CITY OF SANTA MONICA

CALIFORNIA LEVINE ACT DISCLOSURE

In 2022, California's SB1439 extended requirements under Government Code Section 84308, also known as the "Levine Act", to prohibit City "Officers" from participating in any action related to a contract, license, permit, or entitlement if such Officer received campaign contributions totaling more than $250 within the previous twelve months, and for twelve months following the date of a final decision, from a party or participant to the proceeding, or their agent.

Section 84308(a)(4) of the Levine Act defines an "Officer" as follows: "Officer" means any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency. The term "Officer" is further defined 2 Cal. Code Regs. Section 18438.1, which states:

> An officer of an agency includes only those persons who make, participate in making, or in any way attempt to use their official position to influence a decision in the license, permit, or entitlement for use proceeding, or who exercise authority or budgetary control over the agency or officers who may do so, and:
>
> (1) Serve in an elected position, including an official appointed to an elected position due to an interim vacancy or an election otherwise canceled because the official was the sole candidate for the position;
>
> (2) Serve as a member of a board or commission;
>
> (3) Serve as the chief executive of a state agency, or county, city or district of any kind; or
>
> (4) Have decision making authority with respect to the proceeding involving a license, permit, or other entitlement for use and is also a candidate for elected office or has been a candidate for elective office in the 12 months prior to the proceeding.

A list of Santa Monica Elected Officials and members of boards and commissions can be found at the following links. The party making this certification is responsible for determining whether a recipient of a political contribution is a City Officer prior to completing this form.

https://www.smgov.net/departments/council/
https://www.santamonica.gov/departments/rent-control
https://www.smgov.net/boards

Have you, your company, or any agent on behalf of you or your company, made any political contributions of more than $250 to any City Officer in the twelve months preceding the date of the submission of your application or proposal?

____***YES*** ____ ***NO***

Name of Councilmember or City Officer: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s) _____

Please specify below and/or add additional sheet(s) to identify additional Councilmembers or City Officers to whom you and/or your agents made campaign contributions.

Answering YES does not preclude the City of Santa Monica from awarding a contract, license, permit, or entitlement or taking any subsequent action related to the item. It does, however, preclude the identified City Officer from participating in any actions related to such item.

By signing below, you certify you also agree to disclose to the City any future contributions made to Councilmembers or other City Officers by you or your agent(s) <u>after</u> the date of signing this disclosure form, and within 12 months following the approval, renewal, or extension of the requested contract, license, permit, or entitlement.

I HEREBY CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

Signed: _____ Date: _____

Print Name: _____ Title: _____

Company: _____

Additional Disclosures:

Please note this form is a public record and subject to a California Public Records Act request.

SANTA MONICA CITY ATTORNEY'S OFFICE

TO: Public

FROM: City Attorney's Office

RE: Levine Act Disclosure Form

DATE: January 25, 2024

The Levine Act (Government Code 84308) is a California law aimed at preventing "pay to play" practices by prohibiting parties, participants, and their agents in a proceeding involving a license, permit, or other entitlement from contributing more than $250 to an officer of the City during a 12-month period. The prohibition applies to any 12-month period while the proceeding is pending and for 12 months following the date a final decision is rendered in the proceeding.

State law requires a party to a proceeding to disclose any contributions exceeding an aggregate $250 that the party and their agents have made to an officer of the City within the preceding 12 months. The Disclosure Form is intended to assist City officials with recognizing when they have an obligation to disclose and recuse themselves, and to aid parties with their disclosure obligations.

1. To what sort of proceedings is the disclosure form applicable?

The Levine Act applies to all discretionary entitlements and contracts, with the exception of labor contracts, personal employment contracts, and contracts that must be awarded to the lowest responsive/responsible bidder. It does not apply to ministerial approvals. For instance, the Levine Act applies to the following:

- Building and development permits
- Conditional use permits
- Contracts generally (unless an exception applies):
    - Contracts for goods, services, professional services
    - Real property contracts for purchase, sale, lease
    - Contract amendments
    - Settlement agreements
    - Small contracts, including purchase orders, and zero dollar contracts (no de minimis exception)
- Public street abandonments
- Private development plans
- Professional license revocations
- Rezoning of specific real estate parcels
- Event permits
- Rulemaking procedures affecting a particular industry where only a small number of businesses are affected

- Special district formation proceedings involving the creation of a special use or benefit to the person in the district
- Tentative subdivision and parcel maps
- Zoning variances
- Vacation of a public easement across private property
- Pre-applications, such as for General Plan Amendment, considered by the legislative body prior to filing of formal application
- Contracts entered under the City Manager's Authority
- Closed session items that may result in a contract/settlement agreement approved by Council (real estate or litigation)

It does not apply to:

- Purely ministerial decisions
- General policy decisions or rules where the interests affected are many and diverse
- Ordinances and resolutions (except items like development agreements adopted by ordinance)
- Ballot measures
- Departmental policies
- Council rules
- Contracts awarded to the lowest responsive/responsible bidder (not applicable in Santa Monica)
- Labor contracts and project labor agreements
- Personal employment contracts
- Allocation of resources in the City budget

2. Who is required to disclose?

A **"party"** to a proceeding is any person who files an application for, or is the subject of, a proceeding. In general, a person or company who applies for a permit, license, or right to use property in a particular way, which requires the City's discretionary approval, will qualify as a party.

Parties are also required to disclose contributions by their agents. An **"agent"** is someone who (1) represents a party to a proceeding for compensation; and (2) appears before or otherwise communicates with the City for the purpose of influencing the pending proceeding. This can include law firms, architects, engineers, consultants, and similar entities. Both the individual and their employer or firm are considered "agents."

A party should also disclose contributions of other entities majority owned by the party, as well as contributions of any other entity whose contributions it directs or controls.

3. What must be disclosed?

A party must disclose campaign contributions over $250 made in the prior twelve months. A **"contribution"** is anything of value for which the party has not received full consideration, including money, nonmonetary items, payments made for advertising or

other expenses coordinated with a candidate or committee, loans, tickets to political fundraisers, etc.

4. Who is considered an officer of the City?

An **"officer"** is anyone who may make, participate in making, or attempt to influence a decision in the proceeding or who exercises authority over officers who may do so. This includes elected officials, members of appointed boards and commissions, the City Manager, and any individual who is a candidate for elected office or who has been a candidate in the twelve months prior to the decision. This definition is included on the Disclosure Form.

5. When should the disclosure occur?

The Disclosure Form must be completed (1) by a party to a contract with the City (or that party's agent) at the time the party submits a response to a Request for Proposal or other competitive solicitation, enters into contract negotiations with the City, or executes a contract with the City, whichever is earliest; or (2) by a party to a license, permit, or other entitlement proceeding before the City at the time the party (or their agent) submits the license, permit, or entitlement application to the City. The party (or their agent) must submit a supplemental form if they make any new reportable contributions while the same contract, license, permit, or other entitlement is being considered. The party (or their agent) must also use the form if they need to correct any previously submitted form.

Parties are solely responsible for completing the form accurately, and could face penalties for failure to do so. The California Fair Political Practices Commission (FPPC) is the body who enforces violations of the Levine Act. If a party is uncertain about whether they are required to report or combine a contribution, they should consult with their attorney.

Nothing herein constitutes legal advice and individuals are urged to consult with their own attorney regarding the requirements of the law. To the extent there is any inconsistency, the language of the Levine Act and FPPC Regulations govern over this notice. Resources for officers, parties, participants, and agents, are available on the FPPC's website at https://www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html