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Mayoral Questionnaire

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Mayoral Candidate Questionnaire

- 1. Do you believe the city's Ethics Commission is successful at its mission, or do you tend to agree with the Civil Grand Jury's conclusion that it is a "Sleeping Watchdog." What reforms will you support to strengthen the disclosure and enforcement of the city's ethics and good government laws?*

I agree that the San Francisco Ethics Commission is not successfully fulfilling its mission currently, but I disagree with the Civil Grand Jury's characterization of the agency as a "Sleeping Watchdog." A better, more apt metaphor, I think, would be to call the Ethics Commission a "Starving Watchdog," whose chronic underfunding relative to the scope and seriousness of its public duties has rendered it institutionally ineffectual.

In my view, our Ethics Commissioners and commission staff work hard and conscientiously to accomplish their mission to "promote the highest standards of ethical behavior in government." So, I'm hesitant to fault individuals for shortcomings that are, quite frankly, hardwired into the makeup and funding mechanism of the agency itself.

A telling recent example of the commission's inadequacy, to my mind, was the superficiality of its analysis of the "Progress for All" committee, which ran the "Run Ed Run" campaign. Like most of the mayoral candidates who aren't interim mayor, I think it is clear that this temporary organizational scheme enabled "Run Ed Run" to advance a single candidacy in a single election—in clear violation of the legal requirements for general purpose committees, which it purported to be. This sleight of hand allowed campaign organizers to vastly exceed contribution limits that apply to traditional candidate committees, while also escaping the prohibitions on collusion, stringent reporting requirements, and competitive expenditure cap adjustments triggered by independent expenditure committees.

In its review, the Commission opted to reach the easiest conclusion—that Mayor Lee was not, technically, a candidate—without regard to overwhelming evidence that this was a citywide candidate campaign, and without appreciating the terrible precedent its decision has created. Incumbent officeholders now have a powerful incentive to coyly mull their candidacies for months while effectively unregulated “general purpose committees” advance those candidacies with impunity.

In my view, that doesn’t “promote the highest standards of ethical behavior in government.”

Two general reforms I would propose—which are among a number of worthy recommendations advanced by Sen. Leland Yee—would make a significant difference:

- 1) **Take the Ethics Commission’s budget out of City Hall’s hands.** Here I would add some detail to Sen. Yee’s proposal by recommending a Charter-mandated funding level commensurate with the number of campaign, consultant and lobbyist registrations in the previous fiscal year—along with the ability to increase funding as needed within the same fiscal year, and to carry balances forward from less busy fiscal years. I’m generally suspicious of ballot box budgeting, which mandates appropriations by Charter. But here—for the Ethics Commission to be truly independent and effective—it is necessary.
- 2) **Take the Ethics Commission out of the hands of elected officials.** Even though I have an appointment to the Ethics Commission, the truth is I’ve never been comfortable with the idea of having any City Attorney appoint his or her own clients. And I’m not especially comfortable with other politicians appointing their own regulators, either. I think we need to explore a consensus approach to present voters to restructure Ethics Commission appointments so we can assure its maximum expertise in all relevant laws, and also guarantee its independence.

2. ***Will you vote in favor or against Proposition F to allow the Ethics Commission and Board to change the law on campaign consultants without voter approval?***

I think Prop F is well intentioned, but I can’t escape the metaphor that it’s a bit like rearranging deck chairs on the Titanic. Some moves are good ones, some less so—but we frankly have bigger problems with our Ethics Commission than the modest moves proposed here will fix. I intend to vote against Prop F in 2011, but as Mayor I will revisit its worthy aspects as part of a more comprehensive approach to Ethics Commission reform discussed above.

3. **Will you vote in favor or against Proposition E to allow the Board to amend or repeal ballot measures approved by voters from the mayor or four Board**

members?

I am genuinely undecided on Proposition E, which would allow the Board of Supervisors to amend or repeal Board- or Mayor-sponsored voter-approved ordinances after a period of time. My initial inclination is to oppose Prop E because of the measure's potentially deleterious effect on the inviolability of direct democracy, which has been a cornerstone of California governance since Governor Hiram Johnson and the Progressive Era of a century ago.

However, I also have grave concerns about the inordinate influence moneyed special interests are increasingly likely to play in our electoral processes. Two of these concerns in particular have caused me to seriously consider supporting Prop E:

- First, the U.S. Supreme Court's *Citizens United* decision last year; and
- Second, the growing trend toward corporate self-dealing and anti-competitive lawmaking through self-funded ballot measure campaigns.

In *Citizens United*, the Roberts Court opened the floodgates to corporate spending in politics, and dramatically expanded, in dissenting Justice John Paul Stevens words, the "corrupting potential of corporate electioneering." I think it remains to be seen how grave this corrupting potential will be, but a legislative safety valve like Prop F could be, in theory, a prudent step to check unlimited corporate campaign spending in ballot measure campaigns. That reflects my concern as a lawyer.

As a City Attorney who has been involved in litigation over corporate-sponsored ballot measures, I also have very serious concerns about lopsidedly funded ballot measure campaigns that increasingly reflect anything but the public interest. These include disturbing recent power grabs by PG&E and auto insurers on statewide ballot measures like Prop 16 and Prop 17, respectively, to local measures in which PG&E has outspent its opponents by margins as high as 160-to-1.

Though I am strongly inclined to protect the inviolability of our direct democracy, I think those of us who consider ourselves good government advocates must have an honest conversation about the new reality of the post-*Citizens United* era, in which corporate special interests will have the resources and will to exercise a brazen stranglehold over our ballot processes if they choose. And it is clear that they are choosing to do so more frequently, especially at the state level. Here again, I think a legislative safety valve—to be exercised by our elected lawmakers in limited circumstances after a period of time—could be a prudent, good government step that's worth considering.

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- 4. Will you add funding for the Ethics Commission meetings to be televised like other city commissions?**

Yes. I'm committed to an accessible and transparent government, and I think televised meetings of commissions has helped to improve that. I would work to expand it.

5. Do you believe the city needs to strengthen protections for city worker whistleblowers against retaliation, as the Civil Grand Jury recommended?

Yes.

6. Will you introduce a measure to ban contributions from businesses that benefit financially from City decisions, including tax benefits, zoning variances and other benefits similar to the voter-approved Proposition J (November 2000) passed but later altered?

I haven't developed such a proposal, but I supported Prop J in 2000, I support its intentions now, and I will work with campaign finance reform proponents as Mayor to take such a measure to voters.

My only reservations about tighter restrictions on campaign finance reform is that the Ethics Commission not allow the kind of political gamesmanship we've seen by "general purpose committees" to escape such restrictions, which will put candidates who play by the rules at a competitive disadvantage. I will support campaign finance reforms that affirm our citizens' confidence in the integrity of their local government, provided that an independent Ethics Commission ensures they are evenly applied, rigorously enforced, and don't unfairly punish those who play by the rules.

7. Do you support the Ethics Commission's proposal to amend the city's pay-to-play law to allow contributions from contractors with the Redevelopment Agency, Treasure Island and other agencies because they claim the mayor and Board don't know who the contractors are?

I'll confess to only the most superficial familiarity with this proposal, but I believe the guiding principle of campaign finance reform must be to vigilantly affirm our citizens' confidence in the integrity of their government. Wherever legitimate questions may exist about contractors unduly influencing public decisions in exchange for campaign contributions, our guiding principles compel tighter restrictions, not looser ones.

But, again, tougher reforms can only work if the Ethics Commission makes sure they are evenly applied, rigorously enforced, and that they don't unintentionally reward dubious committee schemes like "Progress for All," which manage to do an end run around the campaign finance laws that other candidates adhere to.

8. The Ethics Commission won amendments to the lobbyist law that means fewer businesses have to disclose their efforts. Do you believe that people with special access like former mayor Willie Brown or Rose Pak should have to register and report on their contacts with city officials?

As an elected official, and as an officer of the court, I believe our highest obligation is to ensure that we fulfill our public duties honestly, independently, and without regard to the influence of moneyed special interests that seek to divert us from the public's interest. We cannot—and should not—restrict anyone's access to participate in the public debate, or petition their public officials on issues of importance to them, irrespective of what we may believe their motives to be. We want our democracy to be participatory, and our elected officials to be accessible—and I'll be committed to both as Mayor. But our lobbyist reporting laws also recognize the need to balance that freedom of participation and access with transparency. As Mayor, I will oppose loosening reporting requirements because it hampers transparency.

All lobbyists have the duty to fully and accurately report their lobbying activities in accordance our Lobbyist Ordinance, and there are no individual exceptions for anyone if they're engaged in lobbying activities.

9. What steps will you take to ensure that your appointees attend commission meetings, file required public economic disclosure statements, and adhere to the city's Sunshine Ordinance? What standard will you use?

First, as Mayor, I will appoint department heads, city commissioners and agency representatives who are honest, open, accessible, intelligent, engaged, and committed to the task or job at hand, while remaining respectful to the opposing views of those we serve. I will further work to ensure that, once appointed, my appointees are held to the same standards of excellence and professionalism to which I've held my staff at the City Attorney's Office for nearly 10 years. I will insist that they uphold our ethics and open government laws, and make sure that take their civic obligations seriously—or I will ask them to step aside.

Second, with regard to Sunshine, my office serves as "Supervisor of Records"—a role prescribed under the San Francisco Sunshine Ordinance to offer records requesters written, independent determinations, based on the facts and the law, as to whether their requested record is public if a department refuses, fails to comply, or incompletely complies with records requests. In that capacity, my office often advises departments to release records they have withheld.

One of the observations my office has made from this role is that the most significant obstacles to transparency among City departments are bureaucratic inefficiency, institutional indifference and a belief—often correct—that there are no adverse consequences for ignoring the Sunshine Ordinance. That's why, as Mayor, I will assign the role of "Sunshine Ombudsman" to a member of my staff who is directly answerable

to me on Sunshine and open government issues. This ombudsman will serve as the point of contact for members of the public and news media who encounter obstacles to open government. Under the imprimatur of the Mayor, this role can directly address and break down organizational barriers in executive departments citywide. It wouldn't need to replace anything already in existence to protect or expand open government, but it would formalize the role of internal, go-to advocate for citizens and journalists to elevate the urgency of their records requests within local government. And it would make the Mayor more directly accountable for government openness.

10. What steps have you taken to improve transparency in city government and enforce good government laws?

As City Attorney, I've exposed fraud, waste, abuse and corruption in city government and recovered millions of dollars for San Francisco taxpayers. San Franciscans deserve a government as good as the people it serves.

I was the first City official to investigate Ed Jew's fraudulent residency claims to serve on the Board. I ended City Tow's corrupt business practices after 17-years of contracting with the City and recovered more than \$5 million in compensation for state and local taxpayers. I led an investigation on behalf of San Francisco public schools that blew the whistle on a nationwide scheme to defraud the federal E-Rate program, bringing more than \$4.4 million back to our schools.

In addition, during my tenure as City Attorney, my office has been instrumental in promoting good government resources and trainings to ensure that local officials comply with the San Francisco Sunshine Ordinance, which promotes transparency and open and ethical government practices. Under my supervision, my office has released memoranda on San Francisco's ballot process, a Good Government Guide, and various trainings on how to comply with the Sunshine Ordinance and state ethics laws. I recognize that the City Attorney's Office can be a large target for criticism by some open government advocates because, when City departments have a legal basis for withholding records, they universally cite City Attorney advice for doing so. But while I understand such criticism comes with the job, and is an occasional byproduct of my ethical obligation as a lawyer, I also stand by the legal validity of my legal conclusions. In fact, I think it is often underappreciated how much my office does to push client departments to adhere to their responsibilities under the Sunshine Ordinance. I would finally add that my public information staff has earned an excellent reputation under my leadership for their responsiveness and willingness to work with journalists and members of the public to aid their pursuit of records and information—not just from the City Attorney's Office, but from all city departments.

As Mayor, I will work to ensure that city government is clean, transparent, and efficient.