority of political activities, such as endorsing a candidate, volunteering with a candidate's campaign, expressing views through independent expenditures, giving speeches, soliciting votes, and writing opinion pieces. To more fully protect against an environment of corruption and establish consistency in how fundraising is treated throughout the campaign finance laws, the Ethics Commission recommends that the same fundraising ban be extended to lobbyists, lobbying firms, bidders, and contractors. The recommended language universally applies a definition that already exists in the Campaign Finance Ordinance (CFO). *See* approved LAMC §§ 49.7.11(A)(2)(i), 49.7.35(A)(7), 49.7.36(A)(1), 49.7.37(A)–(B), 49.7.37(D)(1), (3); Attachment A, pp. 2-5. Fundraising and bundling were not addressed in Councilmember Ryu's motions.
- (3) The recommended bans apply to contributions to and fundraising for **any committee controlled by an elected City official or a candidate** for elected City office. *See* approved LAMC §§ 49.7.37(A)–(B); Attachment A, pp. 4-5. This would include, for example, committees controlled for purposes of running for office or supporting or opposing a ballot measure in other jurisdictions. The Ethics Commission believes this is critical to an effective anti-corruption law, because influence can be improperly garnered by giving to any committee controlled by an elected official or candidate, regardless of jurisdiction. This was not addressed in Councilmember Ryu's motions.
- (4) The recommended bans include a modification to the mandatory **contributor certification**. Contributors are currently required to certify that they are not prohibited from making a contribution by virtue of being a lobbying entity or a bidder or contractor, and the Ethics Commission recommends that they also be required to certify that they are not prohibited from making a contribution by virtue of being a non-individual or a developer. *See* approved LAMC §§ 49.7.16(B)(3)(c), (d); Attachment A, p. 2.

Key provisions that apply to the recommended ban on developers include the following:

- (1) The recommended ban applies to **applicants and their principals**. An applicant is the person identified as such on an application submitted to the Planning Department for a discretionary land use entitlement. The principals include the property owners, the members of the project team (persons who are substantially interested in the land use entitlement application or the related development project), subcontractors of \$100,000 or more, key officers of the applicant and principals, and an individual who owns 20 percent or more of the applicant or a principal. This mirrors the existing ban on bidders, contractors, subcontractors, and their principals but was not addressed in Councilmember Ryu's motions. *See* approved LAMC §§ 49.7.37(B)(1)(c), 49.7.38(C)(2), (5); Attachment A, pp. 4, 6-7; Attachment C, p. 4.
- (2) To focus on circumstances in which actual or perceived corruption may exist, the recommended ban applies to any **land use entitlement process** with the Planning Department, other than one that is purely administrative. This more accurately reflects the City's actual planning processes and tailors the ban to focus on discretionary decisions that may be swayed by improper influence. However, it does mean that persons involved in a non-discretionary development authority granted by DBS or the Planning Department would not be banned. *See* approved LAMC §§ 49.7.38(C)(1), (3), (4); Attachment A, p. 6.
- (3) The recommended ban applies **from the date an application is filed until 12 months after the later of** the date a letter of determination is issued or a certificate of occupancy is issued. *See* approved LAMC § 49.7.37(B)(1)(c)(i); Attachment A, p. 5. This is different from the motion in Attachment B, which would lift the ban 12 months after a decision on the application is made. Using the date an application is filed as the trigger provides certainty about when the ban begins and who the banned parties are. Extending the ban through 12 months after the entitlement process or the development project is complete more accurately reflects the reality that development processes and projects typically remain active for many years and may involve discretionary amendments and inspections.
- (4) To facilitate understanding and implementation of the ban, to more robustly inform the public about development in the City, and to foster enforcement of the ban, the recommended language includes a **disclosure** requirement similar to the disclosure required of City bidders in LAMC §§ 49.7.35(B)(3)-(4). The disclosure would identify the project, the applicant, and the principals. The Ethics Commission recommends that the disclosure be made through an electronic filing system created by the Ethics Commission and that sufficient funding be provided to create and maintain the system, as was done for the contractor filing system in LAMC § 49.5.11(B)(7). This was not addressed in the motions in Councilmember Ryu's motions. *See* approved LAMC § 49.7.38(A); Attachment A, pp. 5-6.
- (5) The recommended ban includes a provision that prohibits a person who violates the restrictions from being an applicant or principal on a new application for 12 months

after the **determination of violation**, unless the Ethics Commission determines that mitigating circumstances exist. This is similar to the debarment provision in LAMC § 49.7.35(C) and was not addressed in Councilmember Ryu's motions. *See* approved LAMC § 49.7.37(C); Attachment A, p. 5.

The various provisions of the recommendations are intended to be severable. The City Attorney's office has said that Charter § 470(c)(7) may need to be amended to fully implement the recommended non-individual ban. If a Charter amendment is determined to be necessary, the Ethics Commission urges you to place the amendment before the voters as quickly as possible and, in the meantime, to move forward with all recommendations that may be adopted without or prior to a Charter amendment. The Ethics Commission also recommends simplifying the CFO's aggregation requirement if the non-individual ban is adopted. *See* approved LAMC § 49.7.4; Attachment A, pp. 1-2.

One final note is that, if adopted by the City Council, the motion in Council File No. 19-0046 would ask the Ethics Commission to report on requiring elected City officials to recuse themselves from voting on issues related to a land use entitlement when they have accepted a contribution from an applicant or principal. The Ethics Commission believes that evaluating a potential recusal requirement is appropriate and meaningful only when it is known whether a ban on contributions and fundraising will be adopted and, if so, how that ban applies.

## **B. Behested Payments**

### **1. Background**

State law requires an elected City official to file a report with the Ethics Commission when, at the behest of the elected official, a person makes payments totaling at least \$5,000 over the course of a year to third parties for legislative, governmental, or charitable purposes. Cal. Gov't Code §§ 82004.5, 84224. The state has adopted Form 803 for reporting behested payments, and a copy of the form is provided in Attachment D.

### **2. Considerations**

In 2014, the Ethics Commission recommended that the disclosure threshold for payments behested by elected City officials be reduced to \$1,000. The City Council declined to implement the recommendation at that time. *See* Council File No. 12-1269-S3.

The motion in Council File No. 19-0046 would prohibit elected City officials from soliciting behested payments, but only from developers and their principals. As with banning developer contributions, there are multiple considerations regarding the regulation of behested payments. Most of the behested payments reported by City officials over the past six years went to government agencies or charitable organizations. These entities provide great value to the public, and helping to ensure that they are well funded is an appropriate function of public officials. Banning behested payments entirely could affect a charitable organization's ability to raise funds.

However, like the potential for corruption that exists with regard to campaign money, there is also the potential for actual or perceived corruption in the realm of behested money, particularly when payments are solicited from persons who have business with the City. Recent media reports have shined a light on this potential. *See, e.g.*, “L.A. City Councilman Used His Position to Help Wife Raise Funds for Private School, Ex-Aides Say”, 11/30/2018, [ktla.com/2018/11/30/l-a-city-councilman-used-his-position-to-help-wife-raise-funds-for-private-school-ex-aides-say/](http://ktla.com/2018/11/30/l-a-city-councilman-used-his-position-to-help-wife-raise-funds-for-private-school-ex-aides-say/); “‘A tricky area of philanthropy’: LA mayor solicits millions for his favored causes”, 8/23/2017, [www.scpn.org/news/2017/08/23/74917/la-mayor-garcetti-behested-payments/](http://www.scpn.org/news/2017/08/23/74917/la-mayor-garcetti-behested-payments/). Public concern extends even to staff in elected offices. *See, e.g.*, “L.A. deputy mayor raised money from developers with major projects in downtown, records show”, 1/30/2019, [latimes.com/local/lanow/la-me-ln-deputy-mayor-fundraising-20190130-story.html](http://latimes.com/local/lanow/la-me-ln-deputy-mayor-fundraising-20190130-story.html).

The state’s disclosure requirement provides some transparency without banning behested payments altogether. All behested payment reports filed with the Ethics Commission since 2000 may be searched and viewed online at [ethics.lacity.org/data/ethics/behested-payment-reports/](http://ethics.lacity.org/data/ethics/behested-payment-reports/). Since January 1, 2014, \$49,690,667 in behested payments have been reported by elected City officials: \$39,816,133 reported by the Mayor’s office; \$8,924,564 reported by the City Attorney’s office; \$150,000 reported by the Controller’s office; and \$799,970 reported by City Council offices. A total of 597 behested payments were reported.

The ten payors who were reported as having made the most behested payments over the past five years are identified in the table below. Of the top 10 payors, eight had business with the City during that five-year period, which was documented in City databases identifying lobbying entities, contractors, persons with business before the City Council, and persons who received payments through the Controller’s office. The other two, the California Attorney General’s Office and La Vida Feliz Foundation, also could have been restricted sources (discussed below in subsection 3(a)) without being documented in one of the databases. For example, they could have attempted to influence an elected official directly in a matter that had a material financial effect on them.

Payor	Behested Payments Made 2014-2018
California Attorney General’s Office	\$4,379,380
Walt Disney Company (and related entities)	\$3,023,325
Los Angeles Clipper Foundation	\$3,000,000
Bloomberg Foundation (and related entities)	\$2,799,900
Orrick, Herrington & Sutcliffe LLP	\$2,191,828
La Vida Feliz Foundation	\$2,000,000
Annenberg Foundation (and related entities)	\$1,870,000
Covington & Burling, LLP	\$1,631,103
Los Angeles Dodgers, LLC (and related entities)	\$1,500,000
The Weingart Foundation	\$1,410,000

Of the 597 behested payments during the past five years, at least 311 (52 percent) were made by payors who had business with the City (within the 12 months before or after their

behested payments) that was documented in City databases identifying lobbying entities, contractors, persons with business before the City Council, and persons who received payments through the Controller's office. The total dollar value of their behested payments is \$26,079,027, or 52 percent of all behested payments reported since January 1, 2014.

These numbers are likely conservative. For example, a payor could have had business with the City 13 months prior to a behested payment. In addition, potential ties between individuals and entities are very difficult to determine. A business with a City contract, for example, would be counted among the payors who had business with the City, but that business's CEO might not. Finally, as noted above, a payor could have qualified as a restricted source (discussed below in subsection 3(a)) without appearing in a City database by virtue of attempting to influence an elected official.

### 3. Approved Amendments

To guard against actual or perceived corruption, the Ethics Commission recommends enhanced regulation of behested payments. Language to implement each of the recommendations is provided in Attachment B, as an amendment to the Governmental Ethics Ordinance.

#### **a. *Ban Solicitation of Restricted Sources***

The Ethics Commission recommends prohibiting elected officials from soliciting a behested payment from a restricted source. *See* approved LAMC § 49.5.5(C); Attachment B, pp. 1-2. A restricted source for an elected official is a lobbyist, a lobbying firm, a bidder, a contractor, a person who attempted to influence the elected official in the previous 12 months regarding an action that would have a material financial effect on the person, and a person who was a party to a proceeding involving a license, permit, or entitlement that, in the previous 12 months, was pending before the elected official or a body of which the official is a member. LAMC § 49.5.2(J)(1).

The potential for actual or perceived corruption exists whenever a person has a financial interest in a City decision, whether that decision pertains to land use or not. In addition, the City has long determined that financial interactions between City officials and restricted sources should be limited and subject to a higher level of scrutiny. *See, e.g.*, LAMC §§ 49.5.7(C)(2), 49.5.8(C), 49.5.9(B).

The ban would not prohibit all solicitations and is not intended to affect the City's ability to enter into public-private partnerships. In addition, the ban would not prevent any person, including a restricted source, from making a donation to a governmental or charitable organization.

The Ethics Commission recommends several exceptions to the ban. The exceptions would permit the solicitation of a behested payment from a restricted source when the solicitation is made because of a state of emergency, is made through mass media, is made to the entire audience at a public gathering, is made through written materials in which the elected official's name is listed with other names, asks for services (rather than dollars) provided to the

City, or results because an elected official is involved in a grant application on behalf of the City. *See* approved LAMC § 49.5.5(C)(1); Attachment B, pp. 1-2.

These exceptions would maintain the integrity of the ban while also acknowledging that there are scenarios in which the threat of actual or apparent corruption is significantly reduced. For example, the Ethics Commission believes that an elected official should be able to solicit behested payments to the Red Cross when it is providing assistance to City residents in the wake of a disaster, to solicit toys for disadvantaged children during the holidays through mass media and set out boxes in City Hall to collect them, and to ask an audience at a public gathering to donate to a worthy cause. The Ethics Commission believes the City's efforts to secure state, federal, or nonprofit grant money should not be hindered by an elected official's participation in the application process. In addition, the Ethics Commission believes that pro bono services provided to the City function as an extension of government and benefit the public with necessary and fiscally prudent resources.

**b. Lower the Disclosure Threshold**

The Ethics Commission further recommends lowering the disclosure threshold for behested payments from \$5,000 to \$1,000. *See* approved LAMC § 49.5.5(C)(2); Attachment B, p. 2. This is the same threshold the Ethics Commission previously recommended in 2014. *See* Council File No. 12-1269-S3. It is also the same threshold that currently exists in San Francisco. *See* San Francisco Campaign and Governmental Conduct Code § 3.610(a). A disclosure threshold of \$1,000 will significantly increase transparency for the public regarding the flow of money as a result of behested payments.

**c. Require More Detailed Disclosure**

The Ethics Commission also recommends requiring more detailed disclosure about behested payments. Currently, elected officials are required to report only the name and address of payors on Form 803. Additional comments can be provided in Section 5 of the form, and the Ethics Commission recommends that City officials be required to identify in the comment section whether the payor was a lobbying entity, a bidder, a contractor, or a development applicant or principal at the time one or more behested payments were made. *See* approved LAMC § 49.5.5(C)(3); Attachment B, p. 2.

To obtain the required information, a City official may ask the payor if the payor falls into any of those categories. A City official may also refer to the Ethics Commission's online filing systems to identify lobbying entities, bidders, and contractors. To provide additional resources for this enhanced disclosure, the funding and creation of an electronic disclosure system for development applicants and principals should also be required. *See* proposed LAMC § 49.7.38(A)(2); Attachment A, p. 4.

Finally, the Ethics Commission recommends stating that an elected official's staff member is acting as an agent of the elected official when soliciting a behested payment. *See* approved LAMC § 49.5.5(C)(4); Attachment B, p. 2. The state has advised that it interprets its definition of "agent" in this way, and the Ethics Commission believes it is important to provide

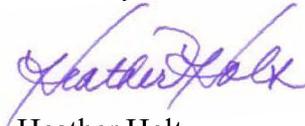
proper notice of the extent of the regulation to all affected parties. *See* Cal. Gov't Code § 82004.5; Fair Political Practices Advice Nos. A-11-063, A-97-142.

### **C. Conclusion**

To combat actual or perceived corruption and the circumvention of the City's contribution limits, the Ethics Commission has unanimously approved a ban on campaign contributions from and fundraising by non-individuals and developers. The Ethics Commission has also unanimously approved enhanced disclosure for behested payments and a ban on soliciting behested payments from restricted sources.

The Ethics Commission urges you to adopt the approved amendments. We understand that policy and legal questions may arise during your consideration of the recommendations, and we are happy to discuss any issue at any time. If you have questions, please do not hesitate to contact me or Policy Director Tyler Joseph.

Sincerely,



Heather Holt  
Executive Director

#### *Attachments*

- A Approved language to ban non-individuals and developers*
- B Approved language to regulate behested payments*
- C Planning Department application for discretionary decision*
- D CA Form 803 (Behested Payment Report)*

*Approved Amendments*  
**Bans on Non-individuals and Developers**

**SEC. 49.7.4. AGGREGATION OF CONTRIBUTIONS AND EXPENDITURES.**

***[ONLY IF NON-INDIVIDUAL BAN IS ADOPTED.]***

For purposes of the limitations, prohibitions, and requirements contained in Charter Section 470 and this Article, contributions and expenditures from ~~the following sets of two~~ persons will be aggregated and considered to be made by a single person when one of the persons controls the contribution activity of both persons. An aggregated contribution may not exceed the lowest contribution ~~allowed limit~~ for either person:

- ~~A. Two persons when one controls the other's contribution activity.~~
- ~~B. A business entity and another person when the person participates in the business entity's decision to make a contribution, is personally prohibited from making the contribution, and holds an ownership interest of at least 20 percent in the business entity.~~
- ~~C. A sponsored committee, as defined in Government Code Section 82048.7, and its sponsoring organization.~~
- ~~D. A committee and another person when the person participates in the committee's decision to make a contribution, is personally prohibited from making the contribution, and provides (alone or in conjunction with other similarly prohibited persons) 20 percent or more of the committee's funding.~~
- ~~E. Two entities when the same individuals constitute a majority of each entity's board of directors.~~
- ~~F. Two entities that share the same officers or a majority of officers. For the purposes of this Subsection, an officer does not include an individual who serves only as a member of the entity's board of directors.~~
- ~~G. A corporation or limited liability company that shares the same majority shareholders or members as or holds a majority of the voting rights in another corporation or limited liability company.~~
- ~~H. Two corporations in a parent subsidiary relationship, provided that at least one of the corporations is not publicly traded.~~
- ~~I. An individual and a corporation, limited liability company, firm, joint venture, syndicate, business trust, company, or other business entity other than a sole proprietorship or a general or limited partnership, in which the individual owns an investment of 50 percent or more, or holds a majority of the voting rights.~~

~~J.—An individual and a sole proprietorship owned by the individual.~~

~~K.—A general partner and a general or limited partnership in which the general partner owns an investment of 50 percent or more, or holds a majority of the voting rights.~~

#### **SEC. 49.7.11. SOLICITATION AND DELIVERY OF CAMPAIGN CONTRIBUTIONS.**

~~(A)(2)(i) Delivering a contribution, other than one’s own, either by mail or in person to an elected City officer, a candidate for elected City office, or a City controlled committee; or~~

#### **SEC. 49.7.16. CONTRIBUTOR INFORMATION.**

**(B)(3)** The contribution is not from a person who is prohibited from contributing, including the following:

a. A lobbyist or lobbying firm who is prohibited from contributing under Charter Section 470(c)(11); ~~and~~

b. A bidder, sub-contractor, principal, or underwriting firm that is prohibited from contributing under Charter Section 470(c)(12) or Charter Section 609(e);~~i~~

c. An applicant or principal that is prohibited from contributing under Section 49.7.37; and

d. A non-individual.

#### **SEC. 49.7.35. BIDDER CONTRIBUTION AND FUNDRAISING RESTRICTIONS.**

**(A)(7) “Prohibited fundraising”** ~~means the following activities:~~has the same meaning as in Section 49.7.11(A)(2).

~~a. Asking the bidder, sub-contractor, or an employee, officer, or principal of the bidder or sub-contractor to make a contribution;~~

~~b. Inviting the bidder, sub-contractor, or an employee, officer or principal of the bidder or sub-contractor to a fundraising event;~~

~~c. Supplying the name of the bidder, sub-contractor, or an employee, officer or principal of the bidder or sub-contractor to be used for an invitation to a fundraising event;~~

~~d. Permitting one’s name to appear on a solicitation for contributions or an invitation to a fundraising event sent to the bidder, sub-contractor, or an employee, officer, or principal of the bidder or sub-contractor;~~

## **Attachment A**

- ~~e. Providing the use of one's home or business to hold a fundraising event if the bidder, sub-contractor or an employee, officer, or principal of the bidder or sub-contractor attends the event;~~
- ~~f. Paying for at least 20 percent of the costs of a fundraising event if the bidder, sub-contractor, or an employee, officer, or principal of the bidder or sub-contractor attends the event;~~
- ~~g. Hiring another person to conduct a fundraising event if the bidder, a sub-contractor, or an employee, officer, or principal of the bidder or sub-contractor attends the event;~~
- ~~h. Delivering a contribution, either in person or by mail, of the bidder, a sub-contractor, or an employee, officer, or principal of the bidder or sub-contractor to the elected City officer, candidate for elected City office, or an agent of the officer or candidate; or~~
- ~~i. Acting as an agent or intermediary in connection with the making of a contribution of the bidder, a sub-contractor, or an employee, officer, or principal of the bidder or sub-contractor to an elected City officer, a candidate for elected City office, or a City-controlled committee.~~

#### **SEC. 49.7.36. UNDERWRITER CONTRIBUTION AND FUNDRAISING RESTRICTIONS.**

**(A)(1) "Prohibited Fundraising"** ~~means the following activities:~~ has the same meaning as in Section 49.7.11(A)(2).

- ~~a. Asking the underwriting firm, sub-contractor, or an employee, officer, or principal of the underwriting firm or sub-contractor to make a contribution;~~
- ~~b. Inviting the underwriting firm, sub-contractor, or an employee, officer, or principal of the underwriting firm or sub-contractor to a fundraising event;~~
- ~~c. Supplying the name of the underwriting firm, sub-contractor, or an employee, officer, or principal of the underwriting firm or sub-contractor to be used for an invitation to a fundraising event;~~
- ~~d. Permitting one's name to appear on a solicitation for contributions or an invitation to a fundraising event sent to the underwriting firm, sub-contractor, or an employee or officer of one of those persons;~~
- ~~e. Providing the use of one's home or business to hold a fundraising event if the underwriting firm, sub-contractor, or an employee, officer, or principal of the underwriting firm or sub-contractor attends the event;~~

- ~~f. Paying for at least 20 percent of the costs of a fundraising event if the underwriting firm, sub-contractor, or an employee, officer, or principal of the underwriting firm or sub-contractor attends the event;~~
- ~~g. Hiring another person to conduct a fundraising event if the underwriting firm, sub-contractor, or an employee, officer, or principal of the underwriting firm or sub-contractor attends the event;~~
- ~~h. Delivering a contribution, either in person or by mail, of the underwriting firm, sub-contractor, or to an employee, officer, or principal of the underwriting firm or sub-contractor to an elected City officer, a candidate for elected City office, or an agent of the officer or candidate; or~~
- ~~i. Acting as an agent or intermediary in connection with the making of a contribution by the underwriting firm, sub-contractor, or to an or employee, officer, or principal of the underwriting firm or sub-contractor to an elected City officer, a candidate for elected City office, or a City controlled committee.~~

#### **SEC. 49.7.37. CONTRIBUTION AND FUNDRAISING RESTRICTIONS.**

##### **A. The following restrictions apply to non-individuals.**

1. A non-individual may not make a contribution to or engage in prohibited fundraising or bundling to an elected City officer, a candidate for elected City office, or a committee controlled by an elected City officer or candidate.
2. An elected City officer, a candidate for elected City office, or a committee controlled by an elected City officer or candidate may not receive a contribution from a non-individual or from another person as a result of prohibited fundraising or bundling by a non-individual.

##### **B. The following restrictions apply to individuals.**

1. The following individuals may not make a contribution to or engage in prohibited fundraising or bundling to an elected City officer, a candidate for elected City office, or a committee controlled by an elected City officer or candidate.
  - a. A lobbyist identified in, and in accordance with, Charter Section 470(c)(11).
  - b. A bidder, contractor, subcontractor, or principal identified in, and in accordance with, Section 49.7.35, Section 49.7.36, and Charter Section 470(c)(12).
  - c. An applicant or principal identified in Section 49.7.38.

(i) The restriction applies from the time an application is submitted until 12 months after the later of the date a letter of determination is issued or the date a certificate of occupancy is issued.

(ii) The definitions in Section 49.7.38(C) apply to this subparagraph.

2. Whenever the restrictions in Subsection B(1) apply, an elected City officer, a candidate for elected City office, or a committee controlled by an elected City officer or candidate may not receive a contribution from an individual identified in Subsection B(1) or from another person as a result of prohibited fundraising or bundling by an individual identified in Subsection B(1).

C. In addition to any other penalties or remedies established by this Article, an applicant or principal found to have violated this Section or to have aided or abetted a violation of this Section may not be an applicant or principal on a new application for 12 months after the determination of violation, unless the Ethics Commission, as a body, determines that mitigating circumstances exist concerning such violation. The Ethics Commission may adopt regulations regarding mitigating circumstances, including what constitutes mitigating circumstances and any other information determined to be necessary. The Ethics Commission staff shall notify all City agencies of a determination of violation within ten business days after the determination. The definitions in Section 49.7.38(C) apply to this subsection.

D. For purposes of this section, the following terms have the following meanings.

1. "Bundling" means delivering a contribution or acting as an agent or intermediary in connection with the making of a contribution.

2. "Non-individual" means any business, organization, or entity other than a political party.

3. "Prohibited fundraising" has the same meaning as in Section 49.7.11(A)(2).

## **SEC. 49.7.38. DISCLOSURE IN LAND USE ENTITLEMENT PROCESSES**

A. At the time an application for a land use entitlement is submitted, the applicant shall file information with the Planning Department.

1. The information shall include the following:

a. A brief description of the development project, including any City reference number associated with it and the address or APN of the project site;

b. The date the application was submitted;

c. The applicant's name, address, phone number, and email address;

d. The names and titles of all principals;

# **Attachment A**

- e. A certification under penalty of perjury that the information submitted is true and complete and that the applicant understands, will comply with, and will notify all principals of the prohibitions in Section 49.7.37.
- 2. The information shall be filed through an electronic database created by the Ethics Commission. The City shall provide the Ethics Commission with adequate staffing and funding to create, maintain, and update the database and to administer this Section.
- 3. If the information filed pursuant to Paragraph 1 changes after the information is submitted, the applicant shall update its filing within ten business days after the change. The requirement to amend applies as long as the restrictions in Subsection B apply.
- 4. An application may not be approved until the information required by this Section is filed.
- B. The Planning Department shall notify every applicant of the requirements in this Section and the restrictions in Section 49.7.37.
- C. For purposes of this section, the following terms have the following meanings.
  - 1. "Application" means a land use application that is filed with the Planning Department and requires a discretionary decision. The term does not include an application that is purely administrative.
  - 2. "Applicant" means a person who is identified as the applicant on an application.
  - 3. "Discretionary decision" means an ultimate decision regarding an application that is rendered by the Director of Planning, a zoning administrator, an advisory agency, a deputy advisory agency, an historic preservation officer, an area planning commission, the City Planning Commission, the Cultural Heritage Commission, the City Council, the Mayor, or the designee of one of the above.
  - 4. "Planning Department" means the Los Angeles Department of City Planning.
  - 5. "Principal" means the following:
    - a. An owner of the property site that is the subject of an application.
    - b. A member of the project team, including an architect, architectural firm, lobbyist, lobbying firm, engineer, engineering firm, attorney, law firm, consultant, or consulting firm that has a substantial interest in the application or the related development project.

## Attachment A

- c. A subcontractor who is expected to receive at least \$100,000 as a result of performing work regarding an application or the related development project.
- d. The board chair, president, chief executive officer, chief operating officer, and an individual who serves in the functional equivalent of one or more of those positions for a person identified in Subparagraph (a), (b), or (c);
- e. An individual who holds an ownership interest of 20 percent or more in a person identified in Subparagraph (a), (b), or (c); and
- f. An individual employee of a person identified in Subparagraphs (a) through (e) who is authorized to represent the person before the Planning Department.

| **SEC. 49.7.~~3739~~. RECORDKEEPING.**

| **SEC. 49.7.~~3840~~. ENFORCEMENT.**

| **SEC. 49.7.~~3941~~. LATE FILING PENALTIES.**

| **SEC. 49.7.~~4042~~. SEVERABILITY.**

*Approved Amendments*  
**Regulation of Behested Payments**

**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. An elected City officer shall not solicit a behested payment from a restricted source.

1. The prohibition on soliciting a behested payment does not apply in the following scenarios:

a. The solicitation is made because of a state of emergency declared by the City Council.

b. The solicitation is communicated solely through mass media, a suggestion made to the entire audience at a public gathering, or written materials in which the name of the elected City officer is listed with other names.

- c. The solicitation is for services provided to the City.
  - d. The solicitation is made as a result of an elected official's participation in a grant application submitted on behalf of the City.
  - 2. An elected City officer shall disclose behested payments in accordance with the Political Reform Act when one or more payments equal or exceed \$1,000 in the aggregate from the same source in the same calendar year.
  - 3. When disclosing behested payments, an elected City officer shall identify in the comment section of the state's behested payment report whether the payor was one or more of the following when one or more payments were made: a lobbying entity under Section 48.02; a bidder, contractor, subcontractor, or principal under Section 49.7.35 or 49.7.36; or an applicant or principal under Section 49.7.38.
  - 4. A member of an elected City officer's staff is an agent of the elected City officer when the staff member solicits a behested payment.
- ~~D~~. A person shall not induce or coerce or attempt to induce or coerce another person to engage in activity prohibited by Subsections ~~A~~, B, or C.
- ~~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.

## Attachment B



**APPLICATIONS:**

**DEPARTMENT OF CITY PLANNING APPLICATION**

THIS BOX FOR CITY PLANNING STAFF USE ONLY

Case Number \_\_\_\_\_

Env. Case Number \_\_\_\_\_

Application Type \_\_\_\_\_

Case Filed With (Print Name) \_\_\_\_\_ Date Filed \_\_\_\_\_

Application includes letter requesting:

- Waived hearing
  - Concurrent hearing
  - Hearing not be scheduled on a specific date (e.g. vacation hold)
- Related Case Number \_\_\_\_\_

**Provide all information requested. Missing, incomplete or inconsistent information will cause delays.**

*All terms in this document are applicable to the singular as well as the plural forms of such terms.  
Detailed filing instructions are found on form CP-7810*

**1. PROJECT LOCATION**

Street Address<sup>1</sup> \_\_\_\_\_ Unit/Space Number \_\_\_\_\_

Legal Description<sup>2</sup> (Lot, Block, Tract) \_\_\_\_\_

Assessor Parcel Number \_\_\_\_\_ Total Lot Area \_\_\_\_\_

**2. PROJECT DESCRIPTION**

Present Use \_\_\_\_\_

Proposed Use \_\_\_\_\_

Project Name (if applicable) \_\_\_\_\_

Describe in detail the characteristics, scope and/or operation of the proposed project \_\_\_\_\_

\_\_\_\_\_

Additional information attached  YES  NO

Complete and check all that apply:

**Existing Site Conditions**

- Site is undeveloped or unimproved (i.e. vacant)
- Site is located within 500 feet of a freeway or railroad
- Site has existing buildings (provide copies of building permits)
- Site is located within 500 feet of a sensitive use (e.g. school, park)

<sup>1</sup> Street Addresses must include all addresses on the subject/application site (as identified in ZIMAS—<http://zimas.lacity.org>)

<sup>2</sup> Legal Description must include all contiguously owned properties (even if they are not a part of the proposed project site)

Site is/was developed with use that could release hazardous materials on soil and/or groundwater (e.g. dry cleaning, gas station, auto repair, industrial)

Site has special designation (e.g. National Historic Register, Survey LA)

**Proposed Project Information**

(Check all that apply or could apply)

- Demolition of existing buildings/structures
- Relocation of existing buildings/structures
- Interior tenant improvement
- Additions to existing buildings
- Grading
- Removal of any on-site tree
- Removal of any street tree

- Removal of protected trees on site or in the public right of way
- New construction: \_\_\_\_\_ square feet
- Accessory use (fence, sign, wireless, carport, etc.)
- Exterior renovation or alteration
- Change of use and/or hours of operation
- Haul Route
- Uses or structures in public right-of-way
- Phased project

**Housing Component Information**

Number of Residential Units: Existing \_\_\_\_\_ - Demolish(ed)<sup>3</sup> \_\_\_\_\_ + Adding \_\_\_\_\_ = Total \_\_\_\_\_

Number of Affordable Units<sup>4</sup> Existing \_\_\_\_\_ - Demolish(ed) \_\_\_\_\_ + Adding \_\_\_\_\_ = Total \_\_\_\_\_

Number of Market Rate Units Existing \_\_\_\_\_ - Demolish(ed) \_\_\_\_\_ + Adding \_\_\_\_\_ = Total \_\_\_\_\_

Mixed Use Projects, Amount of Non-Residential Floor Area: \_\_\_\_\_ square feet

**Public Right-of-Way Information**

Have you submitted the Planning Case Referral Form to BOE? (required)  YES  NO

Is your project required to dedicate land to the public right-of-way?  YES  NO

If so, what is/are your dedication requirement(s)? \_\_\_\_\_ ft.

If you have dedication requirements on multiple streets, please indicate: \_\_\_\_\_

**3. ACTION(S) REQUESTED**

Provide the Los Angeles Municipal Code (LAMC) Section that authorizes the request and (if applicable) the LAMC Section or the Specific Plan/Overlay Section from which relief is sought; follow with a description of the requested action.

Does the project include Multiple Approval Requests per LAMC 12.36?  YES  NO

**Authorizing Code Section** \_\_\_\_\_

**Code Section from which relief is requested (if any):** \_\_\_\_\_

**Action Requested, Narrative:** \_\_\_\_\_

**Authorizing Code Section** \_\_\_\_\_

**Code Section from which relief is requested (if any):** \_\_\_\_\_

**Action Requested, Narrative:** \_\_\_\_\_

Additional Requests Attached  YES  NO

<sup>3</sup> Number of units to be demolished and/or which have been demolished within the last five (5) years.

<sup>4</sup> As determined by the Housing and Community Investment Department

**4. RELATED DEPARTMENT OF CITY PLANNING CASES**

Are there previous or pending cases/decisions/environmental clearances on the project site?  YES  NO

If YES, list all case number(s) \_\_\_\_\_  
\_\_\_\_\_

If the application/project is directly related to one of the above cases, list the pertinent case numbers below and complete/check all that apply (provide copy).

Case No. \_\_\_\_\_ Ordinance No.: \_\_\_\_\_

- Condition compliance review
- Modification of conditions
- Revision of approved plans
- Renewal of entitlement
- Plan Approval subsequent to Master Conditional Use
- Clarification of Q (Qualified) classification
- Clarification of D (Development Limitations) classification
- Amendment to T (Tentative) classification

For purposes of environmental (CEQA) analysis, is there intent to develop a larger project?  YES  NO

Have you filed, or is there intent to file, a Subdivision with this project?  YES  NO

If YES, to either of the above, describe the other parts of the projects or the larger project below, whether or not currently filed with the City:  
\_\_\_\_\_

**5. RELATED DOCUMENTS / REFERRALS**

To help assigned staff coordinate with other Departments that may have a role in the proposed project, please provide a copy of any applicable form and reference number if known.

- a. Specialized Requirement Form \_\_\_\_\_
- b. Geographic Project Planning Referral \_\_\_\_\_
- c. Citywide Urban Design Guidelines Checklist \_\_\_\_\_
- d. Affordable Housing Referral Form \_\_\_\_\_
- e. Mello Form \_\_\_\_\_
- f. Unpermitted Dwelling Unit (UDU) Inter-Agency Referral Form \_\_\_\_\_
- g. HPOZ Authorization Form \_\_\_\_\_
- h. Management Team Authorization \_\_\_\_\_
- i. Expedite Fee Agreement \_\_\_\_\_
- j. Department of Transportation (DOT) Referral Form \_\_\_\_\_
- k. Bureau of Engineering (BOE) Planning Case Referral Form (PCRF) \_\_\_\_\_
- l. Order to Comply \_\_\_\_\_
- m. Building Permits and Certificates of Occupancy \_\_\_\_\_
- n. Hillside Referral Form \_\_\_\_\_
- o. Low Impact Development (LID) Referral Form (Storm water Mitigation) \_\_\_\_\_
- p. Proof of Filing with the Housing and Community Investment Department \_\_\_\_\_
- q. Are there any recorded Covenants, affidavits or easements on this property?  YES (provide copy)  NO

**PROJECT TEAM INFORMATION (Complete all applicable fields)**

**Applicant<sup>5</sup> name** \_\_\_\_\_

Company/Firm \_\_\_\_\_

Address: \_\_\_\_\_ Unit/Space Number \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone \_\_\_\_\_ E-mail: \_\_\_\_\_

Are you in escrow to purchase the subject property?  YES  NO

**Property Owner of Record**  Same as applicant  Different from applicant

Name (if different from applicant) \_\_\_\_\_

Address \_\_\_\_\_ Unit/Space Number \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone \_\_\_\_\_ E-mail: \_\_\_\_\_

**Agent/Representative name** \_\_\_\_\_

Company/Firm \_\_\_\_\_

Address: \_\_\_\_\_ Unit/Space Number \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone \_\_\_\_\_ E-mail: \_\_\_\_\_

**Other** (Specify Architect, Engineer, CEQA Consultant etc.) \_\_\_\_\_

Name \_\_\_\_\_

Company/Firm \_\_\_\_\_

Address: \_\_\_\_\_ Unit/Space Number \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone \_\_\_\_\_ E-mail: \_\_\_\_\_

**Primary Contact for Project Information**  Owner  Applicant  
(select only one)  Agent/Representative  Other

To ensure notification of any public hearing as well as decisions on the project, make sure to include an individual mailing label for each member of the project team in both the Property Owners List, and the Abutting Property Owners List.

<sup>5</sup> An applicant is a person with a lasting interest in the completed project such as the property owner or a lessee/user of a project. An applicant is not someone filing the case on behalf of a client (i.e. usually not the agent/representative).

**PROPERTY OWNER**

**7. PROPERTY OWNER AFFIDAVIT.** Before the application can be accepted, the owner of each property involved must provide a notarized signature to verify the application is being filed with their knowledge. Staff will confirm ownership based on the records of the City Engineer or County Assessor. In the case of partnerships, corporations, LLCs or trusts the agent for service of process or an officer of the ownership entity so authorized may sign as stipulated below.

- **Ownership Disclosure.** If the property is owned by a partnership, corporation, LLC or trust, a disclosure identifying the agent for service or process or an officer of the ownership entity must be submitted. The disclosure must list the names and addresses of the principal owners (25% interest or greater). The signatory must appear in this list of names. A letter of authorization, as described below, may be submitted provided the signatory of the letter is included in the Ownership Disclosure. Include a copy of the current partnership agreement, corporate articles, or trust document as applicable.
- **Letter of Authorization (LOA).** A LOA from a property owner granting someone else permission to sign the application form may be provided if the property is owned by a partnership, corporation, LLC or trust or in rare circumstances when an individual property owner is unable to sign the application form. To be considered for acceptance, the LOA must indicate the name of the person being authorized the file, their relationship to the owner or project, the site address, a general description of the type of application being filed and must also include the language in items A-D below. In the case of partnerships, corporations, LLCs or trusts the LOA must be signed and notarized by the authorized signatory as shown on the Ownership Disclosure or in the case of private ownership by the property owner. Proof of Ownership for the signatory of the LOA must be submitted with said letter.
- **Grant Deed.** Provide a Copy of the Grant Deed If the ownership of the property does not match City Records and/or if the application is for a Coastal Development Permit. The Deed must correspond exactly with the ownership listed on the application.
- **Multiple Owners.** If the property is owned by more than one individual (e.g. John and Jane Doe or Mary Smith and Mark Jones) notarized signatures are required of all owners.

- a. I hereby certify that I am the owner of record of the herein previously described property located in the City of Los Angeles which is involved in this application or have been empowered to sign as the owner on behalf of a partnership, corporation, LLC or trust as evidenced by the documents attached hereto.
- b. I hereby consent to the filing of this application on my property for processing by the Department of City Planning.
- c. I understand if the application is approved, as a part of the process the City will apply conditions of approval which may be my responsibility to satisfy including, but not limited to, recording the decision and all conditions in the County Deed Records for the property.
- d. By my signature below, I declare under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct.

*Property Owner's signatures must be signed/notarized in the presence of a Notary Public.  
The City requires an original signature from the property owner with the "wet" notary stamp.  
A Notary Acknowledgement is available for your convenience on following page.*

Signature \_\_\_\_\_

Date \_\_\_\_\_

Print Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Print Name \_\_\_\_\_

**Space Below For Notary's Use**

**California All-Purpose Acknowledgement**

**Civil Code ' 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_  
(Insert Name of Notary Public and Title)

personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf on which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature (Seal)

**APPLICANT**

- 8. APPLICANT DECLARATION.** A separate signature from the applicant, whether they are the property owner or not, attesting to the following, is required before the application can be accepted.
- a. I hereby certify that the information provided in this application, including plans and other attachments, is accurate and correct to the best of my knowledge. Furthermore, should the stated information be found false or insufficient to fulfill the requirements of the Department of City Planning, I agree to revise the information as appropriate.
  - b. I hereby certify that I have fully informed the City of the nature of the project for purposes of the California Environmental Quality Act (CEQA) and have not submitted this application with the intention of segmenting a larger project in violation of CEQA. I understand that should the City determine that the project is part of a larger project for purposes of CEQA, the City may revoke any approvals and/or stay any subsequent entitlements or permits (including certificates of occupancy) until a full and complete CEQA analysis is reviewed and appropriate CEQA clearance is adopted or certified.
  - c. I understand that the environmental review associated with this application is preliminary, and that after further evaluation, additional reports, studies, applications and/or fees may be required. .
  - d. I understand and agree that any report, study, map or other information submitted to the City in furtherance of this application will be treated by the City as public records which may be reviewed by any person and if requested, that a copy will be provided by the City to any person upon the payment of its direct costs of duplication.
  - e. I understand that the burden of proof to substantiate the request is the responsibility of the applicant. Additionally, I understand that planning staff are not permitted to assist the applicant or opponents of the project in preparing arguments for or against a request.
  - f. I understand that there is no guarantee, expressed or implied, that any permit or application will be granted. I understand that each matter must be carefully evaluated and that the resulting recommendation or decision may be contrary to a position taken or implied in any preliminary discussions.
  - g. I understand that if this application is denied, there is no refund of fees paid.
  - i. I understand and agree to defend, indemnify, and hold harmless, the City, its officers, agents, employees, and volunteers (collectively "City"), from any and all legal actions, claims, or proceedings (including administrative or alternative dispute resolution (collectively "actions"), arising out of any City process or approval prompted by this Action, either in whole or in part. Such actions include but are not limited to: actions to attack, set aside, void, or otherwise modify, an entitlement approval, environmental review, or subsequent permit decision; actions for personal or property damage; actions based on an allegation of an unlawful pattern and practice; inverse condemnation actions; and civil rights or an action based on the protected status of the petitioner or claimant under state or federal law (e.g. ADA or Unruh Act). I understand and agree to reimburse the City for any and all costs incurred in defense of such actions. This includes, but it not limited to, the payment of all court costs and attorneys' fees, all judgments or awards, damages, and settlement costs. The indemnity language in this paragraph is intended to be interpreted to the broadest extent permitted by law and shall be in addition to any other indemnification language agreed to by the applicant.
  - i. By my signature below, I declare under penalty of perjury, under the laws of the State of California, that all statements contained in this application and any accompanying documents are true and correct, with full knowledge that all statements made in this application are subject to investigation and that any false or dishonest answer to any question may be grounds for denial or subsequent revocation of license or permit.

*The City requires an original signature from the applicant. The applicant's signature below does not need to be notarized.*

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

**OPTIONAL  
NEIGHBORHOOD CONTACT SHEET**

9. **SIGNATURES** of adjoining or neighboring property owners in support of the request are not required but are helpful, especially for projects in single-family residential areas. Signatures may be provided below (attach additional sheets if necessary).

NAME (PRINT)	SIGNATURE	ADDRESS	KEY # ON MAP

**REVIEW** of the project by the applicable Neighborhood Council is not required, but is helpful. If applicable, describe, below or separately, any contact you have had with the Neighborhood Council or other community groups, business associations and/or officials in the area surrounding the project site (attach additional sheets if necessary).

Behested Payment Report

A Public Document

Behested Payment Report

1. Elected Officer or CPUC Member <i>(Last name, First name)</i>		Date Stamp	<b>California 803</b> <b>Form</b> For Official Use Only
Agency Name			
Agency Street Address			
Designated Contact Person <i>(Name and title, if different)</i>		<input type="checkbox"/> Amendment <i>(See Part 5)</i>  Date of Original Filing: _____ <i>(month, day, year)</i>	
Area Code/Phone Number	E-mail <i>(Optional)</i>		

2. Payor Information *(For additional payors, include an attachment with the names and addresses.)*

Name \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

3. Payee Information *(For additional payees, include an attachment with the names and addresses.)*

Name \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

4. Payment Information *(Complete all information.)*

Date of Payment: \_\_\_\_\_ *(month, day, year)*      Amount of Payment: *(In-Kind FMV)* \$ \_\_\_\_\_ *(Round to whole dollars.)*

Payment Type:       Monetary Donation      or       In-Kind Goods or Services *(Provide description below.)*

Brief Description of In-Kind Payment: \_\_\_\_\_

Purpose: *(Check one and provide description below.)*       Legislative       Governmental       Charitable

Describe the legislative, governmental, charitable purpose, or event: \_\_\_\_\_

5. Amendment Description and/or Comments

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

6. Verification

I certify, under penalty of perjury under the laws of the State of California, that to the best of my knowledge, the information contained herein is true and complete.

Executed on \_\_\_\_\_ DATE      By \_\_\_\_\_ SIGNATURE OF ELECTED OFFICER OR CPUC MEMBER

Clear Page

FPPC Form 803 (January/2018)  
FPPC Toll-Free Helpline: 866/ASK-FPPC (866/275-3772)

Attachment D

# Behested Payment Report

Form 803 is used by elected officers and members of the California Public Utilities Commission (CPUC) to disclose payments made at their behest, principally for legislative, governmental, or charitable purposes. This form was prepared by the Fair Political Practices Commission (FPPC) and is available at [www.fppc.ca.gov](http://www.fppc.ca.gov).

## When to File

File Form 803 within 30 days following the date on which the payment(s) meets or exceeds \$5,000 in the aggregate from a single source in a calendar year. (Section 84224.) Once a single source has made a behested payment of \$5,000 or more during the calendar year, subsequent payments of any amount from that source must be reported.

## Where to File

**State Officials:** The official's state agency must receive Form 803 within 30 days of the date the behested payment is made. Within 30 days after receipt of the report, the state agency must forward a copy to the FPPC at:

1102 Q Street, Suite 3000, Sacramento, CA 95811  
Fax: 916-322-0883 E-mail: [Form803@fppc.ca.gov](mailto:Form803@fppc.ca.gov)

**Local Officials:** The official's local agency must receive Form 803 within 30 days of the date the behested payment is made. Within 30 days after receipt of the report, the agency must forward a copy to the filing officer who receives the official's original campaign statements.

**General Information:** Behested payments are payments made principally for legislative, governmental, or charitable purposes under Government Code Section 82004.5. These payments are not for personal or campaign purposes. Generally, a donation is made at the behest if it is requested, solicited, or suggested by the official, or otherwise made to a person in cooperation, consultation, coordination with, or at the consent of, the elected officer or CPUC member. This also includes payments behested by the official's agent or employee on the official's behalf.

**Exception:** If the behested payment is made by a state, local, or federal government agency and is principally for legislative or governmental purposes, the payment does not have to be reported.

**Privacy Information Notice:** Information requested by the FPPC is required by and used to administer and enforce the Political Reform Act. Failure to provide information may be a violation subject to administrative, criminal, or civil penalties. All reports and statements are public records available for inspection and reproduction. If you have any questions, please contact the FPPC's General Counsel at 1102 Q Street, Suite 3000, Sacramento, CA 95811 or (916) 322-5660.

## Instructions

**Part 1 - Identification:** Identify the official's name, agency, address, and contact information. Mark the amendment box if changing information on a previously filed Form 803 and include the date of the original filing.

**Part 2 - Payor Information:** Disclose the name and address of the person making the payment. A business address is acceptable.

**Part 3 - Payee Information:** Identify the name and address of the person receiving the payment. A business address is acceptable.

**Part 4 - Payment Information:** Disclose the payment date and amount using the fair market value (FMV) for donated in-kind goods or services. Check one box to identify the type of payment and provide a description if the payment is an in-kind good or service. Check one box to identify the purpose and provide a description.

**Part 5 - Amendment Description or Comments:** Complete this section if amending a previously filed Form 803 or to provide additional or clarifying information.

**Part 6 - Verification:** Date and sign the form under penalty of perjury.

## Example

On April 24, 20XX, at CPUC Member Tully's request, the ABC Corporation made a monetary donation of \$5,000 to the Boys and Girls Club.

<b>2. Payor Information</b> <small>(For additional payors, include an attachment with the names and addresses.)</small>			
ABC Corporation			
Name			
1234 Alpha Ave.	Sacramento	CA	95814
Address	City	State	Zip Code
<b>3. Payee Information</b> <small>(For additional payees, include an attachment with the names and addresses.)</small>			
The Boys and Girls Club			
Name			
5678 Bravo Blvd.	Sacramento	CA	95814
Address	City	State	Zip Code
<b>4. Payment Information</b> <small>(Complete all information.)</small>			
Date of Payment:	April 24, 20XX <small>(month, day, year)</small>	Amount of Payment:	<small>(In-Kind FMV)</small> \$ 5,000 <small>(Round to whole dollars.)</small>
Payment Type:	<input checked="" type="checkbox"/> Monetary Donation or <input type="checkbox"/> In-Kind Goods or Services <small>(Provide description below.)</small>		
Brief Description of In-Kind Payment: _____			
Purpose: <small>(Check one and provide description below.)</small> <input type="checkbox"/> Legislative <input type="checkbox"/> Governmental <input checked="" type="checkbox"/> Charitable			
Describe the legislative, governmental, charitable purpose, or event: Donation to children's community service organization			