



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

October 15, 2021

Phaedra A. Norton
City Attorney
City of Riverside
3900 Main Street
Riverside, CA 92522

Re: Your Request for Advice
Our File No. A-21-120

Dear Ms. Norton:

This letter responds to your request for advice regarding the campaign disclosure and mass mailing provisions of the Political Reform Act (the “Act”).¹ Please note that we are only providing advice under the provisions of the Act. We offer no advice on bodies of law, outside of the Act, that apply to the use of public funds for campaign activity.

Also note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTION

Are each of the various communications planned by the City of Riverside relating to Measure C an independent expenditure or contribution under the Act that may qualify the City as a campaign committee subject to campaign reporting and potentially prohibited as a mass mailing of campaign material?

CONCLUSION

Each of the various communications must be analyzed in consideration of all circumstances known to the City, we analyze each communication below in turn based on the information provided.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18109 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

FACTS AS PRESENTED BY REQUESTER

On August 3, 2021, the City Council of the City of Riverside adopted a resolution calling a municipal election to be held on November 2, 2021, for the purpose of submitting to the qualified electors of the City an amendment to the City Charter that would authorize an annual transfer of a fixed percentage of City-owned electric utility fund revenues into the City's general fund ("Measure C"). Given the proximity of the Statewide Recall Election and the City's Municipal Election, voter confusion is expected. The City seeks to provide Municipal Election Information to encourage participation in the election and clear any confusion between the two election dates. Specifically, the City of Riverside is seeking advice on whether the following Measure C and Municipal Election Information materials to be sent to and made available to the public constitute campaign material or activity subject to the Act:

- A Municipal Election Information webpage that can be accessed by anyone via the City's website. Links to this webpage will be provided on the Mailers (below) and the Utility Bill Inserts (below). Furthermore, the City's homepage will have a slider directing persons to this webpage. Citywide e-mails (below) will include a link to this webpage. City's social media pages such as Facebook, Instagram, and Twitter will also include links to this webpage. The City intends to mirror the website URL driving practices previously used during its 2020 Census effort.
- An "Opinion Leader Letter" that will be e-mailed to the City's e-mail list of persons who voluntarily place themselves on the list to receive regular City updates.
- A Public FAQ that can be accessed by anyone via the City's website. The City intends to place the Public FAQ at the same weblink as the Municipal Election Information webpage.
- A Utility Bill Insert that will be included in each Riverside utility customer's utility bill in September and October. The City regularly includes similar bill inserts to keep City residents informed on latest City news and events. Roughly 3 bill inserts are included in each utility bill, and approximately 110,000 such bills are distributed each month. The bill insert may showcase a variety of topics and have included information related to census, upcoming events, COVID-19, etc. The City considers utility bill inserts a standard communication channel.
- Mailer 1: A 11x17 in. Mailer that will be mailed in late September 2021, to all Riverside households in which at least 1 registered voter lives. The list of registered voters will be obtained from the Riverside County Registrar of Voters, and there would be approximately 80,000 addresses on the list. Along with election information, the mailer contains graphic images of emergency responders and road construction, as well as a statement that Measure C "renews permission for the City to continue paying for the services Riverside residents currently receive, such as police and firefighter services and road repairs, through a continued revenue transfer from the City's electric utility to the general fund."

- Mailer 2: A 8.5x11 in. Mailer that will be mailed on October 4, 2021, in the same manner as other mailers. Along with election information, the mailer contains various assertions from City Council adopted resolution stating that the measure “provides a locally controlled revenue source to the General Fund,” which “combined with other sources of revenue (sales tax, property tax, utility users’ tax, etc.), the General Fund funds vital governmental services including, but not limited to, fire, paramedic, police, street repairs, parks, senior services, homelessness and other general services.” The mailer also states that the “General Fund Transfer is critical to advancing the City Council’s Envision Riverside 2025 Strategic Plan priorities of: Arts, Culture and Recreation; Community Well Being, Economic Opportunity; Environmental Stewardship; High Performing Government; and Infrastructure, Mobility and Connectivity;” “the electric utility portion of the General Fund Transfer currently provides approximately \$40 million annually, or roughly 14%, of the total General Fund operating budget;” “losing this revenue source would require significant reductions in the services mentioned above;” and that the transfer “provides essential funding for community services such as police, fire, children’s after-school programs, senior/disabled services.”
- Mailer 3: A 8.5x11 in. Mailer that will be mailed on October 14, 2021, in the same manner as other mailers. Along with other election information, the mailer provides official ballot language prepared by the City asking whether the measure “to maintain such general city services as 911 response, fire, paramedic, police, street repairs, parks, senior services; address homelessness ... [should] be adopted?”
- Mailer 4: A 6x8 in. Postcard that will be mailed on October 25, 2021, in the same manner as other mailers. Along with election information, the mailer contains graphic images of emergency responders and road constructions, as well as the statement that “Measure C renews permission for the City of Riverside to continue paying for services such as police, fire, and road repairs.”
- Social media messaging on Facebook, Instagram, and Twitter. Social media messaging will likely use messaging elements from all of the information materials listed above, and will include links to the Municipal Elections Information webpage. The City intends to use colors, fonts, and sizing consistent with past practices such as the attached Facebook post that was used to direct URL traffic for the 2020 Census Effort.
- YouTube videos and videos on the City’s cable television channel.

By email on September 16, 2021, you further provided that Measure C will implement a general tax that can be used for any general fund expense. The measure does not contain any limitations on the way the funds may be used. The uses identified in the materials for Measure C funds is a “a non-exhaustive list of general city services that would be funded by the tax including 911 response, fire, paramedic, police, street repairs, parks, senior services, address homelessness.”

It appears these uses appeared in a slide prepared by the City’s Finance Department describing the tax transfer for purposes of the City’s proposed 2021-2022 annual budget and were

incorporated in the ballot language prepared by the City. However, this slide also makes it clear that the use of the funds is “unrestricted revenue source to the general fund.”

In the same email, you state that the “materials were designed in house and that draft content was developed by a third-party consultant. The content was edited, reviewed and finalized by City staff with a focus on creating informational purposes only materials.” The scope of services designed for the third-party consultant emphasizes that the public outreach phase of the contract is to “ensure voters are accurately informed and understand the outcome of their vote associated with a local ballot measure in the June 8, 2021 election.” You also state that the City “did not discuss a strategy with our designer for targeting a successful ballot measure; the focus of the design was to develop educational outreach materials.” While you are not aware of any communications in which the City discussed the likelihood of a successful measure based upon the purposes identified in the mailer or the graphics used in the mailer, you have acknowledged that the consultant “included data in their statement of qualifications about their work on successful ballot measures.

In regard to the materials, you indicate that the materials are within “normal communication patterns” for the City and similar to communication used for notifying citizens of the 2020 US Census. The costs of the materials is coming from a general appropriation, and the cost of the consultant’s contract is \$37,000, an amount comparable to previous efforts to inform the electorate of an election and election date.

ANALYSIS

The Act governs the use of public funds for campaign activities in two ways. First, a governmental agency is subject to campaign reporting rules if it qualifies as a campaign committee. Second, the Act prohibits the mass mailing of campaign materials by a governmental agency.

Committee Qualification and Campaign Reporting

A person, including any governmental agency, qualifies as a campaign committee by receiving contributions of \$2,000 or more, making independent expenditures of \$1,000 or more, or making contributions of \$10,000 or more, in a calendar year. (Section 82013.)

Under Section 82015, a “contribution” is “a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, except to the extent that full and adequate consideration is received or if it is clear from the surrounding circumstances that the payment is not made for political purposes.” A contribution includes:

The payment of public moneys by a state or local governmental agency for a communication to the public that satisfies both of the following:

(A) The communication expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage, or defeat of a clearly identified measure, or, taken as a whole and in context, unambiguously urges a particular result in an election.

(B) The communication is made at the behest of the affected candidate or committee. (Section 82015(b)(3).)

Furthermore, an “independent expenditure” is defined as:

[A]n expenditure made by any person, including a payment of public moneys by a state or local governmental agency, in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.

For purposes of determining if a governmental agency qualifies as a campaign committee subject to the Act’s reporting requirements, Regulation 18420.1 provides that a governmental agency making a payment of public moneys for a communication that (1) expressly advocates or (2) unambiguously urges the particular result in an election has made either a reportable contribution – if the payment was made at the behest of the affected candidate or committee – or an independent expenditure. Further defining the “unambiguously urges” standard, Regulation 18420.1(b) states that a communication by a governmental agency paid for with public moneys “unambiguously urges a particular result in an election” if it is clearly campaign material or activity or if the communication (1) can be reasonably characterized as campaign material or activity and (2) is not a fair presentation of facts serving only an informational purpose when taking into account the style, tenor, and timing of the communication.

Factors for determining whether any specific communication can be reasonably characterized as campaign material or activity and is not a fair presentation of facts serving only an informational purpose include, but are not limited to, whether the communication is any of the following:

- (1) Funded from a special appropriation related to the measure as opposed to a general appropriation.
- (2) Is consistent with the normal communication pattern for the agency.
- (3) Is consistent with the style of other communications issued by the agency.
- (4) Uses inflammatory or argumentative language. (Regulation 18420.1(d).)

Mass Mailing Prohibition

Section 89001 provides only a general rule that “[n]o newsletter or other mass mailing shall be sent at public expense, while Section 82041.5 defines “mass mailing” as “over two hundred substantially similar pieces of mail” not including a “form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry.” While the express terms of Section 89001 are exceptionally broad, the Commission has acted to limit the application of the mass mailing prohibition to mailings that feature or included the name, office, photograph, or other reference to an elected official affiliated with the agency producing or sending the mailer (Section 89002; Former Regulation 18901) and mailings of other campaign-related materials by a governmental agency paid for with public moneys (Regulation 18901.1).

Like Regulation 18420.1, Regulation 18901.1 distinguishes campaign material and activity from informational materials, prohibiting a government-funded mailing if the item sent (1) expressly advocates or (2) unambiguously urges a particular result in an election. To determine if a mailing “unambiguously urges a particular result in an election,” Regulation 18901.1 also incorporates the same factors as provided in Regulation 18420.1.

City Materials

You have asked that we review various communication to determine whether the materials are campaign materials or activity that would potentially qualify the City as a campaign committee subject to the Act’s campaign reporting provisions and whether the communications are potentially prohibited under the Act’s mass mailing prohibition. We start by cautioning the Act’s application to campaign materials is limited, and that there are provisions of law outside of the Act that may still apply. We express no opinion on laws outside of the Act including, but not limited to, Government Code Sections 8314 and 54964 and Penal Code Section 424. (See also *Vargas v. City of Salinas* (2009) 46 Cal.4th 1 and *Stanson v. Mott* (1976) 17 Cal.3d 206.) We also caution that this analysis is based solely on the facts provided as the determination of whether specific material constitutes campaign materials or activity is a fact specific determination dependent on all underlying facts. Additional facts can alter the conclusions reached herein. For instance, to the extent that the materials are only part of the City’s efforts in relationship to the measure, any additional activities must also be considered in examining the various materials and the purposes for which the materials were sent. Likewise, to the extent that city staff or city consultants engaged in other deliberate or implicit discussions not identified regarding a strategy to increase the likelihood of the success of the measure, the conclusions contained herein do not apply.

Municipal Election Information Webpage

Generally, there is little question that internet-based updates are an effective and routine method to dissipate informational materials regarding the City’s activities and other matters of administrative and governmental concerns. In itself, the Municipal Election Information Webpage is not clearly campaign materials and we must examine the style, tenor, and timing of the material to determine if it can be reasonably characterized as campaign materials and a fair presentation of facts serving only an informational purpose.

In this case, the facts provided do establish that the webpage is being funded by a general appropriation and, apart from the hiring of a third-party consultant, the webpage appears consistent with the normal communication pattern for the agency as well as the style of other communications issued by the agency. Regarding timing, the webpage will be timed to coincide with the election. However, this is not in itself determinative, and the material is not necessarily campaign activity merely because the material is provided during the election when informational materials are pertinent and timely.

What is at issue regarding the webpage is whether the tenor of the webpage urges a particular result and whether the language is argumentative. While you have stated that the language serves an informational purpose by providing “a non-exhaustive list of general city services that would be funded by the tax” it is significant that nothing in Measure C actually limits the funds to the purposes identified. Moreover, there has been no actions taken by the City at this

time that would limit the use of the funds to the purposes identified.² In this case, it appears the language derives from a presentation by the City's Department of Finances to the City Council addressing the current uses of the funds as related to the City's budget proposal. In reviewing the presentation, we find it significant that the webpage wholly avoids any mention that the funds have not actually been allocated or limited to the purposes identified and that the funds provide an "unrestricted" source of funds to the general fund, a key element of the Department of Finance's presentation. In this way, the website excludes information necessary for a fair presentation of facts.

Additionally, the list of services for which funds *may* be used is featured within the materials in a manner that prominently highlights the uses and is highly suggestive that the funds will be used for these purposes despite no such restriction on the City. Also, we note the list is limited to services viewed as essential or generally favorable, and not services that are typically more controversial or less popular among an electorate. For these reasons we find the list of purposes identified as argumentative and more than informational.

Further supporting the conclusion that the webpage crosses the line of campaign material or activity, the draft webpage includes additional inflammatory and argumentative language in the paragraph following the list of service for which the funds may be used. As provided in the draft of the webpage:

With nearly three in every four calls made to the City of Riverside dispatch for medical emergencies or rescues. Measure C can help ensure Riverside maintains the needed firefighters-paramedics, infrastructure, lifesaving equipment, personal protective equipment and communications technology to save lives in any type of natural disaster or health emergency.

Based upon this paragraph, the City is purporting a specific need for emergency services in the City and asserting that the measure helps to ensure those services can be provided in a manner that saves lives. To the extent that the argument is true or not, and regardless of the City's intentions, this paragraph provides inflammatory and argumentative language to appeal to the voters. While much of the webpage is informational in nature, the specific content discussed above results in the overall tenor of the webpage that is not solely informational and therefore we find that the webpage as drafted is reasonable characterized as campaign material or activity and any payment for the website constitute an independent expenditure or contribution under the Act. To the extent that the City engages in sufficient activity to qualify as a campaign committee, the costs of the website is a reportable campaign expenditure.

In light of our conclusion regarding the webpage, we do not analyze providing additional links to the webpage via other mailers or communications. We also note that as a webpage, the

² In the *Vargas* case, cited below, the court considered whether materials produced by the City of Salinas concerning a ballot measure constituted campaign materials under the standard in *Stanson*. The informational materials at issue in *Vargas* identified specific services that would be subject to budget cuts if the measure passed. The court, in finding the materials were not campaign materials, highlighted the fact that the city had voted in advance to cut specific services if the measure passed. (*Vargas v. City of Salinas* (2009) 46 Cal.4th 1 at pp. 21, 22, 38, and 39.) In this case, the City has not taken formal action to identify which general fund services would suffer cuts if the Measure C does not pass.

mass mailing prohibitions do not apply as Section 89002 is limited to tangible items sent to a residence, place of employment or business, or post office box. (Regulation 18901.1(a)(1).)

Opinion Leader Letter

In comparison to the proposed Municipal Election Information Webpage, the Opinion Leader Letter is nearly identical. Like the webpage, the letter contains a list of purposes for which the funds may be used even though nothing in the measure limits the funds to these purposes and the City has not taken any action to limit the funds to these purposes. The letter also contains the same inflammatory and argumentative paragraph purporting a specific need for emergency services and identifying the measure as ensuring this need is filled thereby saving lives. Because of this content and for the same reasons stated for the webpage, we find the letter is reasonable characterized as campaign material or activity and any payment related to the mailing of the letter constitutes an independent expenditure or contribution under the Act. To the extent that the City engages in sufficient activity to qualify as a campaign committee, the costs of the letter is a reportable campaign expenditure. We note that the mass mailing restrictions do not apply, as mass mailings provisions do not apply to items sent in response to an unsolicited request. (Section 82041.5.)

Public FAQ

The Public FAQ proposed for the City's website provides a similar list of purposes for which the measure funds *may* be used and shares many of the same attributes as the Municipal Election Information Website and Opinion Leader Letter. However, despite repeating the list of purposes for which the measure funds may be used in several instances, the tenor of the Public FAQ is slightly less argumentative and provides more informational material. For instance, while asserting there is currently "tremendous pressure" on the budget, the FAQ does not argue that there is special need for emergency services or that the measure potentially saves lives. Moreover, the Public FAQ more clearly serves the City's stated purpose of informing the electorate of the election and election date. For example, the Public FAQ discusses why a special election is needed and why it couldn't be consolidated with the recall election.

It is also significant that the Public FAQ is not formatted in a manner that prominently displays the list of purposes for which the funds may be used and more carefully identifies the list of purposes as examples of how the fund's may be used with the use of the term "such as."

On its face, we do not find the Public FAQ goes beyond serving an informational purpose and is reasonably characterized as campaign material. Assuming there is no other indication the FAQ was designed to influence voters to support the measure thereby rendering it a campaign communication, a payment for the Public FAQ is neither an independent expenditure nor contribution under the Act and would not trigger reporting requirements. Likewise, the Public FAQ provided on the City's website is not subject to the mass mailing prohibition.

Utility Bill Insert

The facts provided indicate that the City routinely uses utility bill inserts to provide informational materials to its residents and a bill insert is clearly an effective means of

communication with the residents. To the extent that a bill insert is informational in nature, a bill insert is generally permitted. Nonetheless, the bill insert must serve only an informational purpose.

In reviewing the draft bill insert provided, we note the insert is in a format similar to traditional campaign mailers. However, it is unnecessary to consider the formatting of the insert and whether the City's historical use of similarly formatted inserts establishes that the insert is consistent with other City communications at this time.

Like both the Municipal Election Information Webpage and the Opinion Leader Letter, the insert also contains a list of uses for which the funds *may* be used that is featured in a manner that prominently highlights the uses and is suggestive that the funds will be used for these purposes despite no such restriction on the City. The insert also contains the same inflammatory and argumentative paragraph purporting a specific need for emergency services and identifying the measure as ensuring this need is filled thereby saving lives. For these reasons, we likewise find the insert is reasonable characterized as campaign material and a payment for the insert constitutes an independent expenditure or contribution under the Act. To the extent that the City engages in sufficient activity to qualify as a campaign committee, the costs of the insert is a reportable campaign expenditure. Additionally, as a mass mailing of more than 200 items, including the insert in utility bills is a prohibited mass mailing under Section 89001 and Regulation 18901.1.

Mailers

The City has proposed four separate mailers. The first mailer is scheduled for late September and subsequent mailers are scheduled for three separate dates in October. The mailers will be mailed to approximately 80,000 households with at least one registered voter. Under both Regulation 18420.1 and 18901.1, a communication unambiguously urges a particular result in an election if, “[i]t is clearly campaign material or campaign activity such as bumper stickers, billboards, door-to-door canvassing, or other mass media advertising including, but not limited to, television, electronic media or radio spots.” This language derives from the California Supreme Court's decision in *Vargas v. City of Salinas* (2009) 46 Cal.4th 1, which provided:

[W]e reject the contention that the line drawn in *Stanson* between the use of public funds for *campaign activities* and the use of such funds for *informational material* is unduly or impermissibly vague. As we have seen, the *Stanson* decision explicitly identified a number of materials and activities that unquestionably constitute campaign activities (without any need to consider their ‘style, tenor and timing’) – for example, the use of public funds to purchase bumper stickers, posters, advertising ‘floats,’ or television and radio ‘spots’ – and also identified a number of activities that are clearly informational – for example, providing a fair presentation of facts in response to a citizen's request for information. (Citation omitted.) The circumstance that *in some instances* it may be necessary to consider the style, tenor, and timing of a communication or activity to determine whether, from an objective standpoint, the communication or activity realistically constitutes *campaign* activity rather than *informational* material, does not render the distinction between campaign and informational activities impermissibly vague. (*Vargas, supra*, 46 Cal.4th at p. 34, emphasis in original.)

Pursuant to the *Vargas* decision, there is a category of communications that are clearly campaign material by the very nature in which the communications are sent if the communications are related to an election campaign. In the case of the draft mailers proposed by the City, it is most likely that the mailers fall within this category. Unlike the other communications previously discussed, the direct mailers look identical to typical campaign mailers provided by any other campaign committee. In fact, the mailers would be indistinguishable from a typical campaign mailer to all but the most sophisticated recipient. Further, the City intends to send the mailings individually to all households with a registered voter, as opposed to being made available to those interested in learning about the measure, or being disseminated as part of a regular communication by the City. In this manner, the mailers more closely resemble a typical campaign advertisement rather than educational material.³

Nonetheless, even assuming the mailers do not fall into the category of clear campaign materials, the facts provided establish that the mailers are reasonably characterized as campaign materials and are not a fair presentation of facts serving only an informational purpose, when considering the style, tenor, and timing of the mailers.

Looking first at the style of the mailing, as stated above, the mailings are formatted and will be mailed in a manner that is nearly identical to typical campaign mailings and virtually indistinguishable from a typical campaign mailer. Both Mailers 1 and 4 also contain graphic images of emergency responders and road construction that are likely to appeal to voters and comparable to typical campaign mailings.

Turning to the tenor of the mailings, the mailings contain the same list provided by other materials identifying uses for which the funds *may* be used despite no such restriction on the City. While Mailer 2 provides excerpts from a City Council passed resolution, the resolution in no way binding on the City does not impose any restrictions on the use of the funds despite identifying a list of purposes the funds *may* be used for that is more likely to appeal to voters. Mailer 3 containing only election information and a brief statement identified as “official ballot language” also stretches the bounds of informative materials because the language states that the measure is “to maintain such general city services as 911 response, fire, paramedic, police, street repairs, parks, senior services; address homelessness.” However, again, there is no limits on the purposes for which the funds may be used, and the City prepared ballot language provided on the mailer does not fairly reflect this.

The timing of the mailers is also indicative and an effort to urge a particular result in an election. Based on the facts provided, the mailings are planned to begin at the end of September, followed by subsequent mailers every week or two through the duration of the election.

Finally, we find the collective effort of the City and the fact that the City solicited the services of a third-party consultant in the preparation of the materials who “included data in their statement of qualifications about their work on successful ballot measures” relevant to our analysis. You indicate that the City’s scope of services for the consultant was to “ensure voters are accurately informed and understand the outcome of their vote associated with a local ballot measure in the

³ In contrast to the mailers proposed here, the materials the court in *Vargas* determined to be educational consisted of an existing city website, flyers available at city buildings, and content in a regularly-published city newsletter.

June 8, 2021 election,” that the City “did not discuss a strategy with our designer for targeting a successful ballot measure” and that you are not aware of any communications in which the City discussed the likelihood of a successful measure based upon the purposes identified in the mailer or the graphics used in the mailer. Regardless of the carefully crafted scope of services for the consulting contract, there is no way to ignore the implicit purposes for which the consultant was hired considering the consultant specifically advertised the consultant’s previous success in ballot measure campaigns in obtaining the contract. This is not to say the collective effort, including hiring a consultant, is determinative of whether a communication is solely informational versus campaign material. But when viewed in light of the proposed content identified above, we conclude these efforts indicate an objective beyond merely educating citizens regarding the matter.

For these reasons, we find that any payment related to these mailings constitute an independent expenditure or contribution under the Act. To the extent that the City engages in sufficient activity to qualify as a campaign committee, the costs of the mailing is a reportable campaign expenditure. Additionally, as a mass mailing of more than 200 items, the mailings are prohibited under Section 89001 and Regulation 18901.1.

Social Media Messaging

Because the analysis of each communication is fact dependent, we cannot specifically advise on a communication that has not been fully identified or described. However, based on the foregoing analysis, we can generally advise that social media messaging containing elements of the documents that we have determined are campaign materials above are also likely to constitute campaign materials. While a message limited to the Public FAQ or link to the Public FAQ, which we have determined is informational, is most likely also informational. If you need additionally assistance regarding any specific social media message, you should seek further advice describing the message in full.

Videos via YouTube and the City’s Cable Television Channel

Like social media messaging, the analysis of each communication is fact dependent, and we cannot specifically advise on a communication that has not been fully identified or described.

However, we can generally advise that television and electronic media spots, including those broadcast on Youtube, regarding the ballot measure would typically fall within the category of clear campaign materials under Regulation 18420.1(b)(1). Further, other videos containing elements of the documents that we have determined are campaign materials above are also likely to constitute campaign materials under Regulation 18420.1(b)(2). To the extent that the City engages in sufficient activity to qualify as a campaign committee, the costs of the video is a reportable campaign expenditure. Because a video is not a mass mailing, the mass mailing restrictions in Section 89001 do not apply.

If you need additionally assistance regarding any specific television or YouTube video, you should seek further advice describing the video in full.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Dave Bainbridge
General Counsel

A handwritten signature in black ink, appearing to be 'BGL', written in a cursive style.

By: Brian G. Lau
Assistant General Counsel

BGL:dkv