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November 9, 2022

Chair and Commissioners  
California Fair Political Practices Commission  
1102 Q St # 3000  
Sacramento, CA 95811

RE: The Application of Section 84308, as amended by Senate Bill 1439 (2022)  
Concerns over Retroactive Application – City of Tracy

Dear Chair and Commissioners,

On behalf of the City of Tracy, I write with concerns regarding the proposed implementation of Senate Bill 1439 (Glazer, Statutes of 2022), which broadens the scope of Section 84308 of the Political Reform Act to prohibit local elected officials from taking part in licensing, permitting, and other use entitlement proceedings involving a party or participant who has contributed more than \$250 to the official within the 12 months prior to the proceeding.

Although SB 1439 does not go into effect until January 1, 2023, it contains a provision that disqualifies officials from participating in decisions involving a prior donor's license, permit or other entitlement for twelve months after the date of a donation exceeding \$250. Specifically, the City is concerned as to whether local elected officials will be prohibited from taking part in decisions involving parties and participants from whom they received contributions of \$250 or more during the *preceding 12 months*, before the amended statute was in effect.

If applied retroactively, SB 1439 could greatly impact the City's ability to consider critical items at council meetings throughout the 2023 calendar year due to its potential to require several Tracy Council Members to recuse themselves from participating in important decisions affecting the community. Because the measure's donor threshold is so low, some contributions may have been made by parties or individuals within the community who wish to participate in the local government process, such as a property owner within 1,000 feet of a proposed project that later speaks at a public hearing.

By requiring each member of the Council to retroactively consider each 2022 donation and its nexus to participants at a 2023 council meeting, we fear that our local governing officials may over participate to unwitting unlawfulness or overcompensate by recusing themselves from many items out of caution – an outcome unfair not only to the officials, but to donors who

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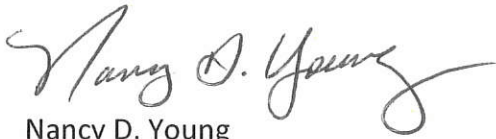
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made lawful campaign contributions to candidates of their choice in 2022. This, compounded by the influx of campaign contributions made during the 2022 election year, is likely to spur unintended and undemocratic consequences.

For these reasons, the City respectfully requests that the California Fair Political Practices Commission interpret the application of Government Code Section 84308(c), as amended by SB 1439, to apply to contributions made at the start of 2023 – not decisions based on contributions throughout the course of 2022.

We appreciate your consideration and expertise on this matter.

Sincerely,

A handwritten signature in black ink that reads "Nancy D. Young". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Nancy D. Young  
Mayor  
City of Tracy